



U.S. Department of Justice

*United States Attorney
Southern District of New York*

*The Silvio J. Mollo Building
One Saint Andrew's Plaza
New York, New York 10007*

August 12, 2020

VIA EMAIL

Jeffrey S. Pagliuca, Esq.
Haddon, Morgan and Foreman, P.C.
150 East 10th Avenue
Denver, CO 80203

Re: *United States v. Ghislaine Maxwell*, 20 Cr. 330 (AJN)

Dear Mr. Pagliuca:

The Government writes in response to your letter dated August 9, 2020 requesting to use discovery materials produced by the Government in the above-referenced criminal case bearing Bates Nos. SDNY_GM_00000834 through SDNY_GM_00000962 (the “Unsealing Materials”) to litigate a civil lawsuit.

As an initial matter, the Government notes that it remains unclear whether you make this request in your capacity as defense counsel to Ms. Maxwell in the above-referenced criminal case, or in your capacity as her attorney in a separate civil matter. If the former, the Government maintains that the “Confidential” designation of the Unsealing Materials is appropriate because they pertain to an ongoing grand jury investigation and because Chief Judge Colleen McMahon and Magistrate Judge Sarah Netburn have ordered that the Unsealing Materials remain under seal. The only exceptions to those sealing orders are the permission contained in Chief Judge McMahon’s April 9, 2019 Order (Bates Nos. SDNY_GM_00000904 through SDNY_GM_00000905), namely that the Order itself may be provided to Boies Schiller & Flexner LLP, and, pursuant to separate permissions the Government has obtained in connection with its discovery obligations, that the entirety of the Unsealing Materials may be provided to Ms. Maxwell as discovery in the above-referenced criminal case. Moreover, as noted above, the Unsealing Materials relate to an ongoing grand jury investigation, and their public disclosure at this stage risks interference with that investigation. Indeed, because those materials remain under seal, the Government has refrained, as it must, from publicly responding to your baseless accusations of malfeasance in the civil litigation—accusations you now know to be false.

Moreover, the Protective Order issued by Judge Alison J. Nathan in the above-referenced criminal case expressly provides that any and all discovery material produced to the defendant by the Government, regardless of designation, “[s]hall be used by the Defendant or her Defense Counsel solely for purposes of the defense of this criminal action, *and not for any civil proceeding or any purpose other than the defense of this action.*” (Protective Order, ECF No. 36, dated July

30, 2020, ¶¶ 1(a), 10(a), 14(a) (emphasis added)). The Government notes that counsel for Ms. Maxwell consented to that limitation when negotiating the Protective Order in the criminal case. Accordingly, regardless of designation, the Protective Order expressly prohibits use of any discovery materials produced by the Government in the above-referenced criminal case in any civil case.

To the extent you make this request in your capacity as counsel to Ms. Maxwell in civil litigation, the appropriate mechanism for obtaining these materials from the Government would be a request for records through the Freedom of Information Act or through a *Toughy* request, to the extent such materials are obtainable through either process, in the same manner as any other litigant seeking to use records from a federal criminal investigation in a civil case. If you wish to make such a request, the undersigned can refer you to the appropriate Assistant United States Attorney in our office's Civil Division, who will process your request.

Very truly yours,

AUDREY STRAUSS
Acting United States Attorney

By:



_____/_____/_____
Assistant United States Attorneys
Southern District of New York
Tel: _____