

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
VIRGINIA L. GIUFFRE,
Plaintiff,
v.
GHISLAINE MAXWELL,
Defendant.
-----X

15-cv-07433-RWS

**Memorandum of Law in Support of Defendant's
Motion for Summary Judgment**

Laura A. Menninger
Jeffrey S. Pagliuca
HADDON, MORGAN, AND FOREMAN, P.C.
150 East 10th Avenue
Denver, CO 80203
303.831.7364

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| A. Summary judgment is warranted to the extent plaintiff seeks to impose liability on any media’s republication of all or a portion of the January 2015 statement. | 12 |
| B. Because plaintiff is a limited public figure, imposing liability upon Ms. Maxwell for republication of the January 2015 statement would violate the First Amendment. | 16 |
| C. Plaintiff should be barred from introducing into evidence any republication of an excerpt from the January 2015 statement. | 17 |
| II. Summary judgment is warranted under the New York Constitution. | 18 |
| A. The January 2015 statement constitutes nonactionable opinion. | 18 |
| B. In this Rule 56 proceeding, this Court’s Rule 12(b)(6) opinion does not control the question of law whether the January 2015 statement constitutes nonactionable opinion. | 31 |
| III. The pre-litigation privilege bars this action. | 33 |
| IV. Ms. Maxwell’s January 4, 2015, statement is nonactionable. | 38 |
| V. The defamation claim should be dismissed because the publication is substantially true. ... | 39 |
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| A. Facts. | 40 |
| B. Plaintiff carries the burden of proving actual malice by clear and convincing evidence. | 48 |
| C. Plaintiff is a public figure who must prove actual malice. | 49 |
| 1. Plaintiff successfully invited public attention to influence others. | 51 |

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| 2. | Plaintiff voluntarily injected herself into public controversies related to the subject of this litigation..... | 53 |
| 3. | Plaintiff assumed a position of prominence in the public controversies. . | 53 |
| 4. | Plaintiff has maintained regular and continuing access to the media. | 54 |
| D. | Plaintiff must also prove actual malice to overcome the defenses of reply and pre-litigation privilege. | 54 |
| E. | The January 2015 statement was substantially true, and plaintiff cannot produce clear and convincing evidence of its falsity. | 56 |
| 1. | The January 2015 statement accurately denied that Ms. Maxwell met Plaintiff when Plaintiff was 15 years old in 1999..... | 56 |
| 2. | The January 2015 statement accurately denied that Ms. Maxwell “regularly participate[d] in Epstein’s sexual exploitation of minors” and that “the Government knows” such fact. | 58 |
| 3. | The January 2015 statement accurately denied that “with [Ms. Maxwell’s] assistance, [Epstein] converted [Plaintiff] into what is commonly referred to as a ‘sex slave.’” | 59 |
| 4. | The January 2015 statement accurately reported that Plaintiff alleged “sexual relations” with Professor Dershowitz which he denied. | 60 |
| 5. | The January 2015 statement accurately denied that Ms. Maxwell created and distributed child pornography and that the Government knows of and possesses such child pornography. | 62 |
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January 6, 2017.

Respectfully submitted,

/s/ Laura A. Menninger

Laura A. Menninger (LM-1374)

Jeffrey S. Pagliuca (*pro hac vice*)

HADDON, MORGAN AND FOREMAN, P.C.

150 East 10th Avenue

Denver, CO 80203

Phone: 303.831.7364

Fax: 303.832.2628

lmenninger@hmflaw.com

Attorneys for Defendant Ghislaine Maxwell

CERTIFICATE OF SERVICE

I certify that on January 6, 2017, I electronically served this *Memorandum in Support of Defendant's Motion for Summary Judgment* via ECF on the following:

Sigrid S. McCawley
Meredith Schultz
BOIES, SCHILLER & FLEXNER, LLP
401 East Las Olas Boulevard, Ste. 1200
Ft. Lauderdale, FL 33301
smccawley@bsfllp.com
mschultz@bsfllp.com

Bradley J. Edwards
Farmer, Jaffe, Weissing, Edwards, Fistos &
Lehrman, P.L.
425 North Andrews Ave., Ste. 2
Ft. Lauderdale, FL 33301
brad@pathtojustice.com

Paul G. Cassell
383 S. University Street
Salt Lake City, UT 84112
cassellp@law.utah.edu

J. Stanley Pottinger
49 Twin Lakes Rd.
South Salem, NY 10590
StanPottinger@aol.com

/s/ Nicole Simmons
Nicole Simmons