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October 4, 2018

Via ECF

Hon. John G. Koeltl
United States District Judge
United States District Court
Daniel Patrick Moynihan Courthouse
Southern District of New York
500 Pearl Street
New York, New York 10007-1312

Re: [REDACTED] v. Jeffrey Epstein, et al., 17-cv-00616 (JGK)

Dear Judge Koeltl:

This is a letter motion requesting a pre-motion discovery conference regarding the need for a protective order pursuant to Fed. R. Civ. P. 26(c)(1) and Local Civ. R. 26.4(a) concerning the date and location of the deposition of Defendant Ghislaine Maxwell. Counsel has conferred in good faith with Plaintiff's counsel by phone and by email and has not been able to otherwise resolve the dispute.

The Rule 16 conference in this matter occurred before your Honor on August 7, 2018. On August 10, Plaintiff's counsel served deposition notices for all defendants without consulting any counsel regarding their or their clients' availability, for dates from August 21-28. On August 15, undersigned counsel advised Plaintiff that she was unavailable for the unilaterally selected date and proposed a conference call amongst counsel to schedule the parties' various depositions.¹ No response to that proposal was received.

By email of September 4, undersigned counsel proposed dates of October 9 or 10 for Ms. Maxwell's deposition. Again, Plaintiff failed to respond. Yet, on September 26, without conferring regarding availability and ignoring the dates previously proposed, Plaintiff served a second deposition notice for Ms. Maxwell on October 15, 2018. Again, undersigned counsel advised that she is not available on October 15, due to previously scheduled depositions in another matter, and proposed the dates of October 23-25 in London, where both counsel and Ms. Maxwell will be present. Plaintiff then "accepted" the date of October 25 but demanded that the location be in New York, where, *ipso facto*, neither counsel nor Ms. Maxwell will be present.

¹ On the noticed date of August 28, undersigned counsel was in fact in a previously scheduled two day motions hearing in the U.S. District Court for the District of Colorado, Case Number 16-cr-00347-WYD.

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Finally, on October 1, counsel scheduled a telephonic conferral for purposes of scheduling the deposition. On that call, undersigned counsel explained various other case commitments and offered deposition dates of either November 7 or 8, given the mediation is scheduled for November 9 in New York and all parties' counsel had previously indicated their availability for those dates.

By email of October 2, 2018, counsel for Ms. [REDACTED] officially offered November 8 in New York as a date for Ms. Maxwell's deposition, requesting a response by "close of business." At 4:36 p.m., undersigned confirmed her and her client's availability and accepted that date and location for the deposition. *See attached.* A mere six hours later, another of Ms. [REDACTED] attorneys wrote back and stated the deposition had to occur on November 7, with Ms. [REDACTED] to occur on November 8. Then yesterday, October 3, Plaintiff's counsel again unilaterally served a deposition notice for October 25, 2018, in New York, knowing that counsel and Ms. Maxwell are not available for a New York deposition on that date.

Given the thrice-served notices for Ms. Maxwell's depositions, each for dates and locations that either she or her counsel are not available, counsel very reluctantly seeks assistance from the Court in what should be a courteous and commonplace occurrence in a civil case, the scheduling of party depositions. Local Rule 26.4 advises counsel to "cooperate with each other...in all phases of the discovery process and to be courteous in their dealings with each other including *in matters related to scheduling and timing of various discovery procedures.*" (emphasis added)

Counsel simply requests that the Court enforce the agreement of the parties, memorialized in the attached email, that the deposition for Ms. Maxwell occur in New York on November 8, 2018. Counsel has not stated they are unavailable on that date, to the contrary, they proposed the date and location and it was accepted. There is no good faith basis to now serve a deposition notice for another date and location other than that proposed, especially given Ms. Maxwell's unavailability to travel to New York on October 25.

Counsel for Ms. Maxwell respectfully requests a telephone conference with the Court for purposes of resolving the matter without the need for the filing of a motion.

Sincerely,
HADDON, MORGAN AND FOREMAN, P.C.

/s/ Laura A. Menninger
Laura A. Menninger

Attachment: Emails of counsel dated October 2, 2018

CERTIFICATE OF SERVICE

I certify that on October 4, 2018, I electronically served this *LETTER MOTION* via ELECTRONIC MAIL on the following:

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/s/ Nicole Simmons

Nicole Simmons