UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

In re:	:	
		Docket #1:19-cv-07625-AJN-DCF
VE,	:	
Plaintiff,	:	
- against -	:	
NINE EAST 71ST STREET, et al.,	:	New York, New York February 11, 2020
Defendants.	:	
		SCHEDULING CONFERENCE
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PROCEEDINGS BEFORE
THE HONORABLE JUDGE DEBRA C. FREEMAN,
UNITED STATES DISTRICT COURT MAGISTRATE JUDGE

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E X A M I N A T I O N S

Witness	Direct	Cross	Re-Direct	Re-Cross
None				

E X H I B I T S

Exhibit Number	Description	ID	In	Voir Dire
None				

THE CLERK: VE v. Nine East 71st Street, et al, and other cases associated with this one.

Counsel, please state your name for the record.

MR. BENNET MOSKOWITZ: Bennet Moskowitz. I --

HONORABLE DEBRA C. FREEMAN (THE COURT): Sure. Just one at a time. Why don't we start on plaintiff's side, just one at a time?

MR. JOSHUA SCHILLER: Josh Schiller from Bois Schiller.

THE COURT: Okay.

MS. SIGRID McCAWLEY: Sigrid McCawley from Bois Schiller.

THE COURT: Okay.

MR. BRAD EDWARDS: Brad Edwards from Edwards Pottinger.

MS. MARIANN WANG: Mariann Wang, Cuti Hecker Wang.

MS. ROBERTA KAPLAN: Roberta Kaplan from Kaplan Hecker.

THE COURT: Anyone else on plaintiffs' side?

MR. DAVID (indiscernible): David (indiscernible).

THE COURT: Is that it on plaintiffs' side?

Turning to defendant's side.

MR. MOSKOWITZ: Bennet Moskowitz, Troutman Sanders, counsel for defendants, the co-executors, Darren

Indyke and Richard Kahn.

THE COURT: Okay. All right, so good morning.

Of the many cases that have been referred to me for supervision, two have been stayed at the request of the parties. All of you who are here today on these cases, they're not stayed. We need to put discovery schedules in place. I would like to get the latest, though, with respect to potential for settlement. I've been hearing various and assorted rumors about the difficulties of trying to progress with settlement. Can you give me a -- I'll turn to on defendants' side first -- tell me what the latest is?

MR. MOSKOWITZ: Yes. And do I recall correctly you prefer that we stand?

THE COURT: Sure. Just if you're talking for some long period of time and you need to be looking at notes --

MR. MOSKOWITZ: I prefer it.

THE COURT: -- I'll let you sit.

MR. MOSKOWITZ: Thank you. And I appreciate the opportunity to explain what's going on in terms of potential resolutions of these actions and specifically with respect to the Epstein victims compensation program, which as the Court knows, is a completely voluntary

program.

Well, a lot has certainly happened since the last time we were before your Honor back on November 21, 2019. What I'm pleased to report, before I get to some of the more difficult issues, is that the vast majority of plaintiffs here today, and, in fact, the vast majority of alleged victims of Mr. Epstein have, through their counsel, voiced unequivocal support for and intend to participate in the voluntary program, which is great. And as your Honor just mentioned, though it's not even required and it was not something I asked, five plaintiffs, soon to be six, because of a proposed amendment, in one case plaintiffs have already voluntarily stayed their litigation in favor of their participation in the program. Again, that's not something that's required but they saw the wisdom of doing that and conserving resources, which is something we welcome.

The plaintiffs' support for the program followed the numerous discussions we had since we appeared before your Honor and you suggested everyone should be speaking and speaking often. There were many discussions among myself and many attorneys in this room, as well as separate meetings between the claims program designers and administrators. Again, that's Ken Feinberg is the

designer; Jordana Feldman is the designer and the sole administrator; and Camille Biros, who's also a designer. They met with, I understand, several times the various plaintiffs' counsel here today and other ones not here today. And through all of these, you know, efforts over the past several months, we have a great showing of participation or intended participation in a program which has great promise of resolving many of these claims. In fact, the protocol, which if your Honor may recall, that's the nuts and bolts of the program. Plaintiffs' counsel has weighed in on that protocol. The current draft reflects some of their input. And that's all great.

But here's the tricky part, if you will. There is one reason, and only one reason, that the claims program hasn't commenced, and that is because the attorney general for the Virgin Islands, the U.S. Virgin Islands, who we firmly understand represents no victims -- zero -- has, for whatever reason that we don't understand, impeded the formal establishment of the program, against our wishes, and more strikingly, against the wishes of the plaintiffs' counsel in this room and other plaintiffs' counsel not here today.

And if I can just -- and I'll try to do this succinctly as a matter of context of how we got to this

place where the attorney general has done this -- on November 14, 2019, the co-executors filed a motion in the probate court for the formal approval of the establishment of the claims program. Of course, everything runs through the probate court. The probate court has ultimate control and authority over all assets of the estate, and hence, we needed to seek formal approval. We then had the conference with your Honor about a week later. All of the good things that followed from that which I just went over, all the efforts that yielded the almost uniform support for the program among plaintiffs and alleged victims that I just described.

Very regrettably, however, in the meantime and much more recently, long after everyone in this room was working very diligently to come together on the program, the attorney general for the Virgin Islands has again, for whatever reason, decided to impede the program. So on January 15, which is by the way more than five months after Mr. Epstein died, the AG in the Virgin Islands publicly announced that earlier that day she filed a complaint against Mr. Epstein's estate and certain related entities under what is known as the Virgin Islands Criminally Influence and Corrupt Organization Act, which I understand is referred to as a CICO action. So in the CICO action,

very briefly, although it's very difficult to follow and far from clear, the USVI government appears to seek forfeiture of all assets in Mr. Epstein's estate even though he was never charged with, let alone convicted of, the underlying CICO allegations and notwithstanding that, with few exceptions, a lot of what's alleged has no nexus to the Virgin Islands. Yet, the government comes in five months later and says, "We get everything." And, again, they represent no victims.

So we understand, from counsel admitted in the Virgin Islands, that this is without precedent in the Virgin Islands or elsewhere, for that matter, as far as we can determine.

Shortly after filing the complaint, the attorney general for the Virgin Islands purported to issue liens against each of the defendants named in the CICO action, okay, including the estate, and even including -- and everything, by the way, everything within the estate, including the estate's operating account that it needs to function to pay lawyers, to pay house managers, people that mow the grass, to simply function. The attorney general came in and said, "We have a priority lien over everyone and anything that exists, and everything is within the scope of these liens."

On January 23, to make matters worse, the attorney general sought to intervene in the probate proceedings to, among other things, oppose -- I mean, this is really amazing stuff -- oppose the establishment of the claims program that the victims are for, the alleged victims that have already spoken about, almost uniformly, for the establishment. Unfortunately, most of what the attorney general said in the attorney general's various filings, including the motion to intervene, about the claims program was just simply wrong. For example, the attorney general made a bunch of criticisms that would have only made sense if it was an involuntary program. But it's voluntary, it's completely voluntary; no one is forced to do anything.

On February 4, last week, I observed a hearing at which USVI counsel for the estate appeared and actually several attorneys in this room -- I'm sure they will speak for themselves -- were also in attendance at this hearing in the probate court. And the hearing was on all pending motions to date, some of which, including the one for the establishment of the claims program, had been pending for quite some time, to say the least. So this was, obviously, an important hearing. The attorney general's motion to intervene, the assumption of the claims program, everything was heard last Tuesday. Mr. Feinberg and Ms. Feldman

testified at the hearing to address the attorney general's various concerns, again, from my view, not speaking for Mr. Feinberg and Ms. Feldman but just based on complete misunderstanding of what the program is and does. The probate judge acknowledged very clearly -- I don't have the transcript yet -- and as soon as I get it, I respectfully request the opportunity to submit a copy to your Honor; I think it's very important for your Honor to see it directly as it bears directly on all these cases here and the prospect for settlement. Getting back to the probate judge, she acknowledged that the estate wants the program to go forward, the alleged victims want the program to go forward, and that it would be much quicker, more cost effective than drawn-out litigation.

The testimony of Mr. Feinberg and Ms. Feldman was also, from my viewpoint, well received and addressed just everything that the attorney general purported to be concerned with. However, because of what the attorney general did with these liens, the probate judge asked the parties and voiced concern that the probate court's hands are effectively tied. And thus, what the probate judge has done is asked the estate, asked the attorney general, anyone else who's interested, to brief that court on the effect of the liens.

So as I appear here today, I don't know when the program will be established. But time is, of course, of the essence. If the AG does not very quickly remove all perceived impediments to the establishment of the program, we may miss the window for fulsome participation in the program. This is something your Honor heard last time, that people wanted -- if there's going to be a program, they want it to move quickly. Well, we were all here ready to go, and the AG had a different idea, I suppose.

I do want to be clear, since I mentioned these liens, by the way, the estate's position is they're invalid. We briefed some of this with the Court already, addressed it in court, in the probate court. And that's something we will deal with, but in the meantime, like I said, time is of the essence with the program.

I do want to address an entirely related but separate issue that the AG's actions have caused. And this is also something we just don't understand. You know, as I said, the AG has purported to put liens on everything in the estate, including the operating account. Even if it's not the AG's intention, if she maintains those liens and says effectively, "Estate, you can't pay anyone. You can't pay your attorneys," well, then, the co-executors have no way to litigate all of these cases that are here and in

other courts. That came up at the February 4 hearing, and the Court denied, by the way, the AG's motion to intervene. It was procedurally improper. And the Court specifically addressed the liens, acknowledging that they have potential disastrous effect if the AG contends that those liens should freeze all assets including those necessary for the estate to simply function, pay taxes, attorneys, whatever. Counsel for the AG on the record informed the Court that the AG did not intend for the liens to prohibit the co-executors from paying the estate's administration expenses or to preserve its assets.

Regrettably, right after that hearing, counsel for the co-executors received formal notification from the bank where the estate's operating account is, informing the co-executors that, because of the lien, the bank has placed a hold on the estate's accounts. And the AG, as we sit here a week later, after this representation in court by one of her attorneys, has not lifted the lien. So very soon the estate's not going to be able to make payroll for people that help take care of the decedent's properties, attorneys will go unpaid, and everything is going to come to a screeching halt. We hope that doesn't happen. I can assure the Court I'm not for the inability of the estate to pay its counsel, but here we are. And there are various

constitutional issues, of course: How can someone be forced to defend actions when they can't pay their counsel? But, again, we hope the AG will remove these impediments and these actions won't need to be stayed; and, more importantly, the program will go forward. USVI counsel for the estate is very diligently working to resolve these issues with the attorney general, but it's been very difficult. And as I sit here today, this is the unfortunate mixed news that I have to report to your Honor about the claims program.

And thank you, by the way, for giving me the time to address it.

THE COURT: Anyone on plaintiffs' side want to address anything that's just been said?

MS. KAPLAN: Yes, your Honor, briefly. Roberta Kaplan. Your Honor, there's no small degree of irony in what you just heard from my friend on the other side, given the fact that two days before he died, Mr. Epstein signed a will that specifically designated the Virgin Islands for the probate of his estate. This is a problem of his will and his own making. And the idea that they thought it was going to go well for them in the Virgin Islands and now it hasn't is somehow unexpected. It was obviously quite deliberate that the Virgin Islands was chosen as the

jurisdiction.

In terms of the settlement process and the procedures set up with Mr. Feinberg and others, we of course, as you've heard, want it to work out. But one of the reasons for the attorney general's objections are the same reasons that we said to your Honor at the first hearing we had that it was done unilaterally, that there was no consultation. The Court seems to be extremely concerned about the amount in fees being paid out of the estate to Mr. Feinberg and others. Again, no consultation --

THE COURT: I'm sorry, the court, the probate court?

MS. KAPLAN: The court in the Virgin Islands --

THE COURT: The probate court?

MS. KAPLAN: -- seems to be concerned about the amount that's being paid without any supervision. On Friday there was an article in The New York Times, which I'm sure your Honor saw, about millions of dollars being run through a previously defunct bank that Mr. Epstein has set up. There's no clarity, no diligence, no knowledge of anyone about any of this. And while we certainly want the fund to go forward, we certainly want people to have that option, the concerns on the part of both the judge in the

Virgin Islands and the attorney general in the Virgin Islands are not unfounded.

With respect to meetings with Mr. Feinberg, yes, we had those meetings. Changes were recommended to the protocol based on those meetings. I hadn't seen yet whether they were adopted. I'm glad to hear from my friend on the other side that they were, but we have not received a copy of that. One thing Mr. Feinberg did say at those meetings -- and I think it's very crucial -- we put this in our letter to your Honor -- it was absolutely his explicit requirement that in order for him to do what he was going to do, no plaintiff could be required or asked to stay the litigation in this court in order to proceed with the proceedings. So that is an absolute explicit precondition of what he's doing, and there is no stay required or asked of any plaintiff proceeding in these cases. And for those reasons -- and I'm sure we're going to talk about it today, given what you've heard --

THE COURT: No stay required or asked for by defendants, is that what you're saying?

MS. KAPLAN: So that in order -- if a plaintiff wants to participate in the settlement process, the defendant can't ask them to stay their cases. And staying the cases is not a precondition or a requirement --

THE COURT: All right, plaintiffs can ask; and if plaintiffs ask, defendants can agree.

MS. KAPLAN: Of course, plaintiffs can always ask. If it's by mutual agreement of the parties, that can always happen.

But I think that only highlights the importance of getting these cases moving, getting discovery moving, particularly with what you've heard from the other side, that there's no prediction at this point of when any settlement process can even begin. And none of us, we're sitting here before on this side table, we have no idea how long these things will take in the Virgin Islands. At least speaking for my client, we would prefer to have a judgment, given the uncertainty in this court, and we'd like to get moving.

THE COURT: Anyone else?

MR. EDWARDS: Brad Edwards, your Honor. I'd only like to address a few points. I was in the Virgin Islands last week. And after the hearing, we went and personally met with the attorney general and explained what it was about the current setup of the protocol and the program that many of the victims liked. And the attorney general specifically addressed some of the things about the program she did not like, most notably the fact that all three of

the administrators were chosen by the estate unilaterally. And the attorney general did not say the lien is for the purposes of taking everything into the Virgin Islands and to disenfranchise the victims. What she has said and as of yesterday disseminated a letter to many of us -- I know to the estate counsel as well as to myself -- I think it's most appropriate probably to file it with your Honor so that you understand exactly where things stand with the attorney general's position as to the claims protocol. She put in writing 13 what she called commitments that she wants from the estate in order to allow the claims program to -- a claims program to go forward. Some of them are fairly minor; it looks like it could be worked out. Some of them may be more difficult to work out.

But the probate judge recognized that there was going to be this discrepancy; and until something is done with the attorney general's lien, the probate court simply can't allow any program to go forward. So that court asked both the estate lawyers and the AG to continue working together with one another to reach a compromise and allow a program to go forward. Like I said, we have very specific commitments that the AG wants in writing from the estate; and so long as those commitments are met, some of which are fairly minor, she is willing to allow -- to withdraw some

major portion of her lien to allow the program to begin.

So I don't think it's as far apart as was represented earlier, but I do think it would help your Honor to have, you know, possession of the AG's recent letter that she circulated yesterday.

MS. McCAWLEY: This is Sigrid McCawley on behalf of Bois Schiller. I just wanted to address the importance of because of the dynamic with what's happening with the estate and the AG, much of which is not within our control --

THE COURT: Hang on a second. Just move the mic a little closer for the sake of the recording of the conference.

MS. McCAWLEY: Of course. -- so much of which is not within our control, what's going to happen with the estate and the AG. There's clearly a division there. That just emphasizes the importance of this Court's power to move these cases forward. It's really important to these victims to seek justice in this circumstance. They want to move their cases forward. Of course they're interested in the claims program, if that comes to fruition. But at this point there's a lot that needs to go on before that can happen. We're here to try to move our cases forward. We've put forth, we think, reasonable schedules to your

Honor that we'd like to move forward with as swiftly as possible.

THE COURT: Okay. Well, I don't have much control over what happens in the Virgin Islands, as in none.

MR. MOSKOWITZ: Can I briefly respond, your Honor?

THE COURT: Go ahead.

MR. MOSKOWITZ: You know, it's interesting. I was in the Virgin Islands last week, Mr. Edwards was there, Mr. Schiller was there. You heard a completely different tone with respect to the same, assuming Ms. Kaplan, that she's not included in this -- clearly, she had some issues with the program, that's fine. That's her view of what's best for her client. That's not for us to argue with.

The same attorneys I just mentioned, excluding Ms. Kaplan, their Virgin Islands counsel stood up and unequivocally voiced that they want this program to go forward. That's what they want. We want it to go forward. I can assure you, speaking directly on behalf of the estate, that we have tried to discuss this with the attorney general. At every attempt things become more difficult in terms of being able to see eye to eye.

And I'd like to point out, in addition to the problem of attorneys not being paid and the estate coming

to a screeching halt, everyone in this room I trust recognizes that, according to the attorney general, her liens are number one. You can get a judgment -- if you think you're going to get a judgment one day, you can try, and maybe you will, maybe you won't. According to the attorney general, she goes first. She represents no victims, but she goes first. So it's not just some amorphous problem that's out there that's for me to deal with because Mr. Epstein's will is being probated there at his decision. No, the attorney general's actions are problems for everyone in this room.

THE COURT: All right, again, I can't do anything about the attorney general in the Virgin Islands. I can ask counsel to keep reporting back to me as to what's happening. I'd appreciate that. If you think the Court would benefit from seeing a transcript, seeing a letter, by all means file whatever you think is useful.

I'm not going to worry right now about defendants not being able to represent themselves in these cases. If that happens, it happens. You have potentially some individuals who could represent themselves pro se if they wanted to. It might be rather difficult. Any corporate entities, of course, would be in default if defendants stop litigating the matter and don't have counsel paid for and

able to appear. But we'll jump off that bridge when we get to it. It seems to me that you're not there. Hopefully you won't get there. If you do, we'll have a whole, you know, slew of motion practice on defaults. Let's assume that's not going to happen, at least for the moment.

I do think I need to set discovery schedules. I'd like to get a feel for what the discovery would entail: what we're talking about in terms of volume of documents; what we're talking about in terms of number of witnesses on each side; what we're talking about in terms of experts, just to get a feel because understanding scope of potential discovery helps the Court understand what a reasonable schedule would be, as opposed to just saying this many months, that many months, understanding.

In addition, you all have proposed deadlines for motions to amend. I want to understand how likely it is that there'll be amendments, what you would need to know in order for there to be an amendment, because the amendment deadlines, which I realize are largely guided by the individual rules of a lot of the district judges here who have very tight proposed deadlines, the amendment deadlines that are being proposed would come up fairly quickly, and I don't know that plaintiffs would have any more information available to them than they have now. Is there information

plaintiffs would need in discovery in order to determine whether they really need to amend, and what kind of information is that? I'd just like to get an overall feel so I can do something sensible. And as I said in my order, the schedules for these cases need not be identical. But I'd like to understand what differences there are if we're going to have different schedules.

Okay, so let me first get a feel for, on the amendment question, since that would be an early deadline. There's already one case where there's a proposed amendment. There are some differently named defendants in these cases. What are plaintiffs thinking in terms of whether there's a likelihood of amendment and what they would need to know, what they would need to learn in discovery, if anything, in order to determine if there should be an amendment?

Anyone want to field that?

MR. EDWARDS: Sure. I don't mind. So we have sued not only the estate but several corporate entities. And we would at least need 30(b)(6) depositions from the corporate entities to learn what other related corporations performed certain similar acts that we've alleged against these corporate entities in their negligence of simply enabling Mr. Epstein's abuse. I think that it would go a

long way to get a 30(b)(6) deposition of the estate, as well.

THE COURT: Could you do this by way of interrogatory?

MR. EDWARDS: We could. We actually expected, especially given how long of extensions were given in order to -- or how much time passed before initial disclosures, we expected to get a lot of that information in initial disclosures in terms of what other witnesses were available and what other documents pertained to each one of our clients. Instead, we got back that there are none.

Now, I realize with initial disclosures the position being taken is there are no documents that we intend to produce to support our defenses, and we don't necessarily have to give you right now what you're asking for in terms of what's relevant to the claim. So we're going to have to at least propound discovery. I imagine if the current circumstance carries on in terms of what I feel is a lack of production, that we're going to get basically nothing, and then we're going to be left taking 30(b)(6) depositions, anyway, so that at least get a human being on the other side of the table to tell us what you know, what you don't know and why you don't know anything. Because right now we're not being given any information, which just

is totally unreasonable, especially given the breadth of documents that we who have litigated these similar cases know exist out there.

For instance, I would expect flight logs that have my clients on them to have been listed as some documents that would be used either as a defense or that could possibly be relevant to the claims. Instead we're getting back there are no documents. There are emails on Mr. Epstein's server. Somebody has to be in possession or control of those emails, but the appearance that we're being given is that it's nobody.

So if we continue down this course of having to kind of pry open every single fact and detail, it's going to take us a little while. And that's why when we were negotiating a discovery schedule, I was asking for the amendment or the -- for the amendment of the complaint to be three months down the road for this exact point. I need a lot of information, at least some information, in order to know what parties to add to this complaint or what causes of action need to be amended.

THE COURT: So a couple of you have -- actually for three of plaintiffs' counsel, Ms. Kaplan, Ms. Wang, and Edwards, I believe, you seem to have an agreement on a motion to amend deadline, which is not very far away.

They're not identical, but they're in March. What makes you think that makes sense?

MS. KAPLAN: Your Honor, we don't anticipate any amendments in our case. We perceive intent to go against the estate. We don't think it's worth our client's time or money to be looking into other entities. The estate has more than sufficient assets to satisfy any judgment here.

THE COURT: Okay.

MS. KAPLAN: So in our case we're very differently positioned than Mr. Edwards, and 30 days is more than enough for us.

MS. WANG: And, your Honor, we take a slightly middle-road view -- Mariann Wang for three of the plaintiffs -- we put the standard date down that the district judges have marked on our cases has -- primarily because we don't anticipate amending; and if we do, it would be because we've really obtained new information that makes us think that actually the estate is not the right defendant. So we don't really anticipate amending; otherwise, we would do it not by right or -- you know, we would just make a motion that some new information came out. But we would anticipate as a general matter in terms of -- and maybe I'm jumping ahead -- in terms of number of witnesses on our side probably having about three to five,

more like three, per plaintiffs' side, so a plaintiff and representatives of either therapists or medical providers or individual emotional-harm witness. And then on the other side, I would anticipate doing very early 30(b)(6)s similarly to determine who if any is going to be put up or who we would want to put up on the defense side at trial, because right now we similarly are getting nothing out of initial disclosures or any kind of information from the estate about who is relevant for our clients' claims.

THE COURT: Hang on a second. I threw out a lot of questions at once, so let's take them in pieces. For plaintiffs deposing defendants -- well, for what plaintiffs need from defendants, documents, depositions, how voluminous are the demands that plaintiffs are planning to make on defendants, and how many witnesses are you looking for from defendants?

MS. KAPLAN: Again, your Honor, I think there's going to be -- you're going to see great variation, you know, which is what you see in the proposed schedules. I'm not sure we need a 30(b)(6) from the estate. My client knows what happened; she knows who was responsible. I think maybe two witnesses on their side, both of whom I assume will plead the Fifth. They're really non-parties, the two women who did scheduling for Mr. Epstein. And

maybe three witnesses on our side, and that's the whole thing. I --

THE COURT: How about documents?

MS. KAPLAN: Any documents they have relating to our client, and that's it. We're talking -- I mean, I find myself --

THE COURT: You're looking for something much more streamlined?

MS. KAPLAN: Yeah, I find it very unusual for myself saying this, having spent 20 years as a partner of Paul Weiss, but this is not a case from our perspective that's going to take very much discovery or take very long to get to trial. She'll take the stand and she'll testify about what happened. We'll put on an expert. There may be one or two corroborating witnesses. And that's the whole thing.

THE COURT: And some of you are looking for a lot of documents, and you're talking about potentially a number of witnesses, right? Who's looking for a lot of documents from defendants? I've heard flight logs and emails.

MS. McCAWLEY: This is -- yeah, this is Sigrid McCawley from Bois Schiller. I think "a lot of documents" may not be the correct characterization, but certainly we

put forth in our Rule 26 disclosures a good, substantial amount of information that we know exists based on the work that we've done over the last several years. So we've already identified that as a body of documents that's relevant to the case. But what we don't have, your Honor, is the information that we know exists from Jeffrey Epstein's electronic files. For example, he had MindSpring accounts, he had house electronic accounts that he used to communicate with the employees, all of which he claimed the Fifth before he passed away. So we have never obtained those in discovery unless it came from another individual who was copied on an email. We know that he used other aliases for his email addresses, things of that nature, all of which is now accessible and that we want. So we are going to seek that in discovery. It will be streamlined in the sense it will be responsive to our clients' claims and the claims that they have and the trafficking that was occurring with Jeffrey Epstein and his co-conspirators.

Similarly, with respect to witnesses, we anticipate that we will call not only someone from the estate but a number of the co-conspirators that were involved. We anticipate many of them will take the Fifth, as they have in the past. And then on our side we will

have supportive witnesses, witnesses who saw our clients in the places that they say they were; obviously, our clients themselves to substantiate those claims; and a very limited number of experts.

THE COURT: When you say "a number of witnesses on defendants' side, some of whom would take the Fifth," what are you talking about by "a number"?

MS. McCAWLEY: Just a couple. I mean, really the, you know, the main -- in my view, the main people who were part of the operation. So you have Sarah Kellen, who was copied on documents with my clients; Leslie Groff, as well, who was doing the scheduling, communicating between my clients and Jeffrey Epstein. So individuals that we believe were facilitating this along with Jeffrey Epstein would be part of our case.

THE COURT: Any possibility for having multiple lawyers sit in on any particular depositions?

MS. McCAWLEY: Your Honor, we have five cases before you. We're happy to coordinate with other plaintiffs' lawyers and have those, for example, if it's a 30(b)(6), have those coordinated. We would, of course, want an allocated amount of time to be able to take care of our cases, but we would coordinate that certainly to make sure that we're streamlining that process.

MS. KAPLAN: Your Honor, one thing that may be helpful in that regard, Ms. Kellen and Groff, if we get an early -- if we can get an early indication, which we assume has to be the case if they're going to take the Fifth, those are the only two witnesses that I would even share with some of these other cases. Then I don't -- you know, we may just be able to streamline that right out of the way.

MR. MOSKOWITZ: Thank you, your Honor.

Well, to go back to -- but I'll try to hit on what matters most. First, this notion that we're somehow not -- we're stonewalling. These were initial disclosures. Mr. Edwards was correct when he said that the rule is very clear; the parties have to disclose things that they may use for their claims or defenses. A lot of people kind of gloss past that and give short shrift to initial disclosures, but that's what they are so they can't sandbag people. And it's hardly surprising that as an attorney for executors of an estate and not the alleged tort feasor himself, that after due diligence that we're all required to do as counsel with regard to initial disclosures for the most part, but it's not true as to every action -- but for the most part, I don't have such information or people to disclose at this time. It's not

that unusual.

I actually agree with a lot of what Ms. Kaplan said in terms of how she views the scope of discovery. And that shows why the cases where people have a much broader scope, relatively speaking, should not proceed on the same track. So in terms of the Bois Schiller cases -- because what we've done, and I'm sure your Honor appreciated this, is we were on the plaintiffs' side we negotiated discovery schedules with each set of plaintiffs' attorneys. And we think it makes sense for there to be coordination in those actions for, say deposition. I will say we are not in favor of people sharing discovery with each other across the cases. We think that puts plaintiffs at an unfair advantage if something's disclosed because it pertains to person X's claims but doesn't pertain to person Y, person Y shouldn't get a free shot at discovery. I'll just throw that out there for now because it came up.

But in terms of the scope, yeah, the initial disclosures were actually quite --

THE COURT: Hang on a second. You would rather have one of your witnesses deposed multiple times rather than have one deposition where multiple lawyers sit in?

MR. MOSKOWITZ: Well, it depends how long the deposition is, same what the scope is. So related to that,

the Bois Schiller firm has a much broader scope, according to their initial disclosures, of what they want here. They listed dozens -- dozens -- of people and categories of documents: movie stars, politicians. That's fine. If that's their disclosure, fine; but you don't get to proceed then, from our view, on the same track as someone like Ms. Kaplan, who says, "I'm not doing all that." It just doesn't -- it doesn't seem reasonable to us for those kinds of different views to proceed on the same track. And I don't see, to your Honor's question, how you can have a single tenable deposition of a representative of the estate when one person says these 20 categories are in the scope and another plaintiff's attorney says, "I just need to know about my client's allegations," which by the way -- and, again, I think Ms. Kaplan's view is the more reasonable one.

And if I can -- I think it's related -- pardon me for just an extra moment. You know, one of the other cases that I don't think lines up with the others and which you may have discerned a disagreement, there's relatively speaking, I think there is a lot of -- more agreement than disagreement in the proposed discovery schedules. And one place where we don't see eye to eye with the Bois Schiller firm is that in the Annie Farmer case they sued defendant

Maxwell. They've made a motion to approve alternate service. I don't know what the status is. I don't believe there's been an opposition yet. I don't know if one's due yet. But I don't see why that case should move forward at the same pace with discovery when, as they stated in their papers, it's inevitable in their mind that Maxwell will have to deal with this case. So they're going to have another defendant who might have nothing to do with coming after things are already done and then want to do depositions and document requests. We just said hey, why don't we build in some extra time, an extra 30 days of our proposal for that action, which I think is absolutely reasonable, given where they stand with serving Maxwell.

MS. McCAWLEY: Your Honor, just two things very briefly. First on the characterization of our discovery, I want to be very clear we took our Rule 26 disclosure responsibilities very seriously, and we identified those individuals who witnessed the crime, were around at the time, would have information that's relevant -- directly relevant to those claims. So they are fulsome in the sense that we took that obligation seriously, and we put that forth in our disclosures. That's different than who we will necessarily call at trial, but we did comply with that obligation. So he's talking about politicians and famous

people. That is just the realm of what was going on in the circumstance, so if one of our clients came into contact with that person, they were listed on the Rule 26 disclosures.

With respect to Maxwell, our motion for alternative service is -- under the general reference order is before your Honor. We have had that same issue in other cases. In Judge Koeltl's case, similarly, she would not accept service, and we got the motion for alternative service granted there. She has active counsel litigating in front of Judge Preska two weeks ago, fighting to not disclose documents. This is not an individual who cannot be -- who is not found through her counsel. While we can't physically find her right now, she is actively litigating in this courthouse. And so what we've asked this Court to do is grant alternative service, which we think is abundantly reasonable, considering that we've served her in her email address, we've tried to go to the locations where we knew she had a residence, and we've approached her counsel, not only through email and phone, but also in person, and were denied the acceptance of service. So we believe that, you know, this is not supposed to be a cat-and-mouse chase; it's something where a defendant of this kind, through their counsel, should accept service. And we

believe we've taken all the steps necessary to move that forward. So we don't think that should be an impediment to moving discovery forward in our case.

THE COURT: All right.

MS. KAPLAN: Your Honor, I forgot to mention one thing, and I should mention it. The U.S. Attorney's Office of the Southern District is -- obviously is in possession of a lot of documents relevant to these claims, has been very cooperative and has told us all that there's a procedure where we can put in a form, and whatever documents they have, subject to grand jury secrecy requirements, will be produced in the cases. I just wanted to give them those kudos.

THE COURT: All right. Just as a side note, the two cases where discovery has been stayed, in light of what's happening in the Virgin Islands, they may end up unstayed. So I'm just going to address those separately since I don't have those counsel here today. We may need to get them on -- I'll just tell defense counsel we may need to get them on a discovery track, as well.

All right, so thank you, all, for background. I have, I don't know how many cases at this point, 16, maybe, in front of me.

MR. MOSKOWITZ: I counted 15, your Honor.

THE COURT: Well, there's going to be 16 because the one that was just filed before Judge Koeltl --

MR. MOSKOWITZ: Koeltl, okay. Then that would be --

THE COURT: -- I'm pretty sure that that's -- that was designated to Judge Moses; it will be redesignated to me. And I'm fairly certain Judge Koeltl will refer for general pretrial supervision, so -- and I think I have local counsel, at least, right here just as an observer today. So you might want to meet each other and talk about the case briefly.

Of these cases, a number of them are pending before district judges who have preferences in their individual rules regarding timelines for discovery, which may not be the same as what I typically do. Some of them do not. Judge Gardephe has the most stringent requirements. He generally likes fact discovery done in three months' time. Judges, as I have reviewed it, Nathan, Castel, Failla, Engelmayer, Schofield, Liman, and Woods like fact discovery done within four months, 120 days. And then there are a few judges who don't seem to have the individual preferences stated in their own scheduling orders that they like to put in place.

Given that I guess the majority of the district

judges whose cases these are ultimately like to see fact discovery within no more than four months' time, 120 days, and that pretty much accords with the range that I would -- I might go a little longer in some cases if they're really complex, I might go five or six, but four or less is certainly fine with me. It seems to me for starters I shouldn't go beyond the 120 days for fact discovery.

Now, let me just say this about any discovery deadlines that I set. A couple of things. One, it is not uncommon for lawyers to ask for extensions. Here is my general philosophy and approach with respect to requested discovery extensions. If you've been making diligent efforts to get discovery done, if something outside your control holds it up, you know, you're looking for documents from a third party who's being recalcitrant, someone falls ill, you know, something happens that really is not a matter of the parties not trying hard and counsel not trying hard, I'm reasonably generous about extensions. If it looks like you've been sitting on your hands, not really trying, then I'm less generous about extensions. So if you ask for an extension, expect to show me why you need it, that there's some good reason for it.

Settlement is another reason why it might make sense to extend the deadlines, even to stay deadlines,

depending upon what's going on. I don't want people to be wasting resources if cases are legitimately capable of being settled and if parties are seriously working on it and have some degree of optimism. If it looks pointless, there's no reason to stay a case or put things on hold or extend out deadlines; but if things get on track and you really want to focus on that instead of spending the resources on discovery, especially if it's joint, you come to me together and say, "This is what we are doing," I will certainly take a good look at that and may well move your deadlines out to give you a window to try to get the case resolved.

The other point I would make about discovery deadlines is especially when settlement is a possibility is that there is no magic about how discovery must be structured. People tend to go in kind of a lockstep order. And it makes sense you want documents produced before depositions so you can put the documents in front of the witnesses at depositions; everyone understands that. But there may be reasons why it makes sense to do something earlier and something else later, including the cost of it. If you're trying to save some resources and you think some particular discovery is more costly, you want to put it out, if an expert would be really useful for some reason,

usually that starts out in the process. Here I'm not sure how that works with this concept of a fund and claims. But there's no absolute reason why you must go exactly in a certain order. What we usually look for is are you all done by a certain point in time, not how did you get there. So if you want to modify interim deadlines among yourselves by stipulation, that's fine with me if the end comes in the same place. So, for example, on a deadline for a motion to amend, if I set a deadline, again, most of these judges have or many of them have sample scheduling orders that have 30 days. To me that doesn't make a huge amount of sense if there's really a potential for amendment because you at least, I would think, would need to serve initial document requests for interrogatories and get the responses back. But if you want to by stipulation agree to move something -- and you can always request to move an interim deadline if you can't get them to step on it -- what I care about more is where the end date comes out, where you're all ready to move onto the next stage.

So I'm going to start with that end date of 120 days in most of the cases, and I'll hear about exceptions when there should be exceptions, and then talk about interim deadlines within that period. That 120 days seems to have been agreed in Ms. Kaplan's case. There seems to

have been different proposals set forward in Ms. Wang's cases. Plaintiff was proposing June 10, which would be about that four-month period. Defendants were saying instead of June 10, June 30. I'm not sure I understand what the difference is realistically between June 10 and June 30. It's 20 days different. It doesn't seem to me to be huge at this point in the game. Why are you not agreeing on June 10 there and saying June 30? And in the case with Mr. Edwards, I've got June 30 as the agree date. Why did you kick it out beyond June 10?

MR. MOSKOWITZ: Sure. So for -- I agree that the 20 days doesn't really matter as much with respect to that one deadline. The difference with Ms. Wang that we had was kind of sequential over the whole period. And one of the differences we had that then impacted going backwards was, you know -- and some of the district judges do have this; I don't understand it. They insist -- Ms. Wang's firm insisted that expert reports coincide with the completion of fact discovery. I don't get that. You should finish discovery first and then, say, have 30 days for experts to then, based on all discovery, once it's completed, render initial reports and then have, in a case where it's not the most simple expert testimony, which this is not among those, in our view, have another 30 days for rebuttal

reports. We had disagreement on that. It kind of impacted everything from the start back to that point.

MR. WINTER: Just to be clear, we weren't saying that the expert discovery had to be finished by fact discovery; we were following the approach that the district judges had, which is fact discovery within four months, and then that ends also with the disclosures of the names of the experts, and then an additional period of time for the expert discovery.

THE COURT: No, both of your proposals -- just in your case, Ms. Wang, both your proposals have an expert discovery period following the close of fact discovery.

MS. WANG: Right.

THE COURT: You had June 10 and July 27. You had June 30 and August 31.

MS. WANG: Yes.

THE COURT: So just starting with the June 10 and June 30 -- and I'll also note that the parties seem to have agreed with June 30 in the five cases that Mr. Edwards has. Why June 30 when you've got all these judges that are saying --

MR. EDWARDS: Your Honor, we proposed 120 days, and we're trying to bring to you an agreement. I couldn't persuade counsel to agree to the 120 days. I, like you,

thought okay, 20 days is not the biggest deal, so to the extent that we can agree. But we would much prefer 120 days, and so --

THE COURT: All right, look, unless we have a case with an exception, I'm going to go with the 120 days, which will take us to, I'm assuming June 10. And so many people came up with that date, I'm assuming that is the 120-day mark. And, like I said, if you really need it, you can get an extension based on an actual need.

Hold on for a minute on expert discovery -- we'll talk about that separately.

The case where Ms. Maxwell has been named --

MS. McCAWLEY: Annie Farmer, that's the --

THE COURT: Right, right. That case, that motion, is in front of me. I've taken a quick look at it. I haven't taken a thorough look at it. My initial reaction is I'll likely grant the motion. I don't think it ought to hold up the discovery schedule. If there really is certain discovery in that case where you are concerned that if an attorney for Ms. Maxwell shows up on the scene is going to want to redo a deposition, you should be talking in that particular case about a scheduling of a particular deposition or something so it doesn't have to be redone. All right. But I don't think that that should alter the

basic time frame unless and until something happens that throws it off course.

As I understand on that case -- and I don't really want to hear argument on that motion particularly -- but I gather you have made efforts to locate her and have been unable to do so?

MS. McCAWLEY: That's correct, your Honor. We -- through investigation and also the other sources that we had of information of where she has been living.

THE COURT: Yes, I'm likely going to approve the alternate service, and I'll try to do that relatively soon. If I've had a problem with it, I will let counsel know; if I have a change of heart before I -- you're suddenly going (indiscernible).

All right, so amendments, deadlines for amendments. First of all, initial disclosures, if you've already done them, great. If you haven't already done them, within two weeks of today would be, I think, sensible for everybody. Does anybody have a problem with that?

MR. EDWARDS: No, your Honor.

MS. McCAWLEY: No, your Honor.

THE COURT: No. All right. So two weeks from today is what? Today is what, February 11? So February 25 for initial disclosures. Once you get in the initial

disclosures, which you already have in some cases, you should know what it is you need to ask for that you haven't already gotten. So I want a deadline for getting out your initial document requests and your initial interrogatories. I will let you all go outside of Local Rule 33.3A -- is it A? -- with the three categories of interrogatories. The first category of interrogatories, those really basic ones; and the second category, sort of what you ask throughout the rest of discovery; and the last category, the contention interrogatories, I'll let you skip the first category to have things move a little bit more efficiently. I really don't like those objections where you refuse to answer because it goes outside the local rule. Because all one has to do is serve another set, and then you have to answer. So it seems silly. That ought to help speed you up a little bit. That doesn't mean use interrogatories improperly. Don't ask interrogatories that call for long, narrative responses; you know, be sensible. But hopefully that will help the parties figure out if there is a potential amendment before the need for a 3(b)(6) witness, hopefully.

So you get in your initial disclosures. Some already have; others will have them by the 25th. The deadlines for getting out your initial document requests

and interrogatories should be soon after that. And, you know, a week after that would be March 3; two weeks after that would be March 10. Is there any reason you can't get those out, just the requests for things?

MR. MOSKOWITZ: That's fine. And I do have a question about that, your Honor. Ms. Wang served us before we even submitted to your Honor a joint proposed discovery schedule with discovery requests. I'm not going to rehash how we strongly found that to be improper. What should the deadline be for those?

THE COURT: Right.

MR. MOSKOWITZ: We agreed that, to avoid burdening your Honor, we agreed we'll --

THE COURT: Okay. All right. Okay. Okay.

MR. MOSKOWITZ: -- give it by February 28, but --

THE COURT: Hold on. Any issue -- if I set a deadline for the requests to go out, any problem with having those deemed to have been served as of that date?

MS. WANG: Well, your Honor, I just want to say we very carefully and thoroughly conducted a Rule 26(f) on January 8, and we then served discovery requests, which the rules allow for, on January 15. We didn't say you have to respond in 30 days. We came to an agreement with them that they would respond by February 28. So I don't see why we

can't stick to the agreement.

We're also going to get document requests from them and respond as quickly as possible. They've agreed that they would respond by the 28th, by February 28th, so I don't see --

THE COURT: No problem with that?

MR. MOSKOWITZ: That's fine, but I do want to correct. Yes, they did say 30 days. And I'm happy to share all correspondence with your Honor where we said, well, we need more time. And we thought -- and I can ask the Court now -- that it stood to reason that, since your Honor had said that one of the things that should be negotiated between counsel and then addressed with the Court were initial service of discovery requests -- that was in your order -- that it didn't make sense to us that you could already serve requests and it was improper. So I would like the additional time, actually.

THE COURT: Hold on. If you've already agreed that you can respond to these things by February 28, is there some reason you cannot?

MR. MOSKOWITZ: It's very burdensome. It can be done. If we had a little more time, it would be better.

THE COURT: Is it burdensome to the extent that you feel you need to negotiate the scope, in which case you

should be conferring in good faith to negotiate the scope?

MR. MOSKOWITZ: We will do so. That is part of the problem.

THE COURT: Well, respond to the extent you're able to do so by the 28th, since you've already agreed to that. I'm not going to undo that agreement. And in general, if you have -- what do I have here on these different proposals? Let me set them out next to each other. You have March 12 for the most part; you're agreeing to serve by March 12, is that right? Am I reading this right, counsel?

MR. MOSKOWITZ: I'm sorry, I don't know what your Honor's looking at.

THE COURT: Requests -- I'm sorry -- a deadline for service of initial document requests and interrogatories. You gave me different variations of proposals. I'm trying to summarize them and put them next to each other. Am I looking at the right date, that you were agreeing to do that by March 12?

MR. MOSKOWITZ: With -- I trust you mean in Ms. Wang's actions?

THE COURT: No.

MS. WANG: No.

MR. MOSKOWITZ: That's my confusion.

MS. WANG: I don't believe for most of our judges we only needed to put in a discovery deadline. And then, as your Honor advised, we can sort of work throughout within those four months how things are done. But I don't believe there's a deadline for that, but -- (Stopped talking.)

MS. McCAWLEY: Your Honor, this is Sigrid McCawley again. Our five, we did have for the initial interrogatories and document requests, the March 12 date. And then they had proposed -- they didn't agree with that one because 60 days from the entry.

THE COURT: I thought a few of you had proposed March 12.

MS. KAPLAN: Yes, we had proposed 30 days from entry of the order, as well, your Honor.

THE COURT: Which would be March 12?

MS. KAPLAN: If I'm looking at the date correctly, yes.

THE COURT: Okay. So, look, here's what makes sense to me. You get your initial disclosures done. If you've already done them, great; if not, by two weeks. Two weeks is February 25. At most, the initial requests should go out within two weeks after you get back -- after you get in the initial disclosures. You see what you've got, you

figure out what else you need, you serve your requests. If you can do it sooner, that would be great. If you can do it within a week of that, that's March 3. If you need two weeks, March 10. I'll go with March 10, since a lot of you are proposing March 12. So March 10 for service of initial document requests and interrogatories. If you have already agreed to something, in one case perhaps or in a series of cases -- I'm not sure -- where the requests were served already and you've negotiated a time to respond, live with that. If you have issues that come up along the way, you'll raise them. So if you get them out by March 12 -- I'm sorry -- by March 10, you're going to get in responses to those hopefully by April 9.

Now, here's the thing: the motion to amend deadline. You're getting in those responses by April 9. It doesn't make sense to me to have a motion to amend deadline of a month earlier than that. It just doesn't really make sense. So I am -- and here's another thing about that. If there's a motion to amend -- I'm sorry -- if there's a proposed amendment and your adversary isn't going to fight it, isn't going to oppose it if you make a motion, I'm not going to require you to make the motion. It's silly. There's not going to be an opposition. So if you think you have a potential amendment, draft it up, send

it to your adversary saying, "Would you oppose it?" If the answer is, "No, I wouldn't oppose it," just let me know there would not be an opposition. It's not the same thing as consenting; it's just not opposing. If there's not going to be an opposition, I'll just take it for filing; I will not require a motion. If there is going to be an opposition, then I need a motion for leave to amend.

So the deadline I want to set is for motions. So you have to back it up in your head and think, I have to draft it, send it to my adversary, give him a chance to let me know if he's objecting or not; if there is an objection, I've got to draft up a motion. So if you're getting in the responses to the initial document requests and interrogatories in the middle of April and you need time to figure out if there is an amendment, logically, end of April makes sense for motions to amend. I'd be inclined to set April 30 for that deadline. Anybody have a problem with that?

MR. EDWARDS: No, your Honor.

MR. MOSKOWITZ: No, your Honor.

THE COURT: All right, April 30. And the reason why I'm doing it and not sticking with the earlier date is because I know we have at least one amendment in one case. I'm seeing different names of different defendants in these

cases. I think there is a possibility in at least some of the cases. If there's not going to be an amendment, fine; the date comes, the date goes, there's no amendment.

If you need more time to figure out if there is an amendment, put your hand in the air before that date comes and ask for it to be extended. That deadline in particular, of all the deadlines in a case scheduling order, can come back and bite you because under Rule 15, amendments are very freely granted in the court. But under Rule 16, if you miss a deadline in a scheduling order, you have to show good cause why you couldn't have met the deadline. So if you miss a deadline for a motion to amend, you're not in Rule 15 land anymore, you are in Rule 16 land first. If you can't show good cause, that leave to amend is freely given standard can go out the window. All right? So if something comes up that you really could not have anticipated, some new name of some new person or new entity you couldn't have known about comes up late, you'll have good cause and you'll be able to meet a Rule 16 standard. But if it's something where it's right there in the document staring you in the face earlier, someone might say hey, you could have anticipated that sooner, you may be stuck under Rule 16 not being able to show good cause for a late amendment. So if you really think you might need to

amend and you really are worried about that deadline, say something before it runs, don't wait until later because you may end up being caught. All right? It's another reason to move it out a little bit further so we try to avoid those issues.

All right, close of fact discovery, June 10. I'll deal with any exceptions, if you think your case has some extraordinary reason why these shouldn't be the deadlines, separately. But for the most part, June 10.

And expert discovery, what kind of experts are we talking about here? On plaintiffs' side, what kind of experts?

MS. WANG: For my plaintiffs, it would be emotional harm, mental health experts.

THE COURT: All right, anyone else have any other sort of experts in mind?

MS. McCAWLEY: And that's the same for us, as well.

THE COURT: And how about defendants' side, what kind of experts do you think you might --

MR. MOSKOWITZ: It would be rebuttal experts, your Honor.

THE COURT: Okay. So are you confident that you would have such experts; it's just a matter of waiting to

see what plaintiffs' experts say? So, in other words, okay, you would want to have examinations done?

MR. MOSKOWITZ: Yes, correct.

THE COURT: Do you want for the examinations to have the plaintiffs' reports in hand before the examinations are done?

MR. MOSKOWITZ: That's exactly right, your Honor, to understand specifically. I mean, one of the issues we're having, discovery hasn't started yet in earnest, so it's not something to fully address now, but is a lack of understanding of what are the alleged damages, in which category, which is, unfortunately, a sneak preview, something that I don't see eye to eye with, the completeness of initial disclosures in that regard on plaintiffs' side. So to answer your question, yes, for those reasons and others, I would like to see the expert reports first and have an opportunity to do a full rebuttal.

THE COURT: All right, and on plaintiffs' side, this doesn't sound like the kind of expert that would need fully discovery before you can have your clients examined and have a report about emotional distress, is that right?

MS. McCAWLEY: That's correct.

MR. EDWARDS: I think that's right, your Honor.

THE COURT: Because usually, in most cases I would say get the fact discovery done, and then 30 days after the close of fact discovery, have an expert report. That's not really what's needed here?

MS. McCAWLEY: No.

MS. KAPLAN: That's correct, your Honor.

MS. WANG: That's correct.

THE COURT: Is there any case represented by any plaintiffs' counsel where you don't think you could get out the expert report the same time the fact discovery is done?

MS. McCAWLEY: I think that's fine.

THE COURT: Does anyone think that's going to be a problem, to get it done by June 1? Then I can have defendants 30 days after that, and we're not too slowed down.

MR. EDWARDS: Okay.

THE COURT: Yes?

MS. McCAWLEY: Right.

THE COURT: Okay.

MR. EDWARDS: Thank you.

THE COURT: June 10 for plaintiffs' expert reports. Thirty days thereafter would take us to July 10. The good thing about this schedule is you don't end up with experts in August. Having experts in August is almost a

guarantee of falling behind on a schedule. So July 10 for rebuttal experts. End of July to get these people deposed if they're going to be deposed. July 31? Close of all discovery, July 31.

I would not be surprised if some of these dates move, but that's not an invitation to go slowly. The only invitation to go slowly is if the settlement process heats up, and then I expect you to let me know about that and that it's realistic and that there's, you know, agreement on the need to slow down the cases to try to get the settlement process moving. But, other than that, if that's still stalled, I don't see any reason why we can't stick to a schedule like this.

Now, on cases where there's any other extraordinary circumstances, I already addressed the one with the additional defendant who hasn't been served. Other than the scope of discovery requests, is there any reason why in any of these defendants or anybody else thinks there should be a different schedule?

MR. MOSKOWITZ: No, your Honor.

THE COURT: Okay. With respect to the scope of discovery, I anticipate some discovery disputes. Again, it's not an invitation; I just expect that they will come along. I enforce the good-faith conference requirement.

By that I mean you have to really talk to each other, and you have to really see if you can resolve your discovery disputes or at least narrow them before you bring them to my attention. That doesn't mean you send somebody an email and you don't get a response right away. It means you pick up the phone, you talk to each other, you work through them. Right? Pet peeve -- don't have this happen -- I get a letter, motion to compel, all this detail; I get an opposition, all this detail; I get a reply saying in light of what's said in opposition, never mind on some of these issues. I've wasted my time, you've wasted your time. That just tells me there's a failure of good-faith conferences. So, really, on any discovery requests, have that conversation. What's the heart of what you're really looking for? How can we get you that without undue burden? How can we prioritize? Can we get you this first and can we produce the rest on a rolling basis? Here's why this is a burden. Here are some ideas to ways to, you know, alleviate that burden.

With respect to ESI, you have been -- I'm not sure if I've seen things come across my desk or not. You've been talking about protocols?

MR. MOSKOWITZ: We've been negotiating with, again, each group of plaintiffs' counsel, protective order,

and have agreed that it makes sense to have a standard ESI protocol. And that -- I believe we're in agreement that there should be a standard Clawback Provision in the protective order. So as I sit here now, I don't foresee an inability to come to agreement on those issues.

Don't know how many email accounts you've got access to?

MR. MOSKOWITZ: Yeah, it's -- among the many discussions that counsel need to have with each other are what they think needs to be searched, why, etc. So to answer your question, I don't know how many there are that matter, if any.

THE COURT: Well, if it was something in Jeffrey Epstein's control, presumably it needs to be searched, and you're going to have to figure out how to get access.

MR. MOSKOWITZ: Correct.

THE COURT: But if you've got other individuals, if they're named defendants and they have email accounts or other social media accounts --

MR. MOSKOWITZ: I only represent the co-executors of the estate related to the alleged torts. I mean, we've heard a lot about these other people who are out there, just to be clear for --

THE COURT: There are some other defendants named

in some of these papers --

MR. MOSKOWITZ: Well, there are entities in Mr. Edwards'. And what I -- to my knowledge -- and I'm still looking into it -- I don't think that that changes the landscape in those actions in terms of what emails are potentially subject to review.

THE COURT: But you're representing these entities?

MR. MOSKOWITZ: Yes, correct. They're all part of the estate.

THE COURT: Okay.

MR. MOSKOWITZ: I was speaking more about -- you know, there's been discussion about the addition of Maxwell, Kellen and others --

THE COURT: No, I wasn't assuming you were representing that person. Okay.

MS. KAPLAN: Judge Freeman --

THE COURT: Yes.

MS. KAPLAN: -- one thing that may be helpful -- and we've encountered this issue in my Charlottesville litigation recently -- is it would be helpful to know from the estate whether there are any email accounts or other accounts that Mr. Epstein was -- were in his name that they do not have passwords to. In other words, do they actually

have access to be able to search all the email accounts that he had, any social media accounts, texts, etc.

THE COURT: It's a conference issue first.

MS. KAPLAN: Okay.

THE COURT: I mean, look, ESI is a subject you should be having conversation on. You don't want to have requests, be responding in a limited way, have plaintiffs' counsel surprised at the way in which you're responding, have them jump up and down and say there were a million other accounts that should have been searched. You know, if you see something you anticipate you're not going to be able to do everything that's being asked for, well, you should be having conversation. If you know of certain accounts and you're concerned there may not be passwords, you should be having conversations, try to talk about those issues. If you run into a discovery issue, you have conferred fully in good faith, you can't work it out, whoever's got the issue, put a letter on ECF and tell me what the issue is. I'll wait for a response. If I can resolve it on paper, I will. I might just do a text order or something if it's easy. Or I'll set up a conference to deal with that issue. These issues might start varying case by case; they might not. If I'm seeing issues across the board or in a number of cases, we'll do something like

this.

If I'm seeing a discrete issue in a particular case, I might have a conference just in that case to deal with it, if I need to. I'm hoping that you are going to be able to confer. You've been able to confer about other things so far. I'm hoping you'll be able to confer on discovery disputes and get them at least as narrow as possible. If you really are stuck on something, don't send me one of these letters that's all, you know, waving your arms around in general terms. If there's a particular request where you think the response is inadequate, one side or the other, tell me what the request is, tell me what the response was, tell me what your discussion has been, tell me where you're stuck; you know, let me look at it, let me understand each side's position. Joint letters on discovery are always welcome that lay out here's the dispute, here's each side's position. A million letters back and forth and back and forth and back and forth endlessly is not welcome. All right. One letter, one response is fine. Joint letters are great. You know, suddenly being overwhelmed with, you know, 20 letters on one dispute is unnecessary, and I hope you will avoid that kind of approach.

Is it useful to set -- this is a rhetorical

question -- of course, it's useful -- to set a follow-up date for a report on how it's going, both with respect to settlement and with respect to discovery, just to give me an idea of how it's going? Yes, I think so. So the question is what's the right touch-base point?

MR. MOSKOWITZ: Well, in terms of the claims program issues, I think the next 30 days are going to have a lot of movement one way or the other. I don't necessarily know that that's the case with discovery.

THE COURT: Well, when there is a meaningful development, I think a report would be in order. So if something -- I don't mean every single development, but something really significant as in "we're back on track" or, you know, "we can't litigate this case anymore because the lawyers are not being funded," something significant, regardless of any date I set, let me know.

MR. MOSKOWITZ: Okay.

THE COURT: Otherwise, maybe we gear it to when you're expecting to get responses in on the written discovery requests, just to see how things are looking at that point, maybe you have a little better idea.

With respect to deposition -- by the way, what was that date? That was -- that was right, middle of April. Why don't we say end of April? If nothing else, I

get status reports. I'd welcome clusters of them. Whatever makes the most sense. April 30 for status reports, written status reports. Joint would be nice. In fact, why don't I just say that? Joint status reports in these different cases.

MS. KAPLAN: When you say "joint," your Honor, you mean plaintiff and defendant?

THE COURT: Plaintiff and defendant, right. So you can have -- if you have five cases on plaintiffs' one counsel, you can send me one and so it's spread across five cases. If you can do a joint one with all the lawyers, that's lovely, but that -- you know, I don't want to make things impossible for you. But at least joint with defendant. The way you did the joint reports on settlement was fine. I had four of them or something. That's fine.

What was I going to say? I do not remember what I was going to say. What was I going to say? Was I start -- my clerk tells me I was starting to talk about depositions. I don't know what I was going to say. Oh, I do. So one reason why discovery schedules get extended is people don't plan early enough for what's coming later. So if you know who needs to be deposed, you can start talking about it. You can open your calendars, you can

start talking about availability of witnesses. You can sketch out a plan how you're going to get these things done by June 10.

So it sounds like May will be a month when you'll be involved in depositions. Figure out sooner rather than later what witnesses' availability would be for May. With respect to someone like a 30(b)(6) witness where it may make sense to have one deposition attended by multiple counsel, talk about that sort of thing. That won't be a one-day deposition; you've got too many lawyers who want to ask questions. How many days it should be, how that should be structured, talk about it; see if you can come up with a plan, reserve some time for it. But if you wait until the end of April to start talking about how you're going to conduct depositions in May, you're going to find oh, this person's not available or this other person has some commitment or whatever.

So the sooner you can block out time, come up with, you know, a general plan of how this is all going to happen, the better, because otherwise, I'll be hearing at the end of May, "We have two weeks left on our schedule, and we don't have dates yet for depositions." And that's -- (indiscernible) litigation, try to avoid it by advanced planning. If any depositions involve travel, figure it

out sooner rather than later. Try to make the plans ahead of time. If there are witnesses who are going to take the Fifth, try to find that out; try to, you know, identify who you're talking about. Try to find out on your side if that's going to happen, let plaintiffs' counsel know. It will affect the planning, it will affect overall scheduling. You know, everybody's schedules will benefit from that kind of communication. All right? The most effective litigation in terms of efficiency are the ones where the lawyers, you know, sit down, open their calendars -- old-fashioned? -- you know, smartphones, whatever they are, and try to figure it out. All right? Especially if you want to coordinate any depositions. Right? You've got a lot of people; start talking about it sooner rather than later. All right?

Okay. Anybody have anything else for me? Are there any other cases where I should diverge from this schedule in any way? Probably not, right?

MR. EDWARDS: No, your Honor.

THE COURT: All right, I will issue --

MS. WANG: I'm sorry to interrupt. I don't have anything on the schedules. I just wanted to flag that there was one set of briefing around which we jointly submitted a briefing schedule and your Honor just said

that you had wanted an update on settlement discussions before entering that order. So I can just point out that it's --

THE COURT: That's fine. I know what that is.

MS. WANG: It's in the Davies case.

THE COURT: That's fine. Even though I said I was -- I might well set different schedules in each case, I don't really see the need to do that. So you're on the same track. You know, it may happen that, you know, one or two of them or three or four of them end up on a different schedule as we go, but for now let's keep them where they are. And hopefully, all of that good-faith conference you're going to have about discovery will help keep you moving along. If not, you know where I am. All right?

MR. MOSKOWITZ: Thank you.

THE COURT: Thank you, all. Good luck with the settlement fund concept. I'm rooting for you.

(Whereupon, the matter is recessed.)

C E R T I F I C A T E

I, Carole Ludwig, certify that the foregoing transcript of proceedings in the case of VE v. Nine East 71st Street et al, Docket #19-cv-07625-AJN-DCF, was prepared using digital transcription software and is a true and accurate record of the proceedings.

Signature Carole Ludwig

Carole Ludwig

Date: February 13, 2020