Exhibit 4

(File Under Seal)

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

----------x

VIRGINIA L. GIUFFRE,

Plaintiff,

v. 15 CV 7433 (RWS)

GHISLAINE MAXWELL,

Defendant.

----------x

New York, N.Y.
January 14, 2016
12:00 p.m.

Before:

HON. ROBERT W. SWEET,

District Judge

APPEARANCES

BOIES, SCHILLER & FLEXNER
Attorneys for Plaintiff
BY: SIGRID McCAWLEY

HADDON, MORGAN & FOREMAN
Attorneys for Defendant
BY: LAURA MENNINGER

(In open court)

THE COURT: I will hear from the movant.

MS. MENNINGER: Thank you, your Honor, Laura Menninger on behalf of the defendant Maxwell. We are the movant for the purposes of today's hearing. I filed both a motion to dismiss the complaint, which is based on one claim of defamation, as well as a motion to stay discovery during the pendency of our motion to dismiss the complaint.

At the heart of this case, your Honor, defamation is about words, specifically false and defamatory words, about the plaintiff published to another by the defendant with a certain level of culpability and resulting injury. Depending on the context of the words, the content of the statement, the relationship of the speaker and the listener, depending on the time, place and manner of the statement, the Court may find the words to be actionable or not, privileged or not, defamatory in meaning or not.

The central problem with this particular complaint, your Honor, is that all of the key elements of defamation are conspicuously absent. Cutting through the hyperbole and the rhetoric contained in the complaint, one is still left wondering what words are actually at issue. Is it the three sentence fragments contained in paragraph 30 against Ghislaine Maxwell are untrue, shown to be untrue, claimed or obvious lies, or does it include some additional or extra false

statements that are referenced but never explained in paragraphs 31 and 34? In what context were any of these sentence fragments published? What, if anything, were they in response to?

Your Honor has found in previous cases, such as Hawkins v. City of New York, that the failure to identify the individuals to whom the statement allegedly was made and the content of that statement is fatally defective to an attempt to state a libel or slander cause of action.

In this case, in this complaint, plaintiff has barely even attributed a few sentence fragments to my client, Ms. Maxwell. She stripped them of any context. She hasn't provided the entire statement in which those sentence fragments were contained, nor the articles in which any of those sentences might have appeared. She has not pled facts, which, as this Court knows, post-Twombly, must be included, not just legal conclusions. She has not pled facts demonstrating actual malice, nor any special damages or facts that would support defamation per se. Because of the many pleading failures, your Honor, I do not believe this complaint should stand.

The Second Circuit made quite clear that your Honor has an important gatekeeping function in a defamation case. The Court must ascertain whether the statement, when judged in context, has a defamatory meaning, and also whether it is privileged.

As your Honor also found in Cruz v. Marchetto, you cannot rely, as the plaintiff tries to do here, on the less stringent pleading requirements that predated Twombly and Iqbal, and furthermore, that the plaintiff must plead facts which support either defamation per se or special damages.

Here, your Honor, while there are statement fragments contained in the complaint at paragraph 31, there's not even a complete sentence attributed to my client, Ms. Maxwell. That, your Honor, has been found on numerous occasions to be insufficient to state a cause of action for defamation.

Furthermore, the complaint does not state to whom any such statements were made. There is a general allegation that the statements were made, quote, to the media and public, but no media is identified, no publications are identified. While the complaint states at one point that it was published and disseminated around the world, not a single publication is mentioned or attached to the complaint.

And furthermore, the complaint fails to state where in fact the statements were made. Although it does state the statements were made in the Southern District of New York, it attributes those sentence fragments to a press agent who is admittedly located in London.

Finally, your Honor, there is a lot of confusion contained in the paperwork with regard to the standard of malice that must be pled. Again your Honor has found, and

numerous other Southern District Courts have found likewise, that malice in this context is malice in the sense of spite or ill will. Looking to the complaint, your Honor, there's not a single conclusory or factually-supported allegation that would give rise to a finding of malice. And that, your Honor, likewise is fatal to the complaint.

Finally, in terms of pleading deficiencies, plaintiff in this case has tried to allege defamation per se by claiming her profession is as a professional victim. In other words, ten days before she claims my client made statements about her, plaintiff founded a nonprofit through her organization, through her attorneys in Florida, called Victims Refuse Silence, and thereby states that any attempt to impugn anything she says is defamation per se.

There is no support in the case law for a profession of being a victim, your Honor. And likewise, there's no factual support to suggest, and the cases require, that the statements attributed to my client, Ms. Maxwell, have anything to do with her nonprofit organization, nor that my client was even aware of an organization founded a mere ten days earlier and which doesn't appear to have any actual business conduct related to it.

So your Honor, I think for all those reasons, the complaint is insufficiently pled and should be dismissed.

Our papers go on a little bit further, your Honor, to

also argue that to the extent any of these sentence fragments can be pieced together, the statements, at most, are a general denial. In other words, plaintiff admits in the complaint that she started a media campaign against my client, she issued some very salacious allegations against my client in the British press and in some pleadings that she filed in Florida. And after having done that, my client, she says, issued a statement that the allegations are quote, unquote, untrue.

Repeatedly, cases both in New York State and federal courts have found general denials are not actionable, that individuals have a right, when they have been accused of misdeeds in the press, to respond, so long as they don't abuse that privilege. And by abuse of privilege, that means including numerous defamatory extraneous statements about the person to whom they are responding and/or excessively publicizing their response.

In this case, your Honor, the statement the allegations are untrue is about as plain vanilla as one can find. There's no better way to issue a general denial than to just say that the allegations are untrue, without more. There's not a single reference to plaintiff herself.

Although, in opposition, plaintiff claims to have been called a liar, complains that she was called dishonest, she doesn't actually point to any statement which contains those words, nor any statement which actually refers to her as a

person, simply to the allegations which her client had issued, and frankly, allegations which had been circulated in the press.

So saying the allegations are untrue is tantamount to a general denial, and that is one additional reason, your Honor, that I think the complaint should be dismissed.

Thank you.

MS. McCAWLEY: Good morning, your Honor. May I approach with a bench book?

THE COURT: Sure.

MS. McCAWLEY: Thank you.

THE COURT: I think in duplicate. Do you have another copy?

MS. McCAWLEY: Sure, of course.

Good morning, your Honor, my name is Sigrid McCawley, I'm with the law firm of Boies, Schiller & Flexner representing the plaintiff in the case, Virginia Giuffre.

With all due respect to my colleague, I think she read a different complaint than the one submitted in this case. She left out significant factual details from the complaint that plead actual defamation.

This is an old story. A woman comes forth and finally gets the courage to tell about the sexual abuse she endured, and her abusers come public and call her a liar and say her claims are, quote, obvious lies. That quote is in our

complaint.

Your Honor, this is an actionable defamation case. Fortunately for women who have been abused in this manner, the law of defamation stands by their side. It does not allow someone to publically proclaim they're a liar and issue character assaults on them without ramifications.

After those statements were made, we filed this defamation lawsuit. Virginia Giuffre was only 15 years old when she was recruited by Maxwell to be sexually abused by both Maxwell and Jeffrey Epstein, who is a convicted pedophile and billionaire. She was harmed for many years before she finally found her way to Thailand and escaped clear to Australia where she hid out for ten years before the FBI interviewed her and she made her statement public.

Your Honor, this is a very serious case of abuse. My client never sued Ms. Maxwell until she came out and called her a liar publically for claiming her allegations of sexual abuse were false. That's actionable defamation. We have seen that in cases recently, and I will walk you through those.

Now while this story may sound hard to believe, it happened, and there were over 30 female childhood victims in Florida alone that came forward and gave statements to law enforcement about this same type of abuse.

Unfortunately, due to Epstein's vast wealth and power, he was able to get off with a very light sentence. And his

co-conspirators were also part of that plea agreement, that non-prosecution agreement, and were not prosecuted. That agreement is being challenged by two other victims in Florida in a case in front of Judge Marra case called the Crime Victims' Rights Act case.

I want to mention that while my colleague didn't mention it in her opening, she does mention it in her papers, I contend that the order she referenced in her papers by Judge Marra, which we included a copy of for you, has been misrepresented. That order did allow my client -- on page 6 it says, quote, Jane Doe 3 is free to assert factual allegations through proper evidentiary proof should she identify a basis for believing such details are pertinent to the matter.

So while the paper suggested she was deemed to have impossible allegations or that those allegations were untrue, that's absolutely not what the court said in Florida, so I want to correct that for the record before we begin.

What we have here is a defamation case. As the Court well knows, defamation -- this is a libel per se case where the words were published in writing. And as you know, libel per se is when a word tends to expose another to public hatred, shame, contempt or ridicule. I see no other allegation that could be worse than calling a sex abuse victim a liar. To lie about sexual abuse has to be one of the most scornful things available, and that is subject to defamation.

Now in the papers -- and I will just touch on this briefly because my colleague did not touch on it significantly here and I don't want to waste the Court's time, but she alleged a number of privileges that she believes Ms. Maxwell should be able to hide behind in order to preserve these defamatory statements.

I impart on your Honor that a determination as to whether any of those privileges apply would be premature at this stage. That's your case, which is Block v. First Blood, 691 F.Supp. 685. In that case you dealt with one of the privileges she is asserting here, the prelitigation privilege, and you found that it would be premature, even at the summary judgment stage, to be analyzing whether or not that was applicable.

So what we have here is qualified privileges being asserted as to defamatory statements. The two qualified privileges she asserts are the self-defense privilege and the prelitigation privilege. So in other words, if the defamatory statements survive, she says, nevertheless the privileges preclude the case from going forward.

The self-defense privilege has been addressed by the highest court of New York just as recent as this year, and that's in the case of Davis v. Boeheim. And that was case where the Syracuse basketball coach was accused by two victims that were childhood victims who later as adults came forward

and set forth their allegations against him. One of his colleagues came forth and called those victims liars publicly, same thing that happened in this case. And the court there said that the case cannot be dismissed, it has to proceed forward, and they are entitled to prove those allegations were false, that the victims were not liars, and indeed they were subject to the abuse they were subject to.

Another case that is recent which I supplemented with your Honor is the Cosby case. It's recent out of Massachusetts, and very similarly there -- in fact, the statements weren't even as strong as Ms. Maxwell's statements here. In our complaint, Ms. Maxwell calls our client's allegations of sexual abuse, quote, obvious lies, issued by press release nationally and internationally to the media. And we do cite to the media that it is sent to. That's in paragraph 30, 36 and 37, international media, national media and the New York Daily Post, who interviewed Ms. Maxwell on a New York street. So that is alleged in detail in our complaint.

But in Cosby the court said, quote, suggestions that a plaintiff intentionally lied about being sexually assaulted could expose that plaintiff to scorn and ridicule, and therefore, Bill Cosby's statements could be found to have a defamatory meaning, and the court allowed the case to proceed past the motion to dismiss stage.

We also have the McNamee v. Clemens case which you may be familiar with. It's another New York case involving Roger Clemens where he had been alleged to have engaged in steroid use. His trainer stated that publicly. He came forward and called his trainer a liar publicly, and the court found that that statement that he is a liar was actionable defamation that survived the motion to dismiss, because publicly proclaiming someone a liar is actionable defamation. It is not mere denial, it is actionable defamation.

So those are the cases I would like to direct the Court's attention to. Again, on page 10 of our opposition we have a litany of cases that deal with the issue of calling someone a liar and that being actionable defamation.

She also asserts the prelitigation privilege, and that is a privilege addressed in your Block v. First Blood case. That privilege is intended to protect communications between parties, typically attorneys, in advance of litigation in order for them to narrow the scope of the litigation or to negotiate a resolution in advance of litigation. That prelitigation privilege does not cover public statements by Ms. Maxwell's hired press agent that are given to the national and international media for the purposes of defaming my client, calling her allegations of sexual abuse untruths and calling them, quote, obvious lies. So that prelitigation privilege does not apply.

The Khalil case, which is cited in the defendant's brief, actually has a great passage in there that describes if the allegation is made for an improper purpose, in other words, if it is made for a wrongful purpose or to harass or seek to press or intimidate the victim, then it is not something that the defendant can avail themselves to as a privilege.

Now, just briefly, the opposition also stated that our complaint is deficient in other manners; for example, that we haven't properly alleged the to whom, as I referenced. You can look at paragraphs 30, 36 and 37 to see that. That is a technical pleading deficiency that she is raising there. We do meet the standards of Twombly. We have pled detailed facts that our client was sexually abused as a minor child. We pled other facts about that abuse. And Ms. Maxwell intentionally and maliciously came out and called her a liar in order to protect her own self.

So that is what we have put in our complaint. The Hawkins case that she references and the Cruz case that she references are vastly different. In Cruz there wasn't even an allegation of defamation, and the court was reading into the complaint whether or not there could have been defamation. Here we stated specifically who made the statement, when she made the statement, where she made the statement, why she made the statement. That is all we need to do. It's more than sufficient to plead a case of defamation in this instance.

With respect to the allegations that we haven't pled properly libel per se, I want to be clear we pled that in two ways. And the case law is a case cited in the defendant's brief, and it's Jewell, and it does a very good job of parsing out the difference between slander and libel, and there is a difference in the case law, as your Honor knows.

In the instance of libel, the written words, Cardozo has said, it stings, it stings longer, so therefore, in pleading libel per se, you don't have to plead special damages in the way that you do for slander.

The Matherson case, which is out of New York, also articulates that. The difference, it says, quote, on the other hand, a plaintiff suing on libel need not plead or prove special damages if the defamatory statement tends to expose the plaintiff to public contempt, ridicule, aversion, or disgrace. And that is exactly what we have pled in this case, that the statements that our client lied about the sexual abuse she endured as a minor were statements that exposed her to that public contempt and ridicule.

She has also pled libel per se with respect to her profession. While my colleague may make light of the fact that she is involved in helping victims that -- people who are victims of sexual trafficking, that is what she has dedicated her life to doing. And to come out and publicly proclaim her a liar about sexual abuse harms the nonprofit and harms the work

she has been doing. She has been harmed personally by saying her claims are, quote, obvious lies, and she has been hurt professionally in that manner, and we allege both things in our complaint.

Your Honor, Virginia has been beaten down many times in her life, but the law of defamation stands at her side. I pray upon you that you will consider the complaint and not dismiss it, because her claims should be able to be proven in this Court. Thank you.

THE COURT: Thank you very much.

Anything further?

MS. MENNINGER: If I may, your Honor.

Again, plaintiff comes before you claiming she has been called a liar. There is no statement attributed to my client, in the complaint or elsewhere, in which my client has called plaintiff a liar. There are three sentence fragments contained in the complaint, the allegations against Ms. Maxwell are untrue, and that her claims are obvious lies.

Your Honor, it is a meaningful distinction. I can explain a little bit of the background here. Plaintiff came forward and gave an interview in the press in 2011 claiming that my client was somehow involved with Mr. Epstein's sexual abuse of her. She gave an exclusive interview to a British newspaper in which she made that allegation, plaintiff did, and was paid for it.

My client issued a general denial in 2011 saying that the allegations were untrue. At that time, plaintiff said that, although she had been in contact with the likes of Prince Andrew in London and Bill Clinton and other famous people, there was no suggestion that those people had engaged in any kind of improper sexual contact with her.

Fast forward a few years. Some other women who claimed they were victims of Mr. Epstein's abuse filed a lawsuit in Florida and they asked the court to undo a plea agreement that had been entered into by the U.S. attorney's office down in Florida or that the U.S. attorney's office somehow worked with the state authorities in crafting, and those two other women, not plaintiff, litigated for I think seven years now whether or not they should have been informed earlier about whatever plea agreement was going to go on with Mr. Epstein.

Well, December 30 of 2015, plaintiff filed a motion to join that Victims' Rights Act litigation, and in her motion to join the Victims' Rights Act litigation she filed a declaration, in which, as I understand it thirdhand based on the judge down there's order, she claimed to have been involved in sexual relations with Prince Andrew, with world leaders, a former prime minister of some country or other, Mr. Alan Dershowitz. She made a number of spurious allegations, and one of them involved my client, Ms. Maxwell.

Well, within minutes of filing that motion to join that action, lo and behold, her story hits the British press. Whether or not that was at her lawyer's instigation, I don't know, but they have been courting the press in a number of ways, so I wouldn't be surprised.

The press comes calling and asked my client and Mr. Dershowitz and Prince Andrew and everyone else whether any of the allegations contained in this legal pleading are true. Buckingham Palace issued a statement flatly denying the claims made by plaintiff here. Mr. Dershowitz came out even stronger and not only flatly denied it but did in fact call her a liar and said, among other things, if she lied about me, she probably lied about all these other world leaders that she claims she was involved with at the age of 17 and 18, and that the story dates back to '99 when she claims these activities occurred. And so he came out and actually called her a liar.

Buckingham Palace said her claims were absolutely untrue. At the end of one article, in which the two comments about plaintiff were contained, is a statement attributed to my client, Ms. Maxwell, and her statement reads, the claims against Ghislaine Maxwell are untrue. She has now made additional statements about world leaders, and those claims are obvious lies. So that part about obvious lies come after the part about claims against world leaders and famous politicians and the like.

Well, I tried to go to the Florida action to find where these allegations were that apparently plaintiff believes my client's statement was in relation to. And guess what? Judge Marra down in the Southern District of Florida has stricken the declaration from public access. He has stricken the actual paragraphs making all of these allegations, and has restricted from public access the documents that contained the allegations. And he issued an order, and I attached that order, because I believe the Court can consider it taking judicial notice, to my declaration here on the motion to dismiss.

In the order, just so we're all clear, I'm not misrepresenting what happened, as I was just accused doing, Judge Marra held, after describing what he called lurid allegations, he found they were impertinent and immaterial to the motion to join the Victims' Rights Act filed by plaintiff. He said that they concerned non-parties, including my client, who was not there and able to defend herself within the litigation, and he denied her request to join that action finding that she waited a long time. While she may be a witness to things that are concerned down there, she does not need to join the action in order to assert rights that the other plaintiffs down there are already asserting.

Then he goes on in the order to remind her counsel of their Rule 11 obligations to only include pertinent materials.

And he was not denying they would ever be able to, but seems to seriously question whether or not admissible non-cumulative evidence of the things that were claimed would ever be heard in his court.

So I don't actually have a copy of whatever it is that was claimed down there because it's not publicly available, and it certainly was not mentioned in the complaint, wasn't attached to the complaint, it's just somewhere out there that the press has picked up on and published.

In the meantime, Mr. Dershowitz is now involved in ongoing battles with plaintiff's lawyers down in Florida. They cross claimed one another for defamation. And she's been participating in that litigation as a non-party as well, although it concerns her attorneys and the same exact allegations.

So while others have called her a liar, notably Mr. Dershowitz, and others have denied claims that plaintiff has made, including Buckingham Palace, and while Judge Marra down there has found her claims impertinent and immaterial to the allegations going on in Florida, Ms. Maxwell has not actually ever called her a liar.

And your Honor, all of these cases that plaintiff cites to, Davis v. Boeheim, McNamee v. Clemens, all of those cases had complaints which had attached to them the actual statements at issue.

I think in the McNamee v. Clemens case there were some 27 exhibits attached to the amended complaint where Mr. Clemens had been on 60 Minutes and given statements to reporters and gone on at length calling the plaintiff in that case, Mr. McNamee, a liar, calling him a liar 25 ways to Sunday, talking about his financial motives, his potential financial gain, et cetera.

Likewise, in the Davis v. Boeheim case, Mr. Boeheim gave a press conference in which he called the accusers liars. He questioned their financial incentives following the Sandusky case to be coming forward then, and he went on at length about all of the reasons why they might be coming forward now with their, quote, unquote lies.

In each of those cases, McNamee v. Clemens and Davis v. Boeheim, the New York Court of Appeals, as well as the Federal Court in the Eastern District of New York, made clear that the one thing that is not actionable is a general denial. And then they talk about why Mr. Boeheim's comments and Mr. Clemens' comments went well beyond what anyone might consider a general denial. And fortunately, those cases actually had records which included the statements, included the articles in which the statements were made, so the Court could engage in the sort of analysis that it must, that is, to decide whether, in context, the statement has a defamatory meaning.

So I think even now, saying that my client called her client a liar is just not supported by a single fact in the complaint. While the complaint makes conclusory statements like it was a campaign questioning her dishonesty and all of that, when you get right down to the actual statements, which this Court has held on numerous occasions must actually be spelled out in a defamation case, the only statements are, quote, sentence fragments like allegations against Ghislaine Maxwell are untrue.

And by the way, looking at those news articles, one might see that they actually are talking about allegations that have lodged in the British press. They don't refer to Ms. Roberts, as she was then known, they don't refer to anything about her, they don't call her a liar, they don't question her financial motives, although I'm sure she has some. So if you look at the cases Davis v. Boeheim, McNamee v. Clemens, you will see Ms. Maxwell's statements, even to the extent they're alleged, fall well within the general denial privilege.

I think it's inaccurate to quote, with regard to the prelitigation privilege, the statements attributed to Ms. Maxwell that reserved her right to seek redress from the British press for the repetition of what she said were untrue allegations. And that is something that, under British law, one must assert or waive. So if you don't, under British law,

put the press on notice that you are challenging the veracity of statements that the British press is publishing, then you will have been deemed to have waived your right to do so in the future.

We cited Khalil v. Front, which is a New York Court of Appeals case from last year. It was actually affirming the dismissal of a case on a motion to dismiss. So while plaintiff claims that privileges like this can't be decided at the motion to dismiss stage, the New York Court of Appeals directly found otherwise. And there they said that if a statement is made in anticipation of litigation, whether or not -- I think they used the word "contemplated" litigation, whether or not the litigation actually occurred is not material, but if they are made in anticipation of potential litigation then they are entitled to the prelitigation privilege.

So not only do I believe that the statements themselves are non-defamatory general denials, but insofar as they were issued to put the British press on notice, that repetition of them may give rise to litigation. They also should be afford the prelitigation privilege that the New York Court of Appeals has recognized. Thank you.

THE COURT: Thank you very much. I will reserve decision.

o0o