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August 24, 2020

VIA EMAIL

The Honorable Alison J. Nathan
United States District Court
Southern District of New York
40 Foley Square
New York, NY 10007

Re: Proposed Redactions to Request to Modify Protective Order (Under Seal)
United States v. Ghislaine Maxwell, 20 Cr. 330 (AJN)

Dear Judge Nathan,

In accordance with this Court's Order of August 18, 2020 (Doc. 44), Ms. Maxwell hereby respectfully submits under seal her proposed redactions to her Request to Modify Protective Order ("Request"), filed under seal on August 17, 2020. Ms. Maxwell also has filed her Reply under seal and contemporaneously submits her proposed redactions to that pleading.¹

Ms. Maxwell has no opposition to keeping under seal, and redacting from her Request and Reply, the contents, description and discussion of the sealed materials themselves; because the government has marked them Confidential, the Protective Order requires as much. *See* Doc. 36, ¶ 15.

The government's proposed redactions, however, go further and propose to redact significant procedural background, all of which is publicly available information. The government would have this Court redact the "specific civil suit from which the government obtained materials – the [REDACTED] v. Maxwell litigation" on the premise that it would "risk jeopardizing the government's investigation."

Ms. Maxwell has already publicly and repeatedly pointed out in the [REDACTED] case, and to the Second Circuit, that which was obvious from the outset of this criminal case -- that her sealed deposition was somehow obtained by the government and included *verbatim* in the Indictment and Superseding Indictment. Ms. Maxwell has told those courts as she must, given the rapidly

¹ To the extent this Court believes this letter also should be filed publicly, counsel also has indicated her proposed redactions to this letter.

unfolding unsealing process and emergency stay, that she is seeking leave from this Court to modify the protective order and reveal information under seal to those two courts.

Moreover, the government has made repeated, highly public statements, including at the press conference following Ms. Maxwell's indictment,² in the press conference following Mr. Epstein's indictment,³ in a press conference convened at the doorstep of Mr. Epstein's former New York mansion,⁴ and in other publicly-released statements⁵ that its investigation into associates of Mr. Epstein is ongoing and active.

Fundamentally, the sealed materials are judicial documents. The pleadings and orders do not contain any alleged victim names or identifying information. There is no reference in the sealed materials to any confidential informant, wiretap, or other actual ongoing investigative process that might be compromised by disclosure of the materials. The process to evaluate whether a judicial document should remain under seal is clear. Once a determination is made that the materials are judicial documents the Court is required to determine whether any countervailing interests outweigh the presumptive right to public access. *Maxwell*, 929 F.3d 41, 49-50 (2d Cir. 2019).

Frankly, Ms. Maxwell does not believe that the government has established a countervailing interest compelling enough to justify continued sealing of the documents. As a threshold consideration the only reason that the documents are sealed is because the government circumvented the process established in *Martindell*. It is also likely that these same documents will be the subject of future motion practice in this Court, making the material, for the third time, judicial documents.

However, Ms. Maxwell has no interest in additional pretrial publicity related to any of these documents and submits that protecting her right to a fair trial is the countervailing interest that, at this point, requires her proposed redactions and the continued sealing of the materials with the exception of her limited request to file the materials under seal with the Second Circuit Court of Appeals and Judge Preska.

² "These charges to be announced today, are the latest result of our investigation into Epstein, and the people around him who facilitated his abuse of minor victims. That investigation remains ongoing." (<https://www.rev.com/blog/transcripts/announcement-transcript-of-charges-against-ghislaine-maxwell-in-new-york-jeffrey-epstein-associate-arrested>).

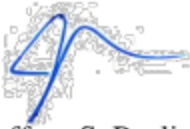
³ "This in no way is over, OK. There's going to be more investigative steps they're going to take place and the FBI with the U.S. attorney here is going to continue to investigate." (<http://transcripts.cnn.com/TRANSCRIPTS/1907/08/ath.01.html>).

⁴ Sarah Nathan and Kate Sheey, "Prince Andrew refuses to cooperate with feds in Jeffrey Epstein probe," NY Post (Jan. 27, 2020) (<https://nypost.com/2020/01/27/prince-andrew-refuses-to-cooperate-with-feds-in-jeffrey-epstein-probe/>).

⁵ Alan Feuer, "Prince Andrew and U.S. Prosecutor in Nasty Dispute Over Epstein Case," NY Times (June 8, 2020) (<https://www.nytimes.com/2020/06/08/nyregion/jeffrey-epstein-prince-andrew.html>).

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Respectfully Submitted,

A handwritten signature in blue ink, appearing to read "Jeffrey S. Pagliuca", is written over a faint, light blue background that resembles a map or a technical drawing.

Jeffrey S. Pagliuca

CC: Counsel of Record (via Email)