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September 26, 2016

By ECF

The Honorable Robert W. Sweet
United States District Judge
Daniel Patrick Moynihan United States Courthouse
500 Pearl St.
New York, NY 10007

Re: Giuffre v. Maxwell, No. 15 Civ. 7433

Dear Judge Sweet:

This firm represents Proposed Intervenor Alan M. Dershowitz, whose motion for permissive intervention and related relief was filed in this case on August 11, 2016. On September 15, we filed Professor Dershowitz's Reply Declaration largely under seal because it contains information that, while not actually confidential, was presented under seal in the opposing declaration of Paul G. Cassell, counsel to the plaintiff. Mr. Cassell's use of this Court's sealing order was improper; we write to seek leave to publicly file a less-redacted version of Professor Dershowitz's Reply Declaration.

Although none of the exhibits to Professor Dershowitz's Reply Declaration are confidential—and the declaration makes only a few brief references to materials that may be deemed confidential—Professor Dershowitz was nonetheless forced to redact large swaths of the publicly filed version. That is because the document to which the Reply Declaration responds, the August 29, 2016 Declaration of Paul G. Cassell, was inexplicably filed under seal, with the most significant portions—paragraphs 20 and 21, along with Exhibit 1—redacted from public view.

We respectfully submit that the sealing of Mr. Cassell's declaration was improper and baseless. The averments contained in these paragraphs, and the deposition testimony on which they are based, are *not* confidential and are not subject to any protective order in the litigation where they originated. In fact, Mr. Cassell's deposition testimony in the *Edwards*

defamation case—the same testimony filed under seal here—has been made publicly available in its entirety by the media, and is currently available to anyone on the blog Above The Law.¹

We understand that the Court has granted the parties leeway to file materials under seal in this case in order to avoid voluminous unnecessary motions to seal. But Mr. Cassell's decision to file under seal references to publicly available materials appears to be no more than an effort to restrict Professor Dershowitz's ability to comment on matters of public record. We respectfully submit that plaintiff Ms. Giuffre and her counsel should not be permitted to abuse the Court's willingness to accommodate the parties' need to protect truly confidential materials in this way. Moreover, these improper redactions are in derogation of the "general right to inspect and copy public records and documents, including judicial records and documents," that has long been recognized by the Supreme Court. *See Nixon v. Warner Commc'ns*, 435 U.S. 589, 598 (1978) (footnotes omitted).

Accordingly, we request that the Court grant Proposed Intervenor Alan M. Dershowitz leave to file publicly a version of his Reply Declaration with all references to paragraphs 20 and 21 of Mr. Cassell's declaration un-redacted and not under seal.

Lastly, while we appreciate that the Court indicated, at the time Professor Dershowitz's application was filed, that it does not wish to hear oral argument on this matter, we respectfully ask the Court to reconsider that decision, given the nature of the application and its complexity.

Respectfully submitted,

/s/

Andrew G. Celli, Jr.
David A. Lebowitz

c. All Counsel of Record (by ECF)

¹ See <http://abovethelaw.com/wp-content/uploads/2015/10/Alan-Dershowitz-deposition-3.pdf>.