

WAVE TO FILE GRANTED

C. N. Coffey USDS
4/19/22

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA,

Plaintiff,

v.

MICHAEL A. SUSSMANN,

Defendant.

Criminal Case No. 21-582 (CRC)

**NON-PARTY FUSION GPS'S MOTION TO INTERVENE FOR THE LIMITED
PURPOSE OF RESPONDING TO THE GOVERNMENT'S MOTION TO COMPEL
THE PRODUCTION OF PURPORTED PRIVILEGED COMMUNICATIONS
FOR *IN CAMERA* INSPECTION BY THE COURT**

Non-party Fusion GPS respectfully requests the Court to permit it to intervene for the limited purpose of responding to the Government's Motion to Compel the Production of Purported Privileged Communications for *In Camera* Inspection by the Court (ECF No. 64). Fusion GPS's proposed Opposition Brief, supporting declaration, and exhibits, are attached hereto as Exhibit A.

Fusion GPS is the holder of the privileged documents that are the subject of the Government's Motion. In response to the Government's Grand Jury Subpoena, Fusion GPS withheld these documents as protected by the attorney-client privilege and work product protections because they are related to its work at the direction of the law firm Perkins Coie. If granted, the Government's Motion would require Fusion GPS to turn over documents in its possession over which the privilege holders maintain and assert privilege. Therefore, Fusion GPS has standing to intervene in this proceeding and oppose a motion that would require it to produce privileged communications in its possession. *See United States v. Martoma*, 962 F. Supp. 2d 602, 605-06 (S.D.N.Y. 2013) ("[I]t is settled law that persons affected by the disclosure of allegedly privileged materials may intervene in pending criminal proceedings.") (collecting cases). Federal

courts permit third parties to intervene in criminal proceedings in certain circumstances, including for the protection of privilege. *United States v. Scully*, No. SA:10-cr-00593, at *2 (W.D. Tex. July 2, 2013).

For the foregoing reasons, Fusion GPS respectfully requests that the Court allow it to intervene for this limited purpose.

Dated: April 18, 2022

Respectfully submitted,

/s/ Joshua A. Levy
Joshua A. Levy (D.C. Bar No. 475108)
Rachel M. Clattenburg (D.C. Bar No. 1018164)
Kevin P. Crenny (D.C. Bar No. 1765044)
LEVY FIRESTONE MUSE LLP
900 17th Street NW, Suite 1200
Washington, DC 20006
Tel: (202) 845-3215
Fax: (202) 595-8253
jal@levyfirestone.com
rmc@levyfirestone.com
kcrenny@levyfirestone.com

Counsel for Non-Party Fusion GPS

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on April 18, 2022, the foregoing Motion and accompanying Proposed Order and Exhibit were sent by email to the Clerk of the Court and to all counsel of record.

/s/ Joshua A. Levy
Joshua A. Levy