

FILED

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
ALEXANDRIA DIVISION

2003 APR -3 P 3:18

CLERK US DISTRICT COURT
ALEXANDRIA, VIRGINIA



UNITED STATES OF AMERICA

vs.

ZACARIAS MOUSSAOUI,

Defendant.

ABC, INC., ASSOCIATED PRESS, THE
HEARST CORPORATION, THE NEW
YORK TIMES COMPANY, THE
REPORTERS COMMITTEE FOR
FREEDOM OF THE PRESS, TRIBUNE
COMPANY AND THE WASHINGTON
POST,

Movants-Intervenors.

Criminal No. 01-455-A

**MOVANTS-INTERVENORS' MOTION TO INTERVENE
FOR THE LIMITED PURPOSE OF BEING HEARD IN CONNECTION WITH ACCESS
TO CERTAIN PORTIONS OF THE RECORD AND MEMORANDUM IN SUPPORT**

Come now Movants-Intervenors ABC, Inc., Associated Press, The Hearst Corporation, The New York Times Company, The Reporters Committee for Freedom of the Press, Tribune Company and The Washington Post (together, the "Media Intervenors") and, for their motion for leave to intervene in this proceeding for the limited purpose of being heard in connection with access to certain portions of the record, and for their memorandum in support thereof, respectfully state:

1. This is a criminal prosecution instituted by the United States against Zacarias Moussaoui in connection with the terrorist attacks on the United States on September 11, 2001.



The level of public interest in and concern with the substantial issues regarding national security and administration of justice presented by the case cannot be overstated.

2. ABC, Inc., alone or through its subsidiaries, owns and operates the ABC Television Network, the ABC Radio Network, 62 local radio stations and 10 television stations that regularly gather and report news to the public. It also produces and distributes news programming, including World News Tonight with Peter Jennings, 20/20 and Nightline.

3. The Associated Press, founded in 1848, is the world's oldest and largest newsgathering organization, providing content to more than 15,000 news outlets. Its multimedia services are distributed by satellite and the Internet to more than 120 nations.

4. The Hearst Corporation is a diversified, privately held media company that publishes newspapers, consumer magazines and business publications. Hearst also owns a leading features syndicate, has interests in several cable television networks, produces movies and other programming for television and is the majority owner of Hearst-Argyle Television, Inc., a publicly held company that owns and operates numerous television broadcast stations.

5. The New York Times Company publishes The New York Times, a national newspaper distributed throughout New York State and the world. Its weekday circulation is the third highest in the country at approximately 1.1 million, and its Sunday circulation is the largest at approximately 1.7 million. The Company also publishes sixteen other newspapers, including The Boston Globe, and owns and operates eight television stations and two radio stations.

6. Tribune Company, through its publishing, broadcasting, and interactive operations, publishes eleven market-leading newspapers, including the Baltimore Sun, the Chicago Tribune, the Los Angeles Times and Newsday, owns and operates twenty-four

television stations, and operates a network of local and national Web sites that ranks among the top twenty-five news and information networks in the United States.

7. The Reporters Committee for Freedom of the Press is a voluntary, unincorporated association of reporters and editors that works to defend the First Amendment rights and freedom of information interests of the news media. The Reporters Committee has provided representation, guidance and research in First Amendment and Freedom of Information Act litigation since 1970.

8. The Washington Post is a newspaper of general circulation in the metropolitan Washington, D.C. area that reports on matters of local, regional and national interest. It is owned by The Washington Post Company, which, through its subsidiaries, owns six network-affiliated television stations and numerous cable television systems and publishes a weekly magazine, *Newsweek*.

9. For the reasons set forth more fully in the memorandum accompanying the Media Intervenors' contemporaneous motion for access to certain portions of the record herein, they respectfully submit that the sealing in their entirety of certain portions of the record in this action does not strike the correct balance between the government's legitimate law enforcement/security interests and the public's First Amendment and common law rights of access to judicial records.

10. Intervention is the appropriate vehicle for news organizations and other members of the public to vindicate their access rights in the context of criminal proceedings. *See, e.g., In re Washington Post Co.*, 807 F.2d 383 (4th Cir. 1986); *In re Knight Publ'g Co.*, 743 F.2d 231 (4th Cir. 1984). As the Supreme Court and the Court of Appeals both have emphasized, a news organization moving to intervene in these circumstances must be afforded a prompt and full

hearing on such a motion. *See, e.g., Globe Newspaper Co. v. Superior Court*, 457 U.S. 596, 609 n.25 (1982) (media and public “must be given an opportunity to be heard” on questions relating to access) (citation omitted); *Rushford v. New Yorker Magazine, Inc.*, 846 F.2d 249, 253-54 (4th Cir. 1988) (same). Indeed, on more than one occasion in this proceeding, this Court has recognized that news organizations and other members of the public may intervene for such purposes. *See, e.g.,* September 16, 2002 Order, Docket No. 525 (“movants, as news organizations, have the right to be heard on the issues raised in their substantive motion”).

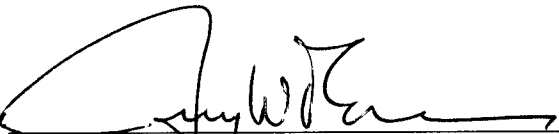
11. Because the premises for this motion are fully set forth herein, the Media Intervenor have not filed a separate memorandum.¹

WHEREFORE, the Media Intervenor respectfully request that the Court enter an order granting their motion for leave to intervene for the limited purpose stated herein.

Dated: April 3, 2003

Respectfully submitted,

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¹ Although not necessarily applicable to the instant motion, in compliance with Local Rule 7(D), counsel for the Media Intervenor has conferred with counsel for the United States and stand-by counsel for defendant, neither of which objects to this motion to intervene. Media Intervenor are not able to ascertain the position of the defendant with regard to this motion.

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CERTIFICATE OF SERVICE

I hereby certify that, on this 3rd day of April 2003, I caused true and correct copies of the foregoing Motion to Intervene and Memorandum in Support to be served by the means indicated, upon the defendant *pro se* and counsel for the parties as follows:

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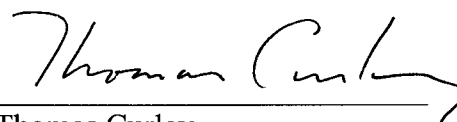
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