

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
WEST PALM BEACH DIVISION**

CASE NO. 22-81294-CIV-CANNON

DONALD J. TRUMP,

Plaintiff,

v.

UNITED STATES OF AMERICA,

Defendant.

**THE NEWS MEDIA’S REPLY/NOTICE THAT THEIR JOINT
MOTION TO INTERVENE IS RIPE FOR ADJUDICATION**

Proposed Intervenors American Broadcasting Companies, Inc.; the Associated Press; Bloomberg LP; Cable News Network, Inc. (“CNN”); CBS Broadcasting Inc.; Dow Jones & Company, Inc., publisher of *The Wall Street Journal*; the E.W. Scripps Company; *The Palm Beach Post*, a newspaper owned and operated by Gannett Co., Inc.; Gray Media Group, Inc., d/b/a WCJB-TV, WJHG-TV, and WWSB-TV; NBCUniversal Media, LLC; The New York Times Company; Times Publishing Company, publisher of the *Tampa Bay Times*; and WP Company LLC d/b/a *The Washington Post* (collectively, the “News Media”), hereby give notice that their joint motion to intervene in this matter for the limited purpose of seeking access to judicial documents, filed on August 31, 2022 (ECF No. 49, the “Motion”), can now be deemed submitted and ready for adjudication.

As set forth in the Motion, the Government did not oppose the News Media’s intervention in this matter, and Former President Donald Trump took no position. *See* ECF No. 49 at pp. 14-15. Per Local Rule 7.1(c)(1), if any memoranda in opposition to the Motion were to

be filed, they were due no later than September 14, 2022. As of this filing, no such memoranda have been filed. Thus, the News Media aver that the Motion is presently ready for this Court's consideration.

The News Media further note that certain records remain under seal in this matter, namely those docketed at ECF No. 40. The News Media understand ECF No. 40 to contain the Government's submission regarding its Privilege Review Team's Notice of Status of the Filter Process. The Government filed a motion to unseal that document (less Exhibits A and B to that filing) on September 8, 2022. *See* ECF No. 71. The News Media filed a further motion to unseal that court record on September 9, 2022. *See* ECF No. 79.

Beyond the court records currently under seal, the News Media anticipate public access issues to future court records and proceedings may arise within the Special Master review process ordered by this Court. *See* Order Appointing Special Master, ECF No. 91. First, while this Court's Order Appointing Special Master states that "all written scheduling plans, orders, reports, and recommendations, along with any additional information that the Special Master believes will assist the Court in reviewing" such records are to be "file[d] on the docket," submitted documents deemed "potentially privileged, confidential, or national security material" are to be automatically filed under seal. *See* ECF No. 91 at p. 5. Further, the Government has suggested *any* filings related to that process be kept under seal. *See* ECF No. 48 at p. 34 ("Any documents that reflect the special master's rulings, including orders, privilege logs, or other records, should be preserved and filed under seal with the Court but made available to both parties. Fed. R. Civ. P. 53(b)(2)(C)."). The Order Appointing Special Master also requires the Special Master to "make ex parte reports to the Court on an ongoing basis" with regard to the resolution of any privilege disputes between the parties. *See* ECF No. 91 at p. 6. The Order

further permits the ex parte receipt of materials by the Special Master, along with authorization to communicate with the Court ex parte. *See* ECF No. 91 at p. 6. Such procedures also raise potential public access concerns for the News Media.

Limited intervention in this matter of heightened public interest involving current and former government officials is critical. Public access issues remain for which intervention is proper and for which the News Media presently have a right to be heard. *See, e.g., Comm'r, Ala. Dep't of Corr. v. Advance Local Media, LLC*, 918 F.3d 1161, 1170 (11th Cir. 2019). The News Media therefore respectfully request that this Court grant the Motion.

Dated: September 16, 2022

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on September 16, 2022, a true and correct copy of the foregoing document is being electronically filed and will be furnished via CM/ECF to the following:

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