



January 4, 2024

**VIA ECF**

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

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

Dear Judge Preska,

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

Respectfully,

/s/ Sigrid S. McCawley  
Sigrid S. McCawley

cc: Counsel of Record (via ECF)

# Exhibit 4

## (File Under Seal)

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

3 VIRGINIA L. GIUFFRE,

4 Plaintiff,

5 v.

15 CV 7433 (RWS)

6 GHISLAINE MAXWELL,

7 Defendant.

8 -----x  
9  
10 New York, N.Y.  
11 January 14, 2016  
12 12:00 p.m.

13 Before:

14 HON. ROBERT W. SWEET,

15 District Judge

16 APPEARANCES

17 BOIES, SCHILLER & FLEXNER  
18 Attorneys for Plaintiff  
19 BY: SIGRID McCAWLEY

20 HADDON, MORGAN & FOREMAN  
21 Attorneys for Defendant  
22 BY: LAURA MENNINGER

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1 (In open court)

2 THE COURT: I will hear from the movant.

3 MS. MENNINGER: Thank you, your Honor, Laura Menninger  
4 on behalf of the defendant Maxwell. We are the movant for the  
5 purposes of today's hearing. I filed both a motion to dismiss  
6 the complaint, which is based on one claim of defamation, as  
7 well as a motion to stay discovery during the pendency of our  
8 motion to dismiss the complaint.

9 At the heart of this case, your Honor, defamation is  
10 about words, specifically false and defamatory words, about the  
11 plaintiff published to another by the defendant with a certain  
12 level of culpability and resulting injury. Depending on the  
13 context of the words, the content of the statement, the  
14 relationship of the speaker and the listener, depending on the  
15 time, place and manner of the statement, the Court may find the  
16 words to be actionable or not, privileged or not, defamatory in  
17 meaning or not.

18 The central problem with this particular complaint,  
19 your Honor, is that all of the key elements of defamation are  
20 conspicuously absent. Cutting through the hyperbole and the  
21 rhetoric contained in the complaint, one is still left  
22 wondering what words are actually at issue. Is it the three  
23 sentence fragments contained in paragraph 30 against Ghislaine  
24 Maxwell are untrue, shown to be untrue, claimed or obvious  
25 lies, or does it include some additional or extra false

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1 statements that are referenced but never explained in  
2 paragraphs 31 and 34? In what context were any of these  
3 sentence fragments published? What, if anything, were they in  
4 response to?

5 Your Honor has found in previous cases, such as  
6 Hawkins v. City of New York, that the failure to identify the  
7 individuals to whom the statement allegedly was made and the  
8 content of that statement is fatally defective to an attempt to  
9 state a libel or slander cause of action.

10 In this case, in this complaint, plaintiff has barely  
11 even attributed a few sentence fragments to my client,  
12 Ms. Maxwell. She stripped them of any context. She hasn't  
13 provided the entire statement in which those sentence fragments  
14 were contained, nor the articles in which any of those  
15 sentences might have appeared. She has not pled facts, which,  
16 as this Court knows, post-Twombly, must be included, not just  
17 legal conclusions. She has not pled facts demonstrating actual  
18 malice, nor any special damages or facts that would support  
19 defamation per se. Because of the many pleading failures, your  
20 Honor, I do not believe this complaint should stand.

21 The Second Circuit made quite clear that your Honor  
22 has an important gatekeeping function in a defamation case.  
23 The Court must ascertain whether the statement, when judged in  
24 context, has a defamatory meaning, and also whether it is  
25 privileged.

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1                   As your Honor also found in Cruz v. Marchetto, you  
2 cannot rely, as the plaintiff tries to do here, on the less  
3 stringent pleading requirements that predated Twombly and  
4 Iqbal, and furthermore, that the plaintiff must plead facts  
5 which support either defamation per se or special damages.

6                   Here, your Honor, while there are statement fragments  
7 contained in the complaint at paragraph 31, there's not even a  
8 complete sentence attributed to my client, Ms. Maxwell. That,  
9 your Honor, has been found on numerous occasions to be  
10 insufficient to state a cause of action for defamation.

11                  Furthermore, the complaint does not state to whom any  
12 such statements were made. There is a general allegation that  
13 the statements were made, quote, to the media and public, but  
14 no media is identified, no publications are identified. While  
15 the complaint states at one point that it was published and  
16 disseminated around the world, not a single publication is  
17 mentioned or attached to the complaint.

18                  And furthermore, the complaint fails to state where in  
19 fact the statements were made. Although it does state the  
20 statements were made in the Southern District of New York, it  
21 attributes those sentence fragments to a press agent who is  
22 admittedly located in London.

23                  Finally, your Honor, there is a lot of confusion  
24 contained in the paperwork with regard to the standard of  
25 malice that must be pled. Again your Honor has found, and

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1 numerous other Southern District Courts have found likewise,  
2 that malice in this context is malice in the sense of spite or  
3 ill will. Looking to the complaint, your Honor, there's not a  
4 single conclusory or factually-supported allegation that would  
5 give rise to a finding of malice. And that, your Honor,  
6 likewise is fatal to the complaint.

7 Finally, in terms of pleading deficiencies, plaintiff  
8 in this case has tried to allege defamation per se by claiming  
9 her profession is as a professional victim. In other words,  
10 ten days before she claims my client made statements about her,  
11 plaintiff founded a nonprofit through her organization, through  
12 her attorneys in Florida, called Victims Refuse Silence, and  
13 thereby states that any attempt to impugn anything she says is  
14 defamation per se.

15 There is no support in the case law for a profession  
16 of being a victim, your Honor. And likewise, there's no  
17 factual support to suggest, and the cases require, that the  
18 statements attributed to my client, Ms. Maxwell, have anything  
19 to do with her nonprofit organization, nor that my client was  
20 even aware of an organization founded a mere ten days earlier  
21 and which doesn't appear to have any actual business conduct  
22 related to it.

23 So your Honor, I think for all those reasons, the  
24 complaint is insufficiently pled and should be dismissed.

25 Our papers go on a little bit further, your Honor, to

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1 also argue that to the extent any of these sentence fragments  
2 can be pieced together, the statements, at most, are a general  
3 denial. In other words, plaintiff admits in the complaint that  
4 she started a media campaign against my client, she issued some  
5 very salacious allegations against my client in the British  
6 press and in some pleadings that she filed in Florida. And  
7 after having done that, my client, she says, issued a statement  
8 that the allegations are quote, unquote, untrue.

9 Repeatedly, cases both in New York State and federal  
10 courts have found general denials are not actionable, that  
11 individuals have a right, when they have been accused of  
12 misdeeds in the press, to respond, so long as they don't abuse  
13 that privilege. And by abuse of privilege, that means  
14 including numerous defamatory extraneous statements about the  
15 person to whom they are responding and/or excessively  
16 publicizing their response.

17 In this case, your Honor, the statement the  
18 allegations are untrue is about as plain vanilla as one can  
19 find. There's no better way to issue a general denial than to  
20 just say that the allegations are untrue, without more.  
21 There's not a single reference to plaintiff herself.

22 Although, in opposition, plaintiff claims to have been  
23 called a liar, complains that she was called dishonest, she  
24 doesn't actually point to any statement which contains those  
25 words, nor any statement which actually refers to her as a

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1 person, simply to the allegations which her client had issued,  
2 and frankly, allegations which had been circulated in the  
3 press.

4 So saying the allegations are untrue is tantamount to  
5 a general denial, and that is one additional reason, your  
6 Honor, that I think the complaint should be dismissed.

7 Thank you.

8 MS. McCAWLEY: Good morning, your Honor. May I  
9 approach with a bench book?

10 THE COURT: Sure.

11 MS. McCAWLEY: Thank you.

12 THE COURT: I think in duplicate. Do you have another  
13 copy?

14 MS. McCAWLEY: Sure, of course.

15 Good morning, your Honor, my name is Sigrid McCawley,  
16 I'm with the law firm of Boies, Schiller & Flexner representing  
17 the plaintiff in the case, Virginia Giuffre.

18 With all due respect to my colleague, I think she read  
19 a different complaint than the one submitted in this case. She  
20 left out significant factual details from the complaint that  
21 plead actual defamation.

22 This is an old story. A woman comes forth and finally  
23 gets the courage to tell about the sexual abuse she endured,  
24 and her abusers come public and call her a liar and say her  
25 claims are, quote, obvious lies. That quote is in our

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1 complaint.

2 Your Honor, this is an actionable defamation case.  
3 Fortunately for women who have been abused in this manner, the  
4 law of defamation stands by their side. It does not allow  
5 someone to publically proclaim they're a liar and issue  
6 character assaults on them without ramifications.

7 After those statements were made, we filed this  
8 defamation lawsuit. Virginia Giuffre was only 15 years old  
9 when she was recruited by Maxwell to be sexually abused by both  
10 Maxwell and Jeffrey Epstein, who is a convicted pedophile and  
11 billionaire. She was harmed for many years before she finally  
12 found her way to Thailand and escaped clear to Australia where  
13 she hid out for ten years before the FBI interviewed her and  
14 she made her statement public.

15 Your Honor, this is a very serious case of abuse. My  
16 client never sued Ms. Maxwell until she came out and called her  
17 a liar publically for claiming her allegations of sexual abuse  
18 were false. That's actionable defamation. We have seen that  
19 in cases recently, and I will walk you through those.

20 Now while this story may sound hard to believe, it  
21 happened, and there were over 30 female childhood victims in  
22 Florida alone that came forward and gave statements to law  
23 enforcement about this same type of abuse.

24 Unfortunately, due to Epstein's vast wealth and power,  
25 he was able to get off with a very light sentence. And his

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1 co-conspirators were also part of that plea agreement, that  
2 non-prosecution agreement, and were not prosecuted. That  
3 agreement is being challenged by two other victims in Florida  
4 in a case in front of Judge Marra case called the Crime  
5 Victims' Rights Act case.

6 I want to mention that while my colleague didn't  
7 mention it in her opening, she does mention it in her papers, I  
8 contend that the order she referenced in her papers by Judge  
9 Marra, which we included a copy of for you, has been  
10 misrepresented. That order did allow my client -- on page 6 it  
11 says, quote, Jane Doe 3 is free to assert factual allegations  
12 through proper evidentiary proof should she identify a basis  
13 for believing such details are pertinent to the matter.

14 So while the paper suggested she was deemed to have  
15 impossible allegations or that those allegations were untrue,  
16 that's absolutely not what the court said in Florida, so I want  
17 to correct that for the record before we begin.

18 What we have here is a defamation case. As the Court  
19 well knows, defamation -- this is a libel per se case where the  
20 words were published in writing. And as you know, libel per se  
21 is when a word tends to expose another to public hatred, shame,  
22 contempt or ridicule. I see no other allegation that could be  
23 worse than calling a sex abuse victim a liar. To lie about  
24 sexual abuse has to be one of the most scornful things  
25 available, and that is subject to defamation.

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1                   Now in the papers -- and I will just touch on this  
2 briefly because my colleague did not touch on it significantly  
3 here and I don't want to waste the Court's time, but she  
4 alleged a number of privileges that she believes Ms. Maxwell  
5 should be able to hide behind in order to preserve these  
6 defamatory statements.

7                   I impart on your Honor that a determination as to  
8 whether any of those privileges apply would be premature at  
9 this stage. That's your case, which is Block v. First Blood,  
10 691 F.Supp. 685. In that case you dealt with one of the  
11 privileges she is asserting here, the prelitigation privilege,  
12 and you found that it would be premature, even at the summary  
13 judgment stage, to be analyzing whether or not that was  
14 applicable.

15                  So what we have here is qualified privileges being  
16 asserted as to defamatory statements. The two qualified  
17 privileges she asserts are the self-defense privilege and the  
18 prelitigation privilege. So in other words, if the defamatory  
19 statements survive, she says, nevertheless the privileges  
20 preclude the case from going forward.

21                  The self-defense privilege has been addressed by the  
22 highest court of New York just as recent as this year, and  
23 that's in the case of Davis v. Boeheim. And that was case  
24 where the Syracuse basketball coach was accused by two victims  
25 that were childhood victims who later as adults came forward

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1 and set forth their allegations against him. One of his  
2 colleagues came forth and called those victims liars publicly,  
3 same thing that happened in this case. And the court there  
4 said that the case cannot be dismissed, it has to proceed  
5 forward, and they are entitled to prove those allegations were  
6 false, that the victims were not liars, and indeed they were  
7 subject to the abuse they were subject to.

8 Another case that is recent which I supplemented with  
9 your Honor is the Cosby case. It's recent out of  
10 Massachusetts, and very similarly there -- in fact, the  
11 statements weren't even as strong as Ms. Maxwell's statements  
12 here. In our complaint, Ms. Maxwell calls our client's  
13 allegations of sexual abuse, quote, obvious lies, issued by  
14 press release nationally and internationally to the media. And  
15 we do cite to the media that it is sent to. That's in  
16 paragraph 30, 36 and 37, international media, national media  
17 and the New York Daily Post, who interviewed Ms. Maxwell on a  
18 New York street. So that is alleged in detail in our  
19 complaint.

20 But in Cosby the court said, quote, suggestions that a  
21 plaintiff intentionally lied about being sexually assaulted  
22 could expose that plaintiff to scorn and ridicule, and  
23 therefore, Bill Cosby's statements could be found to have a  
24 defamatory meaning, and the court allowed the case to proceed  
25 past the motion to dismiss stage.

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1                   We also have the McNamee v. Clemens case which you may  
2 be familiar with. It's another New York case involving Roger  
3 Clemens where he had been alleged to have engaged in steroid  
4 use. His trainer stated that publicly. He came forward and  
5 called his trainer a liar publicly, and the court found that  
6 that statement that he is a liar was actionable defamation that  
7 survived the motion to dismiss, because publicly proclaiming  
8 someone a liar is actionable defamation. It is not mere  
9 denial, it is actionable defamation.

10                  So those are the cases I would like to direct the  
11 Court's attention to. Again, on page 10 of our opposition we  
12 have a litany of cases that deal with the issue of calling  
13 someone a liar and that being actionable defamation.

14                  She also asserts the prelitigation privilege, and that  
15 is a privilege addressed in your Block v. First Blood case.  
16 That privilege is intended to protect communications between  
17 parties, typically attorneys, in advance of litigation in order  
18 for them to narrow the scope of the litigation or to negotiate  
19 a resolution in advance of litigation. That prelitigation  
20 privilege does not cover public statements by Ms. Maxwell's  
21 hired press agent that are given to the national and  
22 international media for the purposes of defaming my client,  
23 calling her allegations of sexual abuse untruths and calling  
24 them, quote, obvious lies. So that prelitigation privilege  
25 does not apply.

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1                   The Khalil case, which is cited in the defendant's  
2 brief, actually has a great passage in there that describes if  
3 the allegation is made for an improper purpose, in other words,  
4 if it is made for a wrongful purpose or to harass or seek to  
5 press or intimidate the victim, then it is not something that  
6 the defendant can avail themselves to as a privilege.

7                   Now, just briefly, the opposition also stated that our  
8 complaint is deficient in other manners; for example, that we  
9 haven't properly alleged the to whom, as I referenced. You can  
10 look at paragraphs 30, 36 and 37 to see that. That is a  
11 technical pleading deficiency that she is raising there. We do  
12 meet the standards of Twombly. We have pled detailed facts  
13 that our client was sexually abused as a minor child. We pled  
14 other facts about that abuse. And Ms. Maxwell intentionally  
15 and maliciously came out and called her a liar in order to  
16 protect her own self.

17                   So that is what we have put in our complaint. The  
18 Hawkins case that she references and the Cruz case that she  
19 references are vastly different. In Cruz there wasn't even an  
20 allegation of defamation, and the court was reading into the  
21 complaint whether or not there could have been defamation.  
22 Here we stated specifically who made the statement, when she  
23 made the statement, where she made the statement, why she made  
24 the statement. That is all we need to do. It's more than  
25 sufficient to plead a case of defamation in this instance.

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1                   With respect to the allegations that we haven't pled  
2 properly libel per se, I want to be clear we pled that in two  
3 ways. And the case law is a case cited in the defendant's  
4 brief, and it's Jewell, and it does a very good job of parsing  
5 out the difference between slander and libel, and there is a  
6 difference in the case law, as your Honor knows.

7                   In the instance of libel, the written words, Cardozo  
8 has said, it stings, it stings longer, so therefore, in  
9 pleading libel per se, you don't have to plead special damages  
10 in the way that you do for slander.

11                   The Matherson case, which is out of New York, also  
12 articulates that. The difference, it says, quote, on the other  
13 hand, a plaintiff suing on libel need not plead or prove  
14 special damages if the defamatory statement tends to expose the  
15 plaintiff to public contempt, ridicule, aversion, or disgrace.  
16 And that is exactly what we have pled in this case, that the  
17 statements that our client lied about the sexual abuse she  
18 endured as a minor were statements that exposed her to that  
19 public contempt and ridicule.

20                   She has also pled libel per se with respect to her  
21 profession. While my colleague may make light of the fact that  
22 she is involved in helping victims that -- people who are  
23 victims of sexual trafficking, that is what she has dedicated  
24 her life to doing. And to come out and publicly proclaim her a  
25 liar about sexual abuse harms the nonprofit and harms the work

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1       she has been doing. She has been harmed personally by saying  
2       her claims are, quote, obvious lies, and she has been hurt  
3       professionally in that manner, and we allege both things in our  
4       complaint.

5                   Your Honor, Virginia has been beaten down many times  
6       in her life, but the law of defamation stands at her side. I  
7       pray upon you that you will consider the complaint and not  
8       dismiss it, because her claims should be able to be proven in  
9       this Court. Thank you.

10                  THE COURT: Thank you very much.

11                  Anything further?

12                  MS. MENNINGER: If I may, your Honor.

13                  Again, plaintiff comes before you claiming she has  
14       been called a liar. There is no statement attributed to my  
15       client, in the complaint or elsewhere, in which my client has  
16       called plaintiff a liar. There are three sentence fragments  
17       contained in the complaint, the allegations against Ms. Maxwell  
18       are untrue, and that her claims are obvious lies.

19                  Your Honor, it is a meaningful distinction. I can  
20       explain a little bit of the background here. Plaintiff came  
21       forward and gave an interview in the press in 2011 claiming  
22       that my client was somehow involved with Mr. Epstein's sexual  
23       abuse of her. She gave an exclusive interview to a British  
24       newspaper in which she made that allegation, plaintiff did, and  
25       was paid for it.

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1                   My client issued a general denial in 2011 saying that  
2 the allegations were untrue. At that time, plaintiff said  
3 that, although she had been in contact with the likes of Prince  
4 Andrew in London and Bill Clinton and other famous people,  
5 there was no suggestion that those people had engaged in any  
6 kind of improper sexual contact with her.

7                   Fast forward a few years. Some other women who  
8 claimed they were victims of Mr. Epstein's abuse filed a  
9 lawsuit in Florida and they asked the court to undo a plea  
10 agreement that had been entered into by the U.S. attorney's  
11 office down in Florida or that the U.S. attorney's office  
12 somehow worked with the state authorities in crafting, and  
13 those two other women, not plaintiff, litigated for I think  
14 seven years now whether or not they should have been informed  
15 earlier about whatever plea agreement was going to go on with  
16 Mr. Epstein.

17                   Well, December 30 of 2015, plaintiff filed a motion to  
18 join that Victims' Rights Act litigation, and in her motion to  
19 join the Victims' Rights Act litigation she filed a  
20 declaration, in which, as I understand it thirdhand based on  
21 the judge down there's order, she claimed to have been involved  
22 in sexual relations with Prince Andrew, with world leaders, a  
23 former prime minister of some country or other, Mr. Alan  
24 Dershowitz. She made a number of spurious allegations, and one  
25 of them involved my client, Ms. Maxwell.

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1                   Well, within minutes of filing that motion to join  
2 that action, lo and behold, her story hits the British press.  
3 Whether or not that was at her lawyer's instigation, I don't  
4 know, but they have been courting the press in a number of  
5 ways, so I wouldn't be surprised.

6                   The press comes calling and asked my client and  
7 Mr. Dershowitz and Prince Andrew and everyone else whether any  
8 of the allegations contained in this legal pleading are true.  
9 Buckingham Palace issued a statement flatly denying the claims  
10 made by plaintiff here. Mr. Dershowitz came out even stronger  
11 and not only flatly denied it but did in fact call her a liar  
12 and said, among other things, if she lied about me, she  
13 probably lied about all these other world leaders that she  
14 claims she was involved with at the age of 17 and 18, and that  
15 the story dates back to '99 when she claims these activities  
16 occurred. And so he came out and actually called her a liar.

17                   Buckingham Palace said her claims were absolutely  
18 untrue. At the end of one article, in which the two comments  
19 about plaintiff were contained, is a statement attributed to my  
20 client, Ms. Maxwell, and her statement reads, the claims  
21 against Ghislaine Maxwell are untrue. She has now made  
22 additional statements about world leaders, and those claims are  
23 obvious lies. So that part about obvious lies come after the  
24 part about claims against world leaders and famous politicians  
25 and the like.

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1                   Well, I tried to go to the Florida action to find  
2 where these allegations were that apparently plaintiff believes  
3 my client's statement was in relation to. And guess what?  
4 Judge Marra down in the Southern District of Florida has  
5 stricken the declaration from public access. He has stricken  
6 the actual paragraphs making all of these allegations, and has  
7 restricted from public access the documents that contained the  
8 allegations. And he issued an order, and I attached that  
9 order, because I believe the Court can consider it taking  
10 judicial notice, to my declaration here on the motion to  
11 dismiss.

12                   In the order, just so we're all clear, I'm not  
13 misrepresenting what happened, as I was just accused doing,  
14 Judge Marra held, after describing what he called lurid  
15 allegations, he found they were impertinent and immaterial to  
16 the motion to join the Victims' Rights Act filed by plaintiff.  
17 He said that they concerned non-parties, including my client,  
18 who was not there and able to defend herself within the  
19 litigation, and he denied her request to join that action  
20 finding that she waited a long time. While she may be a  
21 witness to things that are concerned down there, she does not  
22 need to join the action in order to assert rights that the  
23 other plaintiffs down there are already asserting.

24                   Then he goes on in the order to remind her counsel of  
25 their Rule 11 obligations to only include pertinent materials.

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1 And he was not denying they would ever be able to, but seems to  
2 seriously question whether or not admissible non-cumulative  
3 evidence of the things that were claimed would ever be heard in  
4 his court.

5 So I don't actually have a copy of whatever it is that  
6 was claimed down there because it's not publicly available, and  
7 it certainly was not mentioned in the complaint, wasn't  
8 attached to the complaint, it's just somewhere out there that  
9 the press has picked up on and published.

10 In the meantime, Mr. Dershowitz is now involved in  
11 ongoing battles with plaintiff's lawyers down in Florida. They  
12 cross claimed one another for defamation. And she's been  
13 participating in that litigation as a non-party as well,  
14 although it concerns her attorneys and the same exact  
15 allegations.

16 So while others have called her a liar, notably  
17 Mr. Dershowitz, and others have denied claims that plaintiff  
18 has made, including Buckingham Palace, and while Judge Marra  
19 down there has found her claims impertinent and immaterial to  
20 the allegations going on in Florida, Ms. Maxwell has not  
21 actually ever called her a liar.

22 And your Honor, all of these cases that plaintiff  
23 cites to, Davis v. Boeheim, McNamee v. Clemens, all of those  
24 cases had complaints which had attached to them the actual  
25 statements at issue.

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1           I think in the McNamee v. Clemens case there were some  
2 27 exhibits attached to the amended complaint where Mr. Clemens  
3 had been on 60 Minutes and given statements to reporters and  
4 gone on at length calling the plaintiff in that case,  
5 Mr. McNamee, a liar, calling him a liar 25 ways to Sunday,  
6 talking about his financial motives, his potential financial  
7 gain, et cetera.

8           Likewise, in the Davis v. Boeheim case, Mr. Boeheim  
9 gave a press conference in which he called the accusers liars.  
10 He questioned their financial incentives following the Sandusky  
11 case to be coming forward then, and he went on at length about  
12 all of the reasons why they might be coming forward now with  
13 their, quote, unquote lies.

14           In each of those cases, McNamee v. Clemens and Davis  
15 v. Boeheim, the New York Court of Appeals, as well as the  
16 Federal Court in the Eastern District of New York, made clear  
17 that the one thing that is not actionable is a general denial.  
18 And then they talk about why Mr. Boeheim's comments and  
19 Mr. Clemens' comments went well beyond what anyone might  
20 consider a general denial. And fortunately, those cases  
21 actually had records which included the statements, included  
22 the articles in which the statements were made, so the Court  
23 could engage in the sort of analysis that it must, that is, to  
24 decide whether, in context, the statement has a defamatory  
25 meaning.

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1                   So I think even now, saying that my client called her  
2 client a liar is just not supported by a single fact in the  
3 complaint. While the complaint makes conclusory statements  
4 like it was a campaign questioning her dishonesty and all of  
5 that, when you get right down to the actual statements, which  
6 this Court has held on numerous occasions must actually be  
7 spelled out in a defamation case, the only statements are,  
8 quote, sentence fragments like allegations against Ghislaine  
9 Maxwell are untrue.

10                  And by the way, looking at those news articles, one  
11 might see that they actually are talking about allegations that  
12 have lodged in the British press. They don't refer to  
13 Ms. Roberts, as she was then known, they don't refer to  
14 anything about her, they don't call her a liar, they don't  
15 question her financial motives, although I'm sure she has some.  
16 So if you look at the cases Davis v. Boeheim, McNamee v.  
17 Clemens, you will see Ms. Maxwell's statements, even to the  
18 extent they're alleged, fall well within the general denial  
19 privilege.

20                  I think it's inaccurate to quote, with regard to the  
21 prelitigation privilege, the statements attributed to  
22 Ms. Maxwell that reserved her right to seek redress from the  
23 British press for the repetition of what she said were untrue  
24 allegations. And that is something that, under British law,  
25 one must assert or waive. So if you don't, under British law,

G1ETGIUA

1 put the press on notice that you are challenging the veracity  
2 of statements that the British press is publishing, then you  
3 will have been deemed to have waived your right to do so in the  
4 future.

5 We cited Khalil v. Front, which is a New York Court of  
6 Appeals case from last year. It was actually affirming the  
7 dismissal of a case on a motion to dismiss. So while plaintiff  
8 claims that privileges like this can't be decided at the motion  
9 to dismiss stage, the New York Court of Appeals directly found  
10 otherwise. And there they said that if a statement is made in  
11 anticipation of litigation, whether or not -- I think they used  
12 the word "contemplated" litigation, whether or not the  
13 litigation actually occurred is not material, but if they are  
14 made in anticipation of potential litigation then they are  
15 entitled to the prelitigation privilege.

16 So not only do I believe that the statements  
17 themselves are non-defamatory general denials, but insofar as  
18 they were issued to put the British press on notice, that  
19 repetition of them may give rise to litigation. They also  
20 should be afford the prelitigation privilege that the New York  
21 Court of Appeals has recognized. Thank you.

22 THE COURT: Thank you very much. I will reserve  
23 decision.

24 ooo  
25

# Exhibit 5

## (File Under Seal)

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

-----X

VIRGINIA L. GIUFFRE,

Plaintiff,

v.

GHISLAINE MAXWELL,

Defendant.

15-cv-07433-RWS

-----X

**DEFENDANT'S RESPONSE TO PLAINTIFF'S FIRST SET OF INTERROGATORIES**

Laura A. Menninger  
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303.831.7364

Defendant, Ghislaine Maxwell, by and through her undersigned counsel, hereby responds to Plaintiff's First Set of Interrogatories (the "Interrogatories").

### **PRELIMINARY STATEMENT AND GENERAL OBJECTIONS**

1. This response is made to the best of Ms. Maxwell's present knowledge, information and belief. Ms. Maxwell, through her attorneys of record, have not completed the investigation of the facts relating to this case, have not completed discovery in this action, and have not completed preparation for trial. Ms. Maxwell's responses to Plaintiff's Interrogatories are based on information currently known to her and are given without waiving Ms. Maxwell's right to use evidence of any subsequently discovered or identified facts, documents or communications. Ms. Maxwell reserves the right to supplement these Interrogatories in accordance with Fed. R. Civ. P. 26(e).

2. Ms. Maxwell objects to the Interrogatories to the extent they attempt to impose any requirement or discovery obligation greater than or different from those under the Federal Rules of Civil Procedure, the local rules of this Court or any Orders of the Court.

3. Ms. Maxwell objects to the Interrogatories to the extent they seek information protected by the attorney/client privilege, the work-product doctrine, Rule 408 of the Federal Rules of Evidence, any common interest privilege, joint defense agreement or any other applicable privilege.

4. Ms. Maxwell objects to the Interrogatories to the extent they seek information outside of Ms. Maxwell's possession, custody or control.

5. Ms. Maxwell objects to the Interrogatories to the extent they seek information which is not relevant to the subject matter of the litigation and /or is not reasonably calculated to lead to the discovery of admissible evidence.

6. Ms. Maxwell objects to the Interrogatories to the extent they are overly broad, unduly burdensome and/or propounded for the improper purpose of annoying, embarrassing, or harassing Ms. Maxwell.

7. Ms. Maxwell objects to the Interrogatories to the extent they are vague and ambiguous, or imprecise.

8. Ms. Maxwell objects to the Interrogatories to the extent they seek information that is confidential and implicates Ms. Maxwell's privacy interests.

9. Ms. Maxwell incorporates by reference every general objection set forth above into each specific response set forth below. A specific response may repeat a general objection for emphasis or for some other reason. The failure to include any general objection in any specific response does not waive any general objection to that request.

10. The Interrogatories seek information that is confidential and implicates Ms. Maxwell's privacy interests. To the extent such information is relevant and discoverable in this action, Ms. Maxwell will produce such materials subject to an appropriate protective order pursuant to Fed. R. Civ. P. 26(c) limiting their dissemination to the attorneys and their employees.

### **OBJECTIONS TO DEFINITIONS**

1. Ms. Maxwell objects to Definition No. 1 regarding "Agent" because it is an incorrect statement of the law.

2. Ms. Maxwell objects to the Definition of "communication" to the extent it expands upon the meaning ascribed to that term by Local Rule 26.3(c).

3. Ms. Maxwell objects to Definition No. 3 regarding "Defendant." The Definition is overly broad and unduly burdensome to the extent it attempts to extend the scope of the Interrogatories to information in the possession, custody or control of individuals other than Ms. Maxwell or her counsel.

4. Ms. Maxwell objects to the Definition No. 4 regarding "Document" to the extent it expands upon the meaning ascribed to that term by Local Rule 26.3(c).

5. Ms. Maxwell objects to Definition No. 5 regarding "Employee." Ms. Maxwell is an individual, sued in an individual capacity, and therefore there is no "past or present officer, director, agent or servant" of hers. Additionally, "attorneys" and "paralegals" are not "employees" of Ms. Maxwell given that she herself is not an attorney and therefore cannot "employ" attorneys.

6. Ms. Maxwell objects to Definition No. 7 of "Jeffrey Epstein" to include not only entities but also any employee, agent, attorney, consultant or representative of him, to include any entities owned or controlled by him. Questions related to an individual named Jeffrey Epstein have been construed to mean only that individual and not any other individual who is affiliated in some capacity with entities owned or controlled by him.

7. Ms. Maxwell objects to Definition No. 8 regarding "Massage" to include "any person touching another person," as the touching of another person may or may not include what is commonly understood to mean massage, it may be for a harmful, offensive or accidental reasons, or for any other purposes, or may be a touching incidental to being in close proximity with another. Similarly, a definition of "massage" to include "using any object...to touch another person" can mean a wide variety of activities and for various purposes that exceed the relevancy of this defamation action.

8. Ms. Maxwell objects to Definition No. 9 regarding "Person" to the extent it expands upon the meaning ascribed to that term by Local Rule 26.3(c).

9. Ms. Maxwell objects to Definition No. 11 regarding "You" or "Your." The Definition is overly broad and unduly burdensome to the extent it attempts to extend the scope of

the Interrogatories to information in the possession, custody or control of individuals other than Ms. Maxwell or her counsel.

### **OBJECTIONS TO INSTRUCTIONS**

1. Ms. Maxwell objects to Instruction No. 1, in particular the definition of the “Relevant Period” to include July 1999 to the present, on the grounds that it is overly broad and unduly burdensome and calls for the production of documents that are irrelevant to this action and not reasonably calculated to lead to the discovery of admissible evidence. The Complaint at paragraph 9 purports to describe events pertaining to Plaintiff and Defendant occurring in the years 1999 – 2002. The Complaint also references statements attributed to Ms. Maxwell occurring in January 2015. Defining the “Relevant Period” as “July 1999 to the present” is vastly overbroad, irrelevant and not reasonably calculated to lead to the discovery of admissible evidence, and as to certain of the Interrogatories, is intended for the improper purpose of annoying or harassing Ms. Maxwell and it implicates her privacy rights. Thus, Ms. Maxwell interprets the Relevant Period to be limited to 1999-2002 and December 30, 2014 - January 31, 2015 and objects to the Interrogatories, except as specifically noted. Without waiver of this Objection, Ms. Maxwell notes the Court Order in this case which permits discovery regarding events between 2002 and the present which relate to the topics of the sexual trafficking of females and will respond to the Interrogatories for the period 2002 to the present on that topic.

2. Ms. Maxwell objects to Instruction Nos. 2-21 to the extent they impose obligations beyond those imposed by Fed. R. Civ. P. 33(b) and Local Rule 33.3. In particular, the majority of the Instructions pertain to Requests for Production of Documents and are therefore inapplicable to Interrogatories.

3. Ms. Maxwell objects to these Interrogatories to the extent they exceed those types of interrogatories permitted by Local Rule 33.3. In particular, the majority of these Interrogatories do not seek the names of witnesses with knowledge of information relevant to the subject matter of this action nor the existence, custodian and location or general description of relevant documents. Moreover, these Interrogatories are not a more practical method of obtaining the information sought than a deposition or a request for production of documents.

4. Finally, the contention interrogatories are premature, as other discovery in this case has not concluded. Local Rule 33.3(c).

5. Ms. Maxwell objects to the Definition of “Identify” to the extent it expands upon the meaning ascribed to that term by Local Rule 26.3(c).

## **RESPONSES TO INTERROGATORIES**

- 1. Identify all persons and entities authorized by you or authorized your agent(s) to make statements on your behalf in January of 2015.**

### **ANSWER:**

Ms. Maxwell objects to this Interrogatory as vague and ambiguous, specifically by not defining what types or topics of “statements” are referred to. As drafted, this Interrogatory calls for information clearly outside the relevancy of this lawsuit because it implicates her assistant making work calls for her, scheduling appointments for her and her representatives making “statements” in all manner of business capacities. Further, Ms. Maxwell objects to this Interrogatory to the extent it calls for information protected by the attorney/client, attorney work product and joint defense privileges. Without waiver of the foregoing objections, she responds as follows:

Ms. Maxwell has no recollection of any non-privileged communication by which she specifically authorized any agent or entity to “make statements on her behalf in January of 2015” nor does she possess any documents beyond those already produced by which any such authorization may be ascertained.

- 2. Identify any action that you took after Ross Gow issued the January 2015 statement regarding Ms. Giuffre to the public to retract or remediate the statement, clarify the statement, or otherwise cause a different message to enter the public domain.**

### **ANSWER:**

Ms. Maxwell objects to this Interrogatory as vague and ambiguous, specifically by not defining what types or topics of “statements” are referred to. Further, Ms. Maxwell objects to this Interrogatory to the extent it calls for information protected by the attorney/client, attorney work product and joint defense privileges. Without waiver of the foregoing objections, she responds as follows:

Ms. Maxwell does not recall any actions that she took to retract, remediate or clarify a communication Mr. Gow made to the British press in January 2015 regarding Plaintiff’s allegations nor upon the exercise of a reasonable inquiry has she located any actions that she took in that regard.

- 3. Name every blog, television station, newspaper, or other media or public outlet that you are aware covered the January 2015 statement issued, either by quoting from the statement or by referring to or referencing the statement.**

### **ANSWER**

Ms. Maxwell objects to this Interrogatory as improper pursuant to Local Rule 33.3(a) and (b). The Interrogatory does not seek the names of any witnesses nor the custodian or location of any

documents. Moreover, Ms. Maxwell objects to this Interrogatory to the extent it calls for attorney work product and attorney client communications. The information sought is equally available to both parties within the public domain. Without waiver of the foregoing, Ms. Maxwell responds as follows:

Ms. Maxwell is personally unaware of any particular coverage by any media regarding Mr. Gow's communication to the British press. Any such articles or coverage of which she is aware have previously been produced in this action and are equally available to both parties in the public domain.

**4. Identify all legal actions you, or someone acting on your behalf, have initiated, since January 1, 2015, identifying the jurisdiction, the date of initiation of the action, and the subject matter of the action.**

**ANSWER:**

Ms. Maxwell objects to this Interrogatory as vague and ambiguous, specifically by failing to define "legal action." Further, Ms. Maxwell objects to the extent the Interrogatory calls for attorney-client communications or attorney work product. Without waiver of the foregoing, Ms. Maxwell responds as follows:

Ms. Maxwell has not filed any complaint in a court since January 1, 2015.

**5. Identify all payments made or things of value transferred to you by Jeffrey Epstein, directly or indirectly or through any entity or person affiliated with or controlled by Epstein, from 1992 through the present, and if loans, detailing the amount of the loans, the terms of the loans, the interest rate of the loans, and any payments made by you or on your behalf to repay such loans.**

**ANSWER:**

Ms. Maxwell objects to this Interrogatory on the grounds that it is overly broad and unduly burdensome and calls for information that is irrelevant to this action and not reasonably calculated to lead to the discovery of admissible evidence. Ms. Maxwell objects to this Interrogatory on the grounds that it is propounded for the improper purpose of annoying or harassing Ms. Maxwell. Ms. Maxwell's personal financial information is not at issue in this matter and information relating thereto is irrelevant. This Interrogatory also violates Local Rule 33.3(a) – (c) in that it does not seek the name of witnesses or the custodian and location of documents. Finally, Ms. Maxwell objects to this Interrogatory to the extent it seeks information from a time period not relevant to this action.

Without waiver of the foregoing, Ms. Maxwell responds as follows:

From the time period of January 1, 2015 through the present, Ms. Maxwell has had no payments made or things of value transferred to her, including loans, by Jeffrey Epstein or any entity or person affiliated with or controlled by him.

**6. Identify all loans issued to you by Jeffrey Epstein, directly or indirectly or through any entity or person affiliated with or controlled by Epstein, from 1992 through the present, detailing the amount of the loans, the terms of the loans, the interest rate of the loans, and any payments made by you or on your behalf to repay such loans.**

**ANSWER:**

Ms. Maxwell objects to this Interrogatory on the grounds that it is overly broad and unduly burdensome and calls for information that is irrelevant to this action and not reasonably calculated to lead to the discovery of admissible evidence. Ms. Maxwell objects to this Interrogatory on the grounds that it is propounded for the improper purpose of annoying or harassing Ms. Maxwell. Ms. Maxwell's personal financial information is not at issue in this matter and information relating thereto is irrelevant. This Interrogatory also violates Local Rule 33.3(a) – (c) in that it does not seek the name of witnesses or the custodian and location of documents. Finally, Ms. Maxwell objects to this Interrogatory to the extent it seeks information from a time period not relevant to this action.

Without waiver of the foregoing, Ms. Maxwell responds as follows:

From the time period of January 1, 2015 through the present, Ms. Maxwell has had no loans issued to her by Jeffrey Epstein, either directly, indirectly or by any entity or person affiliated with or controlled by him.

**7. Identify any other employment you have held since 1999, how you were compensated, and how much you were compensated, broken down by job title, employer, and year.**

**ANSWER:**

Ms. Maxwell objects to this Interrogatory on the grounds that it is overly broad and unduly burdensome and calls for information that is irrelevant to this action and not reasonably calculated to lead to the discovery of admissible evidence. Ms. Maxwell objects to this Interrogatory on the grounds that it is propounded for the improper purpose of annoying or harassing Ms. Maxwell. Ms. Maxwell's personal financial information is not at issue in this matter and information relating thereto is irrelevant. This Interrogatory also violates Local Rule 33.3(a) – (c) in that it does not seek the name of witnesses or the custodian and location of documents. Finally, Ms. Maxwell objects to this Interrogatory to the extent it seeks information from a time period not relevant to this action.

Without waiver of the foregoing, Ms. Maxwell responds as follows:

From January 1, 2015 to the present, Ms. Maxwell has not been employed as that term is commonly understood to mean a salaried position.

**8. Identify all persons who gave a massage to Jeffrey Epstein with whom you had any involvement, either in meeting the person who gave a massage, finding the person who gave the massage, making a referral to the person who gave the massage, conversing with the person who gave the massage, staffing the person who gave the massage, or otherwise facilitating that person giving a massage to Jeffrey Epstein.**

**ANSWER:**

Ms. Maxwell objects to this Interrogatory on the grounds that it is overly broad and unduly burdensome and calls for information that is irrelevant to this action and not reasonably calculated to lead to the discovery of admissible evidence. Ms. Maxwell objects to the Interrogatory as vague and ambiguous given the definition of "massage" to include any person touching another person. Ms. Maxwell objects to this Interrogatory on the grounds that it is propounded for the improper purpose of annoying or harassing Ms. Maxwell. Finally, Ms. Maxwell objects to this Interrogatory to the extent it seeks information from a time period not relevant to this action.

Without waiver of the foregoing, Ms. Maxwell responds as follows:

As she testified at her deposition, Ms. Maxwell on occasion met with adult, professional women and men who were employed at high-end spas or resorts and asked whether they made home visits for the purposes of massages. She does not recall the names of those persons who ended up making professional, adult home visit massages that occurred between the years 2000 and 2002. Other deposition testimony in this case has included that of Johanna Sjoberg who stated that she had met with Ms. Maxwell and later had trained for and become a masseuse and provided professional massages to Mr. Epstein.

**9. Identify all efforts undertaken by you to ascertain the age and professional qualifications of any individual in your answer to Interrogatory number 9.**

**ANSWER:**

Ms. Maxwell objects to this Interrogatory on the grounds that it is overly broad and unduly burdensome and calls for information that is irrelevant to this action and not reasonably calculated to lead to the discovery of admissible evidence. Ms. Maxwell objects to the Interrogatory as vague and ambiguous given the definition of "massage" to include any person touching another person. Ms. Maxwell objects to this Interrogatory on the grounds that it is propounded for the improper purpose of annoying or harassing Ms. Maxwell. Further, Ms. Maxwell objects to this Interrogatory as a violation of Local Rule 33.3(a) – (b) as it seeks neither the names of witnesses nor the locations of documents and is more appropriately discovered through the deposition of Ms. Maxwell, during which time she already answered questions on this topic. Finally, Ms. Maxwell objects to this Interrogatory to the extent it seeks information from a time period not relevant to this action.

Without waiver of the foregoing, Ms. Maxwell responds as follows:

As she testified at her deposition, Ms. Maxwell has contacted a number of professional masseuses from spas in various locations, including New York, Palm Beach, and the U.S. Virgin Islands, to provide professional, adult massages to be given to Jeffrey Epstein. Ms. Maxwell relied on and expected those various high-end registered and licensed spas to hire professional accredited massage therapists and to check the credentials, including the age and professional qualifications, of their employees.

**10. Have you ever recruited, found, hired, approached, introduced, procured, or otherwise obtained, for the purposes of Jeffrey Epstein employing, any female who was not at the time a certified or licensed massage therapist for the purpose of having that female perform a massage on Jeffrey Epstein. If yes, please identify the name of each such female, the last known address and phone number, and a description of the circumstances surrounding that female meeting with your (sic) or Jeffrey Epstein.**

**ANSWER:**

Ms. Maxwell objects to this Interrogatory on the grounds that it is overly broad and unduly burdensome and calls for information that is irrelevant to this action and not reasonably calculated to lead to the discovery of admissible evidence. Ms. Maxwell objects to the Interrogatory as vague and ambiguous given the definition of "massage" to include any person touching another person. Ms. Maxwell objects to this Interrogatory on the grounds that it is propounded for the improper purpose of annoying or harassing Ms. Maxwell. Further, Ms. Maxwell objects to this Interrogatory as a violation of Local Rule 33.3(a) – (b) as it seeks neither the names of witnesses nor the locations of documents and is more appropriately discovered through the deposition of Ms. Maxwell, during which time she already answered questions on this topic. Finally, Ms. Maxwell objects to this Interrogatory to the extent it seeks information from a time period not relevant to this action.

Without waiver of the foregoing, Ms. Maxwell responds as follows:

Not to her knowledge.

**11. Have you ever recruited, found, hired, introduced, approached, or encouraged any female, and told that female to meet with, or show themselves to, Jeffrey Epstein because he was associated in some way with Victoria's Secret. For each such female, please list her name, address, telephone number, as well as a description of the circumstances surrounding that female's encounter with your or Jeffrey Epstein.**

**ANSWER:**

Ms. Maxwell objects to this Interrogatory on the grounds that it is overly broad and unduly burdensome and calls for information that is irrelevant to this action and not reasonably calculated to lead to the discovery of admissible evidence. Ms. Maxwell objects to this Interrogatory on the grounds that it is propounded for the improper purpose of annoying or harassing Ms. Maxwell. Further, Ms. Maxwell objects to this Interrogatory as a violation of Local Rule 33.3(a) – (b) as it seeks neither the names of witnesses nor the locations of

documents and is more appropriately discovered through the deposition of Ms. Maxwell, during which time she already answered questions on this topic. Finally, Ms. Maxwell objects to this Interrogatory to the extent it seeks information from a time period not relevant to this action.

Without waiver of the foregoing, Ms. Maxwell responds as follows:

Not to her knowledge.

**12. Identify your basis for your contention that Plaintiff's claims are barred by the United Kingdom's Defamation Act of 2013.**

**ANSWER:**

Ms. Maxwell objects to this Interrogatory on the grounds that it is overly broad and unduly burdensome and calls for information that is irrelevant to this action and not reasonably calculated to lead to the discovery of admissible evidence. Ms. Maxwell objects to this Interrogatory to the extent it calls for attorney-client communications and attorney work product. This Interrogatory is premature and violates Local Rule 33.3(c) because discovery is ongoing in this case, not complete, and it is more than thirty days from the conclusion of discovery. *See, e.g., Shannon v. New York City Transit Auth.*, No. 00 CIV. 5079 (RWS), 2001 WL 286727, at \*3 (S.D.N.Y. Mar. 22, 2001) (Sweet, J.).

Without waiver of the foregoing, Ms. Maxwell responds as follows:

The January 2, 2015, communication by Ross Gow to members of the British media did not, nor was it likely to, cause serious harm to the reputation of Plaintiff. The imputation conveyed by the communication is substantially true. Substantial portions of the communication conveyed honest opinion. The communication was privileged as a matter of public interest. The communication is barred by the single publication rule because Mr. Gow previously issued a communication that was substantially the same as the January 2, 2015 communication, issued by materially the same manner of publication, and Plaintiff and her counsel did not deny or timely take action with respect to the previous communication.

**13. Identify the basis, including all underlying facts, for your contention that Plaintiff's claims are barred because the statements made by Ms. Maxwell or her agent were protected by the self-defense privilege.**

**ANSWER:**

Ms. Maxwell objects to this Interrogatory on the grounds that it is overly broad and unduly burdensome and calls for information that is irrelevant to this action and not reasonably calculated to lead to the discovery of admissible evidence. Ms. Maxwell objects to this Interrogatory to the extent it calls for attorney-client communications and attorney work product. This Interrogatory is premature and violates Local Rule 33.3(c) because discovery is ongoing in this case, not complete, and it is more than thirty days from the conclusion of discovery. *See,*

*e.g., Shannon v. New York City Transit Auth.*, No. 00 CIV. 5079 (RWS), 2001 WL 286727, at \*3 (S.D.N.Y. Mar. 22, 2001) (Sweet, J).

Without waiver of the foregoing, Ms. Maxwell responds as follows:

The self-defense privilege as it applies to Mr. Gow's January 2, 2015 communication to members of the British press are spelled out in detail in the Memorandum of Law In Support of Defendant's Motion to Dismiss at page 8-13.

**14. Identify the basis, including all underlying facts, for your contention that Plaintiff is a public figure and unable to prove Ms. Maxwell exhibited actual malice.**

**ANSWER:**

Ms. Maxwell objects to this Interrogatory on the grounds that it is overly broad and unduly burdensome and calls for information that is irrelevant to this action and not reasonably calculated to lead to the discovery of admissible evidence. Ms. Maxwell objects to this Interrogatory to the extent it calls for attorney-client communications and attorney work product. This Interrogatory is premature and violates Local Rule 33.3(c) because discovery is ongoing in this case, not complete, and it is more than thirty days from the conclusion of discovery. *See, e.g., Shannon v. New York City Transit Auth.*, No. 00 CIV. 5079 (RWS), 2001 WL 286727, at \*3 (S.D.N.Y. Mar. 22, 2001) (Sweet, J).

Without waiver of the foregoing, Ms. Maxwell responds as follows:

Plaintiff sought public attention to her fabricated story concerning Ms. Maxwell and others. To wit, Plaintiff was paid more than \$100,000 for her false story to the Daily Mail as well as the sale of a photograph purporting to be of herself and Prince Andrew. Plaintiff then further sought public attention to her story through (a) an interview with Bradley Edwards and Jack Scarola, (b) through contact with various literary agents, ghost-writers and news outlets, and (c) through a carefully orchestrated scheme to publish her false claims in a public pleading in the U.S. District Court for the Southern District of Florida, as well as media interviews and other contacts including ABC News, Sharon Churcher, and her purported work on behalf of Victims Refuse Silence.

With regard to Maxwell's absence of actual malice, any statements attributed to her regarding Ms. Roberts were limited in scope, directly targeted to Plaintiff's mis-statements of fact without any further comment regarding the many character and truthfulness shortcomings of Plaintiff, and were directed to the media outlets who continued to publish Plaintiff's lies. Ms. Maxwell decided against making any further statements regarding Plaintiff and her many lies in order to minimize public attention to Plaintiff's false claims, despite the many opportunities to provide additional truthful comment and color, as demonstrated by her email communications provided in discovery.

**15. Identify the basis, including all underlying facts, for your contention that Plaintiff's claims are barred because the statements made by Ms. Maxwell or her agent constituted "fair comment."**

**ANSWER:**

Ms. Maxwell objects to this Interrogatory on the grounds that it is overly broad and unduly burdensome and calls for information that is irrelevant to this action and not reasonably calculated to lead to the discovery of admissible evidence. Ms. Maxwell objects to this Interrogatory to the extent it calls for attorney-client communications and attorney work product. This Interrogatory is premature and violates Local Rule 33.3(c) because discovery is ongoing in this case, not complete, and it is more than thirty days from the conclusion of discovery. *See, e.g., Shannon v. New York City Transit Auth.*, No. 00 CIV. 5079 (RWS), 2001 WL 286727, at \*3 (S.D.N.Y. Mar. 22, 2001) (Sweet, J).

Without waiver of the foregoing, Ms. Maxwell responds as follows:

Ms. Maxwell retains her First Amendment privilege to express her opinion, to criticize others including Plaintiff, and to comment on matters of public interest, including Plaintiff's allegations of being a sex slave or being sexually trafficked. Mr. Gow's communication to members of the British media constituted expressions of opinion regarding Plaintiff and her public claims.

**16. Identify the basis, including all underlying facts, for your contention that Ms. Maxwell or her agent did not cause or contribute to any damages suffered by Plaintiff?**

**ANSWER:**

Ms. Maxwell objects to this Interrogatory on the grounds that it is overly broad and unduly burdensome and calls for information that is irrelevant to this action and not reasonably calculated to lead to the discovery of admissible evidence. Ms. Maxwell objects to this Interrogatory to the extent it calls for attorney-client communications and attorney work product. This Interrogatory is premature and violates Local Rule 33.3(c) because discovery is ongoing in this case, not complete, and it is more than thirty days from the conclusion of discovery. *See, e.g., Shannon v. New York City Transit Auth.*, No. 00 CIV. 5079 (RWS), 2001 WL 286727, at \*3 (S.D.N.Y. Mar. 22, 2001) (Sweet, J).

Without waiver of the foregoing, Ms. Maxwell responds as follows:

Mr. Gow's communication to the British media in January 2015 did not cause or contribute to any damages Plaintiff suffered because, *inter alia*, Plaintiff was widely reputed prior to any such communication to be a liar, a person who falsifies claims of sexual assault, and a sexually permissive woman, because Plaintiff already had substantial mental and medical conditions that pre-existed any statement issued, and because Plaintiff's damages, if any, were occasioned by her own wide-spread dissemination of her own false and defamatory statements. Without the steps that Plaintiff took to publish her fabricated and falsified history, she would not have suffered any reputational harm.

**17. Identify the basis, including all underlying facts, for your contention that Plaintiff failed to take reasonable, necessary, appropriate and feasible steps to mitigate her alleged damages.**

**ANSWER:**

Ms. Maxwell objects to this Interrogatory on the grounds that it is overly broad and unduly burdensome and calls for information that is irrelevant to this action and not reasonably calculated to lead to the discovery of admissible evidence. Ms. Maxwell objects to this Interrogatory to the extent it calls for attorney-client communications and attorney work product. This Interrogatory is premature and violates Local Rule 33.3(c) because discovery is ongoing in this case, not complete, and it is more than thirty days from the conclusion of discovery. *See, e.g., Shannon v. New York City Transit Auth.*, No. 00 CIV. 5079 (RWS), 2001 WL 286727, at \*3 (S.D.N.Y. Mar. 22, 2001) (Sweet, J).

Without waiver of the foregoing, Ms. Maxwell responds as follows:

Plaintiff was advised by her own physician in Australia to engage in psychotherapy but has refused to do so. Plaintiff was advised to cease taking valium but has refused to do so. Plaintiff was advised by a court to stay away from her abusive husband but has refused to do so. Further, Plaintiff had the opportunity to truthfully tell her actual history on a number of occasions, including during her interviews with ABC, with other media outlets, with book authors and journalists, but chose not to tell her true story, instead telling falsehoods and fabricated and mistaken events, dates and participants.

**18. Identify the basis, including all underlying facts, for your contention that Plaintiff's damages are the proximate result of intervening causes, pre-existing medical and mental conditions of Plaintiff, and/or causes that occurred without knowledge or participation of Ms. Maxwell and for which Ms. Maxwell is not responsible.**

**ANSWER:**

Ms. Maxwell objects to this Interrogatory on the grounds that it is overly broad and unduly burdensome and calls for information that is irrelevant to this action and not reasonably calculated to lead to the discovery of admissible evidence. Ms. Maxwell objects to this Interrogatory to the extent it calls for attorney-client communications and attorney work product. This Interrogatory is premature and violates Local Rule 33.3(c) because discovery is ongoing in this case, not complete, and it is more than thirty days from the conclusion of discovery. *See, e.g., Shannon v. New York City Transit Auth.*, No. 00 CIV. 5079 (RWS), 2001 WL 286727, at \*3 (S.D.N.Y. Mar. 22, 2001) (Sweet, J).

Without waiver of the foregoing, Ms. Maxwell responds as follows:

Plaintiff's records disclose that she (allegedly) had been sexually assaulted as a child by a family friend, that she had been held as a sexual slave in captivity as a young teenager, that she had been sexually assaulted by teens when she was 14 in the back of a house, that she had been

sexually assaulted as a 14 year old by two young men in the “Woodsies,” that she had suffered at a since-closed drug rehabilitation facility at the hands of “guards,” that she suffered from “anxiety,” depression and suicidal ideation from at least 1998 before meeting Ms. Maxwell, that she has experienced marital discord, that she suffered from parental and familial alienation, that she has been beaten, choked and strangled by her husband on more than one occasion, that she has suffered from pre-existing and post-existing drug addictions, alcohol abuse and prescription medication addiction and abuse, that she has suffered many of the ill-effects of an impoverished childhood, and that she suffers from certain limitations of mental faculty.

**19. Identify the basis, including all underlying facts, for your contention that Plaintiff’s damages were the result of her own conduct or the conduct of others and were not proximately caused by any action of Ms. Maxwell.**

**ANSWER:**

Ms. Maxwell objects to this Interrogatory on the grounds that it is overly broad and unduly burdensome and calls for information that is irrelevant to this action and not reasonably calculated to lead to the discovery of admissible evidence. Ms. Maxwell objects to this Interrogatory to the extent it calls for attorney-client communications and attorney work product. This Interrogatory is premature and violates Local Rule 33.3(c) because discovery is ongoing in this case, not complete, and it is more than thirty days from the conclusion of discovery. *See, e.g., Shannon v. New York City Transit Auth.*, No. 00 CIV. 5079 (RWS), 2001 WL 286727, at \*3 (S.D.N.Y. Mar. 22, 2001) (Sweet, J).

Without waiver of the foregoing, Ms. Maxwell responds as follows:

Plaintiff’s records disclose that she (allegedly) had been sexually assaulted as a child by a family friend, that she had been held as a sexual slave in captivity as a young teenager, that she had been sexually assaulted by teens when she was 14 in the back of a house, that she had been sexually assaulted as a 14 year old by two young men in the “Woodsies,” that she had suffered at a since-closed drug rehabilitation facility at the hands of “guards,” that she suffered from “anxiety,” depression and suicidal ideation from at least 1998 before meeting Ms. Maxwell, that she has experienced marital discord, that she suffered from parental and familial alienation, that she has been beaten, choked and strangled by her husband on more than one occasion, that she has suffered from pre-existing and post-existing drug addictions, alcohol abuse and prescription medication addiction and abuse, that she has suffered many of the ill-effects of an impoverished childhood, and that she suffers from certain limitations of mental faculty.

Plaintiff was advised by her own physician in Australia to engage in psychotherapy but has refused to do so. Plaintiff was advised to cease taking valium but has refused to do so. Plaintiff was advised by a court to stay away from her abusive husband but has refused to do so. Further, Plaintiff had the opportunity to truthfully tell her actual history on a number of occasions, including during her interviews with ABC, with other media outlets, with book authors and journalists, but chose not to tell her true story, instead telling falsehoods and fabricated and mistaken events, dates and participants.

**20. Identify all reasons why you failed to appear for a deposition scheduled in about 2009 to 2010 in a sexual assault civil suit filed against Jeffrey Epstein.**

**ANSWER:**

Ms. Maxwell objects to this Interrogatory on the grounds that it is overly broad and unduly burdensome and calls for information that is irrelevant to this action and not reasonably calculated to lead to the discovery of admissible evidence. Ms. Maxwell objects to this Interrogatory on the grounds that it is propounded for the improper purpose of annoying or harassing Ms. Maxwell. Further, Ms. Maxwell objects to this Interrogatory as a violation of Local Rule 33.3(a) – (b) as it seeks neither the names of witnesses nor the locations of documents and is more appropriately discovered through the deposition of Ms. Maxwell, during which time she already answered questions on this topic. Finally, Ms. Maxwell objects to this Interrogatory to the extent it seeks information from a time period not relevant to this action.

Without waiver of the foregoing, Ms. Maxwell responds as follows:

Ms. Maxwell did not fail to appear for a scheduled deposition in 2009 or 2010. At the only scheduled deposition date, December 9, 2009, Mr. Edwards failed to appear and failed to communicate with Ms. Maxwell's counsel following the November 9, 2009 involuntary bankruptcy of his law firm occasioned by the arrest (and subsequent imprisonment) of his law partner. Thereafter, including during 2010, the parties never agreed to a particular deposition date.

**21. Identify all communications you have had with Jeffrey Epstein since January 1, 2015, and the substance of those communications.**

**ANSWER:**

Ms. Maxwell objects to this Interrogatory on the grounds that it is overly broad and unduly burdensome and calls for information that is irrelevant to this action and not reasonably calculated to lead to the discovery of admissible evidence. Ms. Maxwell objects to this Interrogatory on the grounds that it is propounded for the improper purpose of annoying or harassing Ms. Maxwell. Further, Ms. Maxwell objects to this Interrogatory as a violation of Local Rule 33.3(a) – (b) as it seeks neither the names of witnesses nor the locations of documents and is more appropriately discovered through the deposition of Ms. Maxwell, during which time she already answered questions on this topic. The Court has limited discovery of communications between 2002 to the present with Mr. Epstein to those related to the sexual trafficking of women. Finally, Ms. Maxwell objects to this Interrogatory to the extent it seeks information from a time period not relevant to this action.

Without waiver of the foregoing, Ms. Maxwell responds as follows:

Ms. Maxwell already produced any written communications with Mr. Epstein that were responsive to the Interrogatory for the same, as limited by the Court to (a) all communications from January 2015 and (b) all documents related to sex trafficking.

**22. Identify all flights you have taken on aircraft on which Ms. Giuffre was also a passenger.**

**ANSWER:**

Ms. Maxwell objects to this Interrogatory on the grounds that it is overly broad and unduly burdensome and calls for information that is irrelevant to this action and not reasonably calculated to lead to the discovery of admissible evidence. Ms. Maxwell objects to this Interrogatory on the grounds that it is propounded for the improper purpose of annoying or harassing Ms. Maxwell. Further, Ms. Maxwell objects to this Interrogatory as a violation of Local Rule 33.3(a) – (b) as it seeks neither the names of witnesses nor the locations of documents and is more appropriately discovered through the deposition of Ms. Maxwell, during which time she already answered questions on this topic. Finally, Ms. Maxwell objects to this Interrogatory to the extent it seeks information from a time period not relevant to this action.

Without waiver of the foregoing, Ms. Maxwell responds as follows:

As she testified during her deposition, Ms. Maxwell has no recollection of ever having been on a flight on which Ms. Giuffre was a passenger. Ms. Maxwell does not possess any other records which might refresh her recollection with respect to any such flights.

**23. Identify all occasions on which you either observed Ms. Giuffre massaging Jeffrey Epstein or understood that she was massaging Jeffrey Epstein.**

**ANSWER:**

Ms. Maxwell objects to this Interrogatory on the grounds that it is overly broad and unduly burdensome and calls for information that is irrelevant to this action and not reasonably calculated to lead to the discovery of admissible evidence. Ms. Maxwell objects to the Interrogatory as vague and ambiguous given the definition of “massage” to include any person touching another person. Ms. Maxwell objects to this Interrogatory on the grounds that it is propounded for the improper purpose of annoying or harassing Ms. Maxwell. Further, Ms. Maxwell objects to this Interrogatory as a violation of Local Rule 33.3(a) – (b) as it seeks neither the names of witnesses nor the locations of documents and is more appropriately discovered through the deposition of Ms. Maxwell, during which time she already answered questions on this topic. Finally, Ms. Maxwell objects to this Interrogatory to the extent it seeks information from a time period not relevant to this action.

Without waiver of the foregoing, Ms. Maxwell responds as follows:

Ms. Maxwell, as she has already testified, has no specific recollection of ever seeing Plaintiff massage Mr. Epstein or having any understanding that Plaintiff was massaging Mr. Epstein on any specific occasion, nor does she possess any records which would permit her to identify any such occasion.

**24. Identify all persons or other sources of information who have told you or that suggested that Epstein had sexual interactions with persons under the age of 18.**

**ANSWER:**

Ms. Maxwell objects to this Interrogatory on the grounds that it is overly broad and unduly burdensome and calls for information that is irrelevant to this action and not reasonably calculated to lead to the discovery of admissible evidence. Ms. Maxwell objects to the Interrogatory as vague and ambiguous given the absence of definition of "sexual interactions." Ms. Maxwell objects to this Interrogatory on the grounds that it is propounded for the improper purpose of annoying or harassing Ms. Maxwell. Further, Ms. Maxwell objects to this Interrogatory as a violation of Local Rule 33.3(a) – (b) as it seeks neither the names of witnesses nor the locations of documents and is more appropriately discovered through the deposition of Ms. Maxwell, during which time she already answered questions on this topic. Ms. Maxwell objects to this Interrogatory to the extent it calls for information protected by the attorney/client, attorney work product and joint defense privileges. Finally, Ms. Maxwell objects to this Interrogatory to the extent it seeks information from a time period not relevant to this action.

Without waiver of the foregoing, Ms. Maxwell responds as follows:

Ms. Maxwell knows of no person who has communicated to her directly any information concerning sexual interactions between Mr. Epstein and a person under the age of 18.

**25. Identify all girls under the age of 18 with whom you have interacted at one of Epstein's properties, including his Palm Beach mansion or his New York City mansion.**

**ANSWER:**

Ms. Maxwell objects to this Interrogatory on the grounds that it is overly broad and unduly burdensome and calls for information that is irrelevant to this action and not reasonably calculated to lead to the discovery of admissible evidence. Ms. Maxwell objects to this Interrogatory on the grounds that it is propounded for the improper purpose of annoying or harassing Ms. Maxwell. Further, Ms. Maxwell objects to this Interrogatory as a violation of Local Rule 33.3(a) – (b) as it seeks neither the names of witnesses nor the locations of documents and is more appropriately discovered through the deposition of Ms. Maxwell, during which time she already answered questions on this topic. Finally, Ms. Maxwell objects to this Interrogatory to the extent it seeks information from a time period not relevant to this action.

Without waiver of the foregoing, Ms. Maxwell responds as follows:

As described during her deposition, the only females with whom Ms. Maxwell interacted at any of Epstein's properties knowing that they were under the age of 18 were either members of her own extended family or the minor children of her or Mr. Epstein's friends, and any such interactions did not involve anything sexual or inappropriate by herself or anyone else to Ms. Maxwell's knowledge. Based on their own privacy rights, Ms. Maxwell is not identifying these family members or children of her or Mr. Epstein's friends.

Dated: June 29, 2016

Respectfully submitted,

*/s/ Laura A. Menninger*

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### CERTIFICATE OF SERVICE

I certify that on June 29, 2016, I electronically served *this Defendant's Response to Plaintiff's First Set of Interrogatories* via Electronic Mail on the following:

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*/s/ Nicole Simmons*  
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