

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Alexandria Division

UNITED STATES OF AMERICA,)
) Criminal No. 01-455-A
v.)
)
ZACARIAS MOUSSAOUI,)
)
)
)
Defendant.)

DEFENDANT'S NON-CONFIDENTIAL MEMORANDUM ACCOMPANYING ITS
MOTION FOR A PROTECTIVE ORDER PROVIDING PROSPECTIVELY FOR FILING
DOCUMENTS UNDER SEAL PURSUANT TO LOCAL RULE 49(E)

The Defendant, Zacarias Moussaoui, by counsel and pursuant to Local Rule 49(E) of the Local Criminal Rules for the United States District Court for the Eastern District of Virginia, asks for an Order sealing the document attached to this Motion to Seal.

I. Items to be Sealed and Necessity for Sealing

1. The defendant asks the Court to seal the document attached to his Motion to Seal.

2. Sealing is necessary in order that the defendant not be forced to reveal to the public at-large the identities of phase II witnesses and their addresses. There are no other procedures which will protect this information from disclosure to the public at large prior to trial.

II. Previous Court Decisions Which Concern Sealing Documents

3. The Court has the inherent power to seal materials submitted to it. See *United States v. Wuagneux*, 683 F.2d 1343, 1351 (11th Cir. 1982); *State of Arizona v. Maypenny*, 672 F.2d 761, 765 (9th Cir. 1982); *Times Mirror Company v. United States*,

873 F.2d 1210 (9th Cir. 1989); *see also* *Shea v. Gabriel*, 520 F.2d 879 (1st Cir. 1975); *United States v. Hubbard*, 650 F.2d 293 (D.C. Cir. 1980); *In re Braughton*, 520 F.2d 765, 766 (9th Cir. 1975). "The trial court has supervisory power over its own records and may, in its discretion, seal documents if the public's right of access is outweighed by competing interests." *In re Knight Pub. Co.*, 743 F.2d 231, 235 (4th Cir. 1984).

The public does not have a legitimate interest in knowing the identities and addresses of phase II witnesses prior to phase II.

III. Period of Time to Have the Document Under Seal

4. The materials to be filed under seal would need to remain sealed. There is no public interest in discovering the addresses of phase II witnesses.

WHEREFORE, the Defendant respectfully requests that an Order be entered allowing the document attached to his motion to be placed Under Seal. An appropriate Order is attached.

Respectfully submitted,
ZACARIAS MOUSSAOUI
By Counsel

/s/

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 28th day of February 2006, a true copy of the foregoing pleading was served upon AUSA Robert A. Spencer, AUSA David J. Novak and AUSA David Raskin, U.S. Attorney's Office, 2100 Jamieson Avenue, Alexandria, VA 22314, by placing a copy BY HAND in the box designated for the United States Attorney's Office in the Clerk's Office of the U.S. District Court for the Eastern District of Virginia and by FACSIMILE upon same to 703-299-3982 (AUSA Spencer), 804-771-2316 (AUSA Novak) and 212-637-0099 (AUSA Raskin).

/s/

Anne M. Chapman