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phone conference

1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF NEW YORK

3 VIRGINIA L. GIUFFRE,

4 Plaintiff,

5 v.

15 Civ. 7433 (RWS)

6 GHISLAINE MAXWELL,

7 Defendant.

8
9 March 24, 2016
4:00 p.m.

10 Before:

11 HON. ROBERT W. SWEET,

12 District Judge

13 APPEARANCES

14 BOIES, SCHILLER & FLEXNER, LLP
Attorneys for Plaintiff S
15 BY: SIGRID S. McCAWLEY

16 HADDON, MORGAN & FOREMAN
Attorneys for Defendant
17 BY: JEFFREY S. PAGLIUCA
LAURA A. MENNINGER
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1 (Case called)

2 THE DEPUTY CLERK: Counsel, can you please state your
3 name for the record for the court reporter? Thank you.

4 MS. McCAWLEY: Sigrid McCawley, counsel for the
5 plaintiff, Ms. Giuffre, from Boies, Schiller & Flexner.

6 MR. PAGLIUCA: Good afternoon, your Honor. Jeffrey
7 Pagliuca for the reporter, Ms. Maxwell, and we are present with
8 Laura Menninger. We are with the law firm of Haddon, Moore &
9 Foreman.

10 THE COURT: This is Judge Sweet. Let me just go
11 through a few preliminaries with you all.

12 First of all, this is being treated as it was
13 scheduled, that is as a motion with respect to discovery and
14 also the timing of the deposition and maybe there are some
15 other matters.

16 Because it was a motion it was, of course, set down
17 for noon today and in open court and so that prevails -- that
18 situation exists now. It is another way of saying we are in
19 the courtroom and there are members of the public and, for all
20 I know, members of the press present so that you all understand
21 that.

22 The reason we are on the phone is because defense
23 counsel had the good judgment to live in Colorado and because
24 Colorado has been blessed with frequent snow this season and
25 there was, when we last spoke, about the problem of defense

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1 counsel actually getting here. Now, our research indicates
2 that the Denver Airport is now open but obviously there were
3 some problems and in an excess of caution and at defense
4 counsel's request, I decided that it made more sense to try to
5 do this telephonically.

6 Let me just say about telephone motions and
7 conferences, they're terrible because I can't -- you cannot see
8 me frown and it is very hard for me to control counsel by
9 telephone. However, we will try to do that if it is necessary.

10 What I would ask -- fortunately because we have a
11 sexual differentiation between counsel it won't be necessary
12 for you to identify yourself as we speak and talk.

13 I take it that is sort of the preliminaries and I take
14 it that that raises no problems for anybody, correct?

15 MR. PAGLIUCA: Correct, your Honor. Not on behalf of
16 the defendant Ms. Maxwell.

17 THE COURT: Okay. That's fine.

18 Now, I have read your papers and I think I understand
19 the issues. Let me tell you what I think. I think that I am
20 going to deny the motion to compel answers to the plaintiff's
21 interrogatories except insofar as the plaintiff has indicated
22 that she is compliant or is going to comply. However, I
23 recognize that this method of making decisions is not quite as
24 desirable as it is if we had you physically present here. So,
25 I will grant leave to the defense, if there are particular

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1 interrogatories that you feel are critical to you within the
2 time frame which we will discuss in a few moments, I grant
3 leave for you to submit any additional materials and I think
4 that submission should be on the schedule that we have already
5 determined with respect to the privilege issues, that is, by
6 March 31st.

7 Now, as far as the schedule itself is concerned and
8 the deposition, you know, this Colorado gambit is not going to
9 work again because it is going to stop snowing sooner or later,
10 even in Colorado. So, hopefully we won't have this problem
11 again but, obviously, you can't be here tomorrow -- well, I
12 suppose you could, there is a red eye, but tomorrow is Good
13 Friday and one thing and another.

14 So, I am going to grant the request to adjourn the
15 deposition and part of the reason for that is it occurs to
16 me -- I don't know how the privilege rulings are going to work
17 out. Obviously, as you know, that submission will be in camera
18 and I don't know how they're going to work out, but it occurs
19 to me that it's possible that if some of the privilege rulings
20 go against the defense, then there might be additional
21 questions at deposition. So, it seems to me it is sensible to
22 put that over.

23 So, assuming that we can resolve the privilege matters
24 and anything else you want to bring up reasonably promptly, I
25 was thinking that we would set the deposition at a date that is

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1 agreeable to the parties sometime in the week of April 18th.

2 Now, having said all of that, I would be pleased to
3 hear any protests, suggestions, amendments, questions, whatever
4 strikes you as a result of my conclusions.

5 MR. PAGLIUCA: Your Honor, this is Jeff Pagliuca on
6 behalf of Ms. Maxwell.

7 I think preliminarily the Court should be aware that
8 yesterday counsel discussed, by e-mail, the protective order
9 issue relating to Ms. Maxwell's deposition and trying to find a
10 convenient date that would work for the parties and
11 Ms. Maxwell. We settled in on April 12th which is about six
12 days before your Honor's proposed date. We, the defendants,
13 are happy to consider a different date but I thought, in
14 fairness to plaintiff's counsel, I should alert the Court to
15 that series of events and I am not sure how that changes the
16 Court's analysis. I do agree and it was part of our papers
17 that we wanted to get the privilege issues resolved so that we
18 would not be subjecting ourselves, potentially, to a second
19 deposition.

20 So, I think your Honor's suggestion makes some sense
21 but we did agree to the 12th and I am not backing out of that
22 agreement, certainly subject to comments by plaintiff's counsel
23 and the Court.

24 THE COURT: I am getting to the age where somehow
25 sometimes I don't trust my memory but I thought at our last

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1 session the plaintiff agreed to your proposed protective order.

2 Am I wrong about that?

3 MR. PAGLIUCA: No, you are correct, your Honor. And I
4 am sorry because I am referring to the motion that was filed
5 captioned Request for Protective Order regarding Ms. Maxwell's
6 deposition going forward in which we asked for an adjournment.
7 So, I may be confusing your Honor with my use of the word
8 "protective order" which is from the rule.

9 THE COURT: Oh.

10 MR. PAGLIUCA: That's that it was of a request for
11 adjournment of that deposition.

12 THE COURT: So, what are you all going to confer about
13 on the 12th? You mean on the date of the deposition?

14 MR. PAGLIUCA: No, your Honor. We agreed to that as
15 the date so let me back up.

16 I think everyone recognized that we would not be able
17 to be there today given the airport situation here and the
18 backlog of flights and so the parties, by e-mail, agreed to
19 reschedule Ms. Maxwell's deposition for April 12th.

20 THE COURT: Oh, I see. Okay. All right. I
21 understand.

22 Well, look. If it is all right with you all I would
23 prefer the week of the 18th simply because that gives me a
24 little bit more see room on the privilege decision.

25 Is that possible?

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1 MR. PAGLIUCA: It is possible, your Honor, and that's
2 fine with counsel for Ms. Maxwell.

3 THE COURT: Well how about the plaintiff?

4 MS. McCAWLEY: Yes, your Honor. This is Sigrid
5 McCawley.

6 We are comfortable pushing it another week if that's
7 the Court's desire. The only caveat to that that I have is
8 that Ms. Menninger wanted to take my client's deposition that
9 week and I would ask the Court that of course since we were the
10 first to notice and we noticed back in February, that we be
11 able to have Ms. Maxwell's deposition that week and then choose
12 another week for my client's deposition.

13 THE COURT: I think that makes sense. I don't see any
14 problem with that. Do you all?

15 MR. PAGLIUCA: We agree with that, your Honor. That's
16 not a problem.

17 THE COURT: Okay. Anything else we should cover this
18 afternoon?

19 MR. PAGLIUCA: Your Honor, just in terms of
20 clarification in terms of what is before the Court today and
21 potentially before the Court in the next, I would say, two
22 weeks or so, the other motion that was filed was the motion to
23 compel responses pursuant to Rule 26A. We have not cued up yet
24 any issue related to the interrogatories or the requests for
25 production of documents because counsel conferred about that

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1 earlier this week on Monday. There was a supplemental
2 production on, I believe, Tuesday, and so we are in the process
3 of reviewing the supplemental response and the production and
4 so I think any issues related to interrogatories or requests
5 for production of documents pursuant to Rules 33 and Rule 34
6 are not before the Court at this time.

7 THE COURT: Well, that's fine. I think it is great if
8 you all can resolve those without confusing me. So, I think
9 that's fine. And we will just consider that those motions are
10 withdrawn at this point and then, if necessary, they can be
11 renewed at a later time. Hopefully it won't be necessary.

12 Anything else?

13 MR. PAGLIUCA: No. That's fine with counsel for the
14 defendant, your Honor.

15 THE COURT: Okay.

16 One other thought that has occurred to me. These are
17 two excellent and prominent law firms and history teaches that
18 good lawyers, like the ones in this case, tend to get
19 committed -- I mean to trials, not to institutions.

20 MR. PAGLIUCA: I am looking at a couple of
21 institutions right now, your Honor.

22 THE COURT: Okay, but it occurs to me we have our
23 schedule which I think is, as far as I know, still makes sense
24 and is the one that we entered back in October and I think that
25 still makes sense, but it does seem to me that it would also

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1 make sense perhaps to book a time when counsel would be
2 committed so that we don't have the problem of somebody popping
3 up and saying, well, I have got another case with Judge
4 so-and-so.

5 I was thinking late September early October, how does
6 that sound to you all?

7 MR. PAGLIUCA: Your Honor, this is Ms. Maxwell's
8 counsel.

9 I think this may be a premature discussion, your
10 Honor, for two reasons. The first is we have not yet gone
11 through the disclosures that we just received with the detail
12 that we would like to. I believe, though, having done a fairly
13 quick review of the documents produced that it is unlikely, in
14 my opinion, that fact discovery will be completed by July 1.
15 And I say that, your Honor, because at sort of the tip of the
16 iceberg here is that there are a number of witnesses that
17 appear to be living in other countries and we are going to need
18 to discuss how we are going to be able to conduct discovery
19 related to those witnesses.

20 There are a lot of witnesses in this case and given
21 the recent document production, I think it is going to take
22 some time to complete first the fact discovery and then have
23 expert discovery completed. So, my guess, your Honor, is that
24 we are probably looking at realistically pushing discovery in
25 this case until October, I would say, and then setting a trial

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1 date after that. That's my best guess at this point.

2 THE COURT: What's the plaintiff's view of that?

3 MS. McCawley: Your Honor, this is Sigrid McCawley for
4 the plaintiff.

5 We have been obviously trying to push discovery
6 forward. We have served our initial requests for production
7 back in October of this year and, again, while the Court
8 granted our motion to compel in part last week, we haven't
9 received any more documents. We are trying to move discovery
10 forward, as you know, as quickly as we can. We hoped to be
11 done by July, that is our goal. We would like to go to trial
12 in late September or early October.

13 THE COURT: Well, let's do this. Let's set a trial
14 date recognizing that it's not in stone and it certainly can
15 be -- can be and may well be pushed back. But, let's keep the
16 present schedule. It may be purely hopeful.

17 By the way, if we change it and you all do not agree
18 as to the change, just let me say if somebody comes forward and
19 presumably it would be the defense but I don't know, it could
20 also be the plaintiff, but if somebody comes forward with a
21 good faith showing as to an effort to comply with the schedule
22 and an inability because of Hague Convention problems or other
23 problems or whatever, we can change it but just so that nobody
24 gets ahead of us in terms of your commitments, how about a
25 tentative trial date of October 17th and hold that time? Of

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1 course we don't know at this juncture how long the trial is but
2 I am guessing a week, somewhere in the area of a week. And if
3 counsel would just hold that time until it's changed, if it is
4 changed, I would be grateful. And then I won't be faced with
5 the problem of your commitment somewhere else.

6 How does that sound?

7 MS. McCAWLEY: This is Sigrid McCawley for the
8 plaintiff, your Honor.

9 That sounds great. Thank you.

10 THE COURT: Okay. All right. Anything else we should
11 try to deal with this afternoon?

12 MR. PAGLIUCA: No. I think we are fine, your Honor.

13 THE COURT: Okay, we are all set?

14 MS. McCAWLEY: Thank you, your Honor.

15 THE COURT: Well, you have the court reporter, it is
16 Pamela Utter, and I am sure you will want to get her
17 contribution to all of this.

18 Okay. Thanks a lot. I appreciate your courtesy and
19 cooperation and I look forward to getting whatever you want to
20 give me.

21 Thank you.

22 MS. McCAWLEY: Thank you.

23 MR. PAGLIUCA: Have a good afternoon, your Honor.

24 THE COURT: Okay. Bye-bye.

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