



HADDON
MORGAN
FOREMAN

Haddon, Morgan and Foreman, P.C.
Jeffrey S. Pagliuca



August 9, 2020

VIA EMAIL



Assistant United States Attorney
The Silvio J. Mollo Building
One Saint Andrew's Plaza
New York, New York 10007

Re: Conferral Concerning Use of Discovery Materials GM_00000847-962

Dear Mr. [REDACTED]:

Ms. Maxwell is actively litigating issues related to disclosure of confidential material in [REDACTED] v. *Ghislaine Maxwell*, No. 15 Civ. 7433 (LAP) and a related appeal in the United States Court of Appeals for the Second Circuit, 20-2413.

We intend to ask Judge Nathan for permission to refer to and attach, as exhibits, the above referenced discovery materials which relate to the Government's efforts to obtain civil litigation discovery material ("the Unsealing Materials") in two, settled, civil matters in which Ms. Maxwell was named a defendant. These materials would be disclosed to Judge Preska and designated as part of the appendix to Ms. Maxwell's appeal in the Second Circuit. We have no objection, at this point, to filing the materials under seal in both courts.

In your letter to defense counsel dated August 5, 2020 you designated the Unsealing Materials as Confidential. We understand that the Unsealing Materials were filed *ex parte* and remain sealed in the miscellaneous actions. The documents, however, do not contain confidential information as that term is defined in paragraph 8 of the Protective Order entered by Judge Nathan. The Unsealing Materials are *ex parte* pleadings filed by the Government, transcripts of *ex parte* hearings regarding those pleadings, and *ex parte* rulings on the pleadings. As least one set of individuals outside this prosecution, the Boies, Schiller & Flexner lawyers cooperating with the Government, are aware of the Unsealing Materials. Moreover, these are the types of pleadings that the Second Circuit has characterized as judicial documents with a presumptive right of public access. See [REDACTED] v. *Maxwell*, 929 F.3d 41, 47 (2d Cir. 2019). Ms. Maxwell, under paragraph 9 of the Protective Order in this case, notifies

██████████
August 9, 2020

Page 2

the Government that she objects to the confidential designation and requests that the Government withdraw the designation.

The relevance of these documents to the unsealing protocol currently in process before Judge Preska and the related appeal are readily apparent and I believe that the government should, in the interest of justice, agree to these requests. If that is not the case, I am happy to confer further about the issue as soon as possible. The Second Circuit Court of Appeals established an expedited briefing schedule and Judge Preska ordered that the parties in 15 Civ. 7433 meet regarding modification to the unsealing protocol by August 10, 2020. Accordingly, we will need to raise this issue with Judge Nathan this week.

Please let me know your position on the matter and, if you would like to discuss the request further, your availability on August 10 or 11, 2020.

Very truly yours,



Jeffrey S. Pagliuca