



October 1, 2020

**BY EMAIL**



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

Dear [REDACTED]

We write once again to express our dissatisfaction that the government still has not provided a complete set of readable discovery materials to Ms. Maxwell in the MDC. We have now had several phone calls and emails to discuss the problems with the discovery, but the problems still are not fixed. It is now over five weeks since the August 21 discovery deadline set by the court and the government still has not met its discovery obligations. That is simply not acceptable.

In our previous letter, dated September 21, 2020, we outlined for you the numerous problems that Ms. Maxwell had been having with unreadable discovery files since she first began receiving the government's productions in the MDC in August 2020. This was a continuation of the same problem we identified for you in our letter, dated August 27, 2020, when we requested a new set of the discovery materials that were fully readable.

On September 22, 2020, we had a conference call to discuss these issues. On that call, you stated that you were trying to address the readability problems, but that in the meantime, defense counsel could, among other things, create a laptop computer with a full copy of the discovery saved locally that defense counsel could bring to the MDC so that Ms. Maxwell could use it to review the unreadable discovery. You also notified us that there were approximately 40,000 non-nude photographs and images, and thousands of nude or partially nude images, which had been seized from Jeffrey Epstein's residences in New York and the Virgin Islands pursuant to search warrants, and which you had referenced in your August 21, 2020 production cover letter. You further advised that you were in the process of scanning those images so that you could produce any documents not marked Highly Confidential in electronic format. Finally, in response to our request that Ms. Maxwell be given access to the Highly Confidential documents "at the earliest

possible convenience,” you explained that due to COVID-19 restrictions, the U.S. Marshals are not producing pretrial detainees to proffer rooms to review discovery and therefore an FBI agent would have to bring the materials to the MDC for Ms. Maxwell and defense counsel to review, but did not propose a date when that could happen.<sup>1</sup>

On September 29, 2020, we had another conference call to further discuss the discovery. We advised you that while we planned to create a laptop that we could use to review discovery with Ms. Maxwell, it was the government’s burden, not the defense’s burden, to ensure that Ms. Maxwell had a complete, readable copy of the discovery. Moreover, this did not solve the problem, as the laptop could only be used during counsel visits and Ms. Maxwell needed a complete set of the discovery in the MDC that she could review on her own when defense counsel was not visiting.

We further notified you that we did not believe that making the thousands of images seized from Epstein’s residences available for inspection at the FBI’s offices satisfied the government’s discovery obligations because Ms. Maxwell could not be produced to the FBI’s offices to review them. You responded that defense counsel could make a request to have the FBI deliver those images to Ms. Maxwell in the MDC. In fact, we had made such a request in our September 22, 2020 letter, when we asked to schedule a time for Ms. Maxwell to review the Highly Confidential documents. That still has not happened. We made an additional request yesterday for Ms. Maxwell to be able to review the approximately 40,000 non-nude images seized from Epstein’s residences as soon as possible, since these do not require defense counsel to be present for her to review them in the MDC. Your response was that these images are still being processed for production. The government has not produced these materials to Ms. Maxwell if she has no way to inspect them at the FBI’s offices and they are still not ready for her to review in the MDC.

Earlier today, you notified us that you have prepared a replacement set of files for the documents that Ms. Maxwell has been unable to open at the MDC and requested a hard drive from us, which we provided this afternoon. This will now be the third attempt by the government to produce a full, readable set of the discovery to Ms. Maxwell (not counting the thousands of images that are still being processed for production). Given the past attempts, we can expect that the replacement production will take several days to be made available to Ms. Maxwell in the MDC and we have little confidence that it will fix the errors when it finally arrives. Ms. Maxwell has already lost over a month of time to review these documents, and defense counsel have spent hours cataloguing the defects in the prior productions to correct the government’s errors. That is not acceptable.

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<sup>1</sup> You also stated that you would send us a formal letter memorializing your responses to the issues raised in our September 21, 2020 letter. We have not received any letter from the government.

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In sum, the government has not complied with its discovery obligations. We reiterate the request we made on the September 29, 2020 conference call that the government create a laptop computer, similar to the one that defense counsel is creating, which contains a complete set of the discovery and which the government has verified is fully readable, and then provide that laptop immediately to Ms. Maxwell in the MDC. We also renew our request that Ms. Maxwell be given prompt access to the non-nude images seized from Epstein's residences, and that the government propose times next week when Ms. Maxwell and defense counsel can review the Highly Confidential documents at the MDC.

Thank you in advance for your attention to these matters.

Sincerely,

/s/ [REDACTED]  
[REDACTED]  
**COHEN & GRESSER LLP**  
[REDACTED]

cc: [REDACTED]  
[REDACTED]  
[REDACTED]

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