UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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VIRGINIA L. GIUFFRE,

Plaintiff,

v.

GHISLAINE MAXWELL,

Defendant.

15-cv-07433-RWS

Defendant's Reply to Plaintiff's Statement of Contested Facts and Plaintiff's "Undisputed Facts" Pursuant to Local Civil Rule 56.1

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Pursuant to Rule 56.1 of the Local Civil Rules of this Court, defendant Ghislaine Maxwell submits this Reply to Plaintiff's Statement of Contested Facts and Plaintiff's Undisputed Facts ("Response"), Doc. 586-1.

INTRODUCTION

Plaintiff's Response fails under both the Federal Rules of Evidence and the Local Civil Rules of Procedure.

First, Plaintiff largely failed to provide any "citation to evidence which would be admissible" to challenge Defendant's Statement of Material Undisputed Facts and therefore Ms. Maxwell's undisputed facts should be deemed admitted.

Second, rather than set forth "additional material facts as to which it is contended that there exists *a genuine issue to be tried*" (Local Civil Rule 56.1(b)), Plaintiff instead set forth her own purportedly "undisputed facts." Because Plaintiff did not cross-move for summary judgment, her supposedly "undisputed facts" are not permitted by the Rules and should be stricken.

I. Ms. Maxwell's reply in support of statement of undisputed facts.

1. **Undisputed Fact 1:** In early 2011 plaintiff in two British tabloid interviews made numerous false and defamatory allegations against Ms. Maxwell. In the articles, plaintiff made no direct allegations that Ms. Maxwell was involved in any improper conduct with Jeffrey Epstein, who had pleaded guilty in 2007 to procuring a minor for prostitution. Nonetheless, plaintiff suggested that Ms. Maxwell worked with Epstein and may have known about the crime for which he was convicted. Exs. A and B.

a. **Reply**: Plaintiff cites no admissible evidence to contest these undisputed facts. McCawley Ex.34 (GIUFFRE368) is an email *from* Sharon Churcher to Plaintiff. It is Ms. Churcher's hearsay and therefore inadmissible. In any event, it does not speak to the

contents of Plaintiff's interviews with Churcher. McCawley Decl. Ex. 31 is an FBI interview, also inadmissible hearsay, which again does not describe Plaintiff's interviews in news articles. In the absence of contrary evidence, Undisputed Fact 1 should be deemed admitted.

2. **Undisputed Fact 2:** In the articles, plaintiff alleged she had sex with Prince Andrew, "a well-known businessman," a "world-renowned scientist," a "respected liberal politician," and a "foreign head of state." Exs. A-B at 5.

a. **Reply**: Plaintiff does not contest these facts and they therefore should be deemed admitted.

3. **Undisputed Fact 3:** In response to the allegations Ms. Maxwell's British attorney, working with Mr. Gow, issued a statement on March 9, 2011, denying "the various allegations about [Ms. Maxwell] that have appeared recently in the media. These allegations are all entirely false." Ex.C.

a. **Reply**: Plaintiff "denies" that Mr. Barden "issued a statement," but offers no admissible evidence to refute this point. Further, she acknowledges that the Statement was issued "By Devonshires Solicitors," Mr. Barden's law firm.

4. **Undisputed Fact 4:** The statement read in full:

Statement on Behalf of Ghislaine Maxwell

By Devonshires Solicitors, PRNE
Wednesday, March 9, 2011

London, March 10, 2011 - Ghislaine Maxwell denies the various allegations about her that have appeared recently in the media. *These allegations are all entirely false.*

It is unacceptable that letters sent by Ms Maxwell's legal representatives to certain newspapers pointing out the truth and asking for the allegations to be withdrawn have simply been ignored.

In the circumstances, *Ms Maxwell is now proceeding to take legal action against those newspapers.*

> "I understand newspapers need stories to sell copies. It is well known that certain newspapers live by the adage, "why let the truth get in the way of a good story." However, *the allegations made against me are abhorrent and entirely untrue* and I ask that they stop," said Ghislaine Maxwell.
>
> "A number of newspapers have shown a complete lack of accuracy in their reporting of this story and a failure to carry out the most elementary investigation or any real due diligence. I am now taking action to clear my name," she said.
>
> Media contact:
>
> Ross Gow
> Acuity Reputation
> Tel: +44-203-008-7790
> Mob: +44-7778-755-251
> Email: ross@acuityreputation.com
>
> Media contact: Ross Gow, Acuity Reputation, Tel: +44-203-008-7790, Mob: +44-7778-755-251, Email: ross at acuityreputation.com

Ex.C.

a. **Reply:** Plaintiff does dispute the contents of the 2011 statement and therefore it should be deemed admitted.

5. **Undisputed Fact 5:** Plaintiff's gratuitous and "lurid" accusations in an unrelated action. In 2008 two alleged victims of Epstein brought an action under the Crime Victims' Rights Act against the United States government purporting to challenge Epstein's plea agreement. They alleged the government violated their CVRA rights by entering into the agreement. Ex.D, at 2.

a. **Reply**: Plaintiff "stipulates" to the facts contained in paragraph 5 and therefore they should be deemed admitted.

6. **Undisputed Fact 6:** Seven years later, on December 30, 2014, Ms. Giuffre moved to join the CVRA action, claiming she, too, had her CVRA rights violated by the government. On January 1, 2015, Ms. Giuffre filed a "corrected" joinder motion. Ex.D at 1, 9.

a. **Reply**: Plaintiff "agreed" to this paragraph.

7. **Undisputed Fact 7:** The issue presented in her joinder motion was narrow: whether she should be permitted to join the CVRA action as a party under Federal Rule of Civil Procedure 21, specifically, whether she was a "known victim[] of Mr. Epstein and the Government owed them CVRA duties." Yet, "the bulk of the [motion] consists of copious factual details that [plaintiff] and [her co-movant] 'would prove . . . if allowed to join.'" Ms. Giuffre gratuitously included provocative and "lurid details" of her alleged sexual activities as an alleged victim of sexual trafficking. Ex.E, at 5.

a. **Reply**: Plaintiff does not dispute that Judge Marra made the findings detailed in Undisputed Fact 7. Further, she admits that the Government refused to stipulate that she "had been sexually abused by Jeffrey Epstein and his co-conspirators (including co-conspirator Alan Dershowitz), which would make her a 'victim' of a broad sex trafficking conspiracy." Although she now submits there were other reasons for inclusion of such lurid details, those reasons were rejected by Judge Marra. As she does not offer any admissible evidence to contradict the findings made by Judge Marra, this "fact," specifically Judge Marra's findings, should be deemed admitted. In any event, we request under Fed. R. Evid. 201(c)(2) that the Court take judicial notice of the contents of Judge Marra's ruling and order.

8. **Undisputed Fact 8:** At the time they filed the motion, Ms. Giuffre and her lawyers knew that the media had been following the Epstein criminal case and the CVRA action. While they deliberately filed the motion without disclosing Ms. Giuffre's name, claiming the need for privacy and secrecy, they made no attempt to file the motion under seal. Quite the contrary, they filed the motion publicly. Ex.D, at 1 & n.1.

a. **Reply**: Plaintiff offers no admissible evidence to refute these facts and they therefore should be deemed admitted. Specifically, she does not offer any evidence to dispute that she knew the media had been following Epstein and the CVRA action, nor does she dispute that her attorneys made no attempt to file the motion under seal, rather filing it publicly. The facts are thus admitted.

9. Undisputed Fact 9: As the district court noted in ruling on the joinder motion, Ms. Giuffre "name[d] several individuals, and she offers details about the type of sex acts performed and where they took place." The court ruled that "these lurid details are unnecessary": "The factual details regarding whom and where the Jane Does engaged in sexual activities are immaterial and impertinent . . ., especially considering that these details involve *non-parties* who are not related to the respondent Government." Accordingly, "[t]hese unnecessary details shall be stricken." *Id.* The court then struck all Ms. Giuffre's factual allegations relating to her alleged sexual activities and her allegations of misconduct by non-parties. The court said the striking of the "lurid details" was a sanction for Ms. Giuffre's improper inclusion of them in the motion. Ex.E at 5-7.

a. Reply: Plaintiff offers no admissible evidence to refute these facts and they therefore should be deemed admitted. See Reply to Undisputed Fact 7, *supra*. In any event, we request under Fed. R. Evid. 201(c)(2) that the Court take judicial notice of the contents of Judge Marra's ruling and order.

10. **Undisputed Fact 10:** The district court found not only that the "lurid details" were unnecessary but also that the entire joinder motion was "entirely unnecessary." Ms. Giuffre and her lawyers knew the motion with all its "lurid details" was unnecessary because the motion

itself recognized that she would be able to participate as a fact witness to achieve the same result she sought as a party. The court denied plaintiff's joinder motion. *Id.* at 7-10.

a. Reply: Plaintiff offers no admissible evidence to refute these facts and they therefore should be deemed admitted. *See* Reply to Undisputed Fact 7, *supra*.

11. **Undisputed Fact 11:** One of the non-parties Ms. Giuffre "named" repeatedly in the joinder motion was Ms. Maxwell. According to the "lurid details" of Ms. Giuffre included in the motion, Ms. Maxwell personally was involved in a "sexual abuse and sex trafficking scheme" created by Epstein:

- Ms. Maxwell "approached" plaintiff in 1999 when plaintiff was "fifteen years old" to recruit her into the scheme.
- Ms. Maxwell was "one of the main women" Epstein used to "procure under-aged girls for sexual activities."
- Ms. Maxwell was a "primary co-conspirator" with Epstein in his scheme.
- She "persuaded" plaintiff to go to Epstein's mansion "in a fashion very similar to the manner in which Epstein and his other co-conspirators coerced dozens of other children."
- At the mansion, when plaintiff began giving Epstein a massage, he and Ms. Maxwell "turned it into a sexual encounter."
- Epstein "with the assistance of" Ms. Maxwell "converted [plaintiff] into . . . a 'sex slave.'" *Id.* Plaintiff was a "sex slave" from "about 1999 through 2002."
- Ms. Maxwell also was a "co-conspirator in Epstein's sexual abuse."
- Ms. Maxwell "appreciated the immunity" she acquired under Epstein's plea agreement, because the immunity protected her from prosecution "for the crimes she committed in Florida."
- Ms. Maxwell "participat[ed] in the sexual abuse of [plaintiff] and others."
- Ms. Maxwell "took numerous sexually explicit pictures of underage girls involved in sexual activities, including [plaintiff]." *Id.* She shared the photos with Epstein.

- As part of her "role in Epstein's sexual abuse ring," Ms. Maxwell "connect[ed]" Epstein with "powerful individuals" so that Epstein could traffick plaintiff to these persons.

- Plaintiff was "forced to have sexual relations" with Prince Andrew in "[Ms. Maxwell's] apartment" in London. Ms. Maxwell "facilitated" plaintiff's sex with Prince Andrew "by acting as a 'madame' for Epstein."

- Ms. Maxwell "assist[ed] in internationally trafficking" plaintiff and "numerous other young girls for sexual purposes."

- Plaintiff was "forced" to watch Epstein, Ms. Maxwell and others "engage in illegal sexual acts with dozens of underage girls."

Id. at 3-6.

a. Reply: Plaintiff offers no admissible evidence to refute the facts actually stated in the paragraph, i.e., that the "lurid" details (as coined by Judge Marra) were included in her CVRA Joinder Motion. Plaintiff claims to offer "admissible evidence" to "corroborate the statements [she] made in the joinder motion." Setting aside for the moment that most of the cited documents are inadmissible hearsay, as addressed later, such evidence should be disregarded because none of the offered documents speak to fact that these "lurid" details were actually included in the joinder motion, as a simple reading of Ex.D reveals. Because Plaintiff does not refute that point, the fact that the details were in the Joinder Motion should be deemed admitted. In any event, we request under Fed. R. Evid. 201(c)(2) that the Court take judicial notice of the contents of plaintiff's CVRA joinder motion.

12. **Undisputed Fact 12:** In the joinder motion, plaintiff also alleged she was "forced" to have sex with Harvard law professor Alan Dershowitz, "model scout" Jean Luc Brunel, and "many other powerful men, including numerous prominent American politicians, powerful business executives, foreign presidents, a well-known Prime Minister, and other world leaders." *Id.* at 4-6.

a. **Reply**: Again, Plaintiff offers no evidence that these "lurid details" were included in the Joinder Motion, as indeed they were, and thus the fact that they were should be deemed admitted.

13. **Undisputed Fact 13:** Plaintiff said after serving for four years as a "sex slave," she "managed to escape to a foreign country and hide out from Epstein and his co-conspirators for years." *Id.*at 3

a. **Reply:** Plaintiff does not dispute that she made this statement in her joinder motion and it is admitted.

14. **Undisputed Fact 14:** Plaintiff suggested the government was part of Epstein's "conspiracy" when it "secretly" negotiated a non-prosecution agreement with Eptstein precluding federal prosecution of Epstein and his "co-conspirators." The government's secrecy, plaintiff alleged, was motivated by its fear that plaintiff would raise "powerful objections" to the agreement that would have "shed tremendous public light on Epstein and other powerful individuals. *Id.* at 6-7.

a. **Reply**: Plaintiff does not contest the quoted contents of the joinder motion, but rather offers argument regarding Plaintiff's purported "belief." Plaintiff did not submit an affidavit attesting to such "belief" and therefore no admissible evidence was cited or offered. The facts should therefore be deemed admitted.

15. **Undisputed Fact 15:** Notably, the other "Jane Doe" who joined plaintiff's motion who alleged she was sexually abused "many occasions" by Epstein was unable to corroborate any of plaintiff's allegations. *Id.* at 7-8.

a. **Reply**: Plaintiff states the facts are "untrue" but offers no admissible evidence to support that statement. She has no affidavit or other statement from "the other 'Jane

Doe' (who was represented by Plaintiff's counsel, and therefore had the ability to furnish such an affidavit). Indeed, Plaintiff acknowledges that the "other Jane Doe" "does not know Ms. Giuffre." These facts must be deemed admitted. [redacted], who is NOT the other Jane Doe, is irrelevant to the undisputed fact asserted. She also offers no corroboration of the 'same pattern of abuse,' and in fact does not "remember" any such facts, as already briefed. *See* Doc. 567 at 12-14.

16. **Undisputed Fact 16:** Also notably, in her multiple and lengthy consensual interviews with Ms. Churcher three years earlier, plaintiff told Ms. Churcher of virtually *none* of the details she described in the joinder motion. Exs. A-B.

a. **Reply**: Plaintiff's protestation aside, the Churcher articles (attached to Ms. Churcher's sworn affidavit filed in this case at Doc. 216 and 216-1 through 216-8) fail to include the vast majority of details included in Plaintiff's CVRA joinder motion, as any side-by-side comparison will reveal. Plaintiff's simple facile response is that she "did reveal details in 2011 consistent with those in the joinder motion." She offers no admissible evidence of these details she "revealed" to Ms. Churcher, instead citing to a heavily redacted interview she purportedly gave to *the FBI*, not Ms. Churcher. The purported FBI report is itself hearsay, not to mention, redacted and prepared years after any supposed interview of Plaintiff. McCawley Decl. Ex.31. Because Plaintiff offers no admissible evidence to contradict the discrepancies between the Churcher articles and the joinder motion, these facts should be deemed admitted.

17. **Undisputed Fact 17: Ms. Maxwell's response to plaintiff's "lurid" accusations: the January 2015 statement.** As plaintiff and her lawyers expected, before District Judge Marra in the CVRA action could strike the "lurid details" of plaintiff's allegations in the joinder

motion, members of the media obtained copies of the motion. Ex.G at 31:2-36:4 & Depo. Exs. 3-4.

a. **Reply**: Plaintiff cites no contrary evidence and therefore the facts should be deemed admitted.

18. **Undisputed Fact 18:** At Mr. Barden's direction, on January 2, 2015, Mr. Gow sent to numerous representatives of British media organizations an email containing "a quotable statement on behalf of Ms Maxwell." EX.F; EX.G, at 33:8-23. The email was sent to more than 6 and probably less than 30 media representatives. *See* Ex.G, at 33:8-34:3. It was not sent to non-media representatives. *See id.* at 31:2-35:21.

a. **Reply:** Plaintiff disputes as "blatant falsehood," without admissible evidence, that it was Mr. Barden who directed that the January 2 email be sent to media organizations. She then goes on to quote the very section of Mr. Gow's deposition in which he surmises (but does not know, indicated by his statement it was his "understanding") that it was something that had been sent to Maxwell by Barden. Indeed, Mr. Barden clears up this confusion in his Declaration, in which he unequivocally swore,

> 10. In liaison with Mr. Gow and my client, on January 2, 2015, I prepared a further statement denying the allegations, and I instructed Mr. Gow to transmit it via email to members of the British media who had made inquiry about plaintiff's allegations about Ms. Maxwell. Attached as Exhibit A1 is an email containing a true and correct copy of this statement. The statement was issued on my authority. Although it is possible others suggested or contributed content, I prepared the vast majority of the statement and ultimately approved and adopted all of the statement as my work.

Ex.K ¶ 10. Mr. Gow's surmise as to how the statement was "forwarded to him" and by whom does not controvert the sworn testimony of Mr. Barden himself. Again, without admissible evidence to the contrary, the facts must be deemed admitted.

With regard to the number of media representatives to whom he sent the email, Mr. Gow testified it was between 6 and 30. Ex.G at 33-34. His further testimony, offered by Plaintiff, that he spoke to "over 30 journalists" does not contradict that statement. Nowhere does Plaintiff offer testimony that he *read the statement* to over 30 journalists. Instead, Mr. Gow acknowledged it was "very possible" that he had "*ever* read[] the statement to press or media over the phone," *not* that he read it to "over 30 journalists." Plaintiff's selective cutting and pasting undercuts her so called evidence that the facts in Paragraph 18 are "false," and thus they ought be deemed admissible.

19. **Undisputed Fact 19:** Among the media representatives were Martin Robinson of the Daily Mail; P. Peachey of The Independent; Nick Sommerlad of The Mirror; David Brown of The Times; and Nick Always and Jo-Anne Pugh of the BBC; and David Mercer of the Press Association. These representatives were selected based on their request—after the joinder motion was filed—for a response from Ms. Maxwell to plaintiff's allegations in the motion. *See, e.g.*, Ex.G, at 30:23-35:21 & Depo.Ex.3.

a. **Reply**: While Plaintiff decries the second sentence as "false," her cited evidence contradicts her conclusion. Mr. Gow testified that "any time there was an incoming query it was either dealt with on the telephone by referring them back to the two statements…or someone would email them the statement. So no one was left unanswered." McCawley Decl., Ex.6 at 67. As his testimony makes clear, Mr. Gow sent

the statement to those journalists who made inquiry; he did not sent it to anyone who did not. Based on the admissible evidence, this fact remains undisputed.

20. **Undisputed Fact 20:** The email to the media members read:

> To Whom It May Concern,
> Please find attached a quotable statement on behalf of Ms Maxwell.
>
> No further communication will be provided by her on this matter.
> Thanks for your understanding.
> Best
> Ross
>
> Ross Gow
> ACUITY Reputation
>
> Jane Doe 3 is Virginia Roberts—so not a new individual. The allegations made by Victoria Roberts against Ghislaine Maxwell are untrue. The original allegations are not new and have been fully responded to and shown to be untrue.
>
> Each time the story is re told [sic] it changes with new salacious details about public figures and world leaders and now it is alleged by Ms Roberts [sic] that Alan Derschowitz [sic] is involved in having sexual relations with her, which he denies.
>
> Ms Roberts claims are obvious lies and should be treated as such and not publicised as news, as they are defamatory.
>
> Ghislaine Maxwell's original response to the lies and defamatory claims remains the same. Maxwell strongly denies allegations of an unsavoury nature, which have appeared in the British press and elsewhere and reserves her right to seek redress at the repetition of such old defamatory claims.

Ex.F.

a. **Reply**: Plaintiff does not dispute the contents of the email and therefore it should be deemed admitted.

21. **Undisputed Fact 21:** Mr. Barden, who prepared the January 2015 statement, did not intend it as a traditional press release solely to disseminate information to the media. So he intentionally did not pass it through a public relations firm, such as Mr. Gow's firm, Acuity Reputation. Ex.K ¶¶ 10,15.

a. **Reply**: Plaintiff makes two responses. As to the first sentence, she asserts without evidentiary support that "the Court should not consider" the Barden Declaration. This argument is frivolous for the reasons given on pages 8, 11-12, 18-19 of the Reply Brief in Support of Motion for Summary Judgment. It is a Declaration provided by an attorney with knowledge of the facts, Mr. Barden, disclosed by Defendant in her Rule 26 witnesses, whom Plaintiff chose not to depose. As to the second sentence, Plaintiff offers two pieces of evidence which she argues dispute the facts in question; they do not. That Mr. Gow forwarded the statement, prepared by Mr. Barden, to the media is not disputed. Rather, as Mr. Barden asserted in his declaration, and Plaintiff failed to cite contradictory evidence, he was the one who prepared the vast majority of the statement and instructed Mr. Gow to transmit it via email to members of the British media. Ex.K ¶¶ 10. He likewise avers that he "did not intend the January 2015 statement as a traditional press release solely to disseminate information to the media [and] this is why I intentionally did not request that Mr. Gow or any other public relations specialist prepare or participate in preparing the statement." *Id.* at ¶ 15. Plaintiff fails to contradict Mr. Barden's sworn statement.

22. **Undisputed Fact 22:** The January 2015 statement served two purposes. First, Mr. Barden intended that it mitigate the harm to Ms. Maxwell's reputation from the press's republication of plaintiff's false allegations. He believed these ends could be accomplished by suggesting to the media that, among other things, they should subject plaintiff's allegations to inquiry and scrutiny. For example, he noted in the statement that plaintiff's allegations changed dramatically over time, suggesting that they are "obvious lies" and therefore should not be "publicised as news." *Id.* ¶ 11.

a. **Reply**: This paragraph, eliciting Mr. Barden's intent, is uncontroverted by Plaintiff. She fails to cite any contradictory admissible evidence, instead making legal arguments. Her arguments are not admissible evidence (e.g., "it is her statement and she directed that it be sent to the media and public," lacks any citation to record evidence). Plaintiff's list of evidence she contends "corroborates" Plaintiff's claims should be ignored as they do not pertain to Mr. Barden's purposes in drafting the January 2 statement.

23. **Undisputed Fact 23:** Second, Mr. Barden intended the January 2015 statement to be "a shot across the bow" of the media, which he believed had been unduly eager to publish plaintiff's allegations without conducting any inquiry of their own. Accordingly, in the statement he repeatedly noted that plaintiff's allegations were "defamatory." In this sense, the statement was intended as a cease and desist letter to the media-recipients, letting the media-recipients understand the seriousness with which Ms. Maxwell considered the publication of plaintiff's obviously false allegations and the legal indefensibility of their own conduct. *Id.* ¶ 17.

a. **Reply**: Again, Plaintiff "disputes" Mr. Barden's intent without citation to record evidence. Plaintiff claims that Barden did not "note" anything in the statement, but the statement itself contains the phrase: "Ms. Roberts claims are obvious lies and should be treated as such and not publicized as news*, as they are defamatory."* Plaintiff's unsupported arguments should be ignored and these facts pertaining to Mr. Barden's intent deemed admitted.

24. **Undisputed Fact 24:** Consistent with those two purposes, Mr. Gow's emails prefaced the statement with the following language: "Please find attached a *quotable statement* on behalf of Ms Maxwell" (emphasis supplied). The statement was intended to be a single, one-

time-only, comprehensive response—quoted in full—to plaintiff's December 30, 2014, allegations that would give the media Ms. Maxwell's response. *Id.* ¶ 18. The purpose of the prefatory statement was to inform the media-recipients of this intent. *Id.*

a. **Reply:** Plaintiff again "disputes" any statement related to Mr. Barden's purpose or intent, but offers no evidence contradicting his purpose or intent. She simply points out that Ms. Maxwell retained Mr. Gow in early 2015, and that he works for a public relations firm, which is non-responsive to the fact at issue, i.e., Mr. Barden's intent with respect to language included in the statement. No one has contested that it was Mr. Gow who actually forwarded the statement to select members of the media who had requested a response. The fact set forth should be deemed admitted.

25. **Undisputed Fact 25: Plaintiff's activities to bring light to the rights of victims of sexual abuse.** Plaintiff has engaged in numerous activities to bring attention to herself, to the prosecution and punishment of wealthy individuals such as Epstein, and to her claimed interest of bringing light to the rights of victims of sexual abuse.

a. **Reply:** Plaintiff offers no evidence to dispute the facts cited and so they should be deemed admitted.

26. **Undisputed Fact 26:** Plaintiff created an organization, Victims Refuse Silence, Inc., a Florida corporation, directly related to her alleged experience as a victim of sexual abuse. Doc. 1 (Complaint), ¶¶ 24-25.

a. **Reply:** Plaintiff does not dispute this statement.

27. **Undisputed Fact 27:** The "goal" of Victims Refuse Silence "was, and continues to be, to help survivors surmount the shame, silence, and intimidation typically experienced by

victims of sexual abuse." Toward this end, plaintiff has "dedicated her professional life to helping victims of sex trafficking." *Id.*

a. **Reply:** Plaintiff "agrees."

28. **Undisputed Fact 28:** Plaintiff repeatedly has sought out media organizations to discuss her alleged experience as a victim of sexual abuse. This Reply Statement at ¶¶ 51-54 (citing *inter alia* Doc. 216 ¶¶ 2-11 and referenced exhibits, Doc. 261-1 to 216-8; Exs. N, KK, LL, MM).

a. **Reply:** Plaintiff "denies" this contention, points to an email from Sharon Churcher seeking to interview her, and asserts that it was the media that sought her out. The weight of evidence, cited by Defendant at paragraphs 51-54, in addition to Plaintiff's own documents, belie this assertion. She through her attorneys sought out a videotaped interview with ABC News, she sent her "book manuscript" to publishers and literary agents, and expressed anticipation and frustration that her "exclusive contract" with The Mail prevented her for a period of time from marketing her book. *See, e.g.*, EXHIBIT QQ at GIUFFRE003959.

To: sharon churcher[sharon.churcher@mailonsunday.co.uk]
From: Virginia Giuffre
Sent: Fri 5/20/2011 2:20:09 AM
Importance: Normal
Subject: How ya doing??
Received: Fri 5/20/2011 2:20:09 AM

Hi Buddy,
I hope you are stopping to smell the daffodils once in a while and having a good day!! I am so excited today because I ca
go sign with an agent as my contract is finished with "Mail On Sunday"...YEAH!! Sandra and I have been working really
hard to get me ready for my trip to the U.S in a few weeks and I was wondering if I could use your advice again. She has
got an INT'L agent who is interested in speaking with me and I don't want to say "Yes" to the first bite because I'm not su
what to look for in an agent. What could you recommend that I do? I will send Jarred and Irene (your recommended agen
a copy of the synopsis and sample chapters but how do I choose the right one for "The Story"? Do you know anyone else
that might be interested in this as well? If so, i am keen on speaking with anyone who might be. I am soooooooo excited
about this and will keep you updated with the progressing events. When I am in New York we have to meet up for some
city shopping and take the kids to Central Park to see the Zoo, given there will be no masturbating kangaroo's for you to
make friends with, but who know's? I am looking forward to showing Robbie around and he's got some family out there a
well we have to catch up with. Such busy times, but I'm loving it!! Anyways I hope your taking care and catch me up on
your fun times!!

Take care,
Jenna

Plaintiff has disputed none of these activities she freely engaged in for years, and thus these facts should be deemed admitted.

29. **Undisputed Fact 29:** On December 30, 2014, plaintiff publicly filed an "entirely unnecessary" joinder motion laden with "unnecessary," "lurid details" about being "sexually abused" as a "minor victim[]" by wealthy and famous men and being "trafficked" all around the world as a "sex slave." Ex.J ¶ 24; Ex.K ¶¶ 2-3.

a. **Reply:** Plaintiff argues that her "lurid details" were necessary legally. Judge Marra, however, has already held that they were not and her legal arguments, unsupported by any actual evidence in this case, cannot serve to controvert his findings as quoted.

30. **Undisputed Fact 30:** The plaintiff's alleged purpose in filing the joinder motion was to "vindicate" her rights under the CVRA, expose the government's "secretly negotiated" "non-prosecution agreement" with Epstein, "*shed tremendous public light*" on Epstein and "other powerful individuals" that would undermine the agreement, and support the CVRA plaintiffs' request for documents that would show how Epstein "used his powerful political and social connections to secure a favorable plea deal" and the government's "motive" to aid Epstein and his "co-conspirators." Ex.D, at 1, 6-7, 10 (emphasis supplied).

a. **Reply:** Plaintiff fails to offer any evidence to controvert the contents of her CVRA Joinder Motion and thus, the fact should be deemed admitted.

31. **Undisputed Fact 31:** Plaintiff has written the manuscript of a book she has been trying to publish detailing her alleged experience as a victim of sexual abuse and of sex trafficking in Epstein's alleged "sex scheme." Ex.KK.

a. **Reply:** Plaintiff directs the Court to her response to paragraph 52 and suggests the factual statement is misleading. She, however, offers no contradictory admissible evidence and thus the fact should be deemed admitted.

32. **Undisputed Fact 32: Republication alleged by plaintiff.** Plaintiff was required by Interrogatory No. 6 to identify any false statements attributed to Ms. Maxwell that were "'published globally, including within the Southern District of New York,'" as plaintiff alleged in Paragraph 9 of Count I of her complaint. In response, plaintiff identified the January 2015 statement and nine instances in which various news media published portions of the January 2015 statement in news articles or broadcast stories. Ex.H, at 7-8; Ex.I, at 4.

a. **Reply:** Her argument aside, Plaintiff offers no admissible evidence to controvert the interrogatory request and her response, which was limited to "nine instances" in which the press published "portions of the January 2015 statement." For example, Plaintiff does not point to a single news story that published the entirety of the January 2015 statement. In the absence of contrary evidence, the fact should be deemed admitted.

33. **Undisputed Fact 33:** In none of the nine instances was there any publication of the entire January 2015 statement. Ex.H, at 7-8; Ex.I, at 4.

a. **Reply:** Plaintiff does not and cannot point to any of the nine publications she disclosed, or any other publication, that published the entire January 2015 statement, and this fact thus must be deemed admitted.

34. **Undisputed Fact 34:** Ms. Maxwell and her agents exercised no control or authority over any media organization, including the media identified in plaintiff's response to

Interrogatory No. 6, in connection with the media's publication of portions of the January 2015 statement. Ex.J ¶ 24; Ex.K ¶¶ 2-3.

a. **Reply:** Plaintiff's proffered evidence, testimony from Mr. Gow, fails to support her argument and fails to controvert the Barden Declaration as cited by the defendant. Nothing in the testimony establishes, as Plaintiff argues, that "Defendant hired Gow because his position allowed him to influence the press to publish her defamatory statement." The testimony is irrelevant to the factual point. The Gow testimony at most relates to why Ms. Maxwell engaged Mr. Gow. It does not bear on the factual point, i.e., that Ms. Maxwell, Mr. Gow or Mr. Barden did not exercise any control or authority over the media in the media's republication of portions of the statement. On this point plaintiff has failed to introduce any contrary evidence. Accordingly, the fact should be deemed admitted.

35. **Undisputed Fact 35: Plaintiff's defamation action against Ms. Maxwell.** Eight years after Epstein's guilty plea, plaintiff brought this action, repeating many of the allegations she made in her CVRA joinder motion. Doc. 1, ¶ 9.

a. **Reply:** Plaintiff "agrees."

36. **Undisputed Fact 36:** The complaint alleged that the January 2015 statement "contained the following deliberate falsehoods":

(a) That Giuffre's sworn allegations "against Ghislaine Maxwell are untrue."

(b) That the allegations have been "shown to be untrue."

(c) That Giuffre's "claims are obvious lies."

Doc. 1 ¶ 30 (boldface and underscoring omitted).

(a) **Reply:** Plaintiff "agreed."

37. **Undisputed Fact 37: Plaintiff lived independently from her parents with her fiancé long before meeting Epstein or Ms. Maxwell.** After leaving the Growing Together drug rehabilitation facility in 1999, plaintiff moved in with the family of a fellow patient. Ex.L at 7-8, 12-14. There she met, and became engaged to, her friend's brother, James Michael Austrich. *Id.* and at 19. She and Austrich thereafter rented an apartment in the Ft. Lauderdale area with another friend and both worked at various jobs in that area. *Id.* at 11, 13-17. Later, they stayed briefly with plaintiff's parents in the Palm Beach/ Loxahatchee, Florida area before Austrich rented an apartment for the couple on Bent Oak Drive in Royal Palm Beach. *Id.* at 17, 19, 25-27. Although plaintiff agreed to marry Austrich, she never had any intention of doing so. Ex.N at 127-128.

a. **Reply:** Plaintiff offers argument, without an affidavit or any other contradictory evidence, regarding whether Plaintiff "voluntarily live[d] independently" or whether a "reasonable person" could assert she was "engaged." Mr. Austrich and Plaintiff agreed that they were engaged and testified accordingly, as cited. In the absence of admissible evidence to the contrary, the facts as described by her fiancé in his deposition should be deemed admitted.

38. **Undisputed Fact 38: Plaintiff re-enrolled in high school from June 21, 2000 until March 7, 2002**. After finishing the 9th grade school year at Forest Hills High School on June 9, 1999, plaintiff re-enrolled at Wellington Adult High School on June 21, 2000, again on August 16, 2000 and on August 14, 2001. Ex.O. On September 20, 2001, Plaintiff then enrolled at Royal Palm Beach High School. *Id.* A few weeks later, on October 12, 2001, she matriculated at Survivors Charter School. *Id.* Survivor's Charter School was an alternative school designed to assist students who had been unsuccessful at more traditional schools. Ex.P at 23-24. Plaintiff

remained enrolled at Survivor's Charter School until March 7, 2002. Ex.O. She was present 56 days and absent 13 days during her time there. *Id.* Plaintiff never received her high school diploma or GED. Ex.Q at 475, 483. Plaintiff and Figueroa went "back to school" together at Survivor's Charter School. Ex.P at 23-27. The school day there lasted from morning until early afternoon. *Id.* at 23-27, 144-146.

a. **Reply:** Plaintiff argues, again without evidentiary support, that the "codes" on the school records indicate "semester start and end dates" rather than dates Plaintiff was in school. Her mis-reading of the records is apparent from their face. One column is labelled "Entry date," and the next "Withdrawal Date." Neither say "semester start date" or "semester end" date. Moreover, the "codes" simply prove the point: Plaintiff "entered" school (codes E01 and EA1) on the designated "entry date" and withdrew (either prior to completion, to enter another training program, or who "will continue in the class/program the next term or school year") on the dates designated "withdrawal." The school records display entry and withdrawal dates for Wellington High School Adult Program, from June 21, 2000 – August 15, 2000, from August 16, 2000 – August 13, 2001, and from August 14, 2001- September 20, 2001 and then an entry, that same day, September 20, 2001 at Survivor's Charter School. Plaintiff would have one believe that the records show a school on Plaintiff's official transcript that she never went to, Wellington High School Adult Program, that indicates she withdrew the very day she concededly entered Survivor's Charter School. Her intentional misreading of the record is yet another attempt to obfuscate Plaintiff's lack of memory regarding where and when she went to school, just like she failed to remember 8 jobs she held in 2000 whereas she claimed to have had one. The test is admissible evidence to the contrary, and Plaintiff

offers none. The flight logs (which show trips in early 2001) do not contradict the evidence because they are during the period of time she was enrolled in "Adult High School," a place where night classes were taught and where one might circumstantially infer, careful attendance records were not kept.

39. Undisputed Fact 39: During the year 2000, plaintiff worked at numerous jobs. In 2000, while living with her fiancé, plaintiff held five different jobs: at Aviculture Breeding and Research Center, Southeast Employee Management Company, The Club at Mar-a-Lago, Oasis Outsourcing, and Neiman Marcus. Ex.R. Her taxable earnings that year totaled nearly $9,000. *Id.* Plaintiff cannot now recall either the Southeast Employee Management Company or the Oasis Outsourcing jobs. Ex.Q at 470-471.

a. Reply: Plaintiff does not dispute the facts as presented, merely argues regarding their significance. The Social Security Administration records detail the five jobs at which she worked in 2000; the month and day of the jobs are irrelevant for purposes of this recitation of facts. Likewise, Plaintiff does not dispute the taxable earnings she made that year, or that she does not "remember" the jobs associated with Southeast Employee Management Company or Oasis Outsourcing (whether they were payroll or not), where she made $3,212 and $2,037 that year. She also "forgot" about her job at Neiman Marcus, where she made $1,440 in 2000, until she was confronted with the SSA records. McCawley Dec. Ex.5 at 53, 470.

40. Undisputed Fact 40: Plaintiff's employment at the Mar-a-Lago spa began in fall 2000. Plaintiff's father, Sky Roberts, was hired as a maintenance worker at the The Mar-a-Lago Club in Palm Beach, Florida, beginning on April 11, 2000. Ex.S. Mr. Roberts worked there year-round for approximately 3 years. *Id.*; Ex.T at 72-73. After working there for a period

of time, Mr. Roberts became acquainted with the head of the spa area and recommended plaintiff for a job there. *Id.* at 72. Mar-a-Lago closes every Mother's Day and reopens on November 1. Ex.U at Mar-a-Lago0212. Most of employees Mar-a-Lago, including all employees of the spa area such as "spa attendants," are "seasonal" and work only when the club is open, i.e., between November 1 and Mother's Day. Ex.T at 72-73; Ex.U at Mar-a-Lago0212; Ex.V. Plaintiff was hired as a "seasonal" spa attendant to work at the Mar-a-Lago Club in the fall of 2000 after she had turned 17.

a. Reply: Plaintiff's response is misleading. First, she does not dispute that Mr. Roberts, her father began working at Mar-a-Lago in April 2000, nor that he worked there for some time, became acquainted with the head of the spa area and recommended his daughter for a job.

Second, Plaintiff contends that "job postings and job descriptions" "from 2002 and later are irrelevant." There are no such "job postings" cited. Rather, the job posting cited was from October 2000, the same time that Plaintiff was hired. *Compare* Ex.V (posting for "Saturday October 14 and Sunday October 15") with calendar for year 2000, showing Saturday and Sundays in October corresponding to those dates.

Finally, Plaintiff points to her own "recollection" as contrary proof. Her "recollection" about when she worked at Mar-a-Lago has shifted dramatically over time. First, she claimed it was 1998. *See* Jane Doe 102 complaint. Then, it was 1999. *See* Doc. 1, Complaint in this matter. Now, in this response she has changed her answer to 2000. Her vague recollections about what year have been off base, no credit should be given to her newfound recollection of which month she worked there. In any event, she presents no admissible credible evidence to contradict Mar-a-Lago's own records. Ex.U

at Mar-a-Lago0212 (spa not open from Mother's Day until November 1). Even Plaintiff's father, a longtime employee of Mar-a-lago admitted that the place "closed down" in the summer. Ex.T at 72-73. Plaintiff simply is not credible in her testimony that she recalls it being a "summer job," and the fact that she did not work at the spa until at least November 2000 at the age of 17 should be deemed admitted.

41. **Undisputed Fact 41: Plaintiff represented herself as a masseuse for Jeffrey Epstein.** While working at the Mar-a-Lago spa and reading a library book about massage, plaintiff met Ms. Maxwell. Plaintiff thereafter told her father that she got a job working for Jeffrey Epstein as a masseuse. Ex.T at 79. Plaintiff's father took her to Epstein's house on one occasion around that time, and Epstein came outside and introduced himself to Mr. Roberts. *Id.* at 82-83. Plaintiff commenced employment as a traveling masseuse for Mr. Epstein. Plaintiff was excited about her job as a masseuse, about traveling with him and about meeting famous people. Ex.L at 56; Ex.P at 126. Plaintiff represented that she was employed as a masseuse beginning in January 2001. Ex.M; Ex.N. Plaintiff never mentioned Ms. Maxwell to her then-fiancé, Austrich. Ex.L at 74. Plaintiff's father never met Ms. Maxwell. Ex.T at 85.

a. **Reply:** Plaintiff does not actually refute any of the facts set forth above, but rather spends her time discussing different facts. Plaintiff's father testified to what she told him, that she "was going to learn massage therapy." Ex.T at 79. She does not contest her father's testimony that Mr. Epstein came out of the house and greeted her father and that her father never met Ms. Maxwell. *See* Reply to Undisputed Fact 41. Whether someone can receive a "massage license" under Florida law without a high school equivalency diploma is of no moment. Plaintiff does not dispute she represented

herself as a masseuse to others, in her own handwriting, beginning in January 2001. Exs. M and N. These facts should be deemed admitted.

42. **Undisputed Fact 42: Plaintiff resumed her relationship with convicted felon Anthony Figueroa.** In spring 2001, while living with Austrich, plaintiff lied to and cheated on him with her high school boyfriend, Anthony Figueroa. Ex.L at 68, 72. Plaintiff and Austrich thereafter broke up, and Figueroa moved into the Bent Oak apartment with plaintiff. Ex.L at 20; Ex.P at 28. When Austrich returned to the Bent Oak apartment to check on his pets and retrieve his belongings, Figueroa in Plaintiff's presence punched Austrich in the face. Ex.X; Ex.L at 38-45. Figueroa and plaintiff fled the scene before police arrived. Ex.X. Figueroa was then a convicted felon and a drug abuser on probation for possession of a controlled substance. Ex.Y.

a. **Reply:** Plaintiff argues relevance regarding these facts, but contests none of them. They should be deemed admitted. Plaintiff's lies, cheating, and association with a convicted felon and known drug abuser all are relevant in this defamation case concerning her reputation, purported damage to such reputation, and whether she was a known liar, as the January 2015 statement contends.

43. **Undisputed Fact 43: Plaintiff freely and voluntarily contacted the police to come to her aid in 2001 and 2002 but never reported to them that she was Epstein's "sex slave."** In August 2001 at age 17, while living in the same apartment, plaintiff and Figueroa hosted a party with a number of guests. Ex.Z. During the party, according to plaintiff, someone entered plaintiff's room and stole $500 from her shirt pocket. *Id.* Plaintiff contacted the police. She met and spoke with police officers regarding the incident and filed a report. She did not disclose to the officer that she was a "sex slave." A second time, in June 2002, plaintiff contacted the police to report that her former landlord had left her belongings by the roadside and

had lit her mattress on fire. Ex.AA. Again, plaintiff met and spoke with the law enforcement officers but did not complain that she was the victim of any sexual trafficking or abuse or that she was then being held as a "sex slave." *Id.*

a. **Reply:** Plaintiff, again, presents no admissible evidence to contradict these facts, instead arguing their relevance. They should be deemed admitted.

44. **From August 2001 until September 2002, Epstein and Maxwell were almost entirely absent from Florida on documented travel unaccompanied by Plaintiff.** Flight logs maintained by Epstein's private pilot Dave Rodgers evidence the substantial number of trips away from Florida that Epstein and Maxwell took, unaccompanied by Plaintiff, between August 2001 and September 2002. Ex.BB. Rodgers maintained a log of all flights on which Epstein and Maxwell traveled with him. Ex.CC at 6-15. Epstein additionally traveled with another pilot who did not keep such logs and he also occasionally traveled via commercial flights. *Id.* at 99-100, 103. For substantially all of thirteen months of the twenty-two months (from November 2000 until September 2002) that Plaintiff lived in Palm Beach and knew Epstein, Epstein was traveling outside of Florida unaccompanied by Plaintiff. Ex.BB. During this same period of time, Plaintiff was employed at various jobs, enrolled in school, and living with her boyfriend.

a. **Reply:** Plaintiff goes to great lengths to dispute facts other than those presented as Undisputed Fact 44. Her voluminous, repetitive recitation of the flights that Plaintiff *was* on do nothing to demonstrate the 13 months of flights from July 2001 until August 2002 that Epstein and Maxwell *were on without Plaintiff*, as reflected in the logs. Her assertions regarding the other flights that she took, commercial or on another plane, do nothing to establish all of the many flights she *was not on* during 13 of the 22 month period during which Epstein and Maxwell were away from Palm Beach. Plaintiff does

not dispute that Epstein and Maxwell were on the flights without her. The facts as presented by Defendant should be deemed admitted.

45. **Undisputed Fact 45: Plaintiff and Figueroa shared a vehicle during 2001 and 2002.** Plaintiff and Figueroa shared a '93 white Pontiac in 2001 and 2002. Ex.P at 67; Ex.EE. Plaintiff freely traveled around the Palm Beach area in that vehicle. *Id.* In August 2002, Plaintiff acquired a Dodge Dakota pickup truck from her father. Ex.P at 67-68. Figueroa used that vehicle in a series of crimes before and after Plaintiff left for Thailand. *Id.*; Ex.FF.

a. **Reply:** Again, the Response has nothing to do with the facts stated. As Plaintiff concedes, she and Mr. Figueroa had one car that they both used. In fact, they traveled to and from school together. Ex.P at 67-68. She also does not dispute that she traveled freely around the Palm Beach area in that vehicle, or that "her car" was used in a series of thefts while she was in Thailand. All should be deemed admitted.

46. **Undisputed Fact 46: Plaintiff held a number of jobs in 2001 and 2002**. During 2001 and 2002, plaintiff was gainfully employed at several jobs. She worked as a waitress at Mannino's Restaurant, at TGIFriday's restaurant (aka CCI of Royal Palm Inc.), and at Roadhouse Grill. Ex.R. She also was employed at Courtyard Animal Hospital (aka Marc Pinkwasser DVM). *Id.;* Ex.W.

a. **Reply:** Plaintiff admits all of the facts set forth above, aside from the use of the word "gainfully." They should be deemed admitted.

47. **Undisputed Fact 47: In September 2002, Plaintiff traveled to Thailand to receive massage training and while there, met her future husband and eloped with him.** Plaintiff traveled to Thailand in September 2002 to receive formal training as a masseuse. Figueroa drove her to the airport. While there, she initially contacted Figueroa frequently,

incurring a phone bill of $4,000. Ex.P at 35. She met Robert Giuffre while in Thailand and decided to marry him. She thereafter ceased all contact with Figueroa from October 2002 until two days before Mr. Figueroa's deposition in this matter in May 2016. *Id.* at 29, 37.

a. **Reply:** Again, Plaintiff does not refute the facts set forth, she simply offers her own interpretation of those facts. In the absence of any contrary evidence, they should be deemed admitted.

48. **Undisputed Fact 48: Detective Recarey's investigation of Epstein failed to uncover any evidence that Ms. Maxwell was involved in sexual abuse of minors, sexual trafficking or production or possession of child pornography.** Joseph Recarey served as the lead detective from the Palm Beach Police Department charged with investigating Jeffrey Epstein. Ex.GG at 10. That investigation commenced in 2005. *Id.* Recarey worked only on the Epstein case for an entire year. *Id.* at 274. He reviewed previous officers' reports and interviews, conducted numerous interviews of witnesses and alleged victims himself, reviewed surveillance footage of the Epstein home, participated in and had knowledge of the search warrant executed on the Epstein home, and testified regarding the case before the Florida state grand jury against Epstein. *Id.* at 212-215. Detective Recarey's investigation revealed that not one of the alleged Epstein victims ever mentioned Ms. Maxwell's name and she was never considered a suspect by the government. *Id.* at 10-11, 180-82, 187-96, 241-42, 278. None of Epstein's alleged victims said they had seen Ms. Maxwell at Epstein's house, nor said they had been "recruited by her," nor paid any money by her, nor told what to wear or how to act by her. *Id.* Indeed, none of Epstein's alleged victims ever reported to the government they had met or spoken to Ms. Maxwell. Maxwell was not seen coming or going from the house during the law enforcement surveillance of Epstein's home. *Id.* at 214-215. The arrest warrant did not mention Ms. Maxwell

and her name was never mentioned before the grand jury. *Id.* at 203, 211. No property belonging to Maxwell, including "sex toys" or "child pornography," was seized from Epstein's home during execution of the search warrant. *Id.* at 257. Detective Recarey, when asked to describe "everything that you believe you know about Ghislaine Maxwell's sexual trafficking conduct," replied, "I don't." *Id.* at 278. He confirmed he has no knowledge about Ms. Maxwell sexually trafficking anybody. *Id.* at 278-79. Detective Recarey also has no knowledge of Plaintiff's conduct that is subject of this lawsuit. *Id.* at 259-260.

a. **Reply**: Plaintiff offers several misleading "contrary" facts, none of which actually address the facts presented herein, namely whether Ms. Maxwell was ever mentioned by any of Epstein's alleged victims, whether she was the target of their investigation, and whether any of her property was seized from Epstein's home. Plaintiff cites to numerous inadmissible pieces of evidence on facts other than those. Mr. Rodriguez, a convicted felon for obstructing justice related to the Epstein case, is dead and his deposition testimony is the subject of a motion in limine because Ms. Maxwell has never had the opportunity to cross examine him. Doc. 567 at 14. Ms. Rabuyo likewise is not a witness who has been deposed in this case, and therefore her "testimony" is not admissible against Ms. Maxwell. The message pads are not authenticated by anyone, as will be the subject of a forthcoming motion *in limine.* And there is not one shred of evidence that any child pornography, as opposed to a topless photo of a very adult Ms. Maxwell, were ever found in Epstein's home. The facts should be deemed admitted, as those proferred by Defendant are based on admissible evidence.

49. **Undisputed Fact 49: No nude photograph of Plaintiff was displayed in Epstein's home.** Epstein's housekeeper, Juan Alessi, "never saw any photographs of Virginia

Roberts in Mr. Epstein's house." Ex.HH at ¶ 17. Detective Recarey entered Epstein's home in 2002 to install security cameras to catch a thief and did not observe any "child pornography" within the home, including on Epstein's desk in his office. Ex.GG at 289-90.

a. **Reply:** Plaintiff offered no evidence that a nude photograph of *her* was displayed in Epstein's home. All of the testimony she submits has nothing to do with a nude photograph of herself. The fact should be deemed admitted.

50. **Undisputed Fact 50: Plaintiff intentionally destroyed her "journal" and "dream journal" regarding her "memories" of this case in 2013 while represented by counsel.** Plaintiff drafted a "journal" describing individuals to whom she claims she was sexually trafficked as well as her memories and thoughts about her experiences with Epstein. Ex.II at 64-65, 194; Ex.N at 205-08. In 2013, she and her husband created a bonfire in her backyard in Florida and burned the journal together with other documents in her possession. *Id.* Plaintiff also kept a "dream journal" regarding her thoughts and memories that she possessed in January 2016. Ex.II at 194-96. To date, Plaintiff cannot locate the "dream journal." *Id.*

a. **Reply:** Plaintiff offers no contrary admissible regarding her destruction of her journal and it should be deemed admitted.

51. **Undisputed Fact 51: Plaintiff publicly peddled her story beginning in 2011.** Plaintiff granted journalist Sharon Churcher extensive interviews that resulted in seven (7) widely distributed articles from March 2011 through January 2015. Doc. 216 ¶¶ 2-11 and referenced exhibits; Doc. 261-1 to 216-8, incorporated by reference. Churcher regularly communicated with plaintiff and her "attorneys or other agents" from "early 2011" to "the present day." Plaintiff received approximately $160,000 for her stories and pictures that were published by many news organizations. Ex.N at 247-248.

a. **Reply:** Plaintiff offers no evidence to contradict the facts asserted and they should therefore be deemed admitted. Plaintiff's unsupported spin of those facts should be stricken.

52. **Undisputed Fact 52: Plaintiff drafted a 144-page purportedly autobiographical book manuscript in 2011 which she actively sought to publish.** In 2011, contemporaneous with her Churcher interviews, plaintiff drafted a book manuscript which purported to document plaintiff's experiences as a teenager in Florida, including her interactions with Epstein and Maxwell. Ex.KK. Plaintiff communicated with literary agents, ghost writers and potential independent publishers in an effort to get her book published. She generated marketing materials and circulated those along with book chapters to numerous individuals associated with publishing and the media.

a. **Reply:** Plaintiff cites inadmissible evidence, and attorney argument, in contradiction of these facts. They should be ignored. The "Victim Notification Letter" is inadmissible hearsay. The psychologist records likewise are inadmissible hearsay. The FBI interview is inadmissible hearsay. Plaintiff's counsel then flatly misrepresents to the Court her own client's characterization of the book manuscript, calling it a "fictionalized account." Plaintiff, contradicting her counsel, testified that the book manuscript is "99% true."

Q Is there anything -- well, first of all, did you author that entire manuscript?
A Yes, I did.
Q Did anyone else author part of that manuscript?
A Do you mean did anyone else write this with me?
Q Right.
A No.
Q That's all your writing?

A This is my writing.

Q Okay. To the best of your recollection as you sit here right now, is there anything in that manuscript about Ghislaine Maxwell that is untrue?

A I don't believe so. Like I said, there is a lot of stuff that I actually have left out of here.

Q Um-hum.

A. So there is a lot more information I could put in there. But as far as Ghislaine Maxwell goes, I would like to say that there is 99.9 percent of it would be to the correct knowledge.

Q All right. Is there anything that you -- and I understand you're doing this from memory. Is there anything that you recall, as you're sitting here today, about Ghislaine Maxwell that is contained in that manuscript, that is not true?

A You know, I haven't read this in a very long time. I don't believe that there's anything in here about Ghislaine Maxwell that is not true.

EXHIBIT RR at 42-43 (emphasis added).

Plaintiff clearly now would like to spin the book manuscript as "fictionalized" because she is well aware that the "facts" presented by her in that manuscript are contradicted by many other documentary and testimonial records. Yet she offers no admissible evidence that Plaintiff intended the manuscript to be fictional. Citations to social scientists who have not testified in this case and whose work has not even be cited by any expert in this case is wholly improper and should be stricken.

53. **Undisputed Fact 53: Plaintiff's publicly filed "lurid" CVRA pleadings initiated a media frenzy and generated highly publicized litigation between her lawyers and Alan Dershowitz.** On December 30, 2014, plaintiff, through counsel, publicly filed a joinder motion that contained her "lurid allegations" about Ms. Maxwell and many others, including Alan Dershowitz, Prince Andrew, Jean-Luc Brunel. The joinder motion was followed by a "corrected" motion (Ex.D) and two further declarations in January and February 2015, which repeated many of plaintiff's claims. These CVRA pleadings generated a media maelstrom and spawned highly publicized litigation between plaintiff's lawyers, Edwards and Cassell, and Alan

Dershowitz. After plaintiff publicly alleged Mr. Dershowitz of sexual misconduct, Mr. Dershowitz vigorously defended himself in the media. He called plaintiff a liar and accused her lawyers of unethical conduct. In response, attorneys Edwards and Cassell sued Dershowitz who counterclaimed. This litigation, in turn, caused additional media attention by national and international media organizations. Doc. 363 at 363-1 through 363-14.

a. **Reply:** Plaintiff offers no contrary facts and so they should be deemed admitted.

54. **Undisputed Fact 54: Plaintiff formed non-profit Victims Refuse Silence to attract publicity and speak out on a public controversy.** In 2014, plaintiff, with the assistance of the same counsel, formed a non-profit organization, Victims Refuse Silence. According to plaintiff, the purpose of the organization is to promote plaintiff's professed cause against sex slavery. The stated goal of her organization is to help survivors surmount the shame, silence, and intimidation typically experienced by victims of sexual abuse. Ex.LL. Plaintiff attempts to promote Victims Refuse Silence at every opportunity. Ex.MM at 17-18. For example, plaintiff participated in an interview in New York with ABC to promote the charity and to get her mission out to the public. *Id.* at 28.

a. **Reply:** Plaintiff offers no contrary evidence and the facts should be deemed admitted.

II. The Court should strike plaintiff's statement of "undisputed facts."

The summary-judgment procedure is well established. When the summary-judgment non-movant bears the burden of proof at trial, as in the case at bar, the movant may show a *prima facie* entitlement to summary judgment in one of two ways: (1) the movant may point to evidence that negates the non-movant's claims, or (2) the movant may identify those portions of its opponent's evidence that demonstrate the absence of a genuine issue of material fact.

Salahuddin v. Goord, 467 F.3d 263, 272-73 (2d Cir. 2006). If the movant makes this showing in either manner, the burden shifts to the nonmovant to identify record evidence creating a genuine issue of material fact. *Id.* at 273.

Local Civil Rule 56.1(a) carries out this summary-judgment procedure by requiring the summary-judgment movant to set forth "material facts as to which she contends there is no genuine issue to be tried." Subsection (b) of the rule requires the party opposing summary judgment to set forth a "statement of additional material facts as to which it is contended that *there exists a genuine issue to be tried*" (emphasis supplied).

Ms. Maxwell has moved for summary judgment; plaintiff has not. As movant, Ms. Maxwell is required under Local Civil Rule 56.1 to enumerate the facts she is asserting as undisputed; as the party opposing summary judgment, plaintiff is permitted—if she can—to introduce admissible evidence creating a genuine issue of material fact. *See* Fed. R. Civ. P. 56(c)(1).

Plaintiff is confused. Plaintiff believes she—the party *opposing* summary judgment—must enumerate facts she is asserting as undisputed, and so she has submitted her own Rule 56.1 statement of "undisputed facts." That gets the summary-judgment procedure exactly backwards. *Plaintiff*'s "undisputed facts" are irrelevant. Plaintiff cannot avoid summary judgment by proposing "undisputed facts"; she may only do so by creating a genuine issue of material fact *as to Ms. Maxwell's statement of undisputed facts.* Accordingly, this Court should strike plaintiff's statement of "undisputed facts."

Although Ms. Maxwell as the summary-judgment movant has no duty to respond to plaintiff's alleged "undisputed facts," we hasten to add that Ms. Maxwell in fact opposes and disputes most of plaintiff's alleged "undisputed facts." For example, Defendant's Undisputed

Fact 40 includes the statement, "Ms. Giuffre was hired as a 'seasonal' spa attendant to work at the Mar-a-Lago Club in the fall of 2000 after she had turned 17." Yet, Plaintiff sets forth as her own "Undisputed Fact 58" that "Virginia [got] job at Mar-a-Lago in 2000, either months before or just after [her] 17th birthday." Plaintiff has done nothing more than set forth her "dispute" with Defendant's Undisputed Fact 40 as her own "undisputed fact." It makes no sense. *See also* Plaintiff's "Undisputed Fact" 63. The other alleged undisputed facts are simply Plaintiff's assertion of her deposition testimony, and hearsay of her statements to other witnesses, couched as "Undisputed Facts." Ms. Maxwell strenuously disputes almost all of the alleged "undisputed facts" claiming that she engaged in any sexual acts, misconduct or communications with plaintiff or others; indeed, over the course of two days and thirteen hours of deposition Ms. Maxwell disputed all such allegations.

Because none of Plaintiff's "undisputed facts" have anything to do with the issues raised by Defendant's Motion for Summary Judgment, Ms. Maxwell moves to strike plaintiff's statement of "undisputed facts."

Conclusion

For the foregoing reasons, Ms. Maxwell requests that the Court deem her Undisputed Facts admitted, and that the Court strike plaintiff's statement of "undisputed facts."

Dated: February 10, 2017

Respectfully submitted,

/s/ Laura A. Menninger

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CERTIFICATE OF SERVICE

I certify that on February 10, 2017, I electronically served this *Defendant's Reply to Plaintiff's Statement of Contested Facts and Plaintiff's "Undisputed Facts" Pursuant to Local Civil Rule 56.1* via ECF on the following:

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