

**FILED**

July 13, 2020

TAMARA CHARLES  
CLERK OF THE COURT

**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS  
DIVISION OF ST. THOMAS AND ST. JOHN**

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GHISLAINE MAXWELL,

Case No. ST-20-CV-155

PLAINTIFF,

V.

ESTATE OF JEFFREY E. EPSTEIN, DARREN  
K. INDYKE, in his capacity as EXECUTOR OF  
THE ESTATE OF JEFFREY E. EPSTEIN,  
RICHARD D. KAHN, in his capacity as  
EXECUTOR OF THE ESTATE OF JEFFREY E.  
EPSTEIN, and NES, LLC, a New York Limited  
Liability Company,

DEFENDANTS.

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**GOVERNMENT OF THE UNITED STATES VIRGIN ISLANDS'  
MOTION TO INTERVENE**

The Government of the United States Virgin Islands (“Government”), by and through its undersigned counsel, hereby moves for an order permitting the Government to intervene in this action as of right pursuant to V.I. R. Civ. P. 24(a) or else by leave pursuant to V.I. R. Civ. P. 24(b). The Government states in support of its motion as follows.

**PRELIMINARY STATEMENT**

Plaintiff Ghislaine Maxwell (“Maxwell”) filed this action seeking indemnification for and advancement of expenses incurred by reason of her prior employment relationship with decedent Jeffrey E. Epstein and his affiliated businesses “in connection with any threatened, pending, or completed suit, proceeding, or investigation relating to Epstein, his affiliated businesses, and his alleged victims.” Complaint ¶ 1. Since the filing of this action, Maxwell has been arrested by

federal authorities on charges that she assisted, facilitated, and participated in Epstein’s sexual abuse of underage girls.

The Government has two distinct but closely related interests that support intervention in this action. First, the Government has a pending action in the Virgin Islands against Defendants herein—the Estate of Jeffrey E. Epstein, Darren K. Indyke, and Richard D. Kahn—and others under the Criminally Influenced and Corrupt Organizations Act (CICO), 14 V.I.C. §§ 601 *et seq.* *See Ex. A (Gov’t of the U.S. Virgin Islands v. Indyke et al., No. ST-20-CV-14 (First Amended Complaint, filed 2/5/20))* (“FAC”). The Government alleges that Defendants committed and conspired to commit criminal sex-trafficking and sexual abuse activity. The Government’s primary interest for intervention is to ensure that the Epstein Estate’s assets are not wrongfully dissipated by Maxwell’s suspect claims for indemnification and “advancement” of legal expenses, and instead are preserved to satisfy the CICO judgment, which seeks forfeiture, divestiture, disgorgement, and payment of maximum civil penalties and damages by the Epstein Estate.

Second, the Government also is investigating Maxwell’s participation in Epstein’s criminal sex-trafficking and sexual abuse conduct pursuant to its authority under CICO, 14 V.I.C. § 612, to investigate reasonably suspected criminal activity. The Government has attempted to serve a CICO Subpoena Duces Tecum on Maxwell stating that:

Pursuant to 14 V.I.C. § 612(c), the documentation requested is in reference to an ongoing investigation by the Virgin Islands Department of Justice of the rape, abuse, exploitation and trafficking of young women and underage girls by Jeffrey E. Epstein and his associates in violation of 14 V.I.C. § 133 and 1624, as well as other Virgin Islands statutes.

Ex. B (Government’s CICO Subpoena Duces Tecum to Ghislaine Maxwell, dated March 19, 2020) at 1. Maxwell resisted and evaded service of the subpoena during the three and a half

months after its issuance. The Government's second intervention interest thus is to ensure that Maxwell is compelled to respond to its investigatory subpoena through this action in which she is a party and has consented to the Court's jurisdiction.

The Government's need to intervene is further fueled by Maxwell's inappropriate use of the Virgin Islands courts to seek payment and reimbursement from the Epstein criminal enterprise, while she circumvents the service of process of Government subpoenas related to her involvement in that criminal enterprise.

Based upon either or both of the Government's interests with respect to all parties in this action and for the reasons set forth herein, the Court should grant the Government intervention as of right under V.I. R. Civ. P. 24(a) or else by leave under V.I. R. Civ. P. 24(b).

#### **STATEMENT OF FACTS RELATED TO INTERVENTION**

##### **A. Maxwell's Arrest on Federal Criminal Sex-Trafficking Charges Related to Her Involvement with Epstein's Conduct.**

On July 2, 2020, federal authorities arrested Ms. Maxwell on six federal criminal charges related to her involvement with Epstein's alleged sex-trafficking and sexual abuse conduct. *See Ex. C* (Indictment, *United States of America v. Ghislaine Maxwell*, No. 20-CR-330 (S.D.N.Y.)).

Maxwell is charged with Conspiracy to Entice Minors to Engage in Illegal Sex Acts (Count One), Enticement of a Minor to Travel to Engage in Illegal Sex Acts (Count Two), Conspiracy to Transport Minors with Intent to Engage in Criminal Sexual Activity (Count Three), and Transportation of a Minor with Intent to Engage in Criminal Sexual Activity (Count Four). *Id.* All of these charges stem from Maxwell's role "in the sexual exploitation and abuse of multiple minor girls by Jeffrey Epstein." *Id.*, ¶ 1; *see also* ¶ 2 ("GHISLAINE MAXWELL, the defendant, and Jeffrey Epstein enticed and caused minor victims to travel to Epstein's

residences in different states, which MAXWELL knew and intended would result in their grooming for and subjection to sexual abuse.”).

Maxwell also is charged with two counts of Perjury for giving false testimony concealing the foregoing conduct of both Epstein and herself. *See id.*, Counts Five and Six.

**B. The Government’s CICO Investigation of Maxwell’s Participation in the Epstein Enterprise.**

The Government is and has been actively investigating Maxwell’s participation in the criminal sex-trafficking and sexual abuse conduct of the Epstein Enterprise. *See Ex. B* (Government’s CICO Subpoena) (seeking documentation “in reference to an ongoing investigation by the Virgin Islands Department of Justice of the rape, abuse, exploitation and trafficking of young women and underage girls by Jeffrey E. Epstein and his associates in violation of 14 V.I.C. § 133 and 1624, as well as other Virgin Islands statutes”).

Prior to Maxwell’s arrest, the Government made repeated but unsuccessful attempts to serve its CICO subpoena on her. On March 24, 2020, the Government served the subpoena on Maxwell’s counsel in this action, Kyle R. Waldner, Esq. *See Ex. D* (Certificate of service).

On April 15, 2020, David J. Cattie, Esq. notified the Government that Ms. Maxwell had retained him in regard to the Government’s subpoenas. *See Ex. E* (Cattie to Smith email, 4/15/20). The subpoena was clearly received by Maxwell, and Attorney Cattie contacted the Government on her behalf to negotiate a possible resolution of the subpoena. Given that Attorney Cattie nonetheless raised concerns about service on Maxwell, the Government asked that Maxwell authorize him to accept service of the subpoena or disclose her whereabouts, so that it could serve her personally. *See Ex. F* (email from L. Singer to D. Cattie, May 1, 2020). On May 12, 2020, almost two months after the Government’s initial attempts at service, Mr. Cattie responded that he “cannot waive the issue of service of the subpoenas, ***nor can I disclose***

*my client's location to anyone at this time.”* Ex. G (email from D. Cattie to L. Singer, May 12, 2020) (emphasis added).

After Mr. Cattie refused to accept or waive service, the Government -- in good faith -- continued to negotiate for release of the requested documents in lieu of enforcing the CICO Subpoena. *See Ex. H* (Email from L. Singer to D. Cattie, May 28, 2020). Those negotiations also failed, and the Government attempted service of a second CICO Subpoena on Ms. Maxwell’s counsel on June 11, 2020. *See Ex. I* (second subpoena).<sup>1</sup> Mr. Cattie once more stated that he was not “authorized” to accept service on her behalf. Ex. J (Email from D. Cattie to L. Singer, June 17, 2020). And again, Mr. Cattie did not offer to provide Maxwell’s location to allow the Government to effectuate service. *Id.* To date, Maxwell has not acknowledged or responded to either of the Government’s CICO Subpoenas.

After Epstein’s most recent arrest on July 8, 2019 and his death in prison on August 10, 2019, *see* Complaint, ¶ 23, and before her own arrest on July 2, 2020, Maxwell was in hiding. Numerous media outlets reported on her unknown whereabouts, including The Sun, the Washington Examiner, Vanity Fair, BBC, CNN, CNBC, the Telegraph, The Guardian, and Page Six.<sup>2</sup> At the same time, her counsel was actively litigating in other Courts to keep shielded from public view thousands of pages of court records that would expose her involvement and

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<sup>1</sup> The second CICO Subpoena, *see Ex. I*, is identical to the first one served on March 24, 2020.

<sup>2</sup> *See, e.g.*, <https://www.vanityfair.com/news/2019/11/hunt-for-jeffrey-epstein-alleged-enabler-ghislaine-maxwell>; <https://www.theguardian.com/us-news/2019/nov/18/ghislaine-maxwell-prince-andrew-friend-jeffrey-epstein-controversy-hiding>; <https://www.theguardian.com/us-news/2019/dec/12/she-was-so-dangerous-where-in-the-world-is-the-notorious-ghislaine-maxwell>; <https://www.bbc.com/news/world-us-canada-50927651>; <https://edition.cnn.com/2019/12/08/uk/who-is-ghislaine-maxwell-jeffrey-epstein-intl-gbr/index.html>; <https://www.cnbc.com/2019/08/14/ghislaine-maxwell-location-unknown-jeffrey-epstein-accusers-eye-her.html>; <https://www.washingtonexaminer.com/news/fbi-investigating-jeffrey-epstein-facilitator-ghislaine-maxwell>; <https://www.telegraph.co.uk/royal-family/2019/11/20/prince-andrew-met-ghislaine-maxwell-two-weeks-prosecutors-announced/>; <https://pagesix.com/2020/01/11/ghislaine-maxwell-flies-under-the-radar-while-lawyering-up-for-epstein-lawsuit/>.

participation in Epstein's heinous crimes. *See, e.g., Giuffre v. Maxwell*, 15-cv-7433-LAP (S.D.N.Y.).

Maxwell also was actively litigating *this action* with counsel appearing on her behalf. *See, e.g.*, Joint Motion to Stay proceedings, filed June 2, 2020 in *Maxwell v. Estate of Jeffrey E. Epstein, et al* Case No.: ST-20-CV-15, in the Superior Court of the United States Virgin Islands.

Even before Epstein's 2019 arrest and death, locating and serving Maxwell was impracticable. In 2017, Sarah Ransome, a victim suing Maxwell in yet another matter related to Maxwell's participation in Epstein's sex trafficking scheme, attempted to serve Maxwell in a number of ways, including by providing Maxwell's attorneys at Haddon Morgan a copy of the summons and complaint, emailing a copy of the summons and complaint to gmax@ellmax.com, and attempting to effectuate service at three locations associated with Maxwell in New York and New Jersey. *See Ex. K (Jane Doe 43 v. Epstein, et al.*, 17 Civ. 00616-JGK (S.D.N.Y.), ECF No. 97) at 2–3.

Despite those attempts, Ransome was unable to personally serve Maxwell and filed a motion asking the court to approve alternative service. *Id.* On January 30, 2018, the Honorable John G. Koeltl of the Southern District of New York held that Ransome had demonstrated that serving Maxwell was impracticable under New York law and that providing copies of the summons and complaint to her counsel, was reasonably calculated to provide Maxwell with notice of the lawsuit given that they were presumably in contact with Maxwell. *See Ex. L (Ransome v. Epstein*, No. 17-CV-616 (JGK), 2018 WL 637421, at \*1 (S.D.N.Y. Jan. 30, 2018)).

Maxwell thus has engaged in repeated instances of avoiding service of the type that the Government has encountered in its CICO investigation of her alleged criminal sex-trafficking conduct that also is at issue in this coverage action filed by none other than Maxwell herself.

**C. The Government’s CICO Action Against Defendants the Epstein Estate, Indyke, and Kahn, and Others.**

The Government alleges in its CICO action against Defendants herein—the Epstein Estate, Indyke, and Kahn—that Epstein was a resident of the Virgin Islands and maintained a residence on Little St. James Island, which he owned, from 1998 until his death in prison in 2019. Ex. A (FAC) ¶ 5. In 2016, Mr. Epstein purchased a second island—Great St. James. *Id.* By this time, he was a registered sex offender, having been convicted in Florida of procuring a minor for prostitution. *Id.*, ¶ 6.

The Government alleges that Epstein for decades conducted an enterprise (the “Epstein Enterprise”) whereby he used his web of businesses in the Virgin Islands to transport female victims, many of them children, to his privately-owned Little St. James Island, where they were sexually abused, injured, and held captive. *Id.*, ¶¶ 40-41. Flight logs show that between 2001 and 2019, Defendants transported girls and young women to the Virgin Islands and then heliocoptered them to Little St. James. *Id.*, ¶ 46. Air traffic controller reports state that some victims appeared to be as young as 11 years old. *Id.*, ¶ 51. Epstein and his associates lured these girls and young women to his island with promises of modeling and other career opportunities. *Id.*, ¶ 49. Once they arrived, they were sexually abused, exploited, and held captive. *Id.*

Epstein’s privately-owned islands in the Virgin Islands were essential to the sex-trafficking enterprise. Little St. James is a secluded, private island, nearly two miles off-shore from St. Thomas with no other residents. *Id.*, ¶ 66. It is accessible only by private boat or helicopter, with no public or commercial transportation servicing the island. *Id.* When two of the victims, one age 15, attempted to escape from Little St. James, Epstein was able to organize search parties, locate them, return them to his house, and then confiscate the 15-year old girl’s passport to hinder her ability to escape again. *Id.*, ¶¶ 57-58.

The Government alleges that Epstein and the CICO Defendants violated CICO by committing and conspiring to commit criminal human trafficking offenses based upon the foregoing conduct. *See id.*, ¶¶ 115-170 (Counts I-VIII). The Government further alleges that they violated CICO by committing and conspiring to commit various child-abuse, neglect, rape, unlawful-sexual-contact, prostitution, and sex-offender-registry-related offenses based upon the foregoing sexual-abuse conduct. *See id.*, ¶¶ 171-258 (Counts IX-XIX). The Government also alleges that Defendants engaged in a civil conspiracy to conceal the unlawful sexual abuse alleged. *See id.*, ¶¶ 281-287 (Count XXII).

The Government is seeking civil penalties for each violation of law, treble damages, and compensatory and punitive damages for civil conspiracy. *Id.*, Prayer for Relief ¶¶ J-L, O. The Government also seeks equitable relief, including but not limited to disgorgement of all ill-gotten gains, as warranted pursuant to 14 V.I.C. § 608(c)(4), to protect the rights of victims and innocent persons in the interest of justice and consistent with CICO's purposes. *Id.*, *Prayer for Relief* ¶¶ N, P. The Government further seeks forfeiture and divestiture in favor of the Government as to all CIC Defendants' interests in any real and personal property in the Virgin Islands used to facilitate or further the goals of the criminal Epstein Enterprise, including but not limited to Little St. James and Great St. James Islands, and in any proceeds or funds obtained by them during the course of the criminal Epstein Enterprise. *Id.*, Prayer for Relief ¶¶ D-F.

## **ARGUMENT**

### **A. Legal Standards**

The Virgin Islands Rules of Civil Procedure provide for a person to intervene as of right in a pending action as follows:

On timely motion, the court must permit anyone to intervene who:

...

(2) claims an interest relating to the property or transaction that is the subject of the action, and is so situated that disposing of the action may as a practical matter impair or impede the movant's ability to protect its interest, unless existing parties adequately represent that interest.

V.I. R. Civ. P. 24(a)(2).

The civil rules also provide for a person to intervene by permission of the court in a pending action as follows:

On timely motion, the court may permit anyone to intervene who:

...

(B) has a claim or defense that shares with the main action a common question of law or fact.

V.I. R. Civ. P. 24(b)(1)(B).

“The purpose of the rule governing intervention is to enable one not named as a party who has a direct, substantial, and legally protectable interest in the subject matter of the litigation to protect himself from an action that might be detrimental to him.” *Hendricks v. Clyne*, No. ST-16-cv-147, 2019 WL 918607, at \*1 (V.I. Super. Ct. Feb. 20, 2019).

**B. The Government Satisfies Rule 24(a)’s Requirements to Intervene of Right.**

A party seeking to intervene as of right must establish three elements: “(1) a sufficient interest in the subject matter of the pending litigation, (2) a substantial risk that the disposition of the litigation will impair the interest, and (3) the existing parties do not adequately protect that interest.” *Id.* The Government satisfies all of these requirements.

**1. The Government Has Sufficient Interests in the Subject Matter of this Action.**

The Government has two distinct but related interests in the subject matter of this action-- Maxwell’s claim against the Epstein Estate for indemnification and “advancement” of legal

expenses for any suit involving her relationship with Epstein and his affiliated businesses. Complaint ¶ 1; *see also id.*, ¶¶ 17-19 (Epstein indemnified and advanced Maxwell’s costs for suits and investigations “relating to Epstein, his affiliated businesses, and his alleged victims.”). Either or both of the Government’s interests is sufficient for its intervention as of right.

*First*, the Government has an interest as a litigant against Defendants to ensure that the Epstein Estate’s assets are preserved to satisfy the judgment it seeks on its CICO claims. The Government is seeking an order requiring forfeiture, divestiture, disgorgement, and payment of maximum civil penalties and damages. *See Ex. B* (CICO FAC), Prayer for Relief ¶¶ D-P. Maxwell’s claims in this action threaten the Government’s litigation interests by seeking to wrongfully dissipate the Epstein Estate’s assets on a joint tortfeasor’s undocumented and otherwise suspect claim of entitlement to indemnification and “advancement” of legal expenses for criminal or civil actions addressing her involvement in Epstein’s sex-trafficking and sexual abuse conduct.

Numerous federal courts applying the identically worded Fed. R. Civ. P. 24(a) have held that a tort claimant has a sufficiently developed interest to intervene as of right in a coverage-related action involving the tort defendant. In *Teague v. Bakker*, 931 F.2d 249 (4th Cir. 1991), the appeals court reversed denial of intervention as of right by class action plaintiffs in a separate declaratory judgment action by the insurer of the class action defendant seeking to disavow coverage. *See id.* at 260. The appeals court addressed the proposed intervenors’ interest, which was contingent since they had not obtained a judgment at the time their intervention was denied, and, after weighing the relevant arguments, held that “the Teague Intervenors stand to gain or lose by the direct legal operation of the district court judgment on [the insurer’s] complaint” and that this “interest in the subject matter of this litigation is a significantly protectable interest.”

*Id.*; see also *Security Ins. Co. v. Schipporeit, Inc.*, 69 F.3d 1377, 1381 (7th Cir. 1995) (permitting tort claimant to intervene in insurer’s declaratory judgment action against tort defendant).

Based on the Fourth Circuit’s *Teague* decision, a federal district court permitted sex-abuse tort claimants to intervene in an action brought by the tort defendant seeking a declaration as to coverage by an insurer. *See Harrison v. Fireman’s Fund Ins. Co.*, No. 11-1258, 2011 WL 3241452, at \*1 (D. Md. July 28, 2011). Following *Teague*, the court held that the sex-abuse tort claimants had a sufficiently protected interest to intervene as of right.” *See id.* at \*2 (“Plainly, it is of great importance to the tort plaintiffs to persuade this Court that Fire[man]’s Fund is obligated to indemnify Harrison. If this Court ultimately determines that Fireman’s Fund is not required to indemnify Harrison, the Does will only be able to satisfy any judgment they obtain against Harrison from his assets, rather than from the resources of the insurer.”).

The only difference between the Government’s position here and the tort claimant intervenors’ positions in *Teague* and *Harrison* is that here the CICO Defendants are in the role of potential insurer. In Maxwell’s suit against the Epstein estate, the Estate’s assets are similar to those of an insurer, as both the Government and Maxwell are seeking recovery from the same Estate proceeds, which Maxwell is attempting to use as insurance. Thus, the Government’s interest in ensuring the availability of funds to satisfy its own judgment would be threatened here not by the denial of coverage (as in *Teague*), but by the provision of coverage using the Estate’s assets to indemnify Maxwell. But this is a distinction without a difference, as the interest itself is the same—ensuring the availability of Estate funds to satisfy the Government’s potential

judgment against a possible co-conspirator in the CICO enterprise. This interest by itself supports intervention.<sup>3</sup>

*Second*, the Government also has an interest as a potential litigant authorized by statute to investigate Maxwell's involvement in the same criminal sex-trafficking and sexual abuse conduct that is the subject of the CICO action against the Epstein Estate, Indyke, and Kahn. Under CICO, “[w]henever any person is reasonably suspected to have engaged in . . . any conduct constituting a violation of any of the provisions of [14 V.I.C. § 605] the Attorney General may, in [her] discretion, conduct an investigation of the conduct.” 14 V.I.C. § 612(a). The Attorney General is expressly authorized “before the commencement of and during any civil or criminal proceeding or action under this chapter to subpoena witnesses . . . or to require the production of any books, documents, records, writings, recordings or tangible things . . . relevant or material to the investigation . . . .” *Id.*

Pursuant to this express statutory authority, the Attorney General is and has been investigating Maxwell's involvement with Epstein's criminal sex-trafficking and sexual abuse conduct in anticipation of a potential action against her. *See Ex. B* (CICO Subpoena) (describing investigation of “the rape, abuse, exploitation and trafficking of young women and underage girls by Jeffrey E. Epstein and his associates”); *see also* 14 V.I.C. § 612(a) (“The Attorney General is authorized before the commencement of and during any civil or criminal proceeding or action under this chapter to subpoena witnesses . . . or to require the production of any . . . documents . . . relevant or material to the investigation . . . .”). Thus, to the extent the

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<sup>3</sup> Although the Government at present has Criminal Activity Liens on certain Estate Assets pursuant to 14 V.I.C. § 610, limitations on the scope of pre-trial restraints mean that the Liens do not and cannot ensure the availability of sufficient funds to satisfy a judgment.

Government may intervene as of right to assert its interest in its statutory enforcement action, it also may do so to assert its statutory investigative interest related to much the same conduct.

In sum, the Government has both active litigation interests and statutorily authorized investigatory interests with respect to the parties on both sides of this action. Either or both of these interests in the conduct and outcome of this action is sufficient for the Government to intervene of right under Rule 24(a).

## **2. The Government's Interests Will Be Impaired Absent Intervention.**

There is considerable risk bordering on near certainty that the disposition of this action will impair the Government's litigation and/or investigatory interests if the Court denies intervention. In *Teague, supra*, the Fourth Circuit held that the tort-claimant intervenors demonstrated impairment of their interest based upon the possibility of the tort defendant's loss of coverage. *See* 931 F.2d at 261 ("We also find that the Teague Intervenors' ability to protect their interest would be impaired or impeded by disposition of ERC's action" as they would have to satisfy their judgment from other assets of the insureds and the existence and amount of such assets are questionable.").

Here, there is far greater likelihood that the Government's interests will be impaired if it is denied intervention. As to its litigation interest, if Maxwell succeeds on her undocumented and otherwise suspect claim against the Epstein Estate for indemnification and "advancement" of legal expenses, this will diminish the Estate's available funds to satisfy the judgment the Government seeks against it in the CICO action. This potential impairment due to a loss of funds available to the tort defendant is identical to that found by the U.S. Court of Appeals to support intervention as of right in *Teague*.

As to its separate but related investigatory interest against Maxwell, the Government has demonstrated that she repeatedly and deliberately evaded service of its CICO subpoena prior to her arrest. *See supra*, Preliminary Statement and Factual Background § B. She also has resisted service in other civil actions brought by Epstein’s and her victims. By virtue of her lawsuit, Maxwell has already subjected herself to the jurisdiction of this Court. It would be supremely inequitable to allow Maxwell to make use of the courts of the Virgin Islands to assert her affirmative claims for indemnification for her involvement in the Epstein criminal enterprise, and yet still avoid complying with a lawful subpoena authorized by the laws of the Virgin Islands as part of an investigation into this very criminal conduct. If the Government cannot intervene in this action that she initiated, Maxwell may refuse to comply with the Government’s subpoena, yet still proceed in her separate action and leave the Government with little to no recourse. As a result, the Government’s investigatory and enforcement interests will be irreparably impaired.

For either or both of these reasons, the Court should find that the Government’s interests will likely be impaired if intervention is denied, and for this reason too the Government may intervene of right under Rule 24(a).

**3. The Epstein Estate Cannot Adequately Represent the Government’s Interests.**

Finally, there is no serious question but that the Government’s enforcement and investigatory interests under CICO are not adequately represented by the current parties to this case— Ghislaine Maxwell, the Epstein Estate, and its Co-Executors.

The Epstein Estate and its Co-Executors are defendants in the Government’s existing CICO action involving Epstein’s and his associates’ criminal sex-trafficking and sexual abuse conduct, and show no inclination to be anything but adversarial to the Government’s interests. They are refusing to comply with discovery, and even are seeking to prevent the Government

from issuing subpoenas to key fact witnesses, such as the house managers for Little St. James, where Epstein (and likely Maxwell) sexually abused girls and women in the Virgin Islands. *See Gov't of the U.S. Virgin Islands v. Indyke et al.*, No. ST-20-CV-14, Co-Executors' Opp. to Government's Motions for Issuance of Letters Rogatory (filed 6/17/20).

Although the Epstein Estate nominally has an interest in preserving its own funds as against Maxwell's claim for indemnification, Maxwell's evident involvement in Epstein's alleged criminal conduct makes her a critical fact witness with whom the Estate is very likely to try to cooperate. *Cf. Teague*, 931 F.2d at 262 ("[T]here is a significant chance that [the tort defendants] might be less vigorous than the Teague Intervenors in defending their claim to be insureds under the ERC policy."). That Maxwell and the Epstein Estate are not truly adversarial is demonstrated by the fact that they jointly moved to stay the Estate's pending motion to dismiss until a date when its primary grounds for dismissal (the one-year time bar from the granting of letters of administration under 15 V.I.C. § 606(a)) will no longer apply. *See* Joint Motion to Stay Proceedings (filed 6/1/20).

Maxwell likewise has evaded and refused to accept service of the Government's CICO subpoena for months before she was arrested by federal authorities on charges identical to those under investigation. She therefore is demonstrably adverse to the Government with respect to both the availability of the Epstein Estate's funds and conduct of the Government's investigation.

The Government therefore has no potential ally in this action between likely tortfeasors as to its interests in both uncovering and obtaining redress for the criminal conduct of Epstein, Maxwell, and/or their associates. The conduct of both parties—Maxwell and the Epstein Estate—demonstrates clearly that both have a far stronger interest in obstructing the Government's investigation and enforcement than they do in any claims as between themselves.

For all of these reasons, the Court should grant the Government intervention as of right under Rule 24(a).

**C. The Government Also Satisfies Rule 24(b)'s Requirements for Permissive Intervention.**

“Rule 24(b) applies a substantially more relaxed standard for permissive intervention, since the proposed intervenor need not demonstrate the sort of interest required for intervention as of right.” *Meyers v. George*, No. ST-12-cv-394, 2017 WL 10636962, at \*3 (V.I. Super. Ct. April 24, 2017). The proposed intervenor need only demonstrate that the proposed intervention is timely and that the intervenor’s claim shares a common question of law or fact with the claims already in the case. *See, e.g., Hendricks, supra*, 2019 WL 918607, at \*1. The Government readily satisfies both of these requirements.

*First*, the Government’s motion to intervene is timely. The Court assesses timeliness based on the length of delay in seeking intervention, the prejudicial impact of delay on existing parties, prejudice to the would-be intervenor if intervention is denied, and other factors affecting fairness. *Id.* Here, all of these factors favor permitting the Government to intervene. Maxwell filed this action less than four months ago, on March 12, 2020. During this time, Defendants have not yet answered the Complaint. Instead, they filed a motion to dismiss and shortly thereafter, in lieu of Maxwell opposing the Estate’s motion, the Estate and Maxwell moved jointly to stay the action until September 7, 2020. *See* Joint Motion to Stay Proceedings (filed 6/1/20). The Government’s intervention thus will not disrupt or slow down active litigation.

By contrast, *denial* of intervention would be highly prejudicial to the Government for the reasons discussed above. First, the Government’s CICO claims against Defendants, its potential claims against Maxwell, and Maxwell’s claims against the Defendants all present a common question of law or fact—Who is liable to pay a judgment on the Government’s CICO claims

against Defendants and/or Maxwell for their involvement in or connection to the rape, abuse, exploitation, and trafficking of young women and underage girls by Epstein and his associates? In *Security Ins. Co., supra*, the Seventh Circuit addressed federal Rule 24(b)'s identical requirement that there be a "common question of law or fact," and found that it was "clearly met in this case" involving intervention by a tort claimant in the tort defendant's coverage action.

*See* 69 F.3d 1381; *cf. also Nationwide Mut. Ins. Co. v. Nat'l REO Mgmt., Inc.*, 205 F.R.D. 1, 6 (D.D.C. 2000) ("Thus, while the insurance contract may not be an issue in the underlying case in Superior Court, the factual similarities between the two cases are enough to establish a common question of fact. Specifically, both the present case and the underlying case arise from alleged carbon monoxide emissions from a furnace in the defendant's building that began on February 23, 1995. In addition, neither case can be decided without determining the source of the applicant's injuries. Accordingly, for purposes of Rule 24(b), the court finds a common question of fact in the present lawsuit and the underlying lawsuit in Superior Court.").

Second, if Maxwell succeeds on her undocumented and suspect claims for indemnification by the Epstein Estate, that will threaten the availability of Estate funds to satisfy the Government's potential judgment in its CICO action. Second, since Maxwell has repeatedly and deliberately evaded service of the Government's investigatory subpoena during the past four months, as she has resisted service in other civil actions brought by Epstein's and her victims, this action is her only known connection to the Virgin Islands through which the Government can enforce its investigatory subpoena against her. Denial of intervention therefore would also harm the Government's investigatory and enforcement interests. For each of these reasons, the Court should hold that the Government's motion is timely filed.

Since the Government's motion is timely and its actual and potential CICO claims concerning Epstein's sex-trafficking enterprise and Maxwell's involvement in it present common questions of law and/or fact to those presented in this action for coverage as to those claims, the Court should grant the Government's motion to intervene and deem its CICO subpoena attached as Exhibit B to be served on Maxwell. This will allow the Government both to ensure its interest in preventing the dissipation of the Epstein Estate's assets and to enforce its subpoena and pursue potential and as appropriate independent claims against Maxwell. For either or both of these reasons, the Government may intervene by leave pursuant to Rule 24(b).

### **CONCLUSION**

For all of the reasons set forth, the Government's Motion to Intervene in this action should be granted.

Respectfully submitted,

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ATTORNEY GENERAL  
VIRGIN ISLANDS DEPARTMENT OF JUSTICE

Dated: July 10, 2020

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**CERTIFICATE OF SERVICE**

IT IS HEREBY CERTIFIED that the foregoing Motion to Intervene complies with the word and page requirements of V.I.R. Civ. P. 6-1(e) and a true and correct copy of the Motion was served via regular mail, postage prepaid, with a courtesy copy sent by email to counsel of record on July 10, 2020 to:

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