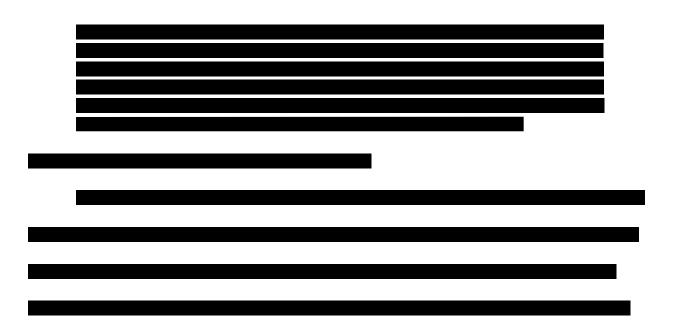
United States District Court Southern District of New York

| Virginia L. Giuffre, | |
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| Plaintiff, | Case No.: 15-cv-07433-RWS |
| v. | |
| Ghislaine Maxwell, | |
| Defendant. | |
| - | TION TO PROPOSED INTERVENORS' MOTION FOR AND TO MODIFY THE PROTECTIVE ORDER |
| Non-Party Jane Doe 43 in the | e captioned matter Jane Doe 43 v. Epstein, et al, No. 17 Civ |
| 616 (JGK) and Plaintiff Virginia Gi | uffre oppose the Proposed Intervenors' Motion for Leave to |
| Intervene and to Modify the Protect | ctive Order for the reasons set forth below. The Proposed |
| Intervenors are two non-parties, Jeffi | rey Epstein and Leslie Groff ("Epstein Defendants"). |
| PRE | LIMINARY STATEMENT |
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| <u>PR</u> | ROCEDURAL HISTORY |
| On March 18, 2016, this Cou | art entered a Protective Order (DE 62) for the privacy of the |
| parties and deponents. | |
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ARGUMENT

It is well settled that a Court should not consider documents outside the four corners of the Complaint at the Motion to Dismiss stage. *See, e.g., In re Giant Interactive Grp., Inc. Sec. Litig.*, 643 F. Supp. 2d 562, 573 (S.D.N.Y. 2009) (Sweet, J.) (Court not considering evidence outside of complaint in deciding motion to dismiss, denying motion) ("[T]he evidence advanced by Defendants is not within the four corners of the Complaint, and cannot be considered here." (citing *Fonte v. Bd. of Managers of Cont'l Towers Condo.*, 848 F.2d 24, 25 (2d Cir. 1988))); *Bill Diodato Photography LLC v. Avon Prod., Inc.*, No. 12 CIV. 847 RWS, 2012 WL 3240428, at *4 (S.D.N.Y. Aug. 7, 2012), on reconsideration, No. 12 CIV. 847 RWS, 2012 WL 4335164 (S.D.N.Y. Sept. 21, 2012) (Sweet, J.) ("A Rule 12(b)(6) motion to dismiss challenges only the face of the pleading. Thus, in deciding such a motion to dismiss, 'the Court must limit its analysis to the four corners of the complaint." (internal citations omitted)).

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| III. The Court Should Not Modify the Protective Order as to These Documents |
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| The Court took care to have the parties enter into the Protective Order in this case given |
| the sensitive nature of the sexual abuse allegations at issue. |
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There is a "strong presumption against the modification of a protective order," in the Second Circuit, and "orders should not be modified absent a showing of improvidence in the grant of the order or some extraordinary circumstance or compelling need." *In re Teligent, Inc.*, 640 F.3d 53, 59 (2d Cir. 2011); *see also In re September 11 Litigation*, 262 F.R.D. 274 (S.D.N.Y. 2009). The Second Circuit has been hesitant to permit modifications that might "unfairly disturb the legitimate expectations of the parties or deponents." *Dorsett v. County of*

Nassau, 289 F.R.D. 54, 64 (E.D.N.Y. 2012). Indeed, "[i]t is presumptively unfair for courts to modify protective orders which assure confidentiality and upon which the parties have reasonably relied." *Id.* (internal citations and quotations omitted); *see also Medical Diagnostic Imaging, PLLC v. Carecore Nat., LLC*, 2009 WL 2135294, at *4 (S.D.N.Y. 2009) (denying motion to modify protective order because parties and third parties have reasonably relied upon the terms of the protective order).

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| Finally, "a litigant's purpose in seeking modification of an existing protective order is |
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| also relevant for determining whether to grant a modification. Requests to modify protective |
| orders so that the public may access discovery materials is arguably subject to a more stringent |
| presumption against modification because there is no public right of access to discovery |
| materials." <i>Dorsett</i> , 289 F.R.D. at 65 (E.D.N.Y. 2012). |
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| |

CONCLUSION

For all the foregoing reasons, the Court should deny the Proposed Intervenors' Motion for Leave to Intervene and to Modify the Protective Order.

Dated: October 19, 2017

Respectfully Submitted,

BOIES SCHILLER FLEXNER LLP

By: /s/ Sigrid McCawley

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 19th day of October, 2017, I electronically filed the foregoing document with the Clerk of Court by using the CM/ECF system. I also certify that the foregoing document is being served to all parties of record via transmission of the Electronic Court Filing System generated by CM/ECF.

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Counsel for Jeffrey Epstein and Lesley Groff

/s/ Sigrid McCawley
Sigrid McCawley

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