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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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ANNIE FARMER,

Plaintiff,

v.

19 Civ. 10475 (LGS) (DCF)

DARREN K. INDYKE, in his
capacity as executor of the
Estate of Jeffrey Edward
Epstein; RICHARD D. KAHN, in
his capacity as executor of
the Estate of Jeffrey Edward
Epstein; GHISLAINE MAXWELL,

Teleconference

Defendants.

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New York, N.Y.
December 16, 2020
3:00 p.m.

Before:

HON. DEBRA C. FREEMAN,

Magistrate Judge

APPEARANCES

BOIES, SCHILLER & FLEXNER LLP

Attorneys for Plaintiff

BY: SIGRID S. MCCAWLEY

ANDREW VILLACASTIN

SABINE MARIELLA

MOTLEY RICE

Attorneys for U.S. Virgin Islands

BY: LINDA SINGER

CARMEN S. SCOTT

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APPEARANCES Cont'd

TROUTMAN PEPPER HAMILTON SANDERS LLP

Attorney for Defendant Executors
BY: BENNETT JEROME MOSKOWITZ

HADDON, MORGAN AND FOREMAN, P.C
Attorney for Defendant Maxwell
BY: LAURA A. MENNINGER

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1 THE COURT: This is Judge Freeman.

2 Hold on a second while I hit a key that lets us record
3 this conference.

4 This is Judge Freeman. This is Farmer v. Indyke.
5 19CV1475.

6 Counsel, could I have your appearance for the record,
7 starting with plaintiff's counsel?

8 MS. McCAWLEY: Yes, your Honor.

9 This is plaintiff's counsel, Sigrid McCawley, for
10 Annie Farmer, with the law firm of Boies, Schiller & Flexner.
11 I have with me Andrew Villacastin, my colleague; and Sabina
12 Mariella, my other colleague. Along with us is the Chief
13 Deputy Attorney General from U.S. Virgin Islands, Ms. Carol
14 Jacobs; as well as the USVI counsel, Linda Singer.

15 THE COURT: Okay. Don't know that everybody is
16 needed, but welcome.

17 Who do I have representing the estate?

18 MR. MOSKOWITZ: Good afternoon, your Honor.

19 This is Bennett Moskowitz, Troutman Pepper, counsel
20 for the executors.

21 THE COURT: All right. And who do I have for
22 Ms. Maxwell?

23 MS. MENNINGER: Good afternoon, your Honor.

24 Laura Menninger, on behalf of Ghislaine Maxwell.

25 THE COURT: So there are more people on the line,

1 based on what I understood when I joined in. I understood that
2 someone wanted to arrange for a court reporter; is that right?

3 Is that right; is that not right?

4 MS. McCAWLEY: Your Honor, this is the plaintiff.

5 We typically do have a court reporter, so I'm not sure
6 if that was my office that called in or somebody else's.

7 THE COURT: Okay. Do I have anyone else who is an
8 attorney, either on this case or on any of the other cases
9 involving the Epstein estate?

10 MS. SCOTT: Your Honor, good afternoon.

11 This is Carmen Scott, with the law firm of Motley
12 Rice, outside counsel for the government of the Virgin Islands.

13 THE COURT: Oh. I think I already had you identified,
14 no?

15 MS. SCOTT: My colleague, Linda Singer, was previously
16 identified.

17 THE COURT: Okay. Fine.

18 Anyone else? Any other attorneys?

19 Do I have my law clerk on?

20 LAW CLERK: Yes, Judge, I'm here.

21 THE COURT: Do I have any intern students on? No?

22 Okay. Do I have any members of the press on, just so
23 that we know who's here? Do I have anyone?

24 MR. HILL: Yes. Good afternoon, this is James Hill
25 from ABC News, in listen-only mode.

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1 THE COURT: Okay. All right. This is essentially a
2 courtroom. It's open to the public. This is not a
3 confidential proceeding. I don't consider this a settlement
4 conference, and so there's no reason why it can't be a public
5 proceeding.

6 I'll also note that I just saw come in an application
7 that looks like it could be rather similar to what's going on
8 here in another one of the cases, 20 Civ. 484; different
9 plaintiff, different plaintiff's counsel. Apparently an
10 agreement has been reached through the compensation program,
11 and that case also has Ms. Maxwell as a defendant. So I'm
12 assuming whatever happens here will be relevant to that case.
13 And I'll just ask plaintiff's counsel -- or the defendant's
14 counsel, for that matter -- to please be in touch with
15 plaintiff's counsel in that other case. Somebody should be in
16 touch with them to let them know what's going on here, since it
17 seems similar.

18 So it seems to me there's only one issue here, and
19 this has to do with the release. Seems like you've agreed on
20 language for a stipulation discontinuance, and the only
21 question is whether Ms. Maxwell does or does not get a full and
22 redacted copy of the settlement agreement that was reached
23 through the program or mutual releases. I'm finding it hard to
24 understand why we have any kind of complicated issue here. If
25 what Ms. Maxwell is looking for is assurance that she's being

1 released from claims and therefore the plaintiffs cannot sue
2 her again because she's been released from claims, and, in
3 fact, if plaintiff has executed such a release in connection
4 with the settlement through the compensation program, then I
5 don't see why she can't just copy and paste that into a new
6 document called "release" and give it to Ms. Maxwell and sign
7 it, and Ms. Maxwell will have her release. I don't understand
8 why Ms. Maxwell is looking for -- or why plaintiff would be
9 looking for mutual releases. You didn't seem to be demanding
10 that coming in the door when you asked to have this case
11 resolved -- you know, terminated. And I don't understand why
12 Ms. Maxwell needs to know the amount of the compensation
13 through the program. Seems like that would not be relevant to
14 her stated issue, which is that she wants to have a release.

15 So why can't she just get a release, period? Somebody
16 explain to me why this is an issue.

17 MS. MCCAWLEY: Sure, your Honor. This is Sigrid
18 McCawley, for the plaintiff, Annie Farmer.

19 You're absolutely correct that the parties
20 participated -- not Ms. Maxwell, but we participated in the
21 Epstein compensation program, as your Honor encouraged us to do
22 back in the summertime to explore that opportunity in order to
23 get rid of pending litigation if that was possible. So we went
24 through that process. And as you know, that process has very
25 defined rules in how it moves forward, and that was all

1 negotiated in advance of the program starting. And we went
2 through that process. And as part of that process, you know,
3 as you've said, we have to provide a stipulation of dismissal
4 with prejudice in order to complete that program.

5 So we went through that program. We signed the
6 settlement release that's required by that program, and that is
7 an exchange for the compensation. And we then submitted to you
8 the dismissal with prejudice request after we proposed it to
9 opposing counsel. The estate agreed. The estate also agreed
10 that Ms. Maxwell could raise her fee issue with them, that that
11 was not precluded. And the only issue --

12 THE COURT: Let me just ask for a clarification point.

13 MS. MCCAWLEY: Sure.

14 THE COURT: The release that's required in connection
15 with the compensation program, does it include a release of Ms.
16 Maxwell, and not just the estate?

17 MS. MCCAWLEY: Yes. So the language in the release,
18 which is why they demanded it, has release of anybody who has
19 been employed by the estate, which includes Ms. Maxwell. So it
20 does cover her, so that's why there is no -- I think the Court
21 -- we're getting ahead of ourselves a little bit. What we're
22 giving her -- by giving her a copy of the general release and
23 dismissing our case with prejudice under Rule 41(2), we cannot
24 bring those claims again. So she has what she needs. She has
25 the release that has the language that we've already signed

1 with the estate. The only thing in that that would be redacted
2 is the amount. And she has a dismissal with prejudice such
3 that Annie Farmer would not be able to bring these claims
4 against her. So --

5 THE COURT: I'm still having a lot of trouble seeing
6 what the problem is here. Maybe Ms. Maxwell's counsel can
7 explain to me what the problem is if you have a copy of the
8 signed release and it covers your client, what is the holdup?

9 MS. MENNINGER: Your Honor, this is Laura Menninger,
10 on behalf of Ms. Maxwell.

11 I do not have a copy of the signed release. The only
12 people who have a copy of the signed release are the estate and
13 plaintiff's counsel. One has not been provided to me, redacted
14 or otherwise.

15 THE COURT: Well, okay. So let's assume the release
16 is provided to you and the only thing that's redacted from the
17 document is the amount of the compensation being received in
18 exchange for the release.

19 What is the problem with that? That's been offered to
20 you. What would be the problem with that?

21 MS. MENNINGER: Your Honor, we believe that having an
22 authentic copy of the release is important for at least two
23 reasons: One --

24 THE COURT: And you think something redacted would not
25 be authentic?

1 MS. MENNINGER: It would be altered in some way.

2 THE COURT: Okay. Well, then, how about what I said
3 in the first place, which is, on plaintiff's side, take the
4 release language exactly as it appears in the agreement that
5 you already have. You're not doing anything other than what
6 you've already agreed to do, put it on a new piece of paper,
7 put the date on it, put a signature line, put an original
8 signature on it, and give it to Ms. Maxwell. She has an
9 document that's an authentic release, unaltered, exactly the
10 document we're giving you. We're giving you a release.

11 What would be wrong with that?

12 MS. McCAWLEY: Your Honor, this is Sigrid McCawley,
13 for the plaintiff.

14 You know, that is not something we agreed to obviously
15 in the course of the program. So we agreed to the general
16 release in exchange for the compensation we're getting from the
17 estate. So this would be requiring Ms. Farmer to give Ms.
18 Maxwell some separate document, which I assume there would have
19 to be some negotiation over, and Ms. Maxwell's not giving
20 anything in exchange. So that's why we propose when your Honor
21 raised the issue --

22 THE COURT: Why not a document then that recites:
23 Whereas, plaintiff has participated in the program and whereas
24 has reached an agreement which is confidential -- or in
25 exchange for which she will be getting some compensation for a

1 release, and whereas that agreement contains the terms of the
2 release, which are recited below, and whereas plaintiff has
3 agreed to those terms, signed document?

4 I mean, why is there no way around this? This seems
5 ridiculous. If plaintiff is willing to release, Ms. Maxwell
6 should not have to provide the amount of the compensation. I
7 agree with that. Ms. Maxwell should have a document she can go
8 to court with that says: Here's the release. She wants a
9 document that doesn't have a redaction in it. Give her a clean
10 document that doesn't have a redaction in it.

11 MS. MENNINGER: Your Honor, one of the other reasons
12 that we do think having the original release is important will
13 be, it is going to be relevant in our lawsuit that is currently
14 pending against the estate for indemnification in the Virgin
15 Islands.

16 THE COURT: So give them a copy of the redacted
17 agreement together with a statement from plaintiff that says,
18 you know, plaintiff agrees that, you know, in the future should
19 this release be raised in any lawsuit against plaintiff,
20 plaintiff will not object to the release on the ground that it
21 has been redacted -- the amount has been redacted. We'll waive
22 a right to -- would that be acceptable?

23 MS. MCCAWLEY: Yes, your Honor. We could agree to
24 send a letter saying that we have signed the release, including
25 a copy in redacted form and attesting to the fact that we've

1 signed that and she can use it to the extent necessary in
2 another litigation. You know, we're only dismissing with
3 prejudice, so we can't -- Annie will not be able to sue her
4 again for these claims.

5 THE COURT: Right. Right.

6 MS. McCAWLEY: So, I mean, I don't know we have to
7 write additional documents that --

8 THE COURT: Wait a minute. If we talk simultaneously,
9 no one will ever be able to make a transcript of this, either
10 the court reporter you retained or anyone using this recording.

11 So all I'm saying is, you're capable counsel. This
12 seems like a ridiculous problem. There's no issue here, right.
13 Plaintiff has resolved the claims. As part of the resolution
14 of the claims, she's willing to give a release to Ms. Maxwell.
15 It's part of the condition of the program; she's willing to do
16 it. Ms. Maxwell wants to have a copy of the release that she
17 can use. She should be entitled to have a copy of the release
18 she can use.

19 If you're worried that if I go to court and I have a
20 copy of the document that's redacted and they'll make some
21 stink and say this isn't authentic, so write a piece of paper
22 that she says we won't object on that ground. And I think the
23 point is well taken; if the case is dismissed with prejudice,
24 it's dismissed with prejudice, it cannot be brought again.

25 So you're not particularly at risk here, Ms. Maxwell's

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1 side, right? But if plaintiff is willing to give you a letter
2 or some kind of signed statement that says, we won't object to
3 you using this in the future on the ground that it's redacted
4 and a copy, you know, signing here, that we won't object on
5 that basis, there really ought to be some way that's not -- you
6 don't need me to think of, to make this go smoothly. It seems
7 to me it's making a mountain out of a mole hill. Right?

8 MS. MENNINGER: Your Honor, I don't disagree with you.
9 I don't think it should be a mountain. I think it should be a
10 molehill. I have not heard -- one of the reasons that we
11 believe it will be relevant and admissible in future
12 proceedings is because we do have ongoing litigation against
13 the estate related to indemnification for this and other legal
14 matters. And the actual copy of the release, the fact that
15 Ms. Farmer was paid out moneys, some of which under the claims
16 program, as I understand it, would be additional money based on
17 her claims against Ms. Maxwell that are separate and apart from
18 those against the estate will be relevant to that
19 indemnification proceeding. If your Honor would prefer that we
20 just have a redacted copy now with some language that says no
21 one's going to contest the authenticity of that document when
22 and if it's relevant in future proceedings, that's fine, and in
23 the indemnification case, we may have to ask under discovery
24 rules for a copy of it there for whatever purposes might be
25 relevant in that proceeding.

1 I'm not trying to make this substantial. When I went
2 to plaintiff's counsel and tried to discuss what your Honor
3 suggested, they would only give us a release if Ms. Maxwell was
4 releasing Ms. Farmer, which, of course, there's no basis for
5 that request. And in the past, plaintiff's counsel have said
6 they don't even know if Ms. Maxwell is covered by these
7 releases. So I am simply trying to make sure that if what
8 counsel is representing to be true, that Ms. Maxwell is fully
9 released from all came claims by Ms. Farmer and that I have a
10 copy of the document that I can use in future proceedings, it
11 should be the molehill that your Honor has described.

12 THE COURT: Are you saying that you need assurance
13 from the estate that the estate will not contest the document
14 based on its being redacted or being a copy?

15 MS. MENNINGER: Since both the estate and plaintiff's
16 counsel have a copy, I would assume whatever I get, neither
17 party -- either party would be willing to tell me is an
18 authentic copy, or they won't contest it, if it's relevant in
19 future proceedings.

20 THE COURT: So what you're saying is you're
21 contemplating potential future proceedings involving the estate
22 -- or potentially against the estate.

23 Am I --

24 MS. MENNINGER: We already have -- that's pending,
25 your Honor.

1 THE COURT: Is what you can anticipate -- assurance
2 from the estate as opposed to assurance from the plaintiff,
3 that it will not contest your use of the document based on its
4 being redacted or being a copy.

5 MS. MENNINGER: My preference would be to have an
6 unredacted copy. And I --

7 THE COURT: Well, I'm not going to order that you get
8 a copy that chose the compensation. I don't think you need
9 that for what you're describing at this time. And I don't
10 think you need a mutual release either. I'll direct that to
11 plaintiff's counsel. I think all you need is confirmation that
12 you have the release that plaintiff and defense estate both say
13 you have. You need a copy of the release that you can use in
14 the future and rely on and nobody will contest it's authentic;
15 that's all it comes down to. So it seems to me you folks
16 should be able to figure that out because it seems like a
17 simple problem. There's a willingness to give the release,
18 there's a desire to get the release. It's just a question of
19 what it looks like. If it's a separate piece of paper with --
20 fine. If it's a redacted copy, fine, as long as Ms. Maxwell,
21 through counsel, has the assurance that nobody will later
22 contest it on the ground that the copy is redacted, or the copy
23 is a copy. It's not -- it doesn't seem like it's that hard.
24 All right?

25 So can you please figure this out --

1 MS. MENNINGER: Yes, your Honor.

2 THE COURT: -- in some way that resolves this?

3 Maybe the easiest at this point is just to provide the
4 redacted copy and have, you know, a signed letter from counsel
5 for both plaintiff and counsel for the estate saying that there
6 won't be an objection on the ground that it's redacted or a
7 duplicate as long as been everybody knows what's being referred
8 to?

9 MS. MENNINGER: I'm so sorry, your Honor. I didn't
10 mean to interrupt you.

11 THE COURT: It seems to me you should be able to come
12 up with some language in some manner that settles this issue,
13 puts this issue to bed and get this case resolved.

14 MS. MCCAWLEY: Yes, your Honor. And we're happy to do
15 that. My only concern is that the timing of this.

16 Is it possible if some other issue comes up, that
17 we're able to get a conference with you? Because obviously
18 Annie can't complete the program until this issue is resolved.

19 THE COURT: Yes. I'll make myself available for
20 another conference if you need it. I'm really hoping you
21 don't.

22 MS. MCCAWLEY: I agree.

23 THE COURT: I mean, you work this out. You resolved
24 this. There was an amount of money that was acceptable and was
25 accepted. You know, Ms. Maxwell should be thrilled that,

1 without doing anything, she got included in a release. You all
2 should be quite pleased with the outcome here and move along.
3 So I don't mean to be like giving you -- I don't mean to sound
4 like I'm giving you such a hard time, but it's sort of beyond
5 me how you can't work this out. It seems like so much of a
6 non-issue.

7 And for anyone who's listening in from the press and
8 hearing me talk about this, this is a non-issue here you're
9 listening in to. So, you know, welcome to a conference on
10 which should be a non-issue.

11 You know, if anything, it's good that the claims
12 compensation program successfully resulted in what seems to be
13 a resolution of a claim. That's it. All right?

14 MS. MENNINGER: Thank you, your Honor.

15 MS. MCCAWLEY: Thank you, your Honor.

16 THE COURT: I'll make myself available if you still
17 need me. Go figure it out. And I'll watch the docket. If
18 there's a problem, you'll put it on the docket. Please don't
19 have a problem. Okay?

20 MS. MENNINGER: Thank you, your Honor.

21 MS. MCCAWLEY: Thank you.

22 THE COURT: Take care, everybody. Be well.

23 *****
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25