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1 UNITED STATES DISTRICT COURT  
2 SOUTHERN DISTRICT OF NEW YORK

3 VIRGINIA L. GIUFFRE,

4 Plaintiff,

5 v.

15 CV 7433 (LAP)

6 GHISLAINE MAXWELL,

7 Defendant.

8 -----x  
9 New York, N.Y.  
September 4, 2019  
10 9:06 a.m.

Before:

11 HON. LORETTA A. PRESKA,

District Judge

12 APPEARANCES

13 BOIES, SCHILLER & FLEXNER, LLP

14 Attorneys for Plaintiff

15 BY: SIGRID S. McCAWLEY

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21 Attorneys for Intervenors Julie Brown and Miami Herald  
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22 BY: CHRISTINE WALZ

23 KRIEGER KIM & LEWIN LLP

Attorneys for Anonymous Third Party, John Doe

24 BY: NICHOLAS J. LEWIN

PAUL M. KRIEGER

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(In open court)

THE COURT: Good morning, ladies and gentlemen. Won't you be seated. Giuffre against Maxwell.

Counsel, please tell me how your client pronounces her name.

MS. McCAWLEY: It's Giuffre, Virginia Giuffre.

THE COURT: Yes, ma'am. Ms. McCawley?

MS. McCAWLEY: Sigrid McCawley on behalf of Virginia Giuffre, and I have my partner here with me Josh Schiller.

THE COURT: Yes, thank you. Good morning.

Counsel for Ms. Maxwell?

MR. PAGLIUCA: Good morning, your Honor. My name is Jeff Pagliuca. I'm appearing on behalf of Ms. Maxwell.

THE COURT: Thank you.

Counsel for Mr. Dershowitz? Mr. Celli?

MR. CELLI: Good morning, your Honor. It's Andrew Celli. I'm here with my colleague, David Lebowitz for Alan Dershowitz.

THE COURT: Yes, sir. Good morning.

Mr. Lewin, Mr. Krieger, where are you? Good morning.

MR. LEWIN: Good morning, Judge. Nicholas Lewin and Paul Krieger for a non-party, styled as John Doe.

THE COURT: Yes, sir.

And Ms. Walz?

MS. WALZ: Yes, your Honor. Christine Walz on behalf

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1 of the Miami Herald and Julie Brown.

2 THE COURT: Yes, ma'am. Thank you.

3 Counsel, have you had a conversation about how we're  
4 going to do this?

5 MS. McCAWLEY: Yes, your Honor.

6 THE COURT: Yes, ma'am.

7 MS. McCAWLEY: The parties have conferred. We had a  
8 long conference call to discuss the various issues that are at  
9 hand here. As the Court well knows, the Second Circuit has  
10 returned this case to you for the purpose of assessing public  
11 access --

12 THE COURT: So I hear.

13 MS. McCAWLEY: -- to the docket. That's correct.

14 So we have done is we've had some dialogue about that.  
15 We have some different proposals that we would like to present  
16 to the Court.

17 As an initial matter, the Court will find that there  
18 is some guidance that has come to the Court post the decision  
19 of the Second Circuit. So your fellow judge, Judge Furman, has  
20 dealt with this issue very recently in *Sperion v. The City of*  
21 *New York*, a very similar issue, where he had an unsealing order  
22 and in light of --

23 THE COURT: Tell me what you people have decided you  
24 want to do.

25 MS. McCAWLEY: Sure. From our perspective, from the

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1 plaintiff's perspective, we proposed an unsealing that would be  
2 a review of the docket in a staggered form, starting from the  
3 back of the docket forward. So we have the stipulation of  
4 dismissal, and what we've done is staggered it in pieces so  
5 that the parties would be able to have an opportunity to review  
6 that, as well as giving non-parties an opportunity to object,  
7 to the extent that they're noticed in any of those filings, and  
8 that we would submit -- anybody who wanted to make a proposal  
9 for keeping a document sealed, would submit that to the Court.  
10 So it would be a staggered form.

11 THE COURT: I mean, you saw Mr. Lewin's letter.

12 MS. McCAWLEY: Correct.

13 THE COURT: He had a very specific proposal. I'm not  
14 saying they have to be that, but --

15 MS. McCAWLEY: Yes, I can go through the --

16 THE COURT: You don't have to do it in tranches. It  
17 seems you, parties, should have already had a conversation  
18 about what you agree should be unsealed.

19 MS. McCAWLEY: Well, there is a difference of opinion  
20 as to that, certainly.

21 THE COURT: There's nothing you can agree on?

22 MS. McCAWLEY: At this point, we have talked about the  
23 structure and there has been no agreement as to what documents  
24 would remain sealed. So what -- and I do have a specific  
25 proposal, your Honor, as to which document --

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1 THE COURT: Okay. Let's hear it.

2 MS. McCAWLEY: So as an initial matter, the idea of  
3 working from the back forward would be because the bulk of the  
4 documents were submitted prior to trial. So we were, you know,  
5 on the eve of trial at the time the stipulation of dismissal  
6 was entered.

7 So we're working from docket entry 657, back to the  
8 motions in limine. As the Second Circuit had noted, the  
9 motions in limine, which were submitted on 3-3 of 2017, and so  
10 that's docket 917 back to 657; so it's a chunk of, say, 300 or  
11 so docket entries that we would have the parties submit. To  
12 the extent anyone is objecting to unsealing, they would submit  
13 that proposal at that time.

14 And then the next batch would be from 657 back to 287,  
15 which is an order on a motion for sanctions.

16 And then the final batch would be 287 back to docket  
17 entry 62, which is the day that the Court entered -- that the's  
18 the docket entry that the Court entered the confidentiality  
19 stipulation.

20 And to the extent that there is any concern about any  
21 of the submissions that were post the dismissal of the case,  
22 there was some confidential submissions in the later filings  
23 with the Miami Herald and others in this case, that would be  
24 reviewed at the very back end because that's the smallest  
25 portion.

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1           So that's the proposal that we had. And in our view,  
2 as the plaintiff has submitted to the Second Circuit  
3 previously, our proposal is to redact only those items that are  
4 Social Security numbers, the names of minor victims, as well as  
5 any highly sensitive, personal medical information. So that is  
6 the proposal we made to the Second Circuit when we handled it  
7 at the summary judgement sealing of materials.

8           THE COURT: How do you people intend to address the  
9 non-party claim that Mr. Lewin wrote about?

10           MS. McCAWLEY: Yes, so with respect to the non-party  
11 claims, as part of this process, anybody whose information, for  
12 example the deponent -- there were non-party deponents in this  
13 case -- would be notified if their name appeared in the  
14 grouping, to be given the opportunity to submit an objection,  
15 if they had one, with respect to any of the filings within that  
16 docket section.

17           THE COURT: All right. Who would like to comment on  
18 that?

19           MR. PAGLIUCA: Your Honor, again, Jeff Pagliuca.

20           THE COURT: Yes. Mr. Celli.

21           MR. PAGLIUCA: This is Jeff Pagliuca on behalf of  
22 Ms. Maxwell, your Honor.

23           THE COURT: Yes, sir.

24           MR. PAGLIUCA: Your Honor, I have a different process  
25 in mind.

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1 THE COURT: Did you people not talk about this?

2 MR. PAGLIUCA: We did talk, your Honor. Like most  
3 everything in this case, there's generally not been agreement  
4 about how to resolve the issues, unfortunately.

5 In my view, your Honor, there should be -- the parties  
6 should identify globally what I would call category one,  
7 category two and category three documents. Category one would  
8 be non-judicial documents; category two would be what I would  
9 call negligible-role judicial documents; category three would  
10 be judicial documents.

11 Those issues would be presented to the Court by the  
12 parties. The Court could decide the category one, category two  
13 issues. To the extent that there are any remaining judicial  
14 documents, which frankly, your Honor, in my review of the  
15 900-and-some-odd filings in this case, I would say most, if not  
16 all, in my view, certainly post the protection order, are going  
17 to be in the category one or category two documents, either  
18 non-judicial documents or negligible-role judicial documents.

19 THE COURT: Give me some examples of generically  
20 non-judicial documents. Motions for an extension or something  
21 stupid like that?

22 MR. PAGLIUCA: Motions for extension, deposition  
23 designations. So the Court knows, there were 29 depositions  
24 taken in this case. The vast majority were out of state, and  
25 so the trial, which was scheduled for May 15, was going to be

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1 largely by video deposition. So there were literally thousands  
2 of deposition designations and counter-designations and  
3 objections to those designations.

4 That motion -- that motion practice, with the  
5 designation, counter-designations and objections, were never  
6 ruled on by Judge Sweet in advance of trial. And I think it's  
7 important also for this Court to understand that on the eve of  
8 trial, one week before trial, when this case settled, there  
9 were 50 -- five-0 -- motions pending in this case. Five-0  
10 motions pending that had not been ruled on by the Court.

11 The majority of those were either 702 challenges to  
12 experts, motions in limine, or the deposition designation  
13 issues. I can't imagine that a deposition designation would be  
14 a judicial document. It is simply a party giving notice that  
15 I'm going to play this portion of a deposition at trial. It  
16 requires no action by the Court, absent an objection.

17 Similarly, the counter-designation requires no action  
18 by the Court, absent an objection. And I follow that up with  
19 the objections, which were never considered by Judge Sweet, I  
20 think would also fall in either the non-judicial document  
21 category or the negligible judicial document category because,  
22 really, what the Court is doing is ruling on an objection, and  
23 if a designation is not a judicial document, I can't imagine  
24 that a Court ruling on a hearsay objection in advance of trial,  
25 meaning that the testimony would not be played to the jury or



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1 made public, in the event that the objection is sustained, I  
2 can't imagine, frankly, that that is a judicial document, but  
3 if it is, it is a negligible judicial document, in my view.

4 THE COURT: I thought the Second Circuit was of the  
5 view that the Court's ruling on the evidence that's coming in  
6 to trial is a core judicial function. I hear you that Judge  
7 Sweet didn't get to that before the people settled, but...

8 MR. PAGLIUCA: I think --

9 THE COURT: Kind of weigh those two.

10 MR. PAGLIUCA: I think that they are discovery  
11 documents, your Honor, because --

12 THE COURT: They're not discovery documents. It's not  
13 like you took the deposition and you just filed it. As we  
14 know, we don't do that in this district.

15 But my question is, how do we weigh the designation of  
16 trial evidence, even though not ruled on, against the Circuit  
17 saying that running trial evidence is a core judicial function?

18 MR. PAGLIUCA: I don't see this as a core judicial  
19 function, your Honor, because we don't know how this was going  
20 to play out, frankly. These things were submitted to the Court  
21 and nothing happened to them. Judge Sweet could have said, I'm  
22 just going to wait, and if this gets played at trial, I'll make  
23 these rulings as they come. I don't know.

24 The same as with the 702 issues, your Honor. These  
25 are discovery documents that are being objected to, and by

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1 necessity, we have to place the issue before the Court. But  
2 something that is inadmissible should not become a core  
3 judicial document by virtue of the fact that one party  
4 inappropriately is trying to submit evidence to a jury that  
5 shouldn't be allowed.

6 THE COURT: All right.

7 MR. PAGLIUCA: So those are the kinds of things that I  
8 think need to be addressed first. What is a non-judicial  
9 document? What is a non --

10 THE COURT: Okay. But here's the question: How are  
11 we going to minimize everybody's work? From what you're  
12 saying, there would have to be a bunch of rulings upfront,  
13 document by document, about non-judicial, negligibly judicial,  
14 and judicial documents. And then probably we'd have to go back  
15 again, right, and weigh, for example, the negligibly judicial  
16 documents?

17 MR. PAGLIUCA: Well, I think, your Honor, yes, there  
18 is some work involved in this.

19 THE COURT: Yes.

20 MR. PAGLIUCA: Yes, I agree, but I think, fairly  
21 quickly, we will get to a point where the Court is going to  
22 decide, you know, are these categories, I will say simple  
23 designations, are they judicial documents or not. If the Court  
24 says they're not, we move on.

25 Okay. Now, we have the next, which are objections to

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1 designations, deposition designations. The Court then says,  
2 well, I'm going to decide that they are in one of these  
3 categories, and then we move on.

4 The reason I'm proposing this, your Honor, is I will  
5 skip to the end, which is, frankly, I agree with the submission  
6 by Mr. Krieger and Mr. Lewin. I think it was very well thought  
7 out. I think it's the appropriate way to notify non-parties.

8 The thing that they don't know is that under their  
9 proposal, there are probably hundreds of people that would need  
10 to be designated, and I am suggesting that we do a review of  
11 core, you know, category one, two, three.

12 THE COURT: I see. You want to do the categories  
13 first, so that if a big category involving the non-parties is  
14 ruled out, then we don't have to bother all the non-parties?

15 MR. PAGLIUCA: Correct, your Honor. Because in these  
16 29 depositions, there are dozens, if not hundreds, of names of  
17 other people. In the documents that were attached to various  
18 pleadings, there are literally hundreds of pages of  
19 investigative reports that mention hundreds of people.

20 There is a piece of evidence that I will generically  
21 refer to as "an address book" that has a thousand names in it  
22 probably, and so, you know, if we are going to notify people  
23 who may have --

24 THE COURT: I understand.

25 MR. PAGLIUCA: That's the problem. That's what I am

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1 proposing, your Honor. I don't think it's that onerous,  
2 frankly, given that most of these documents fall into either  
3 discovery dispute documents, motion in limine documents, or  
4 deposition designation documents. So I think it would be a  
5 fairly easy task for everyone to go through those.

6 THE COURT: Says you. Let me just hear from anyone,  
7 and then we'll go back to Ms. McCawley. Yes, ma'am.

8 MS. WALZ: I think that counsel is mistaken that this  
9 is going to be an easy task and that these documents are not  
10 going to be judicial documents. I think that, for the most  
11 part, everything --

12 THE COURT: The question is only how are we going to  
13 do it more easily, most easily, and I agree with you, counsel  
14 is mistaken, it's not going to be easy. The question is what  
15 is the most easy way?

16 MS. WALZ: So we think that having some guidance from  
17 the Court upfront about what documents are going to be judicial  
18 documents would be very helpful.

19 THE COURT: Okay. So you're with him.

20 MS. WALZ: Judicial documents, yes, but not having the  
21 parties decide amongst themselves whether they are judicial  
22 documents or not. Obviously, the intervenors would want to be  
23 involved in any further discussion about that, and we think  
24 that having --

25 THE COURT: But if the parties agree, which it sounds

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1 unlikely, but of course, they have to try to do it themselves  
2 first.

3 MS. WALZ: If they agree that it's a non-judicial  
4 document.

5 THE COURT: They agree whatever category it's in.

6 MS. WALZ: We think that --

7 THE COURT: As a category.

8 MS. WALZ: As to the category, I think it's unlikely  
9 that the parties are going to agree; so I think setting up a  
10 schedule where we can get guidance from the Court as to that,  
11 where there's briefing from the parties and having that occur  
12 on a very --

13 THE COURT: Expedited.

14 MS. WALZ: -- expedited basis is the best way of  
15 approaching that for now.

16 THE COURT: And you don't disagree with counsel's  
17 three categories.

18 MS. WALZ: Judicial documents, non-judicial documents.

19 THE COURT: And negligibly judicial documents.

20 MS. WALZ: I disagree with the assertion that anything  
21 is negligibly a judicial document.

22 THE COURT: I think the Court of Appeals did give  
23 counsel a little support on this one.

24 MS. WALZ: A middle ground in between the two, we  
25 would agree to that.

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1 THE COURT: Okay. Who else wants to be heard before  
2 we go back to Ms. McCawley?

3 MR. CELLI: Your Honor, Andrew Celli for Alan  
4 Dershowitz. I don't have much to add, except to say that  
5 Mr. Dershowitz's position is that there should be maximum  
6 disclosure with maximum speed.

7 THE COURT: I don't care. Do you disagree with what  
8 counsel has just said?

9 MR. CELLI: We agree with the Herald. We think that  
10 procedure makes sense, and we would want to, obviously,  
11 participate as intervenors in the case. We are the ones who  
12 originally brought the matter for an application for openness;  
13 so we want to participate as well.

14 THE COURT: Yeah, yeah, yeah.

15 Mr. Lewin?

16 MR. LEWIN: Thank you, your Honor. If anything, this  
17 entire discussion illustrates why the protocol we proposed is  
18 right. If there are areas where the parties can agree, that  
19 makes it easy. Moreover, we agree with three -- sort of ideas  
20 that there are three categories. Of course, that's a  
21 simplification. The Second Circuit has said there are  
22 continuum of documents.

23 THE COURT: Yes, yes, yes.

24 MR. LEWIN: Right? So there has to be some way to  
25 sort of categorize things.

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1 THE COURT: Okay. But here's the question that  
2 counsel raised. In some of these documents, there are  
3 literally a thousand people, and I think what they're trying to  
4 do is to minimize the efforts they have to go through to notify  
5 people and the effort which the non-parties might have to go  
6 through which, at the end of the day, might turn out to be for  
7 nothing. What do you say to that?

8 MR. LEWIN: Judge, it's never great to be in a  
9 position of saying this is the judge's issue, but this is  
10 precisely why the Second Circuit, since at least 1987, has said  
11 this responsibility rests heavily on the shoulders of the  
12 district judge because it is --

13 THE COURT: Of course, the district judge always asks  
14 the lawyers what they think.

15 MR. LEWIN: Of course.

16 THE COURT: What do you think?

17 MR. LEWIN: Of course, Judge. But again, I will point  
18 out Judge Kaplan, just yesterday, issued an opinion, which we  
19 can hand up, in *United States v. Gatto*, which is 17 CR 686, in  
20 which he reviews a series of documents that were of great  
21 public interest that intervenors requested. The Judge assesses  
22 the extraordinary privacy interest of non-parties -- well,  
23 Judge, if you let me finish --

24 THE COURT: Did you hear me say anything?

25 MR. LEWIN: -- that the documents should remain under

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1 seal. It may well be the case, especially after this triaging  
2 of the documents, that the Court is able to wholesale knock out  
3 documents and maintain them under seal because the privacy  
4 interests of the subject matter in this case are --

5 THE COURT: Of course, but you say you want to be  
6 heard, and I don't -- I mean, one thing we might do is, if we  
7 go down this road, is go ahead and do all the briefing  
8 expeditiously, and then to the extent that we think perhaps  
9 some of it should be unsealed, then worry about giving notice.

10 MR. LEWIN: That is precisely what we proposed in our  
11 protocol, Judge, which is that the first step, the parties  
12 identify and agree on the issues.

13 THE COURT: I hear you.

14 Ms. McCawley.

15 MS. McCAWLEY: Yes, your Honor. The efficiency that I  
16 see in the proposal of starting from the back forward, in that  
17 sense, is that the bulk of what we're talking about here is in  
18 that back half of the docket; so the depositions, which I do  
19 believe are judicial documents -- and we submitted  
20 designations -- for all the reasons your Honor just said, those  
21 get considered; the motions in limine, which the Second Circuit  
22 has already said weigh in the favor of judicial documents; the  
23 motions to compel --

24 THE COURT: I don't understand why we do don't it all  
25 at once.



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1 MS. McCAWLEY: That's what I'm saying. So we do that  
2 at once in that one batch, that implicates the earlier  
3 documents because there are only pieces of those --

4 THE COURT: I'm only do this one time.

5 MS. McCAWLEY: Exactly.

6 THE COURT: Why wouldn't we adopt counsel's suggestion  
7 of putting the documents in categories, but do them all? I  
8 mean, they're all going to --

9 MS. McCAWLEY: I see what you're say.

10 THE COURT: -- be put into categories.

11 MS. McCAWLEY: I understand what you're saying. So  
12 it's twofold. I just believe that the first piece would be  
13 more efficient because you would not be dealing with judicial,  
14 non-judicial, et cetera, because you're dealing with the back  
15 half when those objections can be raised.

16 THE COURT: Yes. You guys disagree as to whether  
17 those are judicial or not.

18 MS. McCAWLEY: It sounds like there is some  
19 disagreement, your Honor.

20 THE COURT: No kidding.

21 MS. McCAWLEY: So I do think that another alternative  
22 is to do the entire docket, separating those out. The only  
23 problem there is you're layering it twice, right? So you're  
24 going to have the debate over judicial, non-judicial,  
25 et cetera, and then the notification period, and then the

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1 review of the documents.

2 So it seems that that's what I was doing, the bulk in  
3 the first part of the most significant documents, to try to  
4 move it forward in a more expeditious manner. But we're open,  
5 if the Court feels it would be better to do a layer of  
6 judicial, non-judicial first, before the notification, that's  
7 certainly something it's amenable to.

8 THE COURT: I think we may as well do that. I mean,  
9 the suggestion of notifying a thousand people on something that  
10 may ultimately easily be determined to be non-judicial --

11 MS. McCAWLEY: Sure. I just, for the record, in my  
12 view, knowing the documents, I don't believe that's an accurate  
13 statement of the amount of people that would be notified in  
14 these materials, but setting that aside --

15 THE COURT: In the generically described documents,  
16 that's about the number.

17 MS. McCAWLEY: Well, in that generically described  
18 document, that document is already public; so there's that  
19 issue, as well.

20 THE COURT: What about that? Do we think that the  
21 other documents will implicate that number of people?

22 MS. McCAWLEY: The other documents, for example --

23 THE COURT: I'm sorry. I was asking Mr. Pagliuca.

24 MS. McCAWLEY: I'm sorry.

25 MR. PAGLIUCA: There are hundreds of other people

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1 implicated in the other documents, your Honor, and the Second  
2 Circuit has already redacted some of that from the summary  
3 judgement material, which would then, I think, have to be  
4 redacted if it were, in fact, a judicial document, from those  
5 documents. So that may take care of some of that problem,  
6 but --

7 THE COURT: So do I.

8 MR. PAGLIUCA: -- there are a large body of names that  
9 haven't been redacted. There are a lot of people, your Honor.

10 THE COURT: Okay. Did you want to add anything else?

11 MS. McCAWLEY: No, your Honor.

12 THE COURT: Anybody else?

13 All right. Would you folks get together. Let's do  
14 expedited briefing on what is or is not in any of the three  
15 categories. To the extent you can, it's, obviously, going to  
16 be helpful to be able to group the documents.

17 How are we going to keep this under control in terms  
18 of the length of briefing? Anybody?

19 MS. McCAWLEY: Well, your Honor --

20 THE COURT: Go ahead.

21 MS. McCAWLEY: Excuse me. This is Sigrid McCawley.  
22 One option would be, obviously, we're grouping, as I've gone  
23 through, and we have the docket itself. One idea would be to  
24 just have that as an exhibit and group -- mark those so that  
25 the legal briefing is limited to referring to what's in the

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1 exhibit. So in other words, there's a regular, normal-size  
2 brief of, you know, 20 pages.

3 THE COURT: There is not going to be a normal-size  
4 brief on each one of these things, at all.

5 MS. McCAWLEY: I'm sorry, I meant on the categories  
6 you're suggesting, and then referring to the exhibit.

7 THE COURT: I don't care if you refer to the exhibits,  
8 and you probably have to, but the titles of the categories, you  
9 know, deposition designations, and objections, probably, right?  
10 Are they the same category? Documents otherwise just attached  
11 to pleadings. What else? Motions in limine documents?

12 MS. McCAWLEY: Yes, correct. Motions to compel.

13 THE COURT: What else? Motions to compel documents.  
14 What else?

15 MS. McCAWLEY: There were also some discovery  
16 disputes, adverse inferences, things of that nature that had  
17 things attached.

18 THE COURT: Okay.

19 MS. McCAWLEY: So there are logical categories within  
20 the --

21 THE COURT: All right. But let's say we end up with  
22 ten or fewer. Five pages, four, five pages against; three  
23 pages in reply for each of those categories. This is not hard  
24 stuff, right?

25 MS. McCAWLEY: Right.

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1 THE COURT: Sir?

2 MR. PAGLIUCA: I think that's fine, your Honor. I'm  
3 trying to envision, though, when we are talking about the  
4 category two documents. There is -- I suppose if it's simply  
5 the designations that these fall into that category, that's one  
6 thing, but if we are arguing about the balancing that the Court  
7 has to do about sealing or unsealing, that's way more  
8 complicated.

9 THE COURT: I thought we were going to first consider  
10 which category the documents went into. Then, let's say,  
11 there's a ruling on that. Judicial, we know what we have to  
12 do. Non-judicial, we know what we have to do. It then seems  
13 to me, much as it pains me to say it, you probably get a second  
14 shot at the medium category.

15 MR. PAGLIUCA: I think that's right, your Honor, and  
16 I'm going to suggest now, we're going to revisit this if we get  
17 there, but it's likely more of a conversation and an argument  
18 about those, than doing that in writing because there's quite a  
19 bit to each of those different pieces.

20 THE COURT: All right. We can get to that when we get  
21 to that and see how much it is.

22 MR. PAGLIUCA: And can you repeat for me, your Honor,  
23 the page limitations?

24 THE COURT: I was thinking five pages for sealing,  
25 five pages against sealing, and three pages in reply. Double

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1 spaced.

2 And, Mr. Lewin, do not write those teeny, little  
3 footnotes. The rules say 12 point-type text in footnotes. I  
4 can't read those teeny, little footnotes.

5 MR. PAGLIUCA: And, your Honor, that is per category?  
6 So if we have ten categories, we are going to --

7 THE COURT: Yes, sir. Don't expand it past ten,  
8 though; you'll be killed. What else?

9 MR. PAGLIUCA: That's all for me, your Honor.

10 THE COURT: Now, the non-parties might want to be  
11 heard on these things, right? What do you want to do? The  
12 original parties, do you want to agree on your categories, and  
13 then to the extent that the non-party wishes to be heard on a  
14 category, you get to weigh in as well? Any reason not to do  
15 that?

16 MR. PAGLIUCA: Here's what I see the practical problem  
17 with that, your Honor, is that they don't know what are in  
18 these documents.

19 THE COURT: Absolutely.

20 MR. PAGLIUCA: So it's going to be difficult.

21 THE COURT: Well, but perhaps they want to say  
22 something.

23 MR. PAGLIUCA: That's fine, but --

24 THE COURT: And Ms. Walz is going to say unseal the  
25 whole thing, right?

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1 MR. PAGLIUCA: Right, of course. I don't see the  
2 efficacy of having non-parties involved in this initial --

3 THE COURT: Well, what I'm saying is you people get  
4 your categories together. You people say whatever you want to  
5 say, and to the extent any of them wishes to be heard, they can  
6 put five pages in too.

7 MR. PAGLIUCA: That's fine, your Honor. I don't have  
8 a problem with that.

9 THE COURT: All right? And presumably, you would do  
10 it at the time of the response, the response that says  
11 unsealed; so that the proponent of sealing would have the  
12 opportunity, in the reply, to reply to the non-party as well.  
13 Is that all right with you people?

14 MR. CELLI: That's fine, your Honor.

15 THE COURT: Okay. What else, friends? Can we have  
16 the --

17 MR. CELLI: Just to be clear, your Honor?

18 THE COURT: Yes, sir.

19 MR. CELLI: I'm sorry. That's five pages per category  
20 for each of the --

21 THE COURT: Yes, sir.

22 MR. CELLI: Thank you.

23 THE COURT: May we have the categories in a week? And  
24 the first round a week after that? A week, a week, a week, can  
25 we do that?

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1 MR. PAGLIUCA: I think that's going to be very  
2 difficult for me, your Honor, given my schedule.

3 THE COURT: What's the issue?

4 MR. PAGLIUCA: I have multiple hearings and trials  
5 over the next two weeks.

6 THE COURT: Who's working with you on this?

7 MR. CELLI: Mr. Gee and Ms. Menninger, who I also know  
8 are very busy right now.

9 THE COURT: You know, we've got to get this done.

10 MR. PAGLIUCA: I understand, your Honor, but I was  
11 going to suggest 30 days for the initial round.

12 THE COURT: No, no. We're going to do it -- what's  
13 the word?

14 MS. WALZ: Expedited.

15 THE COURT: Thank you, ma'am.

16 Two weeks for the categories, and then a week, a week,  
17 a week.

18 Anything else, friends? Thank you. Nice to see you  
19 all.

20 MS. McCAWLEY: Thank you, your Honor.

21 MR. LEWIN: Thank you, Judge.

22 THE COURT: Morning.

23 (Adjourned)  
24  
25