

20-2413

United States Court of Appeals for the Second Circuit

[REDACTED]

Plaintiff-Appellee,

—against—

GHISLAINE MAXWELL,

Defendant-Appellant,

SHARON CHURCHER, JEFFREY EPSTEIN,

Respondents,

JULIE BROWN, MIAMI HERALD MEDIA COMPANY,
ALAN M. DERSHOWITZ, MICHAEL CERNOVICH, DBA CERNOVICH MEDIA

Intervenors.

ON APPEAL FROM THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK, 15-CV-7433 (LAP)

APPENDIX

Volume IV of VIII (Pages App.-0777 to App.-0852)

Ty Gee
Adam Mueller
HADDON, MORGAN AND FOREMAN, P.C.

[REDACTED]

Attorneys for Defendant-Appellant Ghislaine Maxwell

Docket Entries.....	App.-0001
Order regarding Ms. Maxwell’s Letter Motion to Reconsider July 23, 2020 Ruling, Dated July 29, 2020 (Dkt. 1079).....	App.-0777
Notice of Appeal, Dated July 29, 2020 (Dkt. 1081).....	App.-0781
Non-Redacted Declaration of Sigrid S. McCawley In Support of Plaintiff’s Motion to Exceed Presumptive Ten Deposition Limit in Federal Rule of Civil Procedure 30(A)(2)(a)(ii), Dated July 30, 2020 (Dkt. 1090-10).....	App.-0783
Ms. Maxwell’s Letter Response to August 3, 2020 Order, Dated August 10, 2020 (Dkt. 1100).....	App.-0787
Exhibit A to Maxwell’s Letter Response to August 3, 2020 Order - Protective Order, Dated July 30, 2020 <i>U.S. v. Maxwell</i> , No. 20 Cr. 330 (AJN) (S.D.N.Y.) (Dkt. 1100-1).....	App.-0791
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Order regarding Modification of Protective Order, Dated August 18, 2020 <i>U.S. v. Maxwell</i> , No. 20 Cr. 330 (AJN) (S.D.N.Y.) (Dkt. 044).....	App.-0852

App.-0777

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

[REDACTED],
Plaintiff,

-against-

GHISLAINE MAXWELL,

Defendant.

No. 15 Civ. 7433 (LAP)

MEMORANDUM & ORDER

LORETTA A. PRESKA, Senior United States District Judge:

The Court has reviewed Defendant Ghislaine Maxwell’s letter requesting reconsideration of the Court’s July 23, 2020, decision to unseal (1) the transcripts of Ms. Maxwell’s and Doe 1’s depositions, and (2) court submissions excerpting from, quoting from, or summarizing the contents of the transcripts. (See dkt. no. 1078.)

Ms. Maxwell’s eleventh-hour request for reconsideration is denied. As Ms. Maxwell acknowledges in her letter, reconsideration is an “extraordinary remedy.” In re Beacon Assocs. Litig., 818 F. Supp. 2d 697, 701 (S.D.N.Y. 2011) (quoting In re Health Mgmt. Sys. Inc. Sec. Litig., 113 F. Supp. 2d 613, 614 (S.D.N.Y. 2000)). Such motions “are properly granted only if there is a showing of: (1) an intervening change in controlling law; (2) the availability of new evidence; or (3) a need to correct a clear error or prevent manifest injustice.” Drapkin v. Mafco Consol. Grp., Inc., 818 F. Supp. 2d 678, 696 (S.D.N.Y. 2011). “A motion for reconsideration

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may not be used to advance new facts, issues or arguments not previously presented to the Court, nor may it be used as a vehicle for relitigating issues already decided by the Court.” Bennett v. Watson Wyatt & Co., 156 F. Supp.2d 270, 271 (S.D.N.Y. 2001).

Here, Ms. Maxwell’s request for reconsideration hinges on her assertion that new developments, i.e., her indictment and arrest, provide compelling reasons for keeping the deposition transcripts sealed. (See dkt. no. 1078 at 5.) But, despite Ms. Maxwell’s contention that she could not address the effect of those events in her objections because they occurred after the close of briefing, (id.),¹ this is plowed ground. Indeed, in her original objection to unsealing, Ms. Maxwell argued that the specter of ongoing criminal investigations into unknown individuals associated with Jeffrey Epstein--a group that, of course, includes Ms. Maxwell--loomed large over the Court-ordered unsealing

¹ The Court notes as a practical matter that Ms. Maxwell was arrested on July 2, 2020--that is, three weeks prior to the Court’s July 23 decision to unseal the materials at issue. To the extent that they relate to the to the Court’s balancing of interests in the unsealing process, the issues that Ms. Maxwell raises in her request were surely plain the day that Ms. Maxwell was apprehended. Ms. Maxwell, however, did not seek to supplement her objections to unsealing despite ample time to do so. In fact, the Court notified the parties on July 21, 2020, that it would announce the unsealing decision with respect to Ms. Maxwell’s deposition, together with other documents, on July 23. (See dkt. no. 1076.) Even then, Ms. Maxwell made no request for delay or to supplement her papers. Ms. Maxwell did not raise her “vastly different position,” (Transcript of July 23 Ruling at 16:2-3), until moments after the Court had made its decision to unseal the relevant documents.

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process. (See dkt. no. 1057 at 5.) This argument, specifically Ms. Maxwell's concern that unsealing would "inappropriately influence potential witnesses or alleged victims," (id.), and her reference to "publicly reported statements by Plaintiff, Plaintiff's counsel, the United States Attorney for the Southern District of New York, and the Attorney General for the U.S. Virgin Islands" about those investigations, (id.), carried with it the clear implication that Ms. Maxwell could find herself subject to investigation and, eventually, indictment. The Court understood that implication as applying to Ms. Maxwell and thus has already considered any role that criminal charges against Ms. Maxwell might play in rebutting the presumption of public access to the sealed materials. Ms. Maxwell's request for reconsideration of the Court's July 23 ruling is accordingly denied.

Given the Court's denial of Ms. Maxwell's request for reconsideration, the Court will stay the unsealing of Ms. Maxwell's and Doe 1's deposition transcripts and any sealed or redacted order or paper that quotes from or discloses information from those deposition transcripts for two business days, i.e., through Friday, July 31, 2020, so that Ms. Maxwell may seek relief from the Court of Appeals. Any sealed materials that do not quote from or disclose information from those deposition transcripts shall be unsealed on July 30, 2020, in the manner described by the Court's Order dated July 28, 2020. (See dkt. no. 1077.) Ms. Maxwell's and

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Doe 1's deposition transcripts and any sealed materials that quote or disclose information from them shall be unsealed in the manner prescribed by the July 28 Order on Monday, August 3, 2020, subject to any further stay ordered by the Court of Appeals.

SO ORDERED.

Dated: New York, New York
July 29, 2020



LORETTA A. PRESKA
Senior United States District Judge

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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X



Plaintiff,

v.

GHISLAINE MAXWELL,

Defendant.

-----X

15-cv-07433-LAP

NOTICE OF APPEAL

PLEASE TAKE NOTICE that Ghislaine Maxwell, Defendant in the above-captioned case, hereby appeals to the United States Court of Appeals for the Second Circuit from the district court’s Order of July 23, 2020, unsealing the deposition materials and the Order of July 29, 2020, denying Ms. Maxwell’s motion to reconsider.

Dated: July 29, 2020.

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.



Attorneys for Ghislaine Maxwell

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CERTIFICATE OF SERVICE

I certify that on July 29, 2020, I filed this *Notice of Appeal* with the Clerk of Court through CM/ECF, which will send notice of the filing to all parties of record.

/s/ Nicole Simmons _____

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United States District Court
Southern District of New York

[REDACTED]

Plaintiff,

Case No.: 15-cv-07433-RWS

v.

Ghislaine Maxwell,

Defendant.

**NON-REDACTED DECLARATION OF SIGRID S. McCAWLEY IN SUPPORT OF
PLAINTIFF'S MOTION TO EXCEED PRESUMPTIVE TEN DEPOSITION LIMIT IN
FEDERAL RULE OF CIVIL PROCEDURE 30(A)(2)(a)(ii), FILED UNDER SEAL**

I, Sigrid S. 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 September 29, 2015 Order granting my Application to Appear Pro Hac Vice.
2. I respectfully submit this Declaration in support of Plaintiff's Motion to Exceed Presumptive Ten Deposition Limit In Federal Rule of Civil Procedure 30(A)(2)(a)(ii), Filed Under Seal.
3. Attached hereto as Composite Exhibit 1, is a true and correct copy of the May 17, 2016 Email Correspondence from Sigrid McCawley.
4. Attached hereto as Exhibit 2, is a true and correct copy of the May 27, 2016 Email Correspondence from Laura Menninger.
5. Attached hereto as Exhibit 3, is a true and correct copy of the Notice of Service

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and Subpoena to [REDACTED]

6. Attached hereto as Exhibit 4, is a true and correct copy of the May 26, 2016 Correspondence from Sigrid McCawley.

7. Attached hereto as Exhibit 5, is a true and correct copy of the [REDACTED]

8. Attached hereto as Composite Exhibit 6, is a true and correct copy of the April 22, 2016 Deposition Transcript of Ghislaine Maxwell.

9. Attached hereto as Exhibit 7, is a true and correct copy of the Palm Beach Police Report.

10. Attached hereto as Exhibit 8, is a true and correct copy of the November 21, 2005 Sworn Statement of [REDACTED]

11. Attached hereto as Exhibit 9, is a true and correct copy of the May 4, 2016 Email Correspondence from Laura Menninger.

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

/s/ Sigrid S. McCawley
Sigrid S. McCawley, Esq.

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Dated: May 27, 2016.

Respectfully Submitted,

BOIES, SCHILLER & FLEXNER LLP

By: /s/ Sigrid McCawley
Sigrid McCawley (Pro Hac Vice)
Meredith Schultz (Pro Hac Vice)
Boies, Schiller & Flexner LLP 401 E.

[REDACTED]

David Boies
Boies, Schiller & Flexner LLP [REDACTED]
[REDACTED]

Bradley J. Edwards (Pro Hac Vice)
FARMER, JAFFE, WEISSING,
EDWARDS, FISTOS & LEHRMAN, P.L.
[REDACTED]

Paul G. Cassell (Pro Hac Vice)
S.J. Quinney College of Law
University of Utah
[REDACTED]

¹ 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.

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on May 27, 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 this day on the individuals identified below via transmission of Notices of Electronic Filing generated by CM/ECF.

Laura A. Menninger, Esq.
Jeffrey Paliuca, Esq.
HADDON, MORGAN & FOREMAN, P.C.



/s/ Sigrid S. McCawley
Sigrid S. McCawley, Esq.

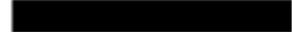
App.-0787



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



www.hmflaw.com



August 10, 2020

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

Re: August 3, 2020 Order (Doc. 1096)
[Redacted] v. Ghislaine Maxwell, No. 15 Civ. 7433 (LAP)

Dear Judge Preska:

I write in response to the Court’s Order of August 3, 2020 (Doc. 1069), the Order and Protocol for Unsealing Decided Motions (Doc. 1044) (“Protocol”), and to raise with the Court the legal effect of new information that came to the attention of counsel for Ms. Maxwell on Friday, August 7, 2020.

New information: On Friday, August 7, 2020, counsel for Ms. Maxwell learned of critical new information that impacts both this action and *U.S. v. Maxwell*, 20 Cr. 330 (AJN) (the “Criminal Action”). The information implicates Ms. Maxwell’s right to due process and fairness in this civil action and affects the Second Circuit’s review of the Court’s unsealing order of July 23, 2020. Additionally, the information implicates her rights as a criminal defendant guaranteed under the Fourth, Fifth and Sixth Amendments.

Counsel makes the representations about implications of the new information as an officer of this Court. At this time, counsel is not at liberty to disclose the information because it is subject to a protective order in the Criminal Action, which forbids its use “for any civil proceeding or any purpose other than the defense” of the criminal action absent “further order of the Court.” Protective Order, 20 Cr. 330 (AJN) at ¶¶ 1(a), 18 (Exhibit A). As required by that Protective Order and Judge Nathan’s Individual Practices in Criminal Cases, counsel initiated a conferral with the U.S. Attorney’s Office over the weekend concerning a modification of the Protective Order to share the information with this Court and the Second Circuit. Barring agreement, Ms. Maxwell intends to seek modification of the Protective Order in the Criminal Action from Judge Nathan forthwith to permit sharing the information with this Court, *ex parte* and *in camera* if necessary, and with the Second Circuit (likewise under seal if necessary).

Honorable Loretta A. Preska
August 10, 2020
Page 2

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Ms. Maxwell requests a temporary stay of the unsealing process for approximately three weeks until the conclusion of (a) the conferral with the U.S. Attorney's Office to a modification of the Protective Order in the Criminal Action and, if necessary, an application and ruling by Judge Nathan on the issue, to permit the use of the information in this Court and before the Second Circuit (under seal in both courts, if necessary), (b) an application to this Court containing the new information in support of a request to stay the unsealing process until the conclusion of the Criminal Action, and (c) a ruling by this Court on the motion for stay.

Streamlining of Unsealing Process: As directed by the Court, counsel for Ms. Maxwell conferred with plaintiff's counsel concerning various proposals to streamline the unsealing process. Subject to Ms. Maxwell's request to temporarily pause the process as described above, defense counsel has agreed to several potential modifications of the Protocol which we hope will ease the burden on the parties and the Court going forward, should the unsealing move ahead. Of note, and as Plaintiff will explain to the Court, the parties have agreed to notify all of the Non-Parties at once so that we can understand which Non-Parties object to the unsealing before deciding how to proceed with future redactions. Although this will give the Court and the Original Parties more information about the scope of objectors, there are limitations to the extent to which it will expedite the process. As counsel has made clear in the past, it will take significant effort by the Original Parties and their staff to put together the excerpts for any Non-Party who requests them because each Non-Party will be entitled to see his or her own information (but not that of other Non-Parties). After receiving a request from a Non-Party, we anticipate it will take up to a week per Non-Party to agree to the excerpts to send to them for review. But on balance we agree that having a sense of the number of participating Non-Parties will aid the Court in conducting future proceedings, we have agreed to Plaintiff's suggestion on that front. The parties can submit a proposed modification of the Protocol and Notice to the Court to reflect this agreement.

We also have agreed, as the Court suggested, to shorten the time period for the Original Parties to object and to respond from 14 to 7 days. This would impact paragraphs 2(d), 2(e) and 2(f) of the Protocol. The parties can also submit a proposed modification of the Protocol to the Court. The parties also agreed to leave the time for Non-Parties to object at 14 days given some practical considerations applicable to them.

Although the parties were able to reach some agreement, we cannot agree to all of Plaintiff's proposals and write separately to explain the basis for our disagreements.

First, we carefully considered the Court's suggestion to reduce the number of pages of briefing to ten pages per side. *Id.* Our initial Objection (DE 1057) was 14 pages long; Plaintiff's Response was 19 pages. The Court concluded that our Objection was, in many respects, not specific enough. We would ask leave to at least have 15 pages to object to the five motions proposed below, with any response limited to the same. We will endeavor to keep it shorter than that, but also allow for more space to provide specifics to the Court.

Second, we have obtained new contact information for Doe 1 from a separate civil suit. We believe that Doe 1 retains a right to notification and participation. We suggest

Honorable Loretta A. Preska
August 10, 2020
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providing the Notice to Doe 1 at the new address for any future pleadings that implicate his or her deposition, which is currently subject to the Second Circuit's stay.

Third, to prevent against some of the errors that occurred during the last round of unsealings, we request that the Protocol be amended to require the Responding Original Party who proposes unsealing to supply with their Response a proposed unredacted set of the pleadings at issue, for the Court's consideration and for the Objecting Original Party or Non-Party to have the right of reply. Preparing those redactions after the fact allows much ambiguity into the Court's ruling and we believe the Court's ruling should specify which redactions it is accepting or rejecting at the time of ruling.

Finally, we request that the Court allow for the any objecting Non-Party or Original Party be given 7 days following any unseal order to apply for relief in the Second Circuit from the order prior to the documents being released.

Proposed Next Set of Docket Entries for Review:

Given the Second Circuit's stay concerning Ms. Maxwell and Doe 1's deposition transcripts and materials that quote from them, we propose that the Court deviate from the Doe 1 and 2 chronology (given that Doe 1's deposition is sprinkled throughout those motions) and instead take the following five decided motions and their related pleadings. This list represents the first five chronological decided motions that (a) have sealed or redacted materials and (b) do not have attached or quote from documents subject to the stay. They are:

- 75 – Defendant's Motion to Compel Responses to Defendant's First Set of Discovery Responses to Plaintiff
- 139 – Plaintiff's Brief in Support of the Privilege Claimed for In Camera Submission
- 155 – Defendant's Motion to Compel Non-Privileged Documents
- 215 – Sharon Churcher Motion to Quash Subpoena
- 231 – Defendant's Motion to Reopen Deposition of Plaintiff [REDACTED]

Counsel for Ms. Maxwell is available for a telephone conference to discuss any of the foregoing, should the Court desire.

Respectfully submitted,

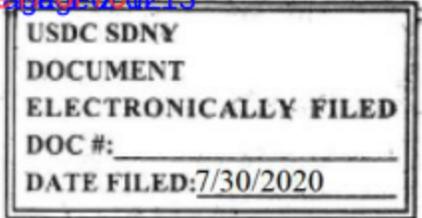

Laura A. Menninger

CC: Counsel of Record *via* ECF

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EXHIBIT A

App.-0791



UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

----- X
:
UNITED STATES OF AMERICA :
:
- v. - :
:
GHISLAINE MAXWELL, :
:
Defendant. :
----- X

PROTECTIVE ORDER
20 Cr. 330 (AJN)

ALISON J. NATHAN, United States District Judge:

WHEREAS the Government intends to produce to GHISLAINE MAXWELL, the defendant, certain documents and materials that (i) affect the privacy and confidentiality of individuals, (ii) would impede, if prematurely disclosed, the Government's ongoing investigation; (iii) would risk prejudicial pretrial publicity if publicly disseminated, and (iv) is not authorized to be disclosed to the public or disclosed beyond that which is necessary for the defense of this action, and other materials pursuant to Federal Rule of Criminal Procedure 16 ("Rule 16") and pursuant to any other disclosure obligations (collectively, the "Discovery"), which contain sensitive, confidential, or personal identifying information;

WHEREAS, the Government seeks to protect sensitive, confidential, or personal identifying information contained in the materials it produces consistent with Rule 16 or other disclosure obligations;

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WHEREAS the Government has applied for the entry of this Order;

IT HEREBY IS ORDERED:

1. The Discovery disclosed to the defendant ("Defendant") and/or to the defendant's criminal defense attorneys ("Defense Counsel") during the course of proceedings in this action:

a) Shall be used by the Defendant or her Defense Counsel solely for purposes of the defense of this criminal action, and not for any civil proceeding or any purpose other than the defense of this action;

b) Shall not be copied or otherwise recorded or transmitted by the Defendant, except to Defense Counsel, or except as necessary for the Defendant to take notes, which are not to be further transmitted to anyone other than Defense Counsel;

c) Shall not be disclosed or distributed in any form by the Defendant or her counsel except as set forth in paragraph 1(d) below;

d) May be disclosed only by Defense Counsel and only to the following persons ("Designated Persons"):

i. investigative, secretarial, clerical, or paralegal personnel employed full-time, part-time, or as

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independent contractors by the defendant's counsel ("Defense Staff");

ii. any expert or potential expert, legal advisor, consultant, or any other individual retained or employed by the Defendant and Defense Counsel for the purpose of assisting in the defense of this case ("Defense Experts/Advisors");

iii. such other persons as hereafter may be authorized by Order of the Court ("Other Authorized Persons");

e) May be provided to prospective witnesses and their counsel (collectively, "Potential Defense Witnesses"), to the extent deemed necessary by defense counsel, for trial preparation. To the extent Discovery materials are disclosed to Potential Defense Witnesses, they agree that any such materials will not be further copied, distributed, or otherwise transmitted to individuals other than the recipient Potential Defense Witnesses.

2. The Defendant and Defense Counsel shall provide a copy of this Order to any Designated Persons to whom they disclose Discovery materials. Prior to disclosure of Discovery materials to Designated Persons, any such Designated Person shall agree to be subject to the terms of this Order by signing a copy hereof and stating that they "Agree to be bound by the terms herein," and providing such copy to Defense Counsel. All

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such acknowledgments shall be retained by Defense Counsel and shall be subject to *in camera* review by the Court if good cause for review is demonstrated. The Defendant and her counsel need not obtain signatures from any member of the defense team (*i.e.*, attorneys, experts, consultants, paralegals, investigators, support personnel, and secretarial staff involved in the representation of the defendants in this case), all of whom are nonetheless bound by this Protective Order.

3. To the extent that Discovery is disseminated to Defense Experts/Advisors, Other Authorized Persons, or Potential Defense Witnesses, via means other than electronic mail, Defense Counsel shall encrypt and/or password protect the Discovery.

4. The Government, the Defendant, Defense Counsel, Defense Staff, Defense Experts/Advisors, Potential Defense Witnesses and their counsel, and Other Authorized Persons are prohibited from posting or causing to be posted any of the Discovery or information contained in the Discovery on the Internet, including any social media website or other publicly available medium.

5. The Government (other than in the discharge of their professional obligations in this matter), the Defendant, Defense Counsel, Defense Staff, Defense Experts/Advisors, Potential Defense Witnesses and their counsel, and Other Authorized Persons are strictly prohibited from publicly

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disclosing or disseminating the identity of any victims or witnesses referenced in the Discovery. This Order does not prohibit Defense Counsel or Defense Staff from referencing the identities of individuals they believe may be relevant to the defense to Potential Defense Witnesses and their counsel during the course of the investigation and preparation of the defense case at trial. Any Potential Defense Witnesses and their counsel who are provided identifying information by Defense Counsel or Defense Staff are prohibited from further disclosing or disseminating such identifying information. This Order does not prohibit Defense Counsel from publicly referencing individuals who have spoken by name on the public record in this case.

6. The Defendant, Defense Counsel, Defense Staff, Defense Experts/Advisors, Potential Defense Witnesses, and Other Authorized Persons are prohibited from filing publicly as an attachment to a filing or excerpted within a filing the identity of any victims or witnesses referenced in the Discovery, who have not spoken by name on the public record in this case, unless authorized by the Government in writing or by Order of the Court. Any such filings must be filed under seal, unless authorized by the Government in writing or by Order of the Court.

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7. Copies of Discovery or other materials produced by the Government in this action bearing "confidential" stamps, or designated as "confidential" as described below, and/or electronic Discovery materials designated as "confidential" by the Government, including such materials marked as "confidential" either on the documents or materials themselves, or designated as "confidential" in a folder or document title, are deemed "Confidential Information." The Government shall clearly mark all pages or electronic materials containing Confidential Information, or folder or document titles as necessary, with "confidential" designations.

8. Confidential Information may contain personal identification information of victims, witnesses, or other specific individuals who are not parties to this action, and other confidential information; as well as information that identifies, or could lead to the identification of, witnesses in this matter. The identity of an alleged victim or witness who has identified herself or himself publicly as such on the record in this case shall not be treated as Confidential Information.

9. Defense Counsel may, at any time, notify the Government that Defense Counsel does not concur in the designation of documents or other materials as Confidential Information. If the Government does not agree to de-designate such documents or materials, Defense Counsel may thereafter move

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the Court for an Order de-designating such documents or materials. The Government's designation of such documents and materials as Confidential Information will be controlling absent contrary order of the Court.

10. Confidential Information disclosed to the defendant, or Defense Counsel, respectively, during the course of proceedings in this action:

a) Shall be used by the Defendant or her Defense Counsel solely for purposes of the defense of this criminal action, and not for any civil proceeding or any purpose other than the defense of this action;

b) Shall be maintained in a safe and secure manner;

c) Shall be reviewed and possessed by the Defendant in hard copy solely in the presence of Defense Counsel;

d) Shall be possessed in electronic format only by Defense Counsel and by appropriate officials of the Bureau of Prisons ("BOP"), who shall provide the defendant with electronic access to the Discovery, including Confidential Information, consistent with the rules and regulations of the BOP, for the Defendant's review;

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e) Shall be reviewed by the Defendant solely in the presence of Defense Counsel or when provided access to Discovery materials in electronic format by BOP officials;

f) May be disclosed only by Defense Counsel and only to Designated Persons;

g) May be shown to, either in person, by videoconference, or via a read-only document review platform, but not disseminated to or provided copies of to, Potential Defense Witnesses, to the extent deemed necessary by Defense Counsel, for trial preparation, and after such individual(s) have read and signed this Order acknowledging that such individual(s) are bound by this Order.

11. Copies of Discovery or other materials produced by the Government in this action bearing "highly confidential" stamps or otherwise specifically designated as "highly confidential," and/or electronic Discovery materials designated as "highly confidential" by the Government, including such materials marked as "highly confidential" either on the documents or materials themselves, or designated as "highly confidential" in an index, folder title, or document title, are deemed "Highly Confidential Information." To the extent any Highly Confidential Information is physically produced to the Defendant and Defense Counsel, rather than being made available to the Defendant and Defense Counsel for on-site review, the

App.-0799

Government shall clearly mark all such pages or electronic materials containing Highly Confidential Information with "highly confidential" stamps on the documents or materials themselves.

12. Highly Confidential Information contains nude, partially-nude, or otherwise sexualized images, videos, or other depictions of individuals.

13. Defense Counsel may, at any time, notify the Government that Defense Counsel does not concur in the designation of documents or other materials as Highly Confidential Information. If the Government does not agree to de-designate such documents or materials, Defense Counsel may thereafter move the Court for an Order de-designating such documents or materials. The Government's designation of such documents and materials as Highly Confidential Information will be controlling absent contrary order of the Court.

14. Highly Confidential Information disclosed to Defense Counsel during the course of proceedings in this action:

a) Shall be used by the Defendant or her Defense Counsel solely for purposes of the defense of this criminal action, and not for any civil proceeding or any purpose other than the defense of this action;

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b) Shall not be disseminated, transmitted, or otherwise copied and provided to Defense Counsel or the Defendant;

c) Shall be reviewed by the Defendant solely in the presence of Defense Counsel;

d) Shall not be possessed outside the presence of Defense Counsel, or maintained, by the Defendant;

e) Shall be made available for inspection by Defense Counsel and the Defendant, under the protection of law enforcement officers or employees; and

f) Shall not be copied or otherwise duplicated by Defense Counsel or the Defendant during such inspections.

15. The Defendant, Defense Counsel, Defense Staff, Defense Experts/Advisors, Potential Defense Witnesses, and Other Authorized Persons are prohibited from filing publicly as an attachment to a filing or excerpted within a filing any Confidential Information or Highly Confidential Information referenced in the Discovery, unless authorized by the Government in writing or by Order of the Court. Any such filings must be filed under seal, unless authorized by the Government in writing or by Order of the Court.

16. The provisions of this Order shall not be construed as preventing disclosure of any information, with the exception of victim or witness identifying information, that is

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publicly available or obtained by the Defendant or her Defense Counsel from a source other than the Government.

17. Except for Discovery that has been made part of the record of this case, Defense Counsel shall return to the Government or securely destroy or delete all Discovery, including but not limited to Confidential Information, within 30 days of the expiration of the period for direct appeal from any verdict in the above-captioned case; the period of direct appeal from any order dismissing any of the charges in the above-captioned case; the expiration of the period for a petition pursuant to 28 U.S.C. § 2255; any period of time required by the federal or state ethics rules applicable to any attorney of record in this case; or the granting of any motion made on behalf of the Government dismissing any charges in the above-captioned case, whichever date is later.

18. The foregoing provisions shall remain in effect unless and until either (a) the Government and Defense Counsel mutually agree in writing otherwise, or (b) this Order is modified by further order of the Court.

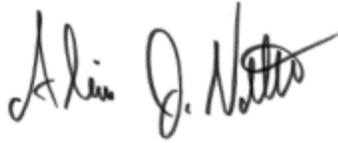
19. The Government and Defense Counsel agree to meet and confer in advance of any hearings or trial to discuss and agree to any modifications necessary for the presentation of evidence at those proceedings. In the absence of agreement,

App.-0802

Defense Counsel may make an appropriate application to the Court for any such modifications.

SO ORDERED:

Dated: New York, New York
July 30, 2020



HONORABLE ALISON J. NATHAN
United States District Judge

App.-0803

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK


Plaintiff,

-against-

GHISLAINE MAXWELL,

Defendant.

No. 15 Civ. 7433 (LAP)

ORDER

LORETTA A. PRESKA, Senior United States District Judge:

The Court has reviewed the parties' letters dated August 10 and August 11, 2020. (See *dk.* nos. 1099-1101.) The Court writes specifically to address Defendant Ghislaine Maxwell's request for a three-week stay of the unsealing process due to the availability of "critical new information" related both to this action and to the pending criminal case against her, U.S. v. Maxwell, No. 20 Cr. 330 (AJN). (See *dk.* no. 1100 at 1-2.)¹

Ms. Maxwell's request is denied. Given that Ms. Maxwell is not at liberty to disclose this new information because it is subject to the protective order in the criminal action, (id. at 1), the Court has no reasonable basis to impose a stay. And, as Ms. Maxwell knows, her ipse dixit does not provide compelling

¹ Pursuant to the Court's Order dated August 3, 2020 [*dk.* no. 1094], the parties have also submitted to the Court for resolution various disputes related to (1) methods for streamlining the unsealing process, and (2) the next set of docket entries to be reviewed for potential unsealing. The Court will address those disputes at a later date.

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grounds for relief. Should the protective order in the criminal action be modified to permit disclosure of the relevant information to the Court, Ms. Maxwell may renew her request for a stay of the unsealing process.

SO ORDERED.

Dated: New York, New York
August 12, 2020



LORETTA A. PRESKA
Senior United States District Judge

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1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF NEW YORK
-----x

3 [REDACTED]

4 Plaintiff,

5 v. 15 Civ. 7433 (RWS)

6 GHISLAINE MAXWELL,

7 Defendant.

8 -----x

New York, N.Y.
April 21, 2016
11:05 a.m.

10 Before:

11 HON. ROBERT W. SWEET,
12 District Judge

13 APPEARANCES

14 BOIES, SCHILLER & FLEXNER LLP
15 Attorneys for Plaintiff
16 BY: SIGRID STONE McCAWLEY
-and-
17 FARMER, JAFFE, WEISSING, EDWARDS, FISTOS & LEHRMAN, P.L.
BY: BRAD EDWARDS
-and-
18 PAUL G. CASSELL

19 HADDON, MORGAN & FOREMAN
Attorneys for Defendant
20 BY: LAURA A. MENNINGER
JEFF PAGLUICA

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1 (Case called)

2 THE COURT: Welcome back. I have read the papers.
3 Who knows. I might have missed something, but I think I've got
4 it fairly well under control. I would be pleased to hear
5 anything anybody wants to tell me in addition to what you've
6 already given me.

7 MS. McCAWLEY: Your Honor, this is Sigrid McCawley. I
8 would like to start, if it's convenient with the Court, with
9 the pro hac vice motions that are pending because we would like
10 counsel to be able to anticipate in these proceedings. Would
11 that be all right if I started with that?

12 THE COURT: I don't care.

13 MS. McCAWLEY: Thank you. Your Honor, you have before
14 you two pro hac vice motions. My client, [REDACTED]
15 would like to have counsel of record in the case be added as
16 Professor Paul Cassell and Brad Edwards. We have presented
17 those pro hacs to your Honor. This is the first time in my
18 years of practice that I've had a contested one, so I've looked
19 at the case law surrounding that and I think it is very clear
20 that a client is entitled to counsel of choice in a case.

21 In this matter she has selected these lawyers. They
22 have been working with her. They had been working on this
23 matter for many months now. We need them as counsel of record
24 in the case now because we are going to have depositions
25 throughout the country where, for example, Professor Cassell is

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1 in Utah. He will be able to handle the Colorado depositions
2 and things of that nature. We are here because those pro hac
3 vice motions are being contested. The core piece of that is
4 the argument that they should not be allowed to seek
5 confidential information in this case.

6 Your Honor will remember that I was before you a
7 couple of weeks ago again trying to get the deposition of the
8 defendant, which is set for tomorrow, but still hasn't occurred
9 yet. And in order to expedite that process I agreed to the
10 protective order that was put in front of the Court and I
11 waived all of my objections to that in order to be able to
12 facilitate and move that deposition forward. That protective
13 order provides that attorneys who are actively working on the
14 case can receive confidential material.

15 My opposing counsel has interpreted that to mean that
16 that must be a counsel of record in the case. We disagree with
17 that interpretation. I wouldn't have agreed to a protective
18 order knowing that they were already working on the case. If
19 that were the situation, as your Honor can understand in this
20 case, the majority of the material has been marked
21 confidential, so it would prohibit my cocounsel from working on
22 behalf of their client.

23 Your Honor, I'm here to request on behalf of my
24 client, [REDACTED], that she be entitled to have her
25 counsel of record of choice in this matter. If your Honor will

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1 indulge me, I would like Mr. Cassell to address his pro hac
2 motion, please.

3 MR. CASSELL: Good morning, your Honor, Paul Cassell.
4 I'm a law professor.

5 THE COURT: I don't want to hear it. Sorry. No.
6 Thanks very much.

7 MR. CASSELL: Thank you, your Honor.

8 THE COURT: Anything from the defense.

9 MR. PAGLIUCA: Yes, your Honor. Jeff Pagliuca on
10 behalf of Ms. Maxwell.

11 Your Honor, I have never opposed a pro hac motion in
12 my 34 years of practice, so this is a first for me. But it is
13 clear, your Honor, that these lawyers will be witnesses in this
14 case.

15 THE COURT: This we don't know. I can't make that
16 determination now. Anything else?

17 MR. PAGLIUCA: Yes.

18 THE COURT: You may be totally right, but I don't
19 know.

20 MR. PAGLIUCA: Your Honor, here is the problem. This
21 case is about the plaintiff's false allegations.

22 THE COURT: Yes. I think I picked up on that.

23 MR. PAGLIUCA: These are the lawyers that wrote the
24 false allegations.

25 THE COURT: I think I picked up on that, too.

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1 MR. PAGLIUCA: These are the lawyers that admitted
2 that these were false allegations.

3 THE COURT: I know. I don't have to tell you, you
4 know, there is going to be all kinds of privilege issues, all
5 kinds of issues about whether or not they have to testify. We
6 are not at that stage. I cannot and I will not decide that
7 now.

8 What else?

9 MR. PAGLIUCA: There is a problem with the sharing of
10 confidential information with these lawyers. These lawyers
11 have both personal and professional interests.

12 THE COURT: I understand that. I get that point.
13 Anything else?

14 MR. PAGLIUCA: No, your Honor.

15 THE COURT: This is what we will do on the pro hac.
16 Everybody agrees, nobody, maybe in the world, but nobody in
17 this courtroom, including me, has dealt with this kind of
18 problem before. That's perhaps only one of a number of issues
19 that are unique about this case. That's neither here nor
20 there. Clearly, the plaintiff has the right to consult with
21 any lawyer she chooses. However, the materials here are
22 sensitive. I don't know the extent to which they have been
23 designated confidential, but I'm quite sure that a substantial
24 number of them have been, by the very nature of the case, I
25 guess. Let me put it this way. I want to be sure that we

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1 enforce the confidentiality appropriately.

2 Now, with those preliminary thoughts in mind I am
3 going to deny the motion at this time because I know that there
4 is a statement, some kind of a statement from the mediator in
5 the Florida action. When I get a piece of paper that says the
6 Florida action is dismissed, a court order or whatever, then
7 this motion can be renewed.

8 Also, I want an affidavit from the two lawyers that
9 there is no matter in which they are personally involved, that
10 they are making no claim, there is no claims, there is no
11 litigation in which they are involved. The reason I say that
12 is that I would not grant the application for a pro hac status
13 to a party in this or a related litigation. If I get those
14 affidavits and the statement about the closure of the Florida
15 case in which they are a party, then the application can be
16 renewed and at that point I would be probably inclined, unless
17 something else comes up or unless the defense tells me
18 something that I don't now know, I would grant the application
19 that brings us to the order itself and the meaning of the
20 order. I think active in the litigation is the key phrase.
21 The plaintiff has listed the people that she considers would be
22 appropriate and it's these two gentleman and I think one other
23 person, and that's fine. That is the definition.

24 However, I'm also going to ask the parties to agree
25 upon an order that would expand the confidentiality agreement

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1 to this extent, to require the plaintiff to indicate to me and
2 to the defense if there is anyone else who is going to be
3 active in the litigation. I'll tell you why I feel this way.
4 I want to be sure that we can enforce the confidential aspect
5 of that agreement, and I think that could be critical down the
6 line. That's the reason for those requests.

7 Now, we also have a motion to compel.

8 MS. McCAWLEY: Your Honor, can I just get
9 clarification very quickly because I don't want to have to come
10 back to the court so I want to make sure I'm following
11 correctly. Your ruling, because we have a deposition tomorrow
12 that counsel was going to be assisting me with, particularly on
13 the Fifth Amendment --

14 THE COURT: Can't have access unless I get these
15 materials by then. If I do, that's something else. If I do,
16 fine. Otherwise, they can't have access to the confidential
17 data. They can assist.

18 MS. McCAWLEY: Can I just point something out to the
19 Court as well.

20 THE COURT: The plaintiff can have any lawyer she
21 wants. The question is the confidential materials.

22 MS. McCAWLEY: Can I just point the Court to one more
23 issue, because this is their protective order. They now said
24 to the Court that these two individuals are witnesses or
25 potential witnesses. The protective order allows in Section G

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1 confidential material to go to deponents, witnesses or
2 potential witnesses.

3 THE COURT: That's a different issue. I have not
4 dealt with that. Obviously anybody who is a witness may have
5 access to the confidential material, because they have to buy
6 into the confidentiality order in order to do that. But they
7 are outside of it at the moment.

8 MS. McCAWLEY: Your ruling is, they cannot attend the
9 deposition tomorrow?

10 THE COURT: They can. Anybody can attend the
11 deposition that anybody wants to have, but they can't
12 participate in it. They can't have access to the confidential
13 material until we get this matter straightened out. Ok.

14 MS. McCAWLEY: I understand, your Honor.

15 MR. PAGLIUCA: Your Honor, we will be designating the
16 testimony as confidential.

17 THE COURT: You see. There you go. That's life. I
18 can't believe that this entire testimony is going to be
19 confidential. Honestly, you all are too much. Ok. If that's
20 what you do, you know that's not going to work because not all
21 of this stuff at issue is going to be confidential. No, no
22 way. What is your name? Ok. We will deal with tomorrow's
23 problem tomorrow.

24 MR. PAGLIUCA: Ok, your Honor.

25 THE COURT: The compel. Anybody want to add anything

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1 on that?

2 MS. MENNINGER: Yes, your Honor. Laura Menninger on
3 behalf of Ms. Maxwell. I have taken the liberty, your Honor,
4 of just making a very short little cheat sheet of the
5 outstanding issues, if I may approach.

6 THE COURT: Yes. It will be interesting to see if
7 yours is the same as the one we have prepared. Yours is much
8 longer than ours.

9 MS. MENNINGER: Your Honor, I'm happy to address all
10 of the ones on mine. I certainly am also happy to take
11 direction from the Court regarding issues that you believe to
12 still be of more interest.

13 THE COURT: As I say, I've read your papers. I would
14 be pleased to hear anything you want to add that you think is
15 not covered or you want to respond or anything like that.

16 MS. MENNINGER: Your Honor, one of the largest and
17 most significant pieces to us are the assertions by plaintiff
18 that her own communications with law enforcement are somehow
19 protected by --

20 THE COURT: I'm prepared to deal with that.

21 MS. MENNINGER: The second one, your Honor, and it
22 relates somewhat to the issues already presented on the pro hac
23 motions, are our requests for the fee agreements with all of
24 plaintiff's various 15 or so lawyers who purport to be
25 representing her. Your Honor, I can find no case law that

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1 suggests that the agreements are privileged, as plaintiff
2 argues. She has refused to identify when these individuals
3 began their representations, the nature of the representations.

4 THE COURT: There is a little confusion here, at least
5 in my mind, as to what we are talking about. I certainly
6 understand the two gentlemen whose applications I have just
7 dealt with and the third person, who I take it is affiliated
8 with the Boies firm.

9 Obviously, over time the plaintiff has probably
10 conferred with other lawyers. But who cares? Let's assume she
11 has talked to 20 more lawyers. You want all those retainers?
12 That doesn't make any sense. What is the universe we are
13 talking about?

14 MS. MENNINGER: Your Honor, I certainly understand all
15 of the members of the Boies firm that currently represent her.
16 The third individual, if I understand correctly, is a gentleman
17 by the name of Stan Pottinger. He is a lawyer of some renown.
18 He is also an author of best-selling books. He is listed quite
19 frequently on plaintiff's privilege log as being part and
20 parcel of advice being given to her on, quote/unquote, media
21 issues.

22 THE COURT: That is one.

23 MS. MENNINGER: Your Honor, there are other persons
24 listed on their privilege log. Many are listed as counsel for
25 plaintiff, but others are listed. Attorney giving advice to

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1 victim's --

2 THE COURT: Is what you want the retainer agreements,
3 if there are any, whatever the arrangements are, with anybody
4 on the privilege log that is listed as rendering advice?

5 MS. MENNINGER: Yes, your Honor. That, I think, would
6 be appropriate because some of our biggest issues concern the
7 privilege log.

8 THE COURT: I understand.
9 What else?

10 MS. MENNINGER: Your Honor, we have asked for, but
11 been denied by plaintiff, her own deposition testimony in the
12 Florida action. In that case the Court entered a confidential
13 order --

14 THE COURT: I'm prepared to deal with it.

15 MS. MENNINGER: Your Honor, the next topic are
16 plaintiff's medical records.

17 THE COURT: I think I understand that. There is one
18 thing, though. Are there any pre-'99 medical records?

19 MS. MENNINGER: Your Honor, the case law is quite
20 clear that injuries that were preexisting --

21 THE COURT: I'm sorry. Excuse me. Go ahead.

22 MS. MENNINGER: Plaintiff has alleged that the
23 defamation of this action triggered or caused her to reflect
24 back upon her alleged sexual abuse. She has also alleged, for
25 example, that many, several, three, I think, at last count, or

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1 four individuals had sexually abused her prior to ever meeting
2 Mr. Epstein.

3 If she has evidence that she already was suffering
4 from depression or some type of mental health disorder before
5 meeting our client, Ms. Maxwell, or Mr. Epstein, then her
6 flashbacks, if you will, could be related to other incidents
7 that she has put out in the press. And she, I believe, has
8 also told the press that she was in a drug rehabilitation
9 facility at the time that she met Mr. Epstein.

10 Obviously, to the extent she was under the influence
11 of drugs, which is what she has told the press, at the time she
12 met him, she persisted in being addicted to drugs during the
13 time that she knew Mr. Epstein, and it certainly relates to all
14 of her requests for, I believe she has requested \$30 million in
15 damages, your Honor, not just from the defamation, but also
16 harkening back to what she claims were her years as a sex abuse
17 victim.

18 THE COURT: What's the basis of your statement that we
19 will call it the flashback?

20 MS. MENNINGER: Your Honor, I believe --

21 THE COURT: Because, quite frankly, I was unaware of
22 that. Is that my error? Are you telling me something that's
23 not quite right?

24 MS. MENNINGER: Your Honor, I believe that is what
25 plaintiff has alleged in her complaint. If you can give me a

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1 moment. To the extent she is now alleging she suffers from
2 emotional distress from any preexisting --

3 THE COURT: That's from the defamation.

4 MS. MENNINGER: She claims it's from the defamation.
5 However, your Honor, if she has preexisting conditions that
6 were truly the cause of whatever emotional injury she claims
7 that she now possesses --

8 THE COURT: Correct me if I'm wrong, and perhaps
9 plaintiff will make it clear, my understanding is that the
10 injuries alleged result from the claim of the alleged
11 defamation, period.

12 MS. MENNINGER: Your Honor, she has claimed emotional
13 distress from the defamation, yes. We are requesting evidence
14 that would show that she has preexisting emotional conditions.

15 THE COURT: Not from the defamation.

16 MS. MENNINGER: Not from the defamation. From the
17 many, many other things that have occurred in her life
18 predating even her meeting Mr. Epstein and Ms. Maxwell, as she
19 has told the press, not because we told the press that.

20 Your Honor, it is difficult, if not impossible, to
21 address her claimed \$30 million emotional distress from a
22 defamation statement that was a denial of her allegations
23 versus any emotional distress or emotional conditions she
24 already had before any such statement was made.

25 Similarly, your Honor, we have asked for discovery of

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1 her claimed prior sexual abuse. She has, again, put in the
2 press a number of statements regarding that, and I can't
3 imagine that it is to the extent she claims privacy now, those
4 might be relevant in our case both on credibility and also
5 damage issues.

6 Your Honor, we have asked for a lot of other
7 interrogatories and documents that go to her damage claims, her
8 education records, her work history. She has refused to answer
9 any questions before where she has worked. She has refused to
10 answer any questions about where she went to school. All of
11 these are appropriate under the local rule for interrogatories.

12 Finally, your Honor, we have asked for her contracts
13 with media. She has refused to disclose those. She has
14 refused to disclose her tax returns that show all of the
15 payments that she has received from various media sources.

16 THE COURT: I take it your view of any funds from the
17 media would operate to reduce her damages.

18 MS. MENNINGER: Your Honor, it also shows her motive
19 and bias in bringing this case. To the extent she has been
20 paid for her stories to the media, which she has, she has
21 admitted that she has been paid hundreds of thousands of
22 dollars for giving these stories to the media.

23 But to the extent that she is now bringing this
24 defamation claim, if she is still either planning to receive
25 more money from the media, she has a motive and bias to make

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1 her story consistent with her previous stories. She has
2 claimed \$5 million in lost wages, your Honor. This is a person
3 who has worked primarily as a waitress in the last 15 years,
4 until her media sensational story was purchased from her by
5 some British press.

6 THE COURT: Anything else?

7 MS. MENNINGER: Your Honor, the other issues are
8 addressed in our papers. We have highlighted her incomplete
9 production on several fronts and her refusal to answer any
10 interrogatories. So I would rest on my papers with respect to
11 the other arguments. Thank you.

12 MS. McCAWLEY: Thank you, your Honor. I'd like to be
13 very clear here, your Honor. Discovery production, I've tried
14 to do that in our papers. But listening to opposing counsel
15 I'm concerned maybe she hasn't reviewed the documents we have
16 produced. We have clearly produced all of the media
17 communications she has, including records --

18 THE COURT: All the media.

19 MS. McCAWLEY: All of the media communications. She
20 has issued wildly broad requests in this case which we have
21 complied with. We ran over 200 search terms. Her request No.
22 5 alone seeks communications with over 100 individuals. And we
23 have complied, your Honor. This is coming from the defendant
24 who until Monday night, when you directed her to produce
25 privileged information, has only produced two e-mails in this

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1 case.

2 Your Honor, we have complied with our production. We
3 have produced the materials that she is saying we have not
4 produced. It's incorrect. We have produced her school records
5 that we have. We have produced her tax records that we have.
6 We have produced all of those items that we have.

7 With respect to her medical records I am going to
8 direct you to the case that is cited in our brief as the Evanko
9 case and it was a similar circumstance to here. It was a Title
10 VII case where there were emotional distress damages being
11 alleged and the Court found that the other side could not have
12 carte blanche ruling over all of her medical records from the
13 time she was born to the present. We met and conferred on two
14 hours on their discovery requests, your Honor. We agreed to
15 produce all of her medical records that we had from 1999 to
16 2002 and anything else we had that was related to the sexual
17 abuse she endured at the hands of the defendant and
18 Mr. Epstein. We have agreed to produce those.

19 We have already started producing those records from
20 the various doctors, from the treating physicians. Those are
21 in their production. Should they be entitled to things that
22 happened prior to that? Absolutely not, your Honor. They are
23 not entitled to a full-scale production of everything that's
24 happened in this young lady's life. She was abused by these
25 individuals. She shouldn't be reabused by having to disclose

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1 things that happened prior to her time with them. Your Honor,
2 we do object to the production of that material.

3 THE COURT: The flashback allegation.

4 MS. McCAWLEY: I think what she may be referring to, I
5 have not heard that term used, I think what she may be
6 referring to was the fact that this is a defamation claim and
7 the person who defamed my client was also an abuser, we allege.
8 So when she is defamed by the person who abused her and that
9 abuser is calling her a liar, that caused her significant
10 emotional distress. It's different than if some other
11 individual that she had not had contact with called her a liar.
12 When she is talking about a flashback, maybe that's what she is
13 referring to, but we don't have the word flashback anywhere in
14 our complaint.

15 THE COURT: No. I made that up.

16 There will be no claim by the plaintiff that the
17 defamation caused her distress by making her aware or as a
18 result of the prior sexual abuse.

19 MS. McCAWLEY: The sexual abuse by the defendants?

20 THE COURT: No.

21 MS. McCAWLEY: Sexual abuse by others.

22 THE COURT: Yes.

23 MS. McCAWLEY: No. Sexual abuse that relates to the
24 Epstein period, yes.

25 THE COURT: That I understand.

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1 MS. McCAWLEY: I think we are on the same page.

2 THE COURT: I think talking about the earlier period.

3 MS. McCAWLEY: Prior to Epstein, no, no, she doesn't
4 have a claim with respect to that.

5 THE COURT: Anything else?

6 MS. McCAWLEY: Your Honor, I just want to point out
7 again that our production -- you asked us to complete that. We
8 have gone through and run over 200 search terms. We have
9 produced all of those communications she has had with all of
10 those individuals. The things that we have not produced are
11 the criminal investigation records. I know your Honor is going
12 to address that. I would like to be very clear there.

13 The point there is that she has said in the motion to
14 stay papers that she filed Tuesday that she needs to have that
15 information so she can decide whether she is going to be
16 asserting her Fifth Amendment privilege. Truthful testimony
17 shouldn't have to be crafted, your Honor. She shouldn't need
18 to know what agency is investigating her in order to decide
19 whether or not she is going to be asserting her Fifth Amendment
20 privilege.

21 We do have with us, your Honor, for an in camera
22 submission, if you would like it. That is the way that courts
23 have dealt with this issue in the past. When there is a claim
24 from an agency that the disclosure of that investigation could
25 harm the investigation, we can submit that to you for in camera

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1 review so you are aware of the ongoing investigation. But it
2 is my view that that needs to be protected.

3 As you probably know, the history of these cases with
4 Mr. Epstein, there were a variety of things that went on in
5 that investigation, so there is reason to keep an investigation
6 in this situation protected so that they can properly
7 investigate and move forward with that without being inhibited
8 by other individuals. Your Honor, I would ask that that remain
9 protected. It's covered by her very, very broad requests,
10 which is why we had to lodge those objections. I would
11 appreciate your Honor considering our arguments with respect to
12 that issue.

13 The other things, your Honor, that she has raised is,
14 for example, she had asked for the Epstein settlement agreement
15 and that was one of the things that she asked for. We agreed
16 to produce that if we got the waiver from Mr. Epstein because
17 we can't produce it without that waiver.

18 I believe that covers it, your Honor. If you have any
19 questions, I would be happy to answer them.

20 THE COURT: Thanks very much.

21 Thank you all for all the clarification that you've
22 given me. I much appreciate it.

23 With respect to the retainers and the dates of
24 representation, that information will be provided for any
25 attorney that's listed on the privilege log.

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1 The plaintiff has told me that they have now supplied
2 all the education and employment records that they have. I
3 think if there is any question about that, if the defense is
4 skeptical, I would ask the counsel for the plaintiffs to make
5 that statement on the record, not necessarily here, but by way
6 of a statement to the Court and principally to the defendant.

7 On the question of residences, that's, in my view, not
8 a contention interrogatory because of the nature of this case.
9 I think it's more like listing witnesses. So I would say that
10 the plaintiff should supply all residences.

11 The Dershowitz deposition will be produced under the
12 confidentiality provision. As I read what I've been given,
13 it's to be held in confidence and it will remain in confidence,
14 but it will be produced.

15 Yes, the tax returns should be produced. 15 years
16 seems like -- I see. Ok. 15 years.

17 The medical records of the period '99 to 2002 will be
18 produced and the plaintiff will indicate whether that
19 production is complete or, if it isn't complete, when it will
20 be complete.

21 As for the pre-'99 medical records, based on where we
22 are at the moment, I do not believe that those are relevant.
23 Because the damage issue relates, in my view, solely to the
24 defamation. If that changes in any way, I will revisit that
25 issue.

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1 The criminal investigation. Any materials that the
2 plaintiff has with respect to any criminal investigations will
3 be turned over except for any statements made by the plaintiff
4 to law enforcement authority and those statements, if there are
5 such, will be submitted in camera, and I will review them.

6 I hope that clears up our problems. Tell me if I have
7 failed in my effort to do so. Yes, ma'am.

8 MS. MENNINGER: Your Honor, two quick things, I think.
9 With respect to medical records, we also certainly believe that
10 the period from the time the statement was made in January 2015
11 until the present, because she has claimed emotional distress
12 from that defamation --

13 THE COURT: Sure, yes.

14 MS. MENNINGER: The problem is, we have asked through
15 interrogatory what were the names of the medical providers
16 because they have not disclosed who her medical providers were.
17 So there is no way for us to tell whether the records in fact
18 have been sought from and produced with respect to each of
19 those medical providers. I will say that other records in the
20 possession of plaintiff lists other doctors who they have not
21 asked for records from or releases.

22 THE COURT: Let's see if we can clear that up.

23 MS. McCAWLEY: We have disclosed the names. She has
24 those names. We have also disclosed records, the more recent
25 records. We have not contested that.

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1 With respect to the interrogatories, your Honor ruled
2 on this previously, but there is a local Rule 33.3, which is
3 why we didn't serve interrogatories in this case at this point.
4 She is deposing the plaintiff in two weeks, next week, whenever
5 it is, and can certainly ask those questions as well. But we
6 have disclosed the names of the providers.

7 MS. MENNINGER: They have not, your Honor.

8 THE COURT: Look. Wait just a moment. You two are
9 lawyers. Now, that is not an issue about which you should
10 differ. Go over in the corner right now, both of you, and
11 let's make it clear who is telling me the right story. Now.

12 I take it that I misunderstood the colloquy and that
13 this matter has been resolved.

14 MS. McCAWLEY: Your Honor, I think there was a
15 misunderstanding with respect --

16 THE COURT: I was sure.

17 MS. McCAWLEY: Dr. Olsen has been noticed for
18 deposition in Colorado already. In my view, we have disclosed
19 the doctors. Ms. Menninger says that there is other doctors
20 that have been disclosed in documents that we have not yet
21 listed to her. I think in discovery we are finding
22 additional --

23 THE COURT: You think you may not have discovered that
24 your client has had some doctors --

25 MS. McCAWLEY: In the past. We are talking about

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1 years and years ago. The recent doctors we have disclosed they
2 have noticed for deposition.

3 THE COURT: What else?

4 MS. MENNINGER: Your Honor, with respect to the
5 employment and education records, as you heard plaintiff say,
6 she has disclosed, quote/unquote, what she has. Under local
7 rule 33.3, we are allowed to ask for the names of witnesses
8 with knowledge at the outset of the case, and they might be
9 custodians of records. We asked her who have been your
10 employers. She won't tell us who her employers have been. She
11 has just gone through her computer and say if I have an
12 employment record I'll give it to you, but I am not going to
13 tell you who her employers were.

14 THE COURT: She will.

15 MS. MENNINGER: Same thing with the education records.
16 We asked her to list where she had gone to school and tell us
17 where it is. She won't do it. Those are the things where my
18 skepticism arises from.

19 Largely, to the extent your Honor has ordered the
20 production of whatever materials, criminal investigation
21 materials that were not to be submitted in camera, those were
22 the ones that involved plaintiff's statements, we would like
23 the other materials that they have brought with them today to
24 give to your Honor that do not encompass their client's
25 statements to law enforcement.

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1 THE COURT: I don't know whether there are such. Is
2 it possible that nothing in this lawsuit is clear? Well, I
3 tried to make it clear what should be produced and what
4 shouldn't. Anything that has been submitted to any law
5 enforcement officer by the plaintiff I will take in camera.
6 Anything other than that with respect to any law enforcement
7 should be produced.

8 MS. MENNINGER: Thank you, your Honor.

9 THE COURT: Thank you, all. I think we have the
10 pleasure of your company -- do we need you next week? We are
11 up to date, aren't we?

12 MS. McCAWLEY: Your Honor, we have a motion with
13 respect to our discovery that's set for next Thursday.

14 THE COURT: That's fine.

15 MS. McCAWLEY: Just before we adjourn, because
16 Mr. Cassell had a question, and I just want to make sure that I
17 understand, with respect to tomorrow's deposition, they are
18 entitled to attend but have to leave the room if confidential
19 information is disclosed?

20 THE COURT: That's where we are at the moment, unless
21 it changes.

22 MR. PAGLIUCA: Your Honor, with regard to next
23 Thursday, both Ms. Menninger and I have other matters that are
24 previously scheduled and it would be impossible for us to take
25 care of those matters and be here at the same time. I'm

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1 wondering what the Court would like to do about that.

2 THE COURT: First of all, you know how we play this
3 game. You don't ask me first. You ask your opponent first.
4 Have you done that?

5 MR. PAGLIUCA: I have not, your Honor.

6 THE COURT: Will you?

7 MR. PAGLIUCA: I certainly will, your Honor.

8 THE COURT: Now.

9 MR. PAGLIUCA: Absolutely.

10 THE COURT: You can go over to the corner, too.

11 MR. PAGLIUCA: I think we need a corner bar on this,
12 your Honor.

13 Ms. McCawley, I'm wondering if we can get a mutually
14 convenient date to hear that matter as opposed to next
15 Thursday.

16 MS. McCAWLEY: Of course.

17 MR. PAGLIUCA: That was simple enough, your Honor.

18 MS. McCAWLEY: Your Honor, one more thing. I didn't
19 realize that my counsel can submit that stipulation to you
20 because that case has been settled --

21 THE COURT: If I get something that closes that case
22 and I get the affidavit that there are no other matters in
23 which they have any claims or defenses relating to any of these
24 statements, that will do it.

25 MS. McCAWLEY: Your Honor, so I know, if we can submit

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1 that by fax this afternoon, will they be able to attend the
2 deposition tomorrow?

3 THE COURT: I would think so, if I think those are
4 adequate representations and so on. The statement from a
5 mediator doesn't mean anything to me. Something that has a
6 court sign to it. That I understand. But the mediator saying
7 that it's settled doesn't work for me.

8 MR. CASSELL: Your Honor, maybe Mr. Edwards could
9 briefly explain Florida procedure. The case has been
10 dismissed, but it does not require a Court's signature.
11 Mr. Edwards can elaborate more fully on that.

12 MR. EDWARDS: Sure. If I may. There are two ways in
13 which a case can be dismissed in Florida. One is by way of a
14 court order. The other is by way of a stipulation. That is
15 what was done. There was a stipulation of dismissal signed by
16 both parties, that being the plaintiff and the defendants and
17 counsel, that has been done and that was dismissed.

18 THE COURT: That's filed in the case.

19 MR. EDWARDS: That's filed in the case and filed in
20 the court.

21 THE COURT: Do you have a copy of that?

22 MR. EDWARDS: I can get a copy of it immediately.

23 THE COURT: Give it to the defense. If they have any
24 problems, they will let me know. That sounds all right to me.
25 What do I know about Florida except that it's flat and hot.

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1 Your representation sounds right.

2 MR. EDWARDS: Additionally, just with respect to the
3 affidavit, there needs to be an affirmation that we have no
4 other claims that relate to the statements in this case. Is
5 that what we are saying?

6 THE COURT: I think it should be broader than that. I
7 think it should be -- look. I don't think it would be
8 appropriate if there is any possibility for either of you to
9 being a party. That's what I'm after. And having any
10 proceedings against you arising out of the situation with the
11 plaintiff. I think it would be inappropriate for you to be
12 counsel if you have the potentiality of being a party, either
13 plaintiff or defendant, in any proceedings. If I get an
14 affidavit saying that you're unaware of any claims against you
15 or any intention to make a claim arising out of the
16 circumstances surrounding this lawsuit, that should be broad.
17 I think that would satisfy me.

18 MR. EDWARDS: Ok.

19 MR. CASSELL: I'll be filing those materials this
20 afternoon, your Honor. My plan is to attend --

21 THE COURT: The defense has a thought on this.

22 MR. PAGLIUCA: Your Honor, I am looking at documents
23 from Florida. One is a docket sheet captioned: Epstein v.
24 Brad Edwards and Paul G. Cassell, Lower Tribune Cases 15 000072
25 which shows that that matter is still pending. There is

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1 another case, as I understand it, Edwards v. Epstein and
2 Rothstein, which is also pending. I can confer about this,
3 your Honor.

4 THE COURT: Let's do this. When do you plan to return
5 to the snow fields?

6 MR. PAGLIUCA: There is still snow on the ground, your
7 Honor. Well, Friday night or Saturday morning is my current
8 plan.

9 THE COURT: That's great. Whatever the applicants
10 have on this subject, please turn it over. You all can work
11 out how you are going to do that. Turn it over to the defense.
12 And if there is anything you want me to do, I would be prepared
13 to do it tomorrow. But that way I hope we can get it cleared
14 up.

15 MS. McCAWLEY: Your Honor, we do have the deposition
16 of the defendant scheduled for tomorrow.

17 THE COURT: Then everybody will be having a nice time
18 together. Maybe you can all go out and have lunch, have a
19 drink, and exchange these documents and go away happy. Not
20 likely, but perhaps, depending on where you have lunch.

21 MS. McCAWLEY: Thank you, your Honor.

22 THE COURT: Anything else?

23 MS. MENNINGER: Nothing.

24 THE COURT: Thank you, all.

25 One thing. I would appreciate it if counsel would get

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1 together on my request for additional coverage in the
2 confidentiality agreement.

3 MS. McCAWLEY: Sure.

4 THE COURT: Thanks a lot.

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1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF NEW YORK

-----x

3 [REDACTED]

4 Plaintiff,

5 v.

15 CV 7433 (LAP)
Remote Zoom Conference

6 GHISLAINE MAXWELL,

7 Defendant.

8 -----x

9 New York, N.Y.
10 July 23, 2020
11 11:30 a.m.

12 Before:

13 HON. LORETTA A. PRESKA,

14 District Judge

15 APPEARANCES

16 BOIES, SCHILLER & FLEXNER, LLP
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17 HADDON, MORGAN, AND FOREMAN, P.C.
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18 BY: LAURA A. MENNINGER

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1 (The Court and all parties appearing via Zoom)

2 THE COURT: Are we ready to begin or is there anyone
3 else we're waiting for? OK.

4 So let's begin. I wanted to start out by thanking
5 counsel for organizing the docket entries by motion, by Doe, by
6 pinpointing the references to the Does and the like. It was
7 exceedingly helpful to the Court and really a model of making
8 it easy for the Court.

9 My law clerk is on the call and I'm going to invite
10 him to correct me if I make any mistakes in going over charts
11 when we go document by document.

12 To remind us where we are in the process of unsealing
13 materials from [REDACTED] v Maxwell, the Court is to:

14 One, evaluate the weight of the presumption of public
15 access to the materials;

16 Two, identify and evaluate the weight of any
17 countervailing interests; and

18 Three, determine whether the countervailing interests
19 rebut the presumption.

20 The Court acknowledges that the presumption of public
21 access attaches to judicial documents, that is, to documents
22 filed in connection with a decided motion or to papers that are
23 relevant to the Court's exercise of its inherent supervisory
24 powers. The documents at issue here relate to discovery
25 motions previously decided by Judge Sweet, and so the Court

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1 concludes that they are judicial documents to which the
2 presumption of public access attaches. Because the motions are
3 discovery motions, the presumption is somewhat less weighty
4 than on a dispositive motion but is nevertheless important to
5 the public's interest in monitoring federal courts' exercise of
6 their Article III powers.

7 The motions at issue today mention Does 1 and 2, the
8 first long line of nonparties mentioned throughout the sealed
9 materials. Pursuant to the protocol set out in docket
10 no. 1044, these individuals were given notice of the motion to
11 unseal and given the opportunity to request the material that
12 pertains to them and to object to its unsealing. Neither Doe
13 requested the material or lodged an objection to unsealing.
14 The Court notes that the names of Does 1 and 2, portions of
15 their deposition transcripts, and portions of the Palm Beach
16 police report ascribed to them have already been made public.
17 Also, Doe 1 gave a press interview about the subject matter of
18 this action.

19 Also pursuant to the protocol, the parties were
20 permitted to comment on the motion to unseal, and defendant
21 Maxwell has lodged objections to unsealing. In her objections,
22 Ms. Maxwell relies on several countervailing interests, the
23 most weighty of which are that the material concerns personal
24 matters that, if released, might lead to annoyance or
25 embarrassment, that the material was abusively filed or is

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1 untrustworthy, and that the material concerns the subject of a
2 criminal investigation.

3 With respect to the argument that the material
4 constitutes personal information which might lead to annoyance
5 or embarrassment if unsealed, Ms. Maxwell proffers little more
6 than her ipsi dixit; she provides no specifics as to these
7 conclusions. In her first deposition, which is among the
8 documents being considered on this motion, Ms. Maxwell refused
9 to testify as to any consensual adult behavior and generally
10 disclaimed any knowledge of underage activity. In the context
11 of this case, especially its allegations of sex trafficking of
12 young girls, the Court finds that any minor embarrassment or
13 annoyance resulting from disclosure of Ms. Maxwell's mostly
14 nontestimony about behavior that has been widely reported in
15 the press is far outweighed by the presumption of public
16 access.

17 With respect to the argument that the material was
18 abusively filed or is untrustworthy, again, Ms. Maxwell
19 proffers few specifics. That some of the exhibits to the
20 motion papers might not have been technically required on the
21 motion does not make the papers abusively filed. That
22 Ms. Maxwell's lawyers did not cross-examine some of the
23 witnesses relied on does not make the witnesses' testimony too
24 unreliable to be unsealed. In any event, the Court is dubious
25 that such a fine-toothed comb review is required to evaluate

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1 the public interest in access to these papers. Thus, the Court
2 finds that these interests are entitled to little weight under
3 the facts of this case.

4 Finally, that the material relates to a person now
5 known to be under criminal investigation, Ms. Maxwell, is not
6 entitled to much weight here. Again, Ms. Maxwell has relied on
7 ipsi dixits and has not explained how the sealed material, if
8 released, could, as she posits, "inappropriately influence
9 potential witnesses or victims." Again, the Court finds that
10 this interest is entitled to little weight under the facts of
11 this case.

12 As should be clear from the above, the Court finds
13 that the countervailing interests identified fail to rebut the
14 presumption of public access to the motions at issue and the
15 documents filed in connection with those motions. Accordingly,
16 those papers shall be unsealed.

17 The Court also notes that several of the documents
18 sealed on these motion papers have already been made public,
19 and so those documents will not be discussed.

20 Also, personal identifying information as to any
21 person mentioned in the documents and the names of nonparties
22 other than Does 1 and 2 and other portions related to such
23 nonparties' specific conduct will be redacted from the
24 materials being unsealed. Disclosure of the additional
25 nonparty names will await notice to those parties and an

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1 opportunity for them to be heard.

2 I won't repeat this caveat as to each document but
3 will only comment when it is not applicable. So unless there's
4 a specific comment, personal identifying information should be
5 redacted and the names of the other Does not yet identified.

6 Consistent with the protocol, the Court will now
7 announce its findings with respect to the sealed documents
8 relating to Does 1 and 2 that are the subject of this motion to
9 unseal. For ease of reference, as counsel knows, the Court
10 will proceed in the order of the documents listed on Exhibit A,
11 that is docket no. 1068-1.

12 Docket entry 143. Plaintiff's motion to compel
13 defendant to answer deposition questions. Unseal subject to
14 the caveat which I won't keep saying.

15 144. Plaintiff's declaration of Ms. McCawley in
16 support of the motion. Unseal.

17 144-1. Exhibit 1. Page 21 of Ms. Maxwell's April 22,
18 2016 deposition. Unseal.

19 144-2. Additional pages of Ms. Maxwell's April 22,
20 2016 deposition. Unseal.

21 Same thing for 144-4.

22 Same thing for 144-5.

23 Same thing for 144-6.

24 Same thing for 144-7.

25 149. Defendant's response to the motion. Unseal.

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1 150. Declaration of Mister -- how does he say it,
2 Mr. Pagliuca? Say it again.

3 MS. MENNINGER: Pagliuca.

4 THE COURT: Mr. Pagliuca in opposition to the motion
5 to compel. Unseal.

6 150-1. Additional pages from Ms. Maxwell's April 22,
7 2016 deposition. Unseal.

8 152. Plaintiff's reply memorandum of law on the
9 motion. Unseal.

10 153. Ms. McCawley's declaration in support of the
11 motion to compel. Unseal.

12 I'm sorry. I'm going to go back to 152 for a minute.
13 Unseal the portions summarizing Doe 1's public statements.
14 Those appear on page 6. Unseal portions summarizing deceased
15 nonparties' public statements. Page 6. OK.

16 Continuing on. 153-1. Additional deposition
17 excerpts. Unseal.

18 164. Defendant's motion to compel all attorney-client
19 communications and work product put at issue by plaintiff and
20 her attorneys. Unseal.

21 165. Declaration of Ms. Menninger in support of that.
22 That can be unsealed in full because there are no -- there is
23 no material within the caveat in the document.

24 165-3. Exhibit C. This is a copy of a motion to join
25 in Jane Doe 1 and Jane Doe 2 files in court. That document is

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1 already public.

2 165-8. Excerpts from Ms. [REDACTED] deposition taken
3 in the Dershowitz matter on January 16, 2016. Unseal.

4 165-10. Copy of e-mail correspondence. Unseal.

5 165-11. Excerpts from Ms. [REDACTED] deposition,
6 May 3, 2016. Unseal.

7 184. Plaintiff's response in opposition to the
8 motion. Unseal the portions relating to Does 1 and 2 which
9 appears on page 3.

10 185. Ms. McCawley's declaration in opposition. That
11 can be unsealed in full because there is no material included
12 in the caveats in the document.

13 185-2. Copy of Jane Doe's no. 3 and 4 corrected
14 joinder motion. Already filed in public.

15 185-3. Response to the motion to intervene. Already
16 filed in public.

17 185-11. Various deposition excerpts from
18 Ms. [REDACTED] deposition. The pages unsealed by the Second
19 Circuit should, of course, remain unsealed.

20 185-13. It's a copy of Ms. [REDACTED] May 30, 2016
21 affidavit. That can be unsealed in full.

22 185-14. Copy of deposition excerpts from Mr. Cassell.
23 Unseal.

24 185-15. Copy of a transcript of the [REDACTED]
25 interview of April 7, 2011. Unseal in full. The document is

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1 already public

2 185-16. Copy of common interests agreement. Unseal.

3 194. Ms. Menninger's declaration in support of the

4 motion to compel. Unseal in full.

5 194-3. Excerpts of Ms. [REDACTED] May 3, 2016

6 deposition. Unseal.

7 172. Plaintiff's motion to exceed the presumptive ten

8 deposition limit. That may be unsealed. Obviously subject to

9 the caveat.

10 173. Ms. McCawley's declaration in support. Unseal

11 173-5. May 18, 2016 deposition transcript of Doe 162.

12 Pages released by the Second Circuit, of course, will remain

13 sealed -- will remain unsealed. Let me say it again. The

14 pages unsealed by the Second Circuit, of course, remain

15 unsealed and further unsealing awaits notice.

16 173-6. Excerpts from Ms. Maxwell's April 22, 2016

17 deposition. Same thing. Pages unsealed by the Second Circuit

18 remain unsealed. The portions of the deposition relating to

19 Does 1 and 2 which appear pages 71, 72, 73, and 218 shall be

20 unsealed.

21 189. Response in opposition to the motion. Unseal

22 everything except for the reaction -- I'm sorry, the redaction

23 on page 5 pending further nonparty notice.

24 190. Ms. Menninger's declaration in opposition. That

25 can be unsealed in full.

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1 190-1. Excerpts from Ms. [REDACTED] deposition taken
2 on May 3, 2016. Unseal everything except for the inadvertently
3 included letter on page 2.

4 203. Response in support of the motion. The portions
5 relating to Does 1 and 2 which appear at pages 2, 5, and 6 may
6 be unsealed.

7 204. Ms. McCawley's declaration in support. Unseal.

8 204-1. Doe no. 162's deposition transcript. The
9 pages unsealed by the Second Circuit will, of course, remain
10 unsealed and the remainder of the document remains sealed until
11 notice to the nonparty.

12 204-2. It's Doe no. 151's rough deposition transcript
13 excerpts. The pages unsealed by the Circuit will remain
14 unsealed. The remainder will await notice to that Doe.

15 204-3. Deposition of John Doe 1. Unseal in full.

16 211. That's the reply to the motion. The portions
17 mentioning Does 1 and 2 which appear at pages 2, 5, and 6 may
18 be unsealed.

19 212. Ms. Schultz's declaration in support of the
20 motion. The portions mentioning John Does 1 and 2 which appear
21 at page 2 may be unsealed.

22 212-1. Doe no. 162's deposition transcript excerpts,
23 pages unsealed by the Circuit will remain unsealed.

24 212-2. Doe 151's final deposition transcript
25 excerpts. The pages unsealed by the Circuit will remain

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1 unsealed

2 212-3. Doe 1's deposition transcript excerpt. Unseal
3 in full

4 222 -- I'm sorry. 224. It's the reply on the motion.
5 The portions relating to Does 1 and 2 which appear at page 2
6 may be unsealed.

7 199. That's a motion for an extension of time to
8 complete depositions. That's open in any event.

9 228. The response in opposition to the motion.
10 Unseal.

11 229. Ms. Menninger's declaration in opposition.
12 Unseal.

13 221 -- 229-1. Excerpts of the deposition of Doe
14 no. 151. Hold until notice to that Doe.

15 229-2. The billionaire playboy's club book
16 manuscript. The pages unsealed by the Circuit will remain
17 unsealed.

18 229-4. Excerpts of plaintiff's deposition of May 3,
19 2016. Unseal the pages released by the Circuit.

20 229-10. This is correspondence released in the case
21 between Ms. Maxwell and Jeffrey Epstein from January 2015.
22 Unseal in full.

23 229-11. Notices of deposition and a subpoena for Doe
24 84 -- Will, I can say these two names, right?

25 THE LAW CLERK: Yes, Judge.

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1 THE COURT: [REDACTED] and [REDACTED] together
2 with a letter of production from Ms. McCawley. Unseal in full.

3 248. Reply memorandum of law in support of the
4 motion. We're going to await the notice to the Doe on that
5 one.

6 249. Ms. McCawley's declaration in support of the
7 motion. Unseal in full.

8 249-4. Ms. McCawley's correspondence with opposing
9 counsel. The portions relating to Does 1 and 2 which appears
10 at pages 4 and 5 can be unsealed.

11 249-13. Defendant's Rule 26 disclosures. The
12 portions relating to Does 1 and 2 shall be unsealed.

13 249-14. Ms. Schultz's correspondence with opposing
14 counsel. Unseal.

15 249-15. Same. Same.

16 230. Defendant's motion to reopen the deposition of
17 plaintiff [REDACTED]. It may be unsealed. However, the
18 information currently redacted in the document relating to
19 plaintiff's medical history shall remain redacted for obvious
20 reasons.

21 235. Ms. Menninger's declaration in support of the
22 motion. Unseal.

23 235-4. The deposition of Ms. [REDACTED]. The pages
24 released by the Second Circuit of course remain unsealed. The
25 portions relating to Doe 1 and 2 which appears -- which appear

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1 at pages 122, 126, 134, and 138 shall be unsealed.

2 235-5. Ms. Menninger's declaration. The medical
3 records on pages 5 to 12 should remain sealed; otherwise,
4 unseal.

5 235-6 are medical records. They shall remain sealed.

6 235-7. Excerpts from the -- a deposition of Doe
7 no. 131. That will remain sealed pending notice to the Doe.

8 235-8. Production letters from Ms. Schultz to
9 Ms. Menninger. The exhibits will remain sealed.

10 235 -- and they are medical records.

11 235-9. Excerpts from the May 26, 2016 deposition of
12 Dr. Stephen Olsen. The material relating to plaintiff's
13 medical issues shall remain sealed. The other material in the
14 deposition, for example, how the doctor takes notes, how the
15 doctor gets new patients, how the doctor writes prescriptions
16 and that sort of thing may be unsealed.

17 235-10. Production letters from Ms. McCawley to
18 Ms. Menninger. Unseal.

19 235-12. The June 1, 2016 errata sheet relating to
20 Ms. [REDACTED] deposition. Unseal.

21 235-13. Plaintiff's third revised disclosure pursuant
22 to Federal Rule 26. Unseal.

23 260. Ms. McCawley's declaration in opposition to the
24 motion. The redactions which are medical information will
25 remain.

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1 260-1. Will, is this only the authorization or is it
2 the authorization plus material?

3 THE LAW CLERK: Judge, I believe it's the
4 authorization on the first two pages and then the medical
5 records on subsequent pages.

6 THE COURT: Thank you. The medical record
7 authorization may be unsealed. The subsequent pages which
8 constitute medical records will remain sealed.

9 260-2. Dr. Lightfoot's June 27, 2016 correspondence.
10 That may be unsealed.

11 267. The reply on the motion. The information
12 relating to plaintiff's medical history shall remain sealed.

13 268. Ms. Menninger's declaration in support of the
14 motion. Unseal.

15 268-1. Pages from plaintiff's medical records. They
16 shall remain sealed.

17 268-2. Excerpts from the deposition of Doe no. 67.
18 The pages unsealed by the Second Circuit will remain sealed --
19 I'm sorry, will remain unsealed and the remainder of the
20 document will remain sealed pending notice to the relevant
21 Does.

22 Counsel, I will ask you to confer and to prepare the
23 documents for unsealing pursuant to this order and post the
24 documents within a week on the docket sheet as documents
25 unsealed pursuant to the Court's order of July 23 or something

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1 like that.

2 Counsel, do you have any questions?

3 MS. MENNINGER: Your Honor, on behalf of Ms. Maxwell I
4 would ask if we could have the opportunity for a brief stay in
5 order to seek relief in the Second Circuit. There is not a
6 certain mechanism for doing that in an unsealing context but I
7 know that the Brown Court at the conclusion of their opinion
8 stated their intent for that panel to maintain jurisdiction
9 over this case for purposes of any appeals taken from an
10 unsealing order and so we would ask for two weeks, if we could,
11 to seek relief in the Second Circuit.

12 THE COURT: Ms. McCawley.

13 MS. McCAWLEY: Yes, your Honor. We obviously believe
14 that the material should be unsealed as quickly as possible so
15 we would prefer to obviously have the material unsealed.

16 MS. MENNINGER: Your Honor, if I may briefly, to add
17 to my record. While I understand and respect the Court's
18 ruling, there have been some significant changes with respect
19 to my client's position since we concluded briefing. In
20 particular, and perhaps known to everyone listening to this,
21 while we were speaking about a potential ongoing criminal
22 investigation at the time we submitted our brief, since that
23 time Ms. Maxwell has been indicted and a trial has been
24 scheduled for next July in another courtroom in the Southern
25 District. So while we were not able to provide specifics

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1 necessarily with regard to what witnesses might be relevant to
2 any such criminal trial, now we are in a vastly different
3 position and certainly have great concerns about our client's
4 ability to seek and receive an impartial and fair trial and
5 jury given the intense media scrutiny around anything that is
6 unsealed or anything that happens in this or any of the related
7 cases. So while we -- your Honor had mentioned at the
8 beginning of this ruling that there was a lack of specifics on
9 the front of the pending criminal investigation, I think there
10 may be the ability to provide a lot more specifics about that
11 at this time and certainly I think it's an issue that we would
12 like to, if we may, have a brief amount of time to submit. It
13 is important either to this Court's analysis or to the Second
14 Circuit.

15 THE COURT: So what are you asking me for?

16 MS. MENNINGER: Your Honor, I ask for two weeks if we
17 could to file an emergency appellate motion in the Second
18 Circuit and ask them to stay any further release.

19 THE COURT: I will give you a week to file the motion.
20 In the meantime I will still ask counsel to confer and to
21 prepare the papers for release. If the Court of Appeals has
22 not ruled on your motion in a week, then you can let me know.

23 (Court reporter dropped off the call; called back in
24 and read record to the point where call dropped)

25 THE COURT: After that, I asked counsel to confer

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1 generally along the outlines of the proposal in Ms. Maxwell's
2 letter of April 3, docket no. 1045 to propose the next
3 chronological set of motions to be considered for unsealing. I
4 also asked counsel to confer on ways to make the process more
5 efficient, less time consuming, and to make it stretch out or
6 over a shorter time period. For example, it occurs to me we
7 could shorten the briefing time. We could reduce the number of
8 pages of briefing, for example, to ten pages each side total or
9 something like that. I'll ask counsel to confer and to report
10 back within a week.

11 Finally, going forward, as you all saw, Exhibit A to
12 Ms. [REDACTED] motion -- I said the number of it earlier but
13 that was exceedingly helpful. If you would like to propose a
14 joint exhibit similar to that as we go forward with everybody's
15 positions, I would welcome it.

16 Is there anything else you want to ask, counsel?

17 MS. McCAWLEY: No, your Honor.

18 MS. MENNINGER: No, your Honor. Not from Ms. Maxwell.

19 Thank you.

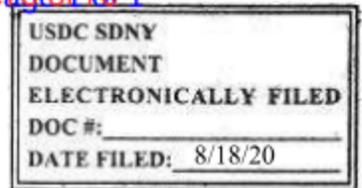
20 THE COURT: Thank you and I'll just tell you lawyers
21 again how useful the work you did in organizing the docket
22 entries was. Thank you for it again.

23 MS. MENNINGER: Thank you, your Honor.

24 THE COURT: Good afternoon, counsel. Thank you.

25 MS. McCAWLEY: Good afternoon. Thank you. (Adjourned)

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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

United States of America,

-v-

Ghislaine Maxwell,

Defendant.

20-CR-330 (AJN)

ORDER

ALISON J. NATHAN, District Judge:

On August 17, 2020, the Defendant filed a letter motion seeking a modification of this Court’s Protective Order, which the Court entered on July 30, 2020. Defendant also moves to file that letter motion under seal. The Government’s opposition to Defendant’s letter motion is hereby due Friday, August 21 at 12 p.m. The Defendant’s reply is due on Monday, August 24 at 12 p.m. The parties shall propose redactions to the letter briefing on this issue. Alternatively, the parties shall provide support and argument for why the letter motions should be sealed in their entirety.

SO ORDERED.

Dated: August 18, 2020
New York, New York

ALISON J. NATHAN
United States District Judge