

1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF NEW YORK
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3 VIRGINIA L. GIUFFRE,
4
5 Plaintiff,

6 v. 15 CV 7433 (LAP)

7 GHISLAINE MAXWELL,
8
9 Defendant. Telephone Conference

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10
11 New York, N.Y.
12 January 19, 2021
13 10:10 a.m.

14 Before:

15 HON. LORETTA A. PRESKA,
16
17 District Judge

18 APPEARANCES

19 BOIES SCHILLER & FLEXNER LLP
20 Attorneys for Plaintiff
21 BY: SIGRID S. McCAWLEY

22 HADDON MORGAN and FOREMAN, P.C.
23 Attorneys for Defendant
24 BY: LAURA A. MENNINGER

25 HOLLAND & KNIGHT
Attorneys for Intervenors Julie Brown and Miami Herald
Media Company
BY: CHRISTINE N. WALZ

KRIEGER KIM & LEWIN, LLP
Attorneys for John Doe Defendants
BY: PAUL M. KRIEGER

1 (Case called)

2 THE COURT: Good morning, counsel. Good morning,
3 ladies and gentlemen.

4 Not that you are required to be present, but who is on
5 for Ms. Giuffre, please?

6 MS. McCAWLEY: Good morning, your Honor. It is Sigrid
7 McCawley from the law firm of Boies Schiller & Flexner on
8 behalf of Virginia Giuffre.

9 THE COURT: Good morning.
10 Who is on for Ms. Maxwell, please?

11 MS. MENNINGER: Good morning, your Honor, Laura
12 Menninger on behalf of Ms. Maxwell from Haddon Morgan and
13 Foreman.

14 THE COURT: Good morning.

15 Counsel, as you know, today the Court announces its
16 rulings on the unsealing of the motions associated with docket
17 entries 231, 279, 315, 320, and 335 in Giuffre v. Maxwell, as
18 well as the documents relevant to those motions.

19 At has become the custom, the Court will announce its
20 general findings relevant to this round of unsealing before
21 marching through its specific findings for each document.

22 As to the Court's general findings, to determine
23 whether materials should be unsealed, the Court's mandate is to
24 undertake a particularized review of each document and to: (1)
25 evaluate the weight of the presumption of public access to the

1 materials; (2) identify and evaluate the weight of any
2 countervailing interests; and (3) determine whether the
3 countervailing interests rebut the presumption.

4 The presumption of public access attaches to judicial
5 documents; that is, those documents filed in accordance with a
6 decided motion or papers that are relevant to the Court's
7 exercise of its inherent supervisory powers. The documents at
8 issue here were submitted in connection with discovery motions
9 decided by Judge Sweet. The Court concludes that they are
10 judicial documents to which the presumption of public access
11 attaches.

12 As with the documents that the Court ordered unsealed
13 in July, however, the motions at issue today are, as noted,
14 discovery motions. Accordingly, the presumption of public
15 access is somewhat less weighty than for a dispositive motion.
16 It is, nevertheless, important to the public's interest in
17 monitoring federal courts' exercise of their Article III powers
18 that the public review the documents.

19 With this presumption of public access in mind, the
20 Court turns to the countervailing interests at stake. The
21 Court has considered the arguments advanced by the parties in
22 their briefing. It has also considered the submission from
23 intervenors Julie Brown and the Miami Herald Media Company.
24 The Court has also received submissions from various Does, in
25 addition to Does 1 and 2, who are under consideration now.

1 Those additional Does have asserted privacy interests that
2 purportedly weigh against unsealing their names and related
3 materials. The Court will undertake its review of those
4 submissions when it comes time to consider the unsealing of the
5 names of those Does, after the parties have had a chance to
6 respond to those submissions today. The only nonparty Does the
7 Court has considered for unsealing are Does 1 and 2, who have
8 submitted no formal objection to unsealing, but who did ask
9 belatedly that their names not be revealed.

10 Moving to the countervailing interests advanced by the
11 parties:

12 First, Ms. Maxwell argues that the unsealing of
13 certain documents -- and portions thereof -- will create a
14 "media frenzy" that will unlawfully jeopardize her right to a
15 fair trial, and which will also violate Local Criminal Rule
16 23.1. Local Rule 23.1 prohibits the release of nonpublic
17 information or opinion where there is a "substantial likelihood
18 that such dissemination will interfere with a fair trial or
19 otherwise prejudice the administration of justice." Local
20 Criminal Rule 23.1(a). By its terms, this rule applies to
21 "lawyers or law firms, "government agents and police officers,"
22 "in connection with pending or imminent criminal litigation
23 with which they are associated. *Id.* It is not clear to the
24 Court that this particular rule is applicable to courts'
25 unsealing of these documents, in which the public has long had

1 a First Amendment right to access -- pursuant to the mandate
2 from the Court of Appeals. The Court observes, however, that
3 "the right of an accused to fundamental fairness in the jury
4 selection process" may be a countervailing interest that weighs
5 against public access to documents.

6 Here, however, the Court rejects Ms. Maxwell's
7 argument that the unsealing of any of the materials under
8 consideration today will jeopardize her right to a fair trial,
9 let alone sufficiently enough to overcome the presumption of
10 public access that attaches to these materials. Ms. Maxwell's
11 observation of the general media coverage of the unsealing
12 process does little to show how the unsealing of any specific
13 information at issue in the current round of unsealing will
14 jeopardize her right to a fair trial that is likely many months
15 away, or why this cannot be cured through the normal processes
16 in place for jury selection.

17 As a corollary to this countervailing interest, Ms.
18 Maxwell argues that the unsealing process should be put on hold
19 because the Court that is overseeing her criminal prosecution
20 has not yet determined whether these documents will be
21 considered admissible evidence or testimony at trial. The
22 Court finds that this argument is entitled to little weight at
23 this stage with respect to these specific documents. The
24 public's First Amendment right of access to these documents is
25 not outweighed by the prospective inadmissibility of certain of

1 them in some later proceeding. In any case, the Court takes
2 comfort in the fact that Ms. Maxwell recognizes that she has
3 the Federal Rules of Criminal Procedure and evidence at her
4 disposal when the appropriate time comes to fight this fight
5 down the road.

6 A word about Ms. Maxwell's July 2016 deposition. The
7 full transcript of Ms. Maxwell's July 2016 deposition
8 transcript was submitted as an exhibit annexed to her motion
9 opposing a request to reopen that deposition, at docket entry
10 340-4. Excerpts of that transcript were also submitted as
11 exhibits to various other briefing. Ms. Maxwell argues that
12 the "privacy interests of those who resist disclosure" -- in
13 the case of her deposition, Ms. Maxwell's interests -- counsel
14 against unsealing deposition transcript. Ms. Maxwell argues
15 that her discussion of certain "intimate matters" during that
16 deposition should remain sealed.

17 During this deposition, Ms. Maxwell was asked
18 repeatedly about her own sexual activity with consenting
19 adults. Unlike in her prior deposition, at her July 2016
20 deposition, she provided testimony in response to those
21 questions. As noted earlier, the presumption of public access
22 does attach to this transcript (although, has the Court has
23 observed, to a lesser extent than if it were submitted in
24 connection with a dispositive motion).

25 Here, however, public access to certain parts of the

1 transcript is outweighed by Ms. Maxwell's countervailing
2 interests in resisting disclosure of the details of her
3 private, intimate relationships with consenting adults. This
4 testimony is, in any case, far afield from the sex trafficking
5 and sexual abuse allegations that were central to the dispute
6 in *Giuffre v. Maxwell*. Although the prurient interest of some
7 may be left unsatiated as a result, Ms. Maxwell's interest in
8 keeping private the details of her sexual relationships with
9 consenting adults warrants the sealing of those portions of her
10 testimony (and any materials that reference them).

11 For the sake of efficiency, my chambers will share
12 with the parties a copy of the transcript that highlights the
13 portions of Ms. Maxwell's deposition that should remain
14 redacted. This will avoid, I know you're happy to hear, my
15 reading into the record my line-by-line determinations
16 regarding the full 193-page transcript.

17 Ms. Giuffre, likewise, asserts certain privacy
18 interests that she argues outweigh the presumption of public
19 access in certain documents. The Court finds, as it did for
20 the last round of motions it considered for unsealing, that
21 Ms. Giuffre's privacy interests in her medical records, where
22 they reference the medical treatment she received, outweigh any
23 public interests in those materials. So when I refer to
24 medical information to be redacted, I am referring to
25 information describing medical treatment. The parties agree,

1 however, that references to health care providers in their
2 institutions may be unsealed.

3 Ms. Giuffre likewise argues that, for certain police
4 reports, the privacy interests of certain persons warrant
5 continued sealing where they were minor victims. Because these
6 police reports were obtained through a public records request,
7 they should be unsealed and docketed in the form that they were
8 received from the law enforcement agency. This is also
9 consistent with the approach that the Court of Appeals has
10 taken. Consistent with the Court of Appeals' approach, other
11 personal information in these police reports, such as
12 addresses, should be redacted from previously undisclosed
13 reports, to the extent such information has not already been
14 redacted by the law enforcement agency.

15 As for the names and identifying information of
16 nonparty Does: At this stage, unless otherwise noted, the only
17 Does for whom names and identifying information should be
18 unsealed are Does 1 and 2. The Court has already noted that
19 the names of Does 1 and 2, portions of their deposition
20 transcripts, and portions of the Palm Beach police report
21 ascribed to them, have already been made public. Doe 1 gave a
22 press interview about the subject matter of this action. Does
23 1 and 2 did, belatedly, ask that their names not be disclosed,
24 after the horse was already out of the barn. They were given
25 an additional opportunity to lodge formal objections, but did

1 not do so. The Court ordered Doe 1's transcript released after
2 undertaking a particularized review of that transcript and
3 finding that the presumption of public access warranted
4 unsealing. Having received no normal objection from Does 1 or
5 2, the Court cannot discern a justification for continued
6 sealing of their names in this case's documents. Accordingly,
7 the names and identifying information for Does 1 and 2 should
8 be unsealed.

9 Additionally, Alan Dershowitz's name and information
10 identifying him may be unsealed. By his letter at docket entry
11 1138, he has requested that redactions of his name in these
12 materials be unsealed in all cases.

13 Finally, excerpts of any deposition testimony for
14 nonparty Does in the Court of Appeals that has already been
15 unsealed may be unsealed here also with redactions, if any,
16 ordered by the Court of Appeals.

17 For efficiency, I will not repeat this caveat as to
18 each document; I will only comment when it is not applicable.
19 Unless there is a specific comment, personal identifying
20 information for all nonparty Does should be redacted, with the
21 exception of Does 1 and 2, Professor Dershowitz, and in
22 deposition testimony already unsealed by the Court of Appeals.

23 The other names of Does and identifying information
24 will remain sealed until we move to particularized
25 consideration of those Does.

1 The Court will now announce its findings with respect
2 to the sealed documents that are the subject of this motion to
3 unseal. These findings are a result of the Court's
4 particularized review of each of the 156 documents it has
5 considered for unsealing today.

6 As before, the Court will proceed in the order of the
7 documents listed on the chart that the parties have provided,
8 listing their respective positions for each document. This
9 chart is Exhibit F to Ms. Menninger's declaration, filed with
10 Ms. Maxwell's reply brief in support of her objections to
11 unsealing. The docket number is 1167-2.

12 As before, the Court is grateful to the parties for
13 their assistance in organizing the enormous number of documents
14 for review. It has been a great service to the Court, and I do
15 thank the parties for that.

16 As I go through, references to page numbers are going
17 to be those typed on the document, not those numbers assigned
18 by the ECF system.

19 Finally, as I go through, I will ask my law clerk,
20 Patrick Malone, to interrupt if I am misreading any of this.
21 As you can see, the parties' chart is enormous and has
22 multiple, multiple iterations of findings listed on it. If I
23 am misreading, I will ask Pat to interrupt so we don't have to
24 go back at the end and confuse ourselves even more.

25 Here we go.

1 Document No. 231, motion for sanctions. Unseal and
2 redact only medical information and the names and identifying
3 information of nonparty Does, except for 1, 2 and Dershowitz.
4 I am not going to say this every time, the except for Does 1
5 and 2 and Dershowitz. I am only going to say names and
6 identifying information for nonparties.

7 Docket entry 232. Declaration of Ms. Menninger.
8 Same. Redact names and identifying information of nonparties.

9 232-7. Excerpts from Ms. Giuffre's deposition. This
10 deposition has been unsealed and, as redacted, is at docket
11 entry 1090-32. Same. Same.

12 Document 232-8. This is a transcript of a nonparty
13 Doe. We are not up to that Doe yet. Keep it sealed.

14 232-9. Ms. Giuffre's medical records shall remain
15 sealed.

16 232-10. Same. More of Ms. Giuffre's medical records.

17 23-11. Excerpts from the deposition of Dr. Steven
18 Olson. Unseal the deposition as both sides agree.

19 255. Letter motion to seal documents. It is not
20 sealed. It will, of course, remain unsealed.

21 257. Response in opposition to the motion for
22 sanctions. Unseal and redact only medical information and
23 names and identifying information of nonparties.

24 258. Declaration of Ms. McCawley. Unseal and redact
25 only names and identifying information of nonparties. I will

1 just note here that material relating to Detective Recarey may
2 be unsealed because, of course, he is not a Doe but a law
3 enforcement official.

4 258-1. Deposition of a Doe. We are not up to that
5 Doe yet. Keep sealed.

6 Same for 258-2. Not up to the Doe.

7 Same for 258-1. The deposition will remain sealed.

8 I'm sorry. That was 258-3. Forgive me. It was the
9 deposition of a Doe.

10 258-4, Detective Recarey's deposition. Unseal except
11 for names and identifying information of nonparties.

12 258-5. Correspondence to Ms. Menninger. Unseal but
13 redact medical information.

14 258-6. Medical release information. Unseal but
15 redact medical information and addresses.

16 258-7. The signed medical releases. Unseal but
17 redact the tax returns and addresses.

18 258-8. Keep sealed. That's medical records.

19 258-9. Excerpts of a deposition of a Doe. Keep
20 sealed. We are not up to that Doe yet.

21 258-10. Excerpts from Dr. Steven Olson's deposition.
22 Unseal but redact the medical information.

23 261. Response in opposition to the motion for
24 sanctions. Unseal and redact medical information and names,
25 identifying information and deposition testimony of nonparties.

1 I will note that in this document, but for the redactions that
2 I just talked about, the arguments section may be unsealed.

3 269. Reply and response to the motion for sanctions.
4 Unseal but redact the medical information, including the
5 treatment noted on page 2 in the text.

6 270. Declaration of Ms. Menninger. Both parties
7 agree to unseal.

8 270-1. Medical records of Ms. Giuffre shall remain
9 sealed.

10 270-2. Ms. Giuffre's deposition previously unsealed
11 at docket entry 10, 90-32, with the same redactions.

12 270-3. A subpoena served on Dr. Olson. Unsealed, but
13 redact the address.

14 270-4. A chart regarding counsel's statements
15 concerning health care providers' identities and records. Both
16 parties agree to unseal.

17 270-6. Documents produced, both sides agree to
18 unseal.

19 272. Letter motion for leave to file a surreply.
20 Unsealed. Wasn't sealed to begin with.

21 272-1. Ms. Giuffre's surreply on the sanctions
22 motion. Unseal and redact only medical information and names
23 and identifying information of nonparties.

24 272-2. Declaration of Ms. McCawley in reply. Both
25 sides agree to unseal.

1 272-3. Medical records which shall remain sealed.

2 272-4. Excerpts from Dr. Olson's deposition.

3 Unsealed but redact the medical information.

4 272-5. Defendant's supplemental memorandum of law.

5 Already publicly filed.

6 272-6. January 14, 2016 hearing transcript. Already
7 publicly filed.

8 272-7. Defendant's response to plaintiff's
9 interrogatories.

10 Forgive me, counsel.

11 Attaches the medical information therein.

12 272-8. Medical records shall remain sealed.

13 272-9. Correspondence which may be unsealed by the
14 agreement of the parties. Correspondence between Bernadette
15 Martin and Meredith Schultz.

16 272-10. Excerpts from Ms. Giuffre's deposition.

17 Already publicly filed at docket entry 1090-32.

18 Document 303. Response to the letter motion.

19 Unsealed but redact the medical information.

20 304. Declaration of Ms. Menninger in support of the
21 motion for sanctions. Both parties agree to unseal.

22 304-1. Excerpts from Dr. Olson's deposition. Unseal
23 but redact the medical information.

24 304-2. Same. Dr. Olson. Keep sealed because it has
25 medical records.

1 304-3. Same. Keep sealed. Medical records.

2 304-4. Letter from Ms. Menninger to Ms. Schultz.

3 Unsealed but redact the medical information.

4 313. Supplemental authority. That has already been
5 publicly filed.

6 313-1. Plaintiff's supplemental responses to
7 interrogatories. Unsealed but redact the medical information.

8 279. Motions for an adverse instruction. Unseal in
9 full.

10 280. Declaration of Ms. Schultz on the adverse
11 inference instruction. Unseal but redact names and identifying
12 information and testimony of nonparties.

13 280-1. Correspondence with Ms. Menninger. Unseal and
14 redact only the names and identifying information of
15 nonparties, including search terms that might disclose the
16 nonparties.

17 Counsel, I am going to do an aside here because I
18 forgot something else.

19 With respect to Ms. Maxwell's deposition, you are to
20 redact the index. As we know, that might lead to premature
21 identification of Does and, in any event, I do not believe that
22 Judge Sweet relied on the index in making his rulings.

23 280-1. Correspondence with Ms. Menninger. Same
24 thing. Unseal and redact only names and identifying
25 information of nonparties, including search terms.

1 280-2. These are Palm Beach County State Attorney's
2 Office public records. Unseal in the same manner as the Second
3 Circuit allowed the unsealing.

4 288. Letter motion regarding discovery. Not sealed.

5 288-1. E-mail correspondence. Not sealed.

6 288-2. More e-mail correspondence. Not sealed.

7 289. Letter motion in response to the motion to seal.
8 Not sealed.

9 290. Letter response in opposition to the motion.
10 Redact identifying information and e-mail addresses.

11 291. Declaration of Ms. Schultz. Not sealed.

12 291-1. E-mail correspondence from Ms. Menninger. The
13 parties agree unsealed. I think it was not sealed.

14 291-2. Letter correspondence from Ms. Schultz.
15 Unseal in full except for paragraph 1 under document request
16 No. 1. Should remain sealed.

17 291-3. Letter correspondence from Ms. Schultz.
18 Unseal and redact only names and identifying information of
19 nonparties.

20 300. Letter to Judge Sweet. Not sealed.

21 300-1:2. E-mail correspondence. Not sealed.

22 337. Letter motion. Not sealed.

23 338. Memorandum of law in support of the adverse
24 inference motion. Redact names and identifying information of
25 nonparties and excerpts from their testimony. Redact e-mail

1 addresses but, as a side note, material relating to Detective
2 Recarey may be unsealed.

3 338-1. Ms. McCawley's declaration. Unseal and redact
4 names and identifying information with respect to nonparties.

5 338-2. Unseal in full. Correspondence from Ty Gee.

6 338-3. Excerpts from Ms. Maxwell's deposition. As
7 with the full transcript, same here.

8 338-4. Excerpts from Ms. Maxwell's July deposition.
9 Same. Same.

10 338-5. Excerpts from a Doe's deposition. We are not
11 up to that Doe yet. Keep sealed.

12 338-6. Excerpts from Detective Recarey's deposition.
13 Unseal and redact only names of identifying information of
14 nonparties.

15 338-7. Excerpts from a Doe's deposition. Not up to
16 that Doe yet. Keep sealed.

17 338-8. Excerpts from the deposition of Doe No. 1.
18 Unseal and redact only names and identifying information of
19 nonparties.

20 338-9. Testimony of a Doe. Keep sealed. Not up to
21 that Doe yet.

22 338-10. This is a subpoena. Both sides agree it may
23 be unsealed.

24 353. Motion to strike. Unseal and redact only the
25 names and identifying information of the nonparties.

1 375. Response in opposition to the motion to strike.
2 Not sealed.

3 Document No. 77. I think it's docket entry 315.
4 Motion to compel. Unseal and redact the names and identifying
5 information of nonparties and their testimony. Page 12. The
6 last bullet point shall remain redacted. It relates to private
7 conduct. Argument may be unsealed. The public Vanity Fair
8 article may be unsealed.

9 316. Ms. Schultz's declaration. Unseal and redact
10 the names and identifying information of the nonparties.

11 316-1. Excerpts from a Does deposition. We are not
12 up to that Doe yet. Remain sealed.

13 Document No. 80. Forgive me. I don't have the docket
14 entry, but it is composite Exhibit 2. It's excerpts from a
15 Doe's deposition. Not up to that Doe yet. Keep sealed.

16 316-3. Excerpts from Detective Recarey's deposition.
17 Unseal except for names and identifying information of
18 nonparties.

19 316-4. Excerpts of a Doe deposition. Not up to that
20 Doe. Keep sealed.

21 Document No. 83, which is composite Exhibit 5. These
22 are excerpts from Doe 1's deposition. Apparently, the Second
23 Circuit already released them without redactions.

24 316-6. June 20, 2016 order from Judge Sweet. This
25 was filed at docket entry 264-1 and the same redactions shall

1 remain.

2 316-7. Excerpts from Ms. Maxwell's deposition. As
3 with the entire transcript.

4 Document No. 86, which is composite Exhibit 8.

5 Messages involving the defendant. Portions of this document
6 were redacted and released by the Second Circuit. So whatever
7 happened with respect to the Second Circuit's release, we will
8 abide by its ruling.

9 339. Response in opposition to the motion to compel.
10 Unseal and redact the names, identifying information, and
11 testimony of the nonparties. With respect to Ms. Maxwell's
12 depositions, as ordered for the whole transcript. The
13 objections to questions 9, 10, and 11 will remain sealed
14 because it relates to Ms. Maxwell's intimate conduct.

15 The material on pages 17 to 19, the shaded material
16 there shall remain sealed. Same reason.

17 Pages 20 to 23. Testimony from or about the Does.
18 The shaded material shall remain sealed except for Detective
19 Recarey.

20 340. Declaration of Mr. Pagliuca. Unseal and redact
21 only the names and identifying information of the nonparties.
22 I will note Detective Recarey is in there and Ms. Maxwell's
23 depositions are in there, but those rulings are already out.

24 340-1. Ms. Giuffre's deposition. This was already
25 unsealed by us on docket entry 1090-32.

1 340-3. Ms. Maxwell's deposition. As before.

2 340-4. Ms. Maxwell's deposition. As before.

3 340-5. Deposition of a Doe. Not up to that Doe yet.

4 Keep sealed.

5 340-6. Detective Recarey's deposition. Unseal with

6 the redaction of names and identifying information of

7 nonparties.

8 Document 94, Exhibit G in that series, that is Doe 1's

9 deposition. As before, unseal and redact only names and

10 identifying information of nonparties.

11 340-8. Nonparty Does deposition. Not up to that Doe

12 yet. Keep sealed.

13 Document 96, Exhibit I in that series. Deposition of

14 a Doe. Not up to that Doe yet. Keep sealed.

15 368. Reply memorandum of law. Unseal and redact only

16 the names and identifying information and summaries of

17 testimony of nonparties. By way of note, the argument may be

18 unsealed, subject to the caveats. Detective Recarey may be

19 unsealed, subject to the caveats.

20 369. Declaration of Ms. McCawley. Unseal and redact

21 only the names and identifying information of the nonparties.

22 369-1. Ms. Maxwell's April 2016 deposition. As

23 before.

24 369-2. Sealed court order. That has already been

25 filed at docket entry 264-1.

1 369-3. Excerpts from Ms. Maxwell's June 2016
2 deposition. As before.

3 369-4. Excerpts from a Doe's deposition. Not up to
4 that Doe yet. Keep sealed.

5 Same with 269-5. Another Doe we are not up to yet.
6 Keep sealed.

7 369-6. This is depositions of a Doe. The Second
8 Circuit has already released this transcript, so it remains
9 released subject to the redactions ordered by the Second
10 Circuit.

11 369-7. Excerpts from Doe 1's deposition. The Second
12 Circuit already released this transcript without redactions.

13 369-8. Excerpts of the deposition of a Doe. The
14 Second Circuit already released this transcript without
15 redactions.

16 369-9. Flight logs. This document was also released
17 by the Second Circuit without redactions.

18 THE DEPUTY CLERK: Judge, I need to interrupt. I was
19 just informed that apparently somebody is broadcasting this on
20 to YouTube, so I don't know if you want to give a reminder that
21 that is illegal to do.

22 THE COURT: Whoever is doing it, you are operating
23 against the law. I suspect there is a way to find out. So I
24 will ask you, most respectfully, to stop doing it. We have had
25 enough of lack of the rule of law around here. Let's try to

1 observe it.

2 I think we are up to 369-10. This is a January 22,
3 2015 Daily Mail article. That may be unsealed in full but,
4 apparently, it's publicly available anyway.

5 369-11. Excerpts from Detective Recarey's deposition.
6 Same. Same. Unseal and redact names and identifying
7 information of nonparties.

8 369-12. Excerpts from a deposition of a Doe. We are
9 not up to that Doe. Remain sealed.

10 369-13. Excerpts from the deposition of a Doe. We
11 are not up to that Doe yet. Keep sealed.

12 Same with 369-14. Another Doe.

13 369-15. Another Doe.

14 And 369-16, another Doe. We are not up to any of
15 those yet. Those transcripts shall remain sealed.

16 320. This is defendant's submission regarding search
17 terms. Unseal and redact only the names and identifying
18 information of nonparties. People's e-mails, including Ms.
19 Maxwell's, should be redacted.

20 321. Ms. Menninger's declaration. Unseal and keep
21 redacted the e-mail addresses and any names, identifying
22 information, or e-mail addresses of nonparties.

23 321-1. Correspondence from Ms. Schultz. Unseal and
24 redact only the names and identifying information of nonparties
25 and Ms. Maxwell's e-mail address.

1 321-2. Correspondence from Ms. Menninger to
2 Ms. Schultz. Unseal and redact only the names and identifying
3 information of nonparties.

4 Same with 321-3, 321-4, 321-5. That's all
5 correspondence between the lawyers and it should be unsealed
6 and the names and identifying information of nonparties
7 redacted.

8 321-6. Search terms. Unseal and redact only the
9 names, identifying information, including identifying
10 information in the search terms of nonparties.

11 322. Motion to seal document. Not sealed.

12 323. Submission of proposed search terms. Same
13 thing. Unseal and redact the names, identifying information of
14 nonparties, including search terms that might disclose it.

15 329. Letter to Judge Sweet. Not sealed.

16 335. Motion for a protective order. Unseal.

17 336. Declaration of Ms. McCawley. Both sides agree
18 to unseal it.

19 336-1. Correspondence between the lawyers. The
20 parties agree to unseal.

21 336-2. Correspondence between the lawyers. The
22 parties agree to unseal.

23 336-3. Correspondence from Ty Gee to Meredith
24 Schultz. The parties agree to unseal.

25 380. Response in opposition to the motion for the

1 protective order. Unseal.

2 381. Ms. Menninger's declaration. The parties agree
3 to unseal.

4 We are now coming upon a group of Palm Beach County
5 Sheriff's Office records and later Fremont County police
6 reports.

7 And the answer to all of this is going to be unseal.

8 This applies to 381-1, 381-2, 381-3, 381-4, 381-5,
9 381-6, 381-7, all of which were Palm Beach County police
10 records and 381-8, which is a Fremont County police record.
11 Unseal all of that. As I said at the outset, as produced. So
12 to the extent that the producing agency redacted material, it
13 should remain redacted.

14 392. Reply memo of the law. Unseal but redact names
15 and identifying information of nonparties.

16 393. Declaration of Ms. McCawley. Unseal but redact
17 names and identifying information of nonparties.

18 393-1. These were unsealed by the Second Circuit and
19 shall remain unsealed, subject to the redactions ordered by the
20 circuit on page 24 of the composite exhibit.

21 393-2. These are flight logs. They were released by
22 the Second Circuit without redactions.

23 393-3. Excerpts from Ms. Maxwell's July 2016
24 deposition. As with the entire transcript.

25 393-4. Excerpts from Ms. Maxwell's April 22, 2016

1 deposition. As with the entire transcript.

2 400. Motion for leave to file a surreply. In the
3 introduction, the sentence beginning "Ms. Maxwell never
4 admitted" shall remain sealed. It relates to private, intimate
5 conduct.

6 Pages 1 to 2. The material under No. 1 relating to
7 Ms. Maxwell's adult conduct shall remain sealed.

8 Item 3. Detective Recarey's material. Unsealed,
9 other than the names and identifying information of nonparties.

10 Item 4. Shall remain sealed. We are not up to this
11 Doe yet.

12 Item 5. Shall remain sealed. We are not up to this
13 Doe yet.

14 Item 6. Unseal. Relates to Doe No. 1.

15 Item 7. Shall remain sealed. We are not up to this
16 Doe yet.

17 The last sentence in paragraph 1 under argument may be
18 unsealed. The next sentence, the material relating to adult
19 consensual behavior, should be redacted. And by way of
20 notation, Detective Recarey's information may be unsealed
21 except for names and identifying information of nonparties.

22 401-1. Excerpts from Ms. Maxwell's July 2016
23 deposition. As with the whole transcript.

24 401-2. Excerpts from Ms. Maxwell's April 2016
25 deposition. As with the entire transcript.

1 401-3. Excerpts from Detective Recarey's deposition.
2 These pages were released by the Second Circuit without
3 redactions.

4 401-4. Excerpts from the depositions of the Doe. We
5 are not up to that Doe yet. Remain sealed.

6 401-5. Excerpts from the deposition of Doe No. 1.
7 Unseal and redact only names and identifying information of
8 nonparties.

9 401-6. Excerpts of the deposition of a Doe. We are
10 not up to that Doe yet. So it shall remain sealed.

11 Counsel, may I ask you to proceed as you did last
12 time, confer, and prepare the documents for unsealing pursuant
13 to this order, and post the documents within a week on the
14 public docket. As before, give them an appropriate name, such
15 as documents ordered unsealed on January 19.

16 Counsel, are there any questions?

17 MS. MENNINGER: I have two housekeeping questions, I
18 think. I recognize your Honor just said one week. If it's
19 possible to ask for one week and one day. We have all of our
20 motions due in Ms. Maxwell's criminal case next Monday. And
21 the burden on my paralegal staff to get these redactions done
22 at the same time, one extra day would be very helpful.

23 THE COURT: If that's all you need, one day, that's
24 fine. If you need a couple more, confer with Ms. McCawley and
25 just let me know. Certainly you have the one day.

1 MS. MENNINGER: Your Honor, when will the Court be
2 providing us with that line itemed deposition? The reason I
3 ask is, we would just ask for a couple days after we receive
4 that to analyze -- I think an appeal looks unlikely. But once
5 we see the redactions, we would have to make that determination
6 and confer with Ms. Maxwell, who is in custody, as you know. I
7 would just ask for a little bit of leeway to be able to do
8 those two things.

9 THE COURT: Yes, ma'am. I expect you will receive it
10 in the next day or two. But if you don't and you need extra
11 time, let me know.

12 MS. MENNINGER: Thank you, your Honor.

13 The last one, your Honor, is with regards, since we
14 are all together, to the issue of the third round of unsealing.
15 Because we already provided notice to Does 1 and 2, we are not
16 providing notice to them, I understand.

17 But there is a little bit of a gray area within the
18 protocol as to how to calculate days for objections because
19 they normally flow from the date on which a nonparty receives
20 notice.

21 And so if I could ask for a date certain, preferably,
22 given the other obligations, a week from this Friday, that
23 would allow us enough time to get those objections done as
24 well.

25 THE COURT: Ms. McCawley, is that OK with you?

1 MS. McCAWLEY: Yes, that's fine with me, your Honor.

2 I also have one housekeeping matter once Ms. Menninger
3 is done.

4 THE COURT: A week from Friday is fine with me.

5 MS. MENNINGER: Thank you. Those were all that I had.

6 THE COURT: Ms. McCawley.

7 MS. McCAWLEY: Thank you, your Honor.

8 My question relates to those Does in the bucket that
9 did not object. Each time we go through these, obviously,
10 there is a burden to redact those names, which is lessened if
11 we don't have to worry about the individuals who have not
12 objected. Is there a mechanism by which we can address that so
13 we won't have to labor through those in each section?

14 THE COURT: Ms. Menninger, what do you have to say?

15 MS. MENNINGER: Your Honor, I think the parties have
16 taken two pretty different views of this.

17 One, Ms. McCawley asked in her briefing on this round
18 that if someone didn't file an objection, then we should
19 release their names. As I pointed out in another letter to
20 your Honor on this topic, it's apparent that many of the Does
21 didn't actually receive the notice from the Court. And so I
22 still believe that the Court has to evaluate, as the Second
23 Circuit did, Does even if we didn't receive an objection from
24 them.

25 So, unfortunately, I think it still means we go

1 through in the order that we have been doing, move on to the
2 next Does, for example. And if a party, like Professor
3 Dershowitz, has made clear that they do not object, then
4 certainly we understand those should be unsealed. But for many
5 of these nonparties we know for a fact that they did not
6 actually receive the notice, despite everyone's best efforts to
7 get them notice.

8 So I would say that, unfortunately, we still need to
9 continue to redact them until we take up those particular Does
10 in the future and your Honor has an opportunity to do the
11 particularized review that the protocol promised would happen
12 with respect to nonparties, whether or not they objected.

13 THE COURT: Ms. McCawley.

14 MS. McCAWLEY: Yes, your Honor. I think it's
15 analogous to this situation where we have got a party who is
16 saying they are not objecting. They have the notice. They
17 received it. They did not object. And the burden on the Court
18 and the parties to go through this process --

19 THE COURT: You broke up a little bit. Would you go
20 back. Somebody has another device on.

21 Ms. McCawley, would you go back to the burden on the
22 Court and the parties, please.

23 MS. McCAWLEY: Yes, your Honor. The burden on the
24 Court and the parties is extensive with respect to this
25 grouping of individuals who have not objected. So it seems to

1 me to make the most sense for us to look at that group and not
2 have to go through the burden of redacting as to those
3 individuals with each round. We can address them in one
4 setting in some manner. Then we wouldn't have to be in each
5 round redacting and paying attention to people who have no
6 objection on the file.

7 THE COURT: Ms. Menninger, anything else?

8 MS. MENNINGER: I just think there is a big difference
9 between people who have not objected affirmatively, like
10 Professor Dershowitz, and those from whom we have heard nothing
11 or received back no confirmation that they received the notice
12 from the Court. I think we need to treat those groups
13 differently.

14 With respect to people who affirmatively want their
15 name out there, fine, I have no problem. For those who have
16 not just simply not responded, we know for the half that we
17 served, in approximately half of the cases we never received,
18 despite a return receipt requested, any confirmation that they
19 actually received the notice.

20 MR. KRIEGER: Your Honor, if I may have a brief minute
21 to respond.

22 THE COURT: Yes, sir.

23 MR. KRIEGER: Your Honor, I just want to echo Ms.
24 Menninger's points that the mere fact that a Doe doesn't
25 object, even if they have received notice, doesn't mean that

1 the Court is not obliged to do the balancing test that the
2 Court has so carefully done today and previously. The fact
3 that someone -- there is going to be many reasons why a party
4 doesn't want to weigh in, and it doesn't absolve the Court and
5 the parties from the obligation of taking those steps, even if
6 it is a burden. That's part of the process here, Judge.

7 THE COURT: Anything else, counsel?

8 MS. WALSH: Christine Walsh from Holland & Knight, on
9 behalf of the Miami Herald.

10 We do agree with Ms. McCawley that the process seems
11 to be duplicative with regards to the Does who are not
12 responding that the Court will need to go back and revisit
13 documents that are being released piecemeal. And if there is
14 not objections, those should be considered at one time.

15 THE COURT: Anything else, counsel?

16 MS. McCAWLEY: Yes, your Honor. One more option for
17 you to consider, with Ms. Menninger raising the concern about
18 people who we didn't get a return receipt from. We can also
19 segregate out those for whom we did get a return receipt from,
20 meaning they received it, we got the return receipt, and they
21 did not object, so we would have that body. If that's a
22 concern for the Court, we could narrow it at least somewhat.

23 THE COURT: Anything else, counsel?

24 Thank you. Some of you have taken the words right out
25 of my mouth.

1 First, there is a difference between people like
2 Professor Dershowitz, who say affirmatively, I don't care, let
3 it all out, and people from whom we just have not heard,
4 whether they received the documents or not.

5 Secondly, I understand that my direction from the
6 Court of Appeals is to make a particularized finding. I don't
7 think I can weigh the countervailing interests of any
8 particular Doe without considering that particular Doe by
9 himself or herself.

10 Accordingly, I don't think we can lump them together.
11 Should we receive indications from other Does that they
12 affirmatively have no objection to release of their material,
13 that makes it easy. But, otherwise, we have to go through
14 them, and I have to make a particularized finding. It will be
15 a long, tedious process, but even this time I think it went a
16 little more quickly.

17 Anything else, counsel?

18 Thank you, counsel, and thank you again for your
19 assistance in organizing the documents. Good morning.

20 (Adjourned)

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