IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS

HORACE B. EDWARDS, et al.,	)	
	)	
Plaintiffs,	)	
	)	
v.	)	Case No. 14-cv-02631-JAR-TJJ
	)	
EDWARD JOSEPH SNOWDEN, et al.,	)	
	)	
Defendants.	)	

DEFENDANTS' MEMORANDUM IN OPPOSITION TO PLAINTIFF'S MOTION TO STAY THE DISTRICT COURT'S ORDER (DOC. 17) PENDING APPEAL

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Mr. Edwards' motion for a stay of this Court's Order denying his motion to seal this Court's copy of the Academy Award winning documentary *CITIZENFOUR*, pending appeal, should be denied. In his motion, Mr. Edwards once again misstates the facts and the law. In fact, his authorities support the Documentary Film Defendants' arguments, rather than undermine them. As a result, he cannot show the required likelihood of success on the merits necessary to support a stay. Additionally, Mr. Edwards is unable to show that he will suffer any legally cognizable injury as a result of this Court's failure to stay its Order denying his request that the documentary—which has now been nationally broadcast repeatedly to the more than 43 million subscribers of the HBO television network—be kept under seal on this Court's docket. Finally, the public interest is plainly not served by keeping the documentary—which raises real and substantial questions about the government's use of widespread surveillance in the name of keeping the country safe—under "lock and key" in the Clerk's office.

Instead, Mr. Edwards' motion—which was not filed until **after** the Tenth Circuit had summarily denied the motion for stay he filed in the Court of Appeals on February 20, 2015—is but further evidence of Mr. Edwards' counsel's vexatious litigation tactics.

I. The Standard for a Motion for Stay Pending Appeal.

As has become his practice in this case, Mr. Edwards' motion fails to lay out the framework for analysis regarding a motion for a stay pending appeal. In evaluating a motion for a stay pending appeal, a court examines: (1) whether the applicant has made a strong showing of likely success on the merits of its appeal; (2) whether the applicant may be irreparably injured absent a stay; (3) whether issuance of a stay will substantially injure the other parties interested in the proceedings; and (4) the public interest. *See Hil-*

ton v. Braunskill, 481 U.S. 770, 776 (1987); *McClendon v. City of Albuquerque*, 79 F.3d 1014, 1020 (10th Cir. 1996).

II. Mr. Edwards Has No Likelihood of Success on the Merits.

Mr. Edwards cannot succeed on the merits, because the authorities he cites either (1) are not applicable in the context of a civil lawsuit between private parties, or (2) are decidedly against his position. Amazingly, Mr. Edwards claims there was "a lack of candor by defense counsel on the legal precedent related to the issue of how classified information is declassified. . . ." ECF No. 29 at 4. However, if there is any lack of candor here, it is on the part of Mr. Edwards' counsel. Mr. Edwards' motion to require sealing *CITIZENFOUR* did not raise the question of "how classified information is declassified," but rather concerned the legal standard in this Circuit for filing materials in a civil lawsuit under seal—the very relief Mr. Edwards' motion sought. *See* ECF No. 15 at 1. Rather than present the Court with relevant authorities addressing this question, Mr. Edwards cited to Executive Order No. 13526 and *Wilson v. CIA*, 586 F.3d 171 (2d Cir. 2009). *See* ECF No. 15 at 1. Neither is controlling—or even relevant—law, because neither states that materials that are "classified" cannot be publicly filed in a dispute between private litigants. In fact, both authorities suggest the opposite, as Mr. Edwards' counsel failed to explain.

First, while Executive Order No. 13526 sets forth a framework for classification and declassification of documents by the federal government and its agents, it explicitly "does not create any right or benefit, substantive or procedural, enforceable at law by a party against the United States, its departments, agencies, or entities, its officers, employees, or agents, ***or any other person***." Exec. Order No. 13526 § 6.2(d), 75 Fed. Reg. 707 (Dec. 29, 2009) (emphasis added). Mr. Edwards tellingly failed to disclose this disposi-

tive part of the Executive Order to the Court, and thus misrepresented it as relevant authority. By its plain terms, the Executive Order does not give Mr. Edwards any right to require this Court or the Documentary Film Defendants to file materials under seal. Perhaps this is why Mr. Edwards omits any mention of Executive Order No. 13526 from his present motion.

Second, Mr. Edwards' citation to *Wilson v. CIA*, 586 F.3d 171 (2d Cir. 2009) is equally misleading. In that case, the plaintiff—who was formerly employed by and subject to a secrecy agreement with the CIA—sought declaratory relief that *she* had a First Amendment right to publish a memoir concerning her work at the CIA. *Id.* at 174. Central to her argument was a letter she received from the CIA that stated the dates of her CIA service, including pre-2002 service dates. *Id.* at 177-78, 181. This letter was not marked classified, and was "incorporated into the *Congressional Record* and is now permanently available to the public, both in print and on the Internet." *Id.* Shortly thereafter the CIA informed Ms. Wilson that it had mistakenly failed to mark the letter "Classified" and that the information contained in the letter, most notably her pre-2002 service dates, "remains classified." *Id.* at 181. The Court of Appeals agreed, holding that the pre-2002 dates of Ms. Wilson's employment identified in the letter from the CIA properly remained classified and thus could not be included *by her* in *her* memoir. *Id.* at 187-196.

Importantly, the classified letter was nonetheless attached as "Exhibit A" to Ms. Wilson's complaint, and was—and still is—publicly available on the PACER website. (Ex. 1 at ¶¶ 5-9). It was *never* sealed. Moreover, the very same information that the Second Circuit found remained classified ***was also disclosed in the court's opinion***. Thus, while the court held that Ms. Wilson, who remained subject to her secrecy agree-

ment, could not disclose that classified information, the court itself had no problem quoting the classified letter multiple times, *see Wilson*, 586 F.3d at 181, and the concurring opinion even contains a verbatim recitation of the letter, including the "classified" dates of Ms. Wilson's pre-2002 employment:

> Dear Mrs. Wilson, This letter is in response to your recent telephone conversation with regarding [sic] when you would be eligible to receive your deferred annuity. Per federal statute, employees … who have acquired a minimum of 20 years of service, are eligible to receive their deferred annuity at their Minimum Retirement Age….
>
> Following is a list of your federal service:
>
> Dates of Service: CIA … from 11/9/1985 to 1/9/2006—total 20 years, 7 days….
>
> Please let me know if I can be of any further assistance.

Id. at 197. The fact that the Second Circuit revealed in its own opinion the very information it found properly classified undercuts any argument Mr. Edwards might make that *Wilson v. CIA* somehow stands for the proposition that this Court may not maintain supposedly classified information on its docket, even when that same information is widely available on the internet and in theaters.

Third, Mr. Edwards' subsequent citation to *United States v. Ressam*, 221 F. Supp. 2d 1252 (W. D. Wash. 2002), is equally misplaced. *See* ECF No. 28 at 2. That was a criminal prosecution where the documents at issue were "submitted as part of an *ex parte, in camera* hearing to determine whether . . . information in the Government's possession is discoverable." *Id.* at 1258. The court followed the procedures of the Classified Information Procedures Act, 18 U.S.C. app. 3 ("CIPA"), which applies only to "classified information disclosed by the United States to any defendant in any criminal case." *Id.* § 3. Mr. Edwards is not the United States and this is not a criminal case.

Finally, it should be repeated that Mr. Edwards—who has no qualifications of any sort to discern what is, and is not, classified information—has not made any showing that the information revealed in *CITIZENFOUR* is still classified. While he repeatedly (and incorrectly) states that the Documentary Film Defendants have "admitted" that the information revealed in *CITIZENFOUR* is classified, *see* ECF No. 29 at 3–4, the Documentary Film Defendants have not made any such admission and have no way of knowing whether information that may have been classified when revealed by Mr. Snowden over a year and a half ago *remains* classified.

As such, notwithstanding Mr. Edwards' claim that this Court committed "clear error" when it denied his motion to seal, *see* ECF No. 20 at 2, the applicable legal authority clearly supports the Court's ruling. Accordingly, Mr. Edwards cannot show the necessary likelihood of success on the merits required to support his request for a stay.

III. Mr. Edwards Has Identified No Legally Cognizable Injury.

Mr. Edwards will suffer no injury by the Court denying his motion to stay. His motion complains of a "continuing injury through repetition of classified, stolen information that reaches a broader constituency of extremists with each showing," ECF No. 29 at 5, and cites "research summarizing measurable negative activity by al-Qaeda and splinter groups following the Snowden disclosure" as evidence of his injury. *Id.* at 3. Mr. Edwards apparently is saying that he faces an increased future risk of injury by a terrorist attack, because when Mr. Snowden initially disclosed the information as depicted in *CITIZENFOUR*, terrorist groups responded by using increased encryption techniques. Even if Mr. Edwards could somehow show that terrorists are intent on coming into the Clerk's office in Kansas City, Kansas to review the Court's copy of the DVD—as op-

posed to simply watching the film on HBO—Mr. Edward's tortured argument does not support a claim of irreparable harm; in fact, it is not even sufficient to confer standing.

In *Clapper v. Amnesty International USA*, plaintiffs were individuals "whose work . . . require[d] them to engage in sensitive international communications with individuals who they believed are likely targets of surveillance under [50 U.S.C.] § 1881a." 133 S. Ct. 1138, 1142 (2013). That statute allows warrantless wiretapping of "individuals who are not 'United States persons' and are reasonably believed to be located outside the United States." *Clapper*, 133 S. Ct. at 1142. Plaintiffs challenged it as unconstitutional, and sought an injunction prohibiting surveillance, arguing they had standing "because there is an objectively reasonable likelihood that their communications will be acquired under § 1881a at some point in the future." *Id.* at 1143.

The Supreme Court flatly rejected that argument, explaining that plaintiffs' "theory of *future* injury is too speculative to satisfy the well-established requirement that threatened injury must be 'certainly impending.'" *Id.* at 1143 (quoting *Whitmore v. Arkansas*, 495 U.S. 149, 158 (1990)). The Court explained:

> [Plaintiff's] argument rests on their highly speculative fear that: (1) the Government will decide to target the communications of non-U.S. persons with whom they communicate; (2) in doing so, the Government will choose to invoke its authority under § 1881a rather than utilizing another method of surveillance; (3) the Article III judges who serve on the Foreign Intelligence Surveillance Court will conclude that the Government's proposed surveillance procedures satisfy § 1881a's many safeguards and are consistent with the Fourth Amendment; (4) the Government will succeed in intercepting the communications of respondents' contacts; and (5) respondents will be parties to the particular communications that the Government intercepts.

Id. at 1148. The same is true here.

Even assuming *CITIZENFOUR* contains presently classified information that could allow terrorists to more easily evade detection by the government: (1) the terrorists would

still have to independently decide to target Mr. Edwards or some location where he is likely to be, (2) the terrorists would have to decide to communicate about their planned attack through electronic means, (3) the terrorists would have to utilize enhanced encryption techniques resulting from disclosures in *CITIZENFOUR*, (4) the U.S. Government would have to fail to take steps to break those enhanced encryption techniques (of which Mr. Edwards' own evidence shows, they are already aware), (5) the U.S. Government would have to fail to learn the plot and stop it through the myriad of other intelligence gathering techniques available to it, (6) the terrorists would have to succeed in executing their plot, and (7) Mr. Edwards would have to be at the location of the attack. This causal chain is far too attenuated to constituted a "certainly impending" risk.

A. Dismissal for Lack of Subject Matter Jurisdiction is Appropriate.

The Court has an independent duty to examine whether it has subject matter jurisdiction over cases, and may do so *sua sponte*. *See U.S. ex rel. King v. Hillcrest Health Ctr., Inc.*, 264 F.3d 1271, 1281–82 (10th Cir. 2001); *see also* Fed. R. Civ. P. 12(h)(3) ("If the court determines at any time that it lacks subject-matter jurisdiction, the court must dismiss the action"). Far from showing that he would suffer irreparable injury from *CITIZENFOUR* remaining on the Court's docket, Mr. Edwards arguments supporting irreparable harm show he lacks standing to bring any case in connection with the documentary. Therefore, the Court should immediately dismiss this action.

IV. The Public Interest is Not Served by Keeping the Documentary under "Lock and Key."

As this Court noted in its Order denying the motion to seal, the "paramount" interest served in having open court files is "the interest of the public." ECF No. 17 at 1. The Supreme Court has recognized this right of access in "the citizen's desire to keep a

watchful eye on the workings of public agencies" and in "a newspaper publisher's intention to publish information concerning the operation of government." *Nixon v. Warner Commc'ns, Inc.*, 435 U.S. 589, 597 (1978). Additionally, the Documentary Film Defendants' First Amendment rights are also at issue, and "vindicating First Amendment freedoms is clearly in the public interest." *Pac. Frontier v. Pleasant Grove City*, 414 F.3d 1221, 1237 (10th Cir. 2005).

As such, the public interest is plainly not served by keeping court files under seal in any case. In this case, however, the public interest in keeping this Court's files open is even more compelling, given the subject matter of the both the lawsuit and the files Mr. Edwards wants sealed, *i.e.*, the Court's files containing the DVD of the Academy Award winning documentary *CITIZENFOUR* and its transcript. As the Supreme Court has explained, the very purpose of open government records "is to ensure an informed citizenry, [which is] vital to the functioning of a democratic society, [and] needed to check against corruption and to hold the governors accountable to the governed." *NLRB v. Robbins Tire Co.*, 437 U.S. 214, 242 (1978).

V. Counsel's Vexatious Litigation Tactics.

As noted above, Mr. Edwards' request that this Court stay its Order denying his motion to seal was not filed until **after** he filed with the Tenth Circuit Court of Appeals on Friday, February 20, 2015, a 218-page "EMERGENCY MOTION FOR EXPEDITED REVIEW OF ORDER DENYING MOTION TO SEAL CLASSIFIED DOCUMENTS," which the Court of Appeals summarily denied that afternoon. (Ex. 2). Then, at 1:44 p.m. on Sunday, February 22, 2015, Mr. Edwards' counsel filed the instant motion with this Court, in which she wrote that she was filing the motion "for the purpose of … establishing the condition precedent of filing for a Motion to Stay in the District Court [sic] on the

Order at issue (Doc. 17) based upon the belief that this Motion to Stay in this District Court may have been unintentionally overlooked.'" ECF No. 28 at 1.

To begin with, it is apparent that counsel misspoke when she stated that she filed the instant motion "for purpose of … establishing the condition precedent of filing for a Motion to Stay *in the District Court*;" clearly, counsel was instead referring to the Court of Appeals. Yet despite this claim—and without waiting for this Court to rule on her motion to stay—the same afternoon she filed her motion with this Court, she filed with the Court of Appeals her "PETITION FOR REHEARING" and requesting 'EMERGENCY RELIEF … BEFORE FIVE P.M. SUNDAY CST FEBRUARY 22, 2015." (Ex. 3).

As such, her claim to this Court that her motion to stay was filed in order to establish a condition precedent for filing in the Court of Appeals was simply not true—she did wait for this Court to even consider her motion to stay before filing again with the Court of Appeals.[1] Moreover, even after the Court of Appeals again summarily denied her request for rehearing (*see* Ex. 4), she has failed to withdraw the instant motion—despite having had nearly two weeks to have done so.

Given these facts, Mr. Edward's counsel's claims of "good faith" and her express disclaimers of the elements of a violation of 28 U.S.C. § 1927 (*i.e.*, her claims that her motion "is not make [sic] for any improper purposes, to increase the costs of litigation or harass any party," ECF No. 28 at 1) are a classic case of "[t]he lady doth protest too much, methinks." WILLIAM SHAKESPEARE, HAMLET, Act 3, scene 2, 218.

[1] It should also be noted that Mr. Edward's counsel was not forthright with the Court in suggesting that she had previously filed a "Motion to Stay" which "may have been unintentionally overlooked." ECF No. 28 at 1. As this Court made clear in its February 19, 2015 Order regarding the lengthy e-mail the Court received from Mr. Edward's counsel, no motion of any sort (whether for reconsideration, stay, or otherwise) had been filed by Mr. Edwards concerning the Court's denial of his motion to seal. ECF No. 27 at 2.

Respectfully submitted,

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CERTIFICATE OF SERVICE

The undersigned certifies that a true and correct copy of the foregoing was served via the Court's ECF System this 6th day of March, 2015 on the following:

Jean Lamfers
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Shawnee, KS 66218

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Attorney for Defendants Praxis Films, Inc., Laura Poitras, Participant Media, LLC, Diane Weyermann, Jeffrey Skoll, and The Weinstein Company LLC

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS

HORACE B. EDWARDS, et al.,	)	
	)	
Plaintiffs,	)	
	)	
v.	)	Case No. 14-cv-02631-JAR-TJJ
	)	
EDWARD JOSEPH SNOWDEN, et al.,	)	
	)	
Defendants.	)	

DECLARATION OF BERNARD J. RHODES

I, Bernard J. Rhodes, declare:

1. I am a member of the Bar of this Court and am counsel to Defendants Praxis Films, Inc., Laura Poitras, Participant Media, LLC, Diane Weyermann, Jeffrey Skoll and The Weinstein Company LLC.

2. I have both a "Public Access to Court Electronic Records" ("PACER") account and a separate "Case Management/Electronic Court Filing" ("CM/ECF") account.

3. Using my PACER account, I can access, via the official www.pacer.gov website, the same federal court records that any PACER accountholder can access—this includes members of the public, press, etc. In other words, you do not have to be either a lawyer or a member of the Bar of any particular court to access the same federal court records I can access using my PACER account.

4. Using my PACER account, on February 20, 2015, I accessed, via www.pacer.gov, the District Court files in Valerie Plame Wilson v. J. Michael McConnell, Case No. 07-cv-04595-BSJ, in the Southern District of New York.

EXHIBIT
1

5. Among the files I accessed was the Complaint (ECF No. 1), which has attached to it "Exhibit A" (ECF No. 1-2) and "Exhibit B" (ECF No. 11-3).

6. Exhibit A is the complete February 10, 2006, letter from the CIA to Ms. Wilson, as incorporated into the *Congressional Record*. This exhibit is not under seal, and is available to any PACER accountholder. A true and accurate copy of ECF No. 1-2 is attached to this Declaration as Exhibit 1.

7. Exhibit B is a heavily redacted copy of the same February 10, 2006, letter from the CIA to Ms. Wilson, which is marked "SECRET."

8. I also accessed the Declaration of Ms. Wilson's attorney which he submitted in support of Ms. Wilson's motion for summary judgment (ECF No. 11), which has attached to it as Exhibit A-1 another copy of the complete February 10, 2006, letter from the CIA to Ms. Wilson, as incorporated into the *Congressional Record*. (ECF No. 11-3). This exhibit is not under seal, and is available to any PACER accountholder. A true and accurate copy of ECF No. 11-3 is attached to this Declaration as Exhibit 2.

9. I also accessed the Reply Declaration of Ms. Wilson's attorney which he submitted in support of Ms. Wilson's motion for summary judgment (ECF No. 26), which had attached to it as Exhibit A still another copy of the complete February 10, 2006, letter from the CIA to Ms. Wilson, as incorporated into the *Congressional Record*. (ECF No. 26-2). This exhibit is not under seal, and is available to any PACER accountholder. A true and accurate copy of ECF No. 26-2 is attached to this Declaration as Exhibit 3.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on this 20th day of February, 2015.

/s/ Bernard J. Rhodes
Bernard J. Rhodes

EXHIBIT 1

Valerie Plame Wilson v. J. Michael McConnell
Case No. 07-cv-04595-BSJ
Southern District of New York
ECF No. 1-2

(Obtained from www.pacer.gov)

Exhibit A

will do nothing, just as previous Congresses have done nothing. Nancy Pelosi promises to "build a better future for all of America's children." If she were serious, she would back cuts in Social Security and Medicare. President Bush calls "entitlement spending" the central budget problem. If he were serious, he, too, would propose cuts in Social Security and Medicare.

They are not serious, because few Americans—particularly prospective baby-boom retirees—want them to be. There is a consensus against candor, because there is no constituency for candor. It's no secret that the 65-and-over population will double by 2030 (to almost 72 million, or 20 percent of the total population), but hardly anyone wants to face the implications:

By comparison, other budget issues, including the notorious earmarks, are trivial. In 2005, Social Security, Medicare and Medicaid (the main programs for the elderly) cost $1.034 trillion, twice the amount of defense spending and more than two-fifths of the total federal budget. These programs are projected to equal about three-quarters of the budget by 2030, if it remains constant as a share of national income.

Preserving present retirement benefits automatically imposes huge costs on the young—costs that are economically unsound and socially unjust. The tax increases required by 2030 could hit 50 percent, if other spending is maintained as a share of national income. Or much of the rest of government (from defense to national parks) would have to be shut down or crippled. Or budget deficits would balloon to quadruple today's level.

Social Security and Medicare benefits must be cut to keep down overall costs. Yes, some taxes will be raised and some other spending cut. But much of the adjustment should come from increasing eligibility ages (ultimately to 70) and curbing payments to wealthier retirees. Americans live longer and are healthier. They can work longer and save more for retirement.

Because I've written all this before, I can anticipate some of the furious responses from prospective retirees. First will be the "social compact" argument: We paid to support today's retirees; tomorrow's workers must pay to support us. Well, of course they will pay; the question is how much. The alleged compact is entirely artificial, acknowledged only by those who benefit from it. My three children (ages 16 to 21) didn't endorse it. Judging from the e-mail I receive, neither did many 20- or 30-somethings.

Next I'll hear that the Social Security and Medicare trust funds, intended to cover future benefits, have been "plundered." Blame Congress and the White House—not us. This is pure fiction.

Social Security, Medicare and Medicaid are pay-as-you-go programs. Present taxes pay present benefits. In 2005, 86 percent of Social Security payroll taxes went to pay current retirees' benefits. True, excess taxes had created a "surplus" in the Social Security trust fund (it hasn't been "plundered") of $1.66 trillion in 2005; but that equaled less than four years' worth of present benefits. More important, Medicare and Medicaid represent three-quarters of the projected spending increase for retirees by 2030.

All the misinformation bespeaks political evasion. With his rhetorical skills, Clinton might have raised public understanding. Instead, he lowered it by falsely denouncing the Republicans for attempting to "destroy" Medicare. The first refuge of good Democrats is to accuse the Republicans of conspiring against old folks by trying to dismantle Social Security and Medicare. And Bush's credibility is shot because he made the problem worse. His Medicare drug benefit increases spending, and though it could have been justified as part of a grand bargain that reduced other benefits, its isolated enactment was a political giveaway.

The failure to communicate also implicates many pundits and think tanks, liberal and conservative. Pundits usually speak in bland generalities. They support "fiscal responsibility" and "entitlement reform" and oppose big budget deficits. Less often do they say plainly that people need to work longer and that retirees need to lose some benefits. Think tanks endlessly publish technical reports on Social Security and Medicare, but most avoid the big issues. Are present benefits justified? How big can government become before the resulting taxes or deficits harm the economy?

Opportunities for gradual change have been squandered. These public failings are also mirrored privately. I know many bright, politically engaged boomers who can summon vast concern or outrage about global warming, corporate corruption, foreign policy, budget deficits and much more—but somehow, their own Social Security and Medicare benefits rarely come up for discussion or criticism. Older boomers (say, those born by 1955) are the most cynical, hoping their benefits will be grandfathered in when inevitable cuts occur in the future.

Our children will not be so blind to this hypocrisy. We have managed to take successful programs—Social Security and Medicare—and turn them into huge problems by our self-centered inattention. Baby boomers seem eager to "reinvent retirement" in all ways except those that might threaten their pocketbooks.

[From The Dallas Morning News, June 8, 2006]

DEEP IN THE BUDGET HOLE—BIPARTISAN PANEL COULD HELP COUNTRY DIG OUT

When you're almost $10 trillion in the hole, you've got to call somebody, right?

Fortunately, GOP Rep. Frank Wolf has a suggestion to deliver us from the gates of budget hell. The Virginia legislator introduced legislation yesterday that would establish a bipartisan commission charged with presenting the choices required to balance the budget.

The panel would function like the commission that former Texas GOP Rep. Dick Armey launched to close down unnecessary military bases. An independent group would give Congress a budget package, which legislators would vote up or down on unless the House and Senate come up with better solutions.

President Bush proposed a version of this approach earlier this year when he called for a bipartisan commission to recommend how Washington can control runaway spending on Social Security, Medicare and other big guaranteed programs.

But Mr. Wolf understands that the budget challenges are not all about spending. They also involve taxes and how much revenue the Treasury needs to pay for the services Americans demand.

In an encouraging sign, White House economic adviser Allen Hubbard recently acknowledged that any bipartisan panel probably would look at taxes.

He wasn't saying the White House is backing off its fondness for tax cuts, but it was a Washington way of saying, "Let's look at the whole range of choices."

We encourage North Texas representatives to line up as sponsors of Mr. Wolf's legislation and help get it through the House this summer. (The delegation's chief deficit fighter, GOP Rep. Jeb Hensarling of Dallas, told us last week that he wants to look at the proposal.)

It's time Washington reaches out for help.

By the numbers: $9.6 trillion: The amount of debt Congress recently authorized the Treasury to borrow (the limit was $6.4 trillion four summers ago); $2.8 trillion: The likely 2007 federal budget; $399 billion: Next year's interest expense on the federal debt; $27,000: What every man, woman and child would owe to eliminate the federal debt; 37.4 percent: How much of the gross domestic product the federal debt consumes.

[From the Orlando Sentinel, June 12, 2006]

GET ON WITH IT

Our position: A panel on Medicare and other issues would get needed talks started.

Finally, someone in Congress has taken up President Bush's call for a bipartisan commission on the looming financial crisis if no changes are made to Medicare, Medicaid and Social Security.

Unchecked growth in the cost of these programs in coming decades will devastate the economy by forcing some combination of huge tax increases, drastic spending cuts or massive borrowing.

This past week, Republican Rep. Frank Wolf of Virginia proposed a panel aptly named SAFE, to secure America's future economy. Its bipartisan experts would deliver a package of recommendations to Congress for an up-or-down vote.

Mr. Wolf says he is open to suggestions on his proposal. Members unwilling to support it have a moral obligation to come forward with something they deem better.

INTRODUCTION OF THE VALERIE PLAME WILSON COMPENSATION ACT

HON. JAY INSLEE

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 16, 2007

Mr. INSLEE. Madam Speaker, I rise today to bring to the attention of Congress one of the human impacts caused by the indiscretion of government officials regarding the covert identity of Central Intelligence Agency operative Valerie Plame Wilson.

As nearly every American knows, and as most of the world has heard, the covert CIA identity of Valerie Plame Wilson was exposed to the public as part of an Administration response to a critical op-ed published in the New York Times by Mrs. Plame Wilson's husband, Joe Wilson.

The national security ramifications for this act have been discussed thoroughly on this floor, in the news media, and I am quite certain behind CIA's closed doors. Today I intend to call my colleagues' attention to the human toll that this "outing" has had on one, often overlooked, individual. That person is Valerie Plame Wilson.

While the media, Congress, and the judiciary have gone to great lengths to discuss the impact of this unfortunate act on politicians, bureaucrats, agents in the field, and the suspected perpetrators of the outing, few have looked at the impact that the outing has had on Mrs. Plame Wilson and her family.

On July 14, 2003, Mrs. Plame Wilson's professional life was forever altered, and her CIA career irrevocably ruined by the syndicated publication of a column, which revealed Mrs. Plame Wilson's identity as a covert CIA officer. Since this time, numerous reports on Mrs. Plame Wilson's personal history have surfaced

in the press, official government documents, and by government officials.

Following the initial outing in the media, Mrs. Plame Wilson's future as a covert CIA operative ceased to exist and her career of two decades was destroyed. On January 9, 2006, Mrs. Plame Wilson resigned from the CIA, recognizing that any future with the Agency would not include any work for which she had been highly trained. For these reasons, and under these distressing conditions, Mrs. Plame Wilson voluntarily resigned from the Agency.

Despite Mrs. Plame Wilson's 20 years of federal service, she does not meet the minimum age requirement to receive her retirement annuity. She has been left without a career.

I am introducing legislation to allow Mrs. Plame Wilson to qualify for her annuity, as one who has served her country for two decades, and waive the age requirement for collecting it. To best demonstrate the annuity for which Mrs. Plame Wilson may qualify if this legislation were to pass, I am submitting for the record a document sent to Mrs. Plame Wilson by the CIA. It outlines her deferred annuity and testifies to 20 years of service. The document bears no indications of classified material as required by CIA procedures, and was sent via regular postal mail after Mrs. Plame Wilson was no longer in the employ of the CIA. Legal experts have assured me that this is not a classified document.

I believe that this is one small measure to help send a message that we must stand up for public service officers, such as Mrs. Plame Wilson, who have been treated wrongly despite their loyalty and sacrifice to country. For those who have been, for all practicable purposes, pushed out of public service for reasons unrelated to performance, but instead seeded in politics, we should not turn our backs.

CENTRAL INTELLIGENCE AGENCY,
Washington, DC, February 10, 2006.

Mrs. VALERIE WILSON

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Sincerely,

TRIBUTE TO THE REVEREND JAMES D. PETERS

HON. DIANA DeGETTE

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 16, 2007

Mr. DEGETTE. Madam Speaker, I rise to honor the extraordinary life and exceptional accomplishments of the Reverend James D. Peters, Pastor of New Hope Baptist Church. This remarkable gentleman merits both our recognition and esteem as his spiritual leadership, service and lifelong devotion to civil rights have done much to advance the lives of our people.

While many have made notable contributions to our community, few have left a legacy of progress as has Reverend Peters. He is a powerful champion of social justice and has led with those who fought for civil liberty and whose deeds changed the very fabric of our nation. Reverend Peters has touched countless lives and he has built a ministry that joins faith with equality. He is a dynamic pastor whose teaching and counsel is infused with a spiritual fervor that constantly edifies us and moves us to do what is right.

Reverend Peters' journey began in Washington D.C., the son of a baseball player. He grew up poor but he grew up in church. He was a gifted student and grew to recite Longfellow, Keats and Kipling. He worked full time at the Navy Annex near the Pentagon and struggled to get an education, attending night school for ten years. Reverend Peters recently noted that "I couldn't eat in restaurants, I couldn't sleep at a hotel or go to the movies. I could never go to school with white children. All the way through high school, I never sat in a classroom with white people, not until I went to college." Many of us in this country forget how far we've come. Although civil liberties have deep roots in our republic, there was a time when fundamental decency and equality for all people were not a part of our shared experience. The courage and the work of Reverend Peters during the dark days of the Civil Rights Movement helped make fairness and equal rights part of our shared values. Reverend Peters was at the founding meeting of the Southern Christian Leadership Conference and he worked directly with Dr. Martin Luther King, Jr. He faced guns and dogs during the marches and civil rights demonstrations in Albany, Georgia, in Selma and in Birmingham, Alabama. He was part of the March on Washington that led to the steps of the Lincoln Memorial where Dr. King gave his unparalleled "I Have a Dream" speech.

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INTRODUCTION OF THE VALERIE PLAME WILSON COMPENSATION ACT -- (Extensions of Remarks - January 16, 2007)

[Page: E118]

SPEECH OF

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OF WASHINGTON

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- Mr. INSLEE. Madam Speaker, I rise today to bring to the attention of Congress one of the human impacts caused by the indiscretion of government officials regarding the covert identity of Central Intelligence Agency operative Valerie Plame Wilson.

- As nearly every American knows, and as most of the world has heard, the covert CIA identity of Valerie Plame Wilson was exposed to the public as part of an Administration response to a critical op-ed published in the New York Times by Mrs. Plame Wilson's husband, Joe Wilson.

- The national security ramifications for this act have been discussed thoroughly on this floor, in the news media, and I am quite certain behind CIA's closed doors. Today I intend to call my colleagues' attention to the human toll that this ``outing'' has had on one, often overlooked, individual. That person is Valerie Plame Wilson.

- While the media, Congress, and the judiciary have gone to great lengths to discuss the impact of this unfortunate act on politicians, bureaucrats, agents in the field, and the suspected perpetrators of the outing, few have looked at the impact that the outing has had on Mrs. Plame Wilson and her family.

- On July 14, 2003, Mrs. Plame Wilson's professional life was forever altered, and her CIA career irrevocably ruined by the syndicated publication of a column, which revealed Mrs. Plame Wilson's identity as a covert CIA officer. Since this time, numerous reports on Mrs. Plame Wilson's personal history have surfaced

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- Despite Mrs. Plame Wilson's 20 years of federal service, she does not meet the minimum age requirement to receive her retirement annuity. She has been left without a career.

- I am introducing legislation to allow Mrs. Plame Wilson to qualify for her annuity, as one who has served her country for two decades, and waive the age requirement for collecting it. To best demonstrate the annuity for which Mrs. Plame Wilson may qualify if this legislation were to pass, I am submitting for the record a document sent to Mrs. Plame Wilson by the CIA. It outlines her deferred annuity and testifies to 20 years of service. The document bears no indications of classified material as required by CIA procedures, and was sent via regular postal mail after Mrs. Plame Wilson was no longer in the employ of the CIA. Legal experts have assured me that this is not a classified document.

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EXHIBIT 2

Valerie Plame Wilson v. J. Michael McConnell
Case No. 07-cv-04595-BSJ
Southern District of New York
ECF No. 11-3

(Obtained from www.pacer.gov)

Exhibit A-1

Exhibit A

will do nothing, just as previous Congresses have done nothing. Nancy Pelosi promises to "build a better future for all of America's children." If she were serious, she would back cuts in Social Security and Medicare. President Bush calls "entitlement spending" the central budget problem. If he were serious, he, too, would propose cuts in Social Security and Medicare.

They are not serious, because few Americans—particularly prospective baby-boom retirees—want them to be. There is a consensus against candor, because there is no constituency for candor. It's no secret that the 65-and-over population will double by 2030 (to almost 72 million, or 20 percent of the total population), but hardly anyone wants to face the implications:

By comparison, other budget issues, including the notorious earmarks, are trivial. In 2005, Social Security, Medicare and Medicaid (the main programs for the elderly) cost $1.034 trillion, twice the amount of defense spending and more than two-fifths of the total federal budget. These programs are projected to equal about three.quarters of the budget by 2030, if it remains constant as a share of national income.

Preserving present retirement benefits automatically imposes huge costs on the young—costs that are economically unsound and socially unjust. The tax increases required by 2030 could hit 50 percent, if other spending is maintained as a share of national income. Or much of the rest of government (from defense to national parks) would have to be shut down or crippled. Or budget deficits would balloon to quadruple today's level.

Social Security and Medicare benefits must be cut to keep down overall costs. Yes, some taxes will be raised and some other spending cut. But much of the adjustment should come from increasing eligibility ages (ultimately to 70) and curbing payments to wealthier retirees. Americans live longer and are healthier. They can work longer and save more for retirement.

Because I've written all this before, I can anticipate some of the furious responses from prospective retirees. First will be the "social compact" argument: We paid to support today's retirees; tomorrow's workers must pay to support us. Well, of course they will pay; the question is how much. The alleged compact is entirely artificial, acknowledged only by those who benefit from it. My three children (ages 16 to 21) didn't endorse it. Judging from the e-mail I receive, neither did many 20- or 30-somethings.

Next I'll hear that the Social Security and Medicare trust funds, intended to cover future benefits, have been "plundered." Blame Congress and the White House—not us. This is pure fiction.

Social Security, Medicare and Medicaid are pay-as-you-go programs. Present taxes pay present benefits. In 2005, 86 percent of Social Security payroll taxes went to pay current retiree benefits. True, excess taxes had created a "surplus" in the Social Security trust fund (it hasn't been "plundered") of $1.66 trillion in 2005; but that equaled less than four years' worth of present benefits. More important, Medicare and Medicaid represent three-quarters of the projected spending increase for retirees by 2030.

All the misinformation bespeaks political evasion. With his rhetorical skills, Clinton might have raised public understanding. Instead, he lowered it by falsely denouncing the Republicans for attempting to "destroy" Medicare. The first refuge of good Democrats is to accuse the Republicans of conspiring against old folks by trying to dismantle Social Security and Medicare. And Bush's credibility is shot, because he made the problem worse. His Medicare drug benefit increases spending, and though it could have been justified as part of a grand bargain that reduced other benefits, its isolated enactment was a political giveaway.

The failure to communicate also implicates many pundits and think tanks, liberal and conservative. Pundits usually speak in bland generalities. They support "fiscal responsibility" and "entitlement reform" and oppose big budget deficits. Less often do they say plainly that people need to work longer and that retirees need to lose some benefits. Think tanks endlessly publish technical reports on Social Security and Medicare, but most avoid the big issues. Are present benefits justified? How big can government become before the resulting taxes or deficits harm the economy?

Opportunities for gradual change have been squandered. These public failings are also mirrored privately. I know many bright, politically engaged boomers who can summon vast concern or outrage about global warming, corporate corruption, foreign policy, budget deficits and much more—but somehow, their own Social Security and Medicare benefits rarely come up for discussion or criticism. Older boomers (say, those born by 1955) are the most cynical, hoping their benefits will be grandfathered in when inevitable cuts occur in the future.

Our children will not be so blind to this hypocrisy. We have managed to take successful programs—Social Security and Medicare—and turn them into huge problems by our self-centered inattention. Baby boomers seem eager to "reinvent retirement" in all ways except those that might threaten their pocketbooks.

[From The Dallas Morning News, June 8, 2006]

DEEP IN THE BUDGET HOLE—BIPARTISAN PANEL COULD HELP COUNTRY DIG OUT

When you're almost $10 trillion in the hole, you've got to call somebody, right?

Fortunately, GOP Rep. Frank Wolf has a suggestion to deliver us from the gates of budget hell. The Virginia legislator introduced legislation yesterday that would establish a bipartisan commission charged with presenting the choices required to balance the budget.

The panel would function like the commission that former Texas GOP Rep. Dick Armey launched to close down unnecessary military bases. An independent group would give Congress a budget package, which legislators would vote up or down on unless the House and Senate come up with better solutions.

President Bush proposed a version of this approach earlier this year when he called for a bipartisan commission to recommend how Washington can control runaway spending on Social Security, Medicare and other big guaranteed programs.

But Mr. Wolf understands that the budget challenges are not all about spending. They also involve taxes and how much revenue the Treasury needs to pay for the services Americans demand.

In an encouraging sign, White House economic adviser Allen Hubbard recently acknowledged that any bipartisan panel probably would look at taxes.

He wasn't saying the White House is backing off its fondness for tax cuts, but it was a Washington way of saying, "Let's look at the whole range of choices."

We encourage North Texas representatives to line up as sponsors of Mr. Wolf's legislation and help get it through the House this summer. (The delegation's chief deficit fighter, GOP Rep. Jeb Hensarling of Dallas, told us last week that he wants to look at the proposal.)

It's time Washington reaches out for help.

By the numbers: $9.6 trillion: The amount of debt Congress recently authorized the Treasury to borrow (the limit was $6.4 trillion four summers ago); $2.8 trillion: The likely 2007 federal budget; $399 billion: Next year's interest expense on the federal debt; $27,000: What every man, woman and child would owe to eliminate the federal debt; 37.4 percent: How much of the gross domestic product the federal debt consumes.

[From the Orlando Sentinel, June 12, 2006]

GET ON WITH IT

Our position: A panel on Medicare and other issues would get needed talks started.

Finally, someone in Congress has taken up President Bush's call for a bipartisan commission on the looming financial crisis if no changes are made to Medicare, Medicaid and Social Security.

Unchecked growth in the cost of these programs in coming decades will devastate the economy by forcing some combination of huge tax increases, drastic spending cuts or massive borrowing.

This past week, Republican Rep. Frank Wolf of Virginia proposed a panel aptly named SAFE, to secure America's future economy. Its bipartisan experts would deliver a package of recommendations to Congress for an up-or-down vote.

Mr. Wolf says he is open to suggestions on his proposal. Members unwilling to support it have a moral obligation to come forward with something they deem better.

INTRODUCTION OF THE VALERIE PLAME WILSON COMPENSATION ACT

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The above figures are estimates for your planning purposes. The Office of Personnel Management, as the final adjudicator of creditable service and annuity computations, determines final annuity amounts. Please let me know if I can be of any further assistance.

Sincerely,

END

EXHIBIT 3

Valerie Plame Wilson v. J. Michael McConnell
Case No. 07-cv-04595-BSJ
Southern District of New York
ECF No. 26-2

(Obtained from www.pacer.gov)

Exhibit A

WOLLMUTH MAHER & DEUTSCH LLP
500 FIFTH AVENUE
NEW YORK, NEW YORK 10110

TELEPHONE (212) 382-3300
FACSIMILE (212) 382-0050

VIA FAX
(212) 805-6191

July 2, 2007

Hon. Barbara S. Jones
United States Courthouse
500 Pearl Street, Room 620
New York, NY 10007

Re: *Valerie Plame Wilson; Simon & Schuster, Inc. v. J. Michael McConnell, Director of National Intelligence; Central Intelligence Agency, et al.*, No. 07 CV 4595 (BSJ)

Dear Judge Jones:

My firm represents plaintiffs Valerie Plame Wilson and Simon & Schuster, Inc. and we write to inform the Court that the government defendants in the above-referenced action have designated a public domain "excerpt from the Congressional Record" as a "classified" document in the Administrative Record submitted by them in this proceeding. The Congressional Record excerpt was an exhibit to plaintiffs' complaint and is part of the public judicial record, but does not appear in defendants' *unclassified* Administrative Record even though it was an attachment to letters sent to defendant CIA and defendant McConnell. For the convenience of the Court, attached are (1) copies of pages E118-119 of the Congressional Record from January 16, 2007, which are understood by plaintiffs to comprise the excerpt referenced as "classified" by defendants; (2) the "Table of Contents for the Classified Administrative Record"; and (3) the "Notice of Filing of Classified Document."[1] Because the Court is now considering entry of the parties' proposed stipulation and protective order, plaintiffs respectfully bring to the Court's attention two important issues in connection with the proposed stipulation and protective order.

First, plaintiffs expressly reserved their right to dispute that the government defendants could properly designate a public domain document, such as an excerpt from the Congressional Record, as part of the "Classified Administrative Record," as opposed to the "Unclassified Administrative Record." Plaintiffs therefore disagree with and oppose defendants' designation

[1] The first two documents are Exhibits "A-1" and "T" to the Declaration of David B. Smallman, made on June 28, 2007, in Support of the Motion of Valerie Plame Wilson and Simon & Schuster, Inc. for Summary Judgment and for a Permanent Injunction. The third document is Document No. 9 from the docket for Case 1:07-cv-04595-BSJ, filed 06/28/2007, and referenced in the letter to the Court from Assistant United States Attorney Benjamin Torrance dated June 28, 2007, a copy of which is also attached.

in this proceeding of an excerpt from the Congressional Record as a "classified" document (and reserve their right to challenge the designation and inclusion in the "Classified Administrative Record" of any other public domain document).

Second, to prevent confusion arising from entry of the proposed stipulation and protective order, and to avoid any unintended legal consequences arising from any possible perception that entry of the stipulation and protective order constitutes judicial endorsement of defendants' filing of a public domain document as properly "classified," it is within the Court's discretion to ensure that the protective order is "clear, specific, and precise." *United States v. Chalmers*, No. S5 05 Cr. 59 (DC), 2007 U.S. Dist. LEXIS 13640 (Feb. 27, 2007). Plaintiffs respectfully submit that the Court should ensure that the proposed stipulation and protective order cannot be construed so as to permit the government defendants to designate indisputably public domain documents, such as the Congressional Record, as part of the "Classified Administrative Record" or to preclude plaintiffs from introducing and relying upon unclassified public domain information obtained outside this proceeding, including the Congressional Record, for use as evidence in summary judgment or at trial.

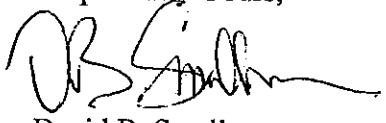
It is one thing for the government to assert that Ms. Wilson's manuscript cannot be published in its present form because of CIA's assertion that an annuity information letter sent in unclassified form by defendant CIA to Ms. Wilson in February 2006 nevertheless remains a classified secret. The ultimate propriety of defendant CIA's clearance determination – which plaintiffs have claimed to be improper and in violation of, *inter alia*, the First Amendment – has been submitted to Your Honor for declaratory relief in accordance with the appropriate procedure for disputing the government defendants' conduct. *See United States v. Snepp*, 897 F.2d 138, 141 n.2, 143 (D.C. Cir. 1990) ("only substitute for CIA clearance would be a judicial declaration that clearance had been improperly withheld"; "'issue upon judicial review would seem to be simply whether or not the information was classified and, if so, whether or not, by prior disclosure it had come into the public domain.'" (quoting *United States v. Marchetti*, 466 F.2d 1309, 1318 (4th Cir. 1972)). Further to that end, plaintiffs have sought to cooperate with defendants' counsel in seeking to safeguard, pending adjudication, certain information alleged to be "classified" by the government defendants. *See* 28 C.F.R. § 17.17 (a)(2) ("If a determination is made to produce classified information in a judicial proceeding in any manner, the assigned Department [of Justice] attorney shall take all steps necessary to ensure the cooperation of the court and, where appropriate, opposing counsel in safeguarding and retrieving the information pursuant to the provisions of this regulation") .

Here, however, pages E118-119 of the Congressional Record, published by Congress in connection with pending legislation, are indisputably in the public domain and no proper basis exists for defendants' designation of public domain legislative materials as "classified" documents in the Administrative Record for this case. *See United States v. Casson*, 434 F.2d 415, 422 (D.C. Cir. 1970) ("the public are charged with knowledge of all the published

information concerning a congressional bill that is available during the entire legislative process. . . . [T]he Congressional Record and documents published by Congress prove that the bill and all its provisions were in the public domain . . . .").

It is also indisputable that the excerpt of the Congressional Record that defendants have designated as "classified" is no longer under government control. *See* Section 1.1 of Executive Order 13292, 32 C.F.R. 2002.12 (2003) (requiring information subject to classification to be "under the control of the United States Government"). As discussed more fully in plaintiffs' opening brief for summary judgment and permanent injunction, on January 23, 2007, CIA's director of Congressional Affairs, Christopher J. Walker, sent a letter to the Clerk, U.S. House of Representatives, Hon. Karen Haas, stating that "a February 10, 2006 letter from the Central Intelligence Agency included on page E119 of the January 12 [sic] Congressional Record (Extension of Remarks) . . . . contains classified information that was not properly marked to reflect its national security classification."[2] Notwithstanding CIA's letter to Congress, a search that I conducted on the Thomas.gov website on July 1, 2007 demonstrates that page E119 (and E118) of the January 16, 2007 Congressional Record remain publicly available for anyone to download from the Internet. Copies of the July 1, 2007 search pages are attached.

Respectfully Yours,



David B. Smallman

Attachments
cc: All Counsel (via Fax and E-mail w/ Encls.)

[2] CIA's January 23, 2007 letter, which apparently meant to reference the January 16, 2007 Congressional Record, is attached for the convenience of the Court, and can also be located as Exhibit F to the Declaration of David B. Smallman submitted in support of plaintiffs' motion for summary judgment and permanent injunction, and at Tab 19 in defendants' Unclassified Administrative Record.

Valerie Plame Wilson Compensation Act (Introduced in House)

HR 501 IH

110th CONGRESS

1st Session

H. R. 501

For the relief of Valerie Plame Wilson.

IN THE HOUSE OF REPRESENTATIVES

January 16, 2007

Mr. INSLEE introduced the following bill; which was referred to the Select Committee on Intelligence (Permanent Select)

A BILL

For the relief of Valerie Plame Wilson.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the `Valerie Plame Wilson Compensation Act'.

SEC. 2. VOLUNTARY RETIREMENT FROM THE CENTRAL INTELLIGENCE AGENCY.

NEW SEARCH | HOME | HELP

H.R.501
Title: For the relief of Valerie Plame Wilson.
Sponsor: Rep Inslee, Jay [WA-1] (introduced 1/16/2007) Cosponsors (None) Private bill
Latest Major Action: 1/16/2007 Referred to House committee. Status: Referred to the House Committee on Intelligence (Permanent Select).

Jump to: Summary, Major Actions, All Actions, Titles, Cosponsors, Committees, Related Bill Details, Amendments

SUMMARY AS OF:
1/16/2007--Introduced.

Valerie Plame Wilson Compensation Act - Provides for the relief of Valerie Plame Wilson.

MAJOR ACTIONS:

NONE

ALL ACTIONS:

1/16/2007:
Sponsor introductory remarks on measure. (CR E118-119)
1/16/2007:
Referred to the House Committee on Intelligence (Permanent Select).

TITLE(S): (*italics indicate a title for a portion of a bill*)

NONE

COSPONSOR(S):

NONE

COMMITTEE(S):

Committee/Subcommittee:	Activity:
House Intelligence (Permanent Select)	Referral, In Committee

Page E119

1 . INTRODUCTION OF THE VALERIE PLAME WILSON COMPENSATION ACT -- (Extensions of Remarks - January 16, 2007)
2 . TRIBUTE TO THE REVEREND JAMES D. PETERS -- (Extensions of Remarks - January 16, 2007)
3 . OPPORTUNITY KNOCKS IN TURKMENISTAN: IS ANYONE LISTENING? -- (Extensions of Remarks - January 16, 2007)

INTRODUCTION OF THE VALERIE PLAME WILSON COMPENSATION ACT -- (Extensions of Remarks - January 16, 2007)

[Page: E118] *GPO's PDF*

SPEECH OF

HON. JAY INSLEE

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

TUESDAY, JANUARY 16, 2007

- Mr. INSLEE. Madam Speaker, I rise today to bring to the attention of Congress one of the human impacts caused by the indiscretion of government officials regarding the covert identity of Central Intelligence Agency operative Valerie Plame Wilson.

- As nearly every American knows, and as most of the world has heard, the covert CIA identity of Valerie Plame Wilson was exposed to the public as part of an Administration response to a critical op-ed published in the New York Times by Mrs. Plame Wilson's husband, Joe Wilson.

- The national security ramifications for this act have been discussed thoroughly on this floor, in the news media, and I am quite certain behind CIA's closed doors. Today I intend to call my colleagues' attention to the human toll that this ``outing'' has had on one, often overlooked, individual. That person is Valerie Plame Wilson.

- While the media, Congress, and the judiciary have gone to great lengths to discuss the impact of this unfortunate act on politicians, bureaucrats, agents in the field, and the suspected perpetrators of the outing, few have looked at the impact that the outing has had on Mrs. Plame Wilson and her family.

- On July 14, 2003, Mrs. Plame Wilson's professional life was forever altered, and her CIA career irrevocably ruined by the syndicated publication of a column, which revealed Mrs. Plame Wilson's identity as a covert CIA officer. Since this time, numerous reports on Mrs. Plame Wilson's personal history have surfaced

[Page: E119] GPO's PDF

in the press, official government documents, and by government officials.

- Following the initial outing in the media, Mrs. Plame Wilson's future as a covert CIA operative ceased to exist and her career of two decades was destroyed. On January 9, 2006, Mrs. Plame Wilson resigned from the CIA, recognizing that any future with the Agency would not include any work for which she had been highly trained. For these reasons, and under these distressing conditions, Mrs. Plame Wilson voluntarily resigned from the Agency.

- Despite Mrs. Plame Wilson's 20 years of federal service, she does not meet the minimum age requirement to receive her retirement annuity. She has been left without a career.

- I am introducing legislation to allow Mrs. Plame Wilson to qualify for her annuity, as one who has served her country for two decades, and waive the age requirement for collecting it. To best demonstrate the annuity for which Mrs. Plame Wilson may qualify if this legislation were to pass, I am submitting for the record a document sent to Mrs. Plame Wilson by the CIA. It outlines her deferred annuity and testifies to 20 years of service. The document bears no indications of classified material as required by CIA procedures, and was sent via regular postal mail after Mrs. Plame Wilson was no longer in the employ of the CIA. Legal experts have assured me that this is not a classified document.

- I believe that this is one small measure to help send a message that we must stand up for public service officers, such as Mrs. Plame Wilson, who have been treated wrongly despite their loyalty and sacrifice to country. For those who have been, for all practicable purposes, pushed out of public service for reasons unrelated to performance, but instead seeded in politics, we should not turn our backs.

Central Intelligence Agency,

Washington, DC, February 10, 2006.

Mrs. **VALERIE WILSON**

DEAR MRS. WILSON, This letter is in response to your recent telephone conversation with regarding when you would be eligible to receive your deferred annuity. Per federal statute, employees participating under the Federal Employees Retirement System (FERS) Special Category, who have acquired a minimum of 20 years of service, are eligible to receive their deferred annuity at their Minimum Retirement Age (MRA). Your MRA is age 56, at which time you'll be eligible to receive a deferred annuity.

Your deferred annuity will be based on the regular FERS computation rate, one percent for every year of service vice the FERS Special rate of 1.7% for every year of service. You will receive 1.7% for each year of overseas service, prorated on a monthly basis, after January 1, 1987 in the calculation of your annuity. Our records show that since January 1, 1987, you have acquired 6 years, 1 month and 29 days

of overseas service.

Following is a list of your federal service:

Dates of Service: CIA, CIA (LWOP), CIA Ð(P/T 40), from 11/9/1985 to 1/9/2006--total 20 years, 7 days.

Based on the above service and your resignation on January 9, 2006, your estimated deferred annuity is $21,541.00 per year, or $1795 per month, beginning at age 56.

The above figures are estimates for your planning purposes. The Office of Personnel Management, as the final adjudicator of creditable service and annuity computations, determines final annuity amounts. Please let me know if I can be of any further assistance.

Sincerely,

------.

THIS SEARCH	*THIS DOCUMENT*	*THIS CR ISSUE*	*GO TO*
Next Hit	Forward	Next Document	New CR Search
Prev Hit	Back	Prev Document	HomePage
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in the press, official government documents, and by government officials.

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CENTRAL INTELLIGENCE AGENCY,
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Sincerely,

TRIBUTE TO THE REVEREND JAMES D. PETERS

HON. DIANA DeGETTE

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 16, 2007

Mr. DEGETTE. Madam Speaker, I rise to honor the extraordinary life and exceptional accomplishments of the Reverend James D. Peters, Pastor of New Hope Baptist Church. This remarkable gentleman merits both our recognition and esteem as his spiritual leadership, service and lifelong devotion to civil rights have done much to advance the lives of our people.

While many have made notable contributions to our community, few have left a legacy of progress as has Reverend Peters. He is a powerful champion of social justice and has led with those who fought for civil liberty and whose deeds changed the very fabric of our nation. Reverend Peters has touched countless lives and he has built a ministry that joins faith with equality. He is a dynamic pastor whose teaching and counsel is infused with a spiritual fervor that constantly edifies us and moves us to do what is right.

Reverend Peters' journey began in Washington D.C., the son of a baseball player. He grew up poor but he grew up in church. He was a gifted student and grew to recite Longfellow, Keats and Kipling. He worked full time at the Navy Annex near the Pentagon and struggled to get an education, attending night school for ten years. Reverend Peters recently noted that "I couldn't eat in restaurants, I couldn't sleep at a hotel or go to the movies. I could never go to school with white children. All the way through high school, I never sat in a classroom with white people, not until I went to college." Many of us in this country forget how far we've come. Although civil liberties have deep roots in our republic, there was a time when fundamental decency and equality for all people were not a part of our shared experience. The courage and the work of Reverend Peters during the dark days of the Civil Rights Movement helped make fairness and equal rights part of our shared values. Reverend Peters was at the founding meeting of the Southern Christian Leadership Conference and he worked directly with Dr. Martin Luther King, Jr. He faced guns and dogs during the marches and civil rights demonstrations in Albany, Georgia, in Selma and in Birmingham, Alabama. He was part of the March on Washington that led to the steps of the Lincoln Memorial where Dr. King gave his unparalleled "I Have a Dream" speech.

Reverend Peters' work ethic and his service to the Civil Rights Movement molded a life of enduring accomplishment and a vocation that included ministering to congregations in Connecticut and Virginia. He became pastor of Denver's New Hope Baptist Church in February of 1979 and during his twenty-eight year tenure, he led his congregation through construction of a new church home and the expansion of services for an ever growing congregation. As a spiritual leader, he has burnished a reputation as a powerful advocate for inclusion and expanding opportunity for all people. He served as a volunteer member of the Denver Housing Advisory Board for approximately ten years assisting the twenty-two thousand public housing residents in changing the quality and image of public housing.

He served as a member of the Colorado Civil Rights Commission for nine years, serving as its Chairman from 1987 to 1989, during which time he traveled throughout Colorado and held countless civil rights hearings to secure justice and equality for all citizens,

Reverend Peters has received service recognitions from numerous organizations including the Southern Christian Leadership Conference, Martin Luther King, Jr., the Anti-Defamation League, the Denver Post and the NAACP, He is also the recipient of the Carle Whitehead Award, the highest award given by the American Civil Liberties Union.

Reverend James Peters is an unrelenting advocate for the causes that elevate the human condition and his immeasurable contributions to the spiritual life of our community merit our gratitude. He has led in the struggle for freedom, justice and equality for all people. But Reverend Peters' leadership goes to the heart of what he means to be a leader. "Nathalia Young, a pastor at New Hope Baptist Church. . . remembers how he helped homeless people himself, not delegating it to a deacon. (He) would get into his own car, and use his own money to get someone a hotel room. And then there was a Christmas season one year, when a woman and her children were suddenly homeless. 'He didn't just get her connected with housing but also supplied her with gifts and food.'" Reverend Peters leads by example.

In a recent Denver Post article, Reverend Peters expressed "concern that young people don't understand what it was like before the Civil Rights Act and that some believe King's message is now irrelevant." At some level, I think we all share his concern. But I would submit that Reverend Peters' legacy provides a powerful example that not only affirms Dr. King's undertaking, but inspires all of us to remember the struggle and keep faith with those who have gone before.

Reverend Peters' tenure as pastor of New Hope Baptist Church is quickly drawing to a close. His leadership has been exemplary and his contributions are rich in consequence. On behalf of the citizens of the 1st Congressional District of Colorado, I wish to express our gratitude and look forward to his continued involvement in the life of our community.

Please join me in paying tribute to Reverend James D. Peters, a distinguished spiritual and civic leader. The values, leadership and commitment he exhibits set the mark and compel us to continue the work that distinguishes us as Americans.

OPPORTUNITY KNOCKS IN TURKMENISTAN: IS ANYONE LISTENING?

HON. JANICE D. SCHAKOWSKY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 16, 2007

Ms. SCHAKOWSKY. Madam Speaker, the Administration's crusade to spread democracy

FILED
United States Court of Appeals
Tenth Circuit

February 20, 2015

Elisabeth A. Shumaker
Clerk of Court

UNITED STATES COURT OF APPEALS

FOR THE TENTH CIRCUIT

HORACE B. EDWARDS,

Plaintiff - Appellant,

and

JOHN and/or JANE DOES 1-10; UNITED STATES OF AMERICA,

Plaintiff,

v.

PRAXIS FILMS, INC.; LAURA POITRAS; PARTICIPANT MEDIA, LLC; DIANE WEYERMANN; JEFFREY SKOLL; WEINSTEIN COMPANY LLC, a/k/a Radius-TWC,

Defendants - Appellees

and

EDWARD JOSEPH SNOWDEN; JOHN and/or JANE DOES 1-10; HOME BOX OFFICE INC.; SHEILA NEVINS; ACADEMY OF MOTION PICTURE ARTS AND SCIENCES,

Defendants.

No. 15-3032
(D.C. No. 2:14-CV-02631-JAR-TJJ)
(D. Kan.)

ORDER

Before **HARTZ** and **PHILLIPS**, Circuit Judges.

EXHIBIT
2

This matter is before the court on plaintiff's Emergency Motion for Expedited Review of Order Denying Motion to Seal Classified Documents Filed and for Injunction. The motion requests an injunction (1) requiring defendants to redact the film *Citizenfour* to remove alleged classified and other prohibited information, (2) preventing the current version of the film from being shown "by any person or entity, including the Academy [of Motion Picture Arts and Sciences]," (3) deeming the film ineligible for an Academy Award, and (4) other relief. The underlying appeal is from the district court's order denying plaintiff's motion to require the DVD of the film to be filed under seal.

Plaintiff has failed to make the showings required by Rule 8(a) of the Federal Rules of Appellate Procedure. The motion for an injunction pending appeal is denied. Plaintiff's motion for leave to exceed the page limit is granted. All other motions are denied.

Entered for the Court

Elisabeth A. Shumaker

ELISABETH A. SHUMAKER, Clerk

No. 15-3032

IN THE UNITED STATES COURT OF APPEALS
FOR THE TENTH CIRCUIT

HORACE B. EDWARDS, *Plaintiff-Appellant,*

v.

EDWARD JOSEPH SNOWDEN, PRAXIS FILMS, INC., LAURA POITRAS, PARTICIPANT MEDIA, LLC, DIANE WEYERMANN, JEFFREY SKOLL, THE WEINSTEIN COMPANY LLC a/k/a/ RADIUS-TWC, HOME BOX OFFICE, INC., SHEILA NEVINS, ACADEMY OF MOTION PICTURE ARTS AND SCIENCES, *Defendant-Appellees*,

---

On Appeal From The United States District Court For The District Of Kansas
Honorable Julie A. Robinson
In No. 2:14-CV-02631-JAR-TJJ

PLAINTIFF'S PETITION FOR REHEARING AND REQUEST FOR REHEARING *EN BANC*, OR ALTERNATIVELY IN THE NATURE OF MANDAMUS

EMERGENCY RELIEF SOUGHT BEFORE FIVE P.M. SUNDAY CST FEBRUARY 22, 2015, WITH NOTIFICATION TO ALL PARTIES AND THEIR COUNSEL**

Jean Lamfers
LAMFERS & ASSOCIATES, LC
7003 Martindale
Shawnee, KS 66218
Phone: (913) 962-8200

February 22, 2015

Counsel for Plaintiff-Appellant Horace B. Edwards

EXHIBIT
3

I. STATEMENT REQUIRED BY FED. R. APP. P. 35(b)(1)

This proceeding involved the following questions of exceptional importance:

1. This matter was brought before the Court by Emergency Motion for Expedited Review of Order Denying Motion to Seal Classified Documents Filed, i.e., the DVD of movie CITIZENFOUR ("Movie") and the transcript of the Movie (Transcript) (Doc. 13-1) pursuant to Fed. Rule App. P. 8(a)(2) and 10th Cir. R. 8 to correct a ruling made on clear error, as more fully set forth in plaintiff's Emergency Request and Notice of Appeal.

2. Plaintiff has sought a motion to stay the district court's order pending appeal after the Appellate Order issued, (Doc. 28) to assure proper jurisdiction lies with this Court and we seek a stay of (Doc. 17) in this Petition pursuant to Rule 8(a)(2).

3. The proceeding involves questions of exceptional importance including specifically whether classified information that has not been declassified and as to which no clear title can ever be established by the former CIA/NSA/DIA undercover officer defendant Snowden who admitted stealing the information because such defendant Snowden acknowledged signing at least one secrecy order and admitted working for CIA. Hence Snowden would have been required to sign CIA's secrecy agreement. Thus, the stolen documents and other materials cannot

be lawfully made available in the public record by defendants who participated in its acquisition, but instead, is subject to sealing in the district court pursuant to Executive Order 13526 and the secrecy agreement(s) entered into by Defendant Snowden and binding upon defendants because of their admitted involvement in using them for the Movie, and the binding precedent as prohibited by binding U.S. Supreme Court, *Snepp v. U.S.* (imposition of constructive trust proper remedy applicable to former CIA officer who uses government property and information as to which he cannot and does not have title as such information entrusted to such intelligence employee belongs to the United States Government on behalf of the people of the United States; *Boehner v. McDermott*, 532 U.S. 1050 (2001) (vacating decision regarding First Amendment right to disclose information and remanding for further consideration in light of *Bartnicki v. Vopper*, 532 U.S 514 (2001)), *Boehner v. McDermott*, 484 F.3d 573, 580) (D.C. Cir. 2007, en banc) (finding that participation in acquisition of unlawfully acquired information and duty of confidentiality covering receipt and handling of illegally obtained materials precludes First Amendment right to use them), and U.S. Supreme Court cases that have consistently followed Snepp to date, as well as the binding precedent of this Court in *Quigley v. Rosenthal*, 327 F.3d 1044 (10th Cir 2003). All of the foregoing which apply to the instant proceeding, involve matters of exceptional important to national security of the United States of America because a federal district court

has the power to declassify classified information when appropriate relief is sought – which has not occurred to the best of plaintiff's knowledge in this proceeding.

4. In the order of this Court (separately attached) dated February 20, 2015, 15-3032 ("Appellate Order") regarding D.C. No. 2:14CV-02631-JAR-TJJ (D. Kan.) two Circuit Judges found that "plaintiff had failed to make the showings required by Rule 8(a) of the Federal Rules of Appellate Procedure." In the interim, plaintiff has a motion to stay the district court's order (Doc 17) pending appeal (Doc 28).

5. The Appellate Order in this case of exceptional importance, as recognized by the affidavits submitted in the Emergency Request notice of appeal is informed herein of the basis for jurisdiction of this Court under Rule 8(a) of the Federal Rules of Appellate Procedure (which, to the extent applicable, cures any defect in jurisdiction) and the inconsistency of the Appellate Order with the binding precedent of the United States Supreme Court and a prior binding precedent of this Court which supports plaintiff's petition for rehearing and request for rehearing en banc.

6. Jurisdiction of this Court to stay is conferred by virtue of the All Writs Statute 28 U.S.C. 1651 (Mandamus). *Cf. United States v. McVeigh,* 119 F.3d 806, 810 (10th Cir. 1997) ("We similarly conclude that mandamus is the proper vehicle for reviewing court orders sealing or redacting court documents," referring to five "nonexclusive guidelines). Plaintiff respectfully submits that each of those

guidelines have been met here, as shown by the Motion for Emergency Relief previously submitted to this Court. *See also* "And the Supreme Court has termed the power "inherent." *In re McKenzie*, 180 U.S. 536, 551 (1901) and "part of its [the court of appeals] traditional equipment for the administration of justice." *Scripps-Howard Radio v. F.C.C.*, 316 U.S. 4, 9-10 (1942) ("The requirement that application be first made to the district is the case law rule."); *Cumberland Tel. & Tel Co. v. Louisiana Public Service Commission*, 260 U.S. 212, 219 (1922).

7. The motion requested an injunction (1) requiring defendants to redact the Movie to removed information from the Movie (and hence the transcript) that defendants admitted in their motion to dismiss the complaint which specifically identified that portions of the transcript of the Movie (and hence the Movie itself) contained classified and other prohibited information under, *inter alia*, Executive Order 13526; (2) preventing the current version of the Movie from being shown "by any person or entity, including the Academy [of Motion Picture Art and Sciences]], (3) deeming the film ineligible for an Academy Award, and (4) the relief more specifically set forth in plaintiff's conclusion to his Emergency Relief request under Fed. R. App. P. 8 (a)(2), including all relief this Court deems just and proper.

8. The exceptional importance of this proceeding is further shown by the on the record statement to the Senate Select Committee on Intelligence in 2014 of the

Director of National Intelligence and in the Certificate of Acknowledgment of the former General Counsel of the National Security Agency, attaching support for the grievous effect upon national security and the safety of the American people arising from the post-Snowden disclosures.

II. PRELIMINARY STATEMENT

Plaintiff-Appellant respectfully petitions this Court for rehearing en banc pursuant to Fed. R. App. P. 35 and/or panel pursuant to Fed. R. App. 40, or in the alternative, in the nature of mandamus.

The basis for emergency relief is fully set forth in plaintiff's Emergency Request/Notice of Appeal.

III. REASONS WHY THE PETITION SHOULD BE GRANTED

A rehearing is appropriate because the two Circuit Judges in their holding apparently misapprehended the jurisdictional basis for the plaintiff's Emergency Motion and found that despite accepting the Emergency Motion for consideration and Order, there had been some type of unspecified showing required by Rule 8(a) of the Federal Rules of Appellate Procedure.

Jurisdiction exists, as noted above, pursuant to the All Writs Statute, 28 U.S.C. §1651 (In the Nature of Mandamus),

In connection with a clearly erroneous determination regarding jurisdiction as set forth in the Petition, which includes relief in the nature of mandamus, the

Appellate Order did not reference a specific showing that Plaintiff had failed to make. Further, the Appellate Order referenced the Movie only and not the Transcript nor did it reference the fact that defendants admitted that the Movie and the Transcript contained classified information and that the order appeal from in the court below had also failed to acknowledge that defendants had admitted in their memorandum of law in support of objecting to placing the Movie and Transcript under seal (as is the required procedure for classified information, that the Movie, in its current version, contained classified information. The Appellate Order also did not state that the information defendants' admitted was classified in the Movie had been declassified, that the admitted classified information was used by permission of the United States Government or any of the relevant intelligence agencies or by the President of the United States permitted to declassify the classified information stolen by defendant Snowden that appears in the Movie and Transcript, and also that any agreement or other form of consent had been received by defendants, including defendant Praxis Films, Inc. and defendant Laura Poitras, defendant The Weinstein Company, and defendant Participant Media, to use the classified information or to allow title to pass to any defendant to use the information.

Also in connection with the Appellate Order, the two Circuit Judges overlooked and neglected to address plaintiff's assertions, supported by

Certification and an Affidavit, that defendants knew that they were participating in the unlawful participation of classified information in the Movie, and hence that its eligibility for an Oscar this evening, and its exhibition tomorrow on HBO, and the controlling authority of the United States Supreme Court that bars, under the balancing of harms, the commonly applied and accepted remedy of reediting before public distribution under that injunctive relief standard. *See eBay, Inc. v. MercExchange*, 547 U.S. 388 (2006); *Woods v. Universal City Studios*, 920 F. Supp. 62, 65 (S.D.N.Y.1996) ("12 Monkeys Case").

Because the two Circuit Judges did not issue a temporary restraining order pending viewing of the Movie, which was to be delivered to the Court under seal by plaintiff on Monday, February 23, 2015, the two Circuit Judges overlooked or misapprehended the nature of the threatened injury to the fundamental safety of plaintiff and the American people when and if millions of people in the United States and millions of others, including terrorists worldwide, see the classified information in the Movie, which encourages others to steal United States intelligence information and to evade detection of terrorist acts thereby. By doing so, the two Circuit Judges who issued the Appellate Order overlooked the serious ramifications of the disallowing plaintiff's Emergency Motion and the relief requested.

IV. CONCLUSION

For the foregoing reasons, this Petition should be granted together with the relief originally requested in the Emergency Motion herein filed on February 20, 2015, pp.35-36; and further that the Court order the district court to seal the DVD and Transcript, the subject of the Order (Doc. 17), which defendants have admitted contain classified national security information in the Memorandum to Defendant's Motion to Dismiss (Doc. 14).

Respectfully submitted this 22nd day of February, 2015

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CERTIFICATE OF SERVICE

The undersigned certifies that a true and correct copy of the foregoing was served via email to each attorney listed below this 22nd day of February, 2015 to the following:

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Attachment:[1]

ORDER
HARTZ AND **PHILLIPS,** Circuit Judges
Dated: February 20, 2015

Docket No. 15-3032
(D.C. No. 2:14-CV-02631-JAR-TJJ
(D. Kan.)

[1] Pursuant to the previous instructions received from the Deputy Clerk of the Court, we request this document be accepted as an attachment to the foregoing and both documents be accepted as filed and officially submitted by email. We respectfully request this filing receive similar treatment and be accepted for filing by email, due to the emergency nature, exigent circumstances, and emergency relief requested under 10th Cir. R. 8.

FILED
United States Court of Appeals
Tenth Circuit

February 20, 2015

Elisabeth A. Shumaker
Clerk of Court

UNITED STATES COURT OF APPEALS

FOR THE TENTH CIRCUIT

HORACE B. EDWARDS,

Plaintiff - Appellant,

and

JOHN and/or JANE DOES 1-10; UNITED STATES OF AMERICA,

Plaintiff,

v.

PRAXIS FILMS, INC.; LAURA POITRAS; PARTICIPANT MEDIA, LLC; DIANE WEYERMANN; JEFFREY SKOLL; WEINSTEIN COMPANY LLC, a/k/a Radius-TWC,

Defendants - Appellees

and

EDWARD JOSEPH SNOWDEN; JOHN and/or JANE DOES 1-10; HOME BOX OFFICE INC.; SHEILA NEVINS; ACADEMY OF MOTION PICTURE ARTS AND SCIENCES,

Defendants.

No. 15-3032
(D.C. No. 2:14-CV-02631-JAR-TJJ)
(D. Kan.)

ORDER

Before **HARTZ** and **PHILLIPS**, Circuit Judges.

This matter is before the court on plaintiff's Emergency Motion for Expedited Review of Order Denying Motion to Seal Classified Documents Filed and for Injunction. The motion requests an injunction (1) requiring defendants to redact the film *Citizenfour* to remove alleged classified and other prohibited information, (2) preventing the current version of the film from being shown "by any person or entity, including the Academy [of Motion Picture Arts and Sciences]," (3) deeming the film ineligible for an Academy Award, and (4) other relief. The underlying appeal is from the district court's order denying plaintiff's motion to require the DVD of the film to be filed under seal.

Plaintiff has failed to make the showings required by Rule 8(a) of the Federal Rules of Appellate Procedure. The motion for an injunction pending appeal is denied. Plaintiff's motion for leave to exceed the page limit is granted. All other motions are denied.

Entered for the Court

Elisabeth A. Shumaker

ELISABETH A. SHUMAKER, Clerk

FILED
United States Court of Appeals
Tenth Circuit

February 22, 2015

Elisabeth A. Shumaker
Clerk of Court

UNITED STATES COURT OF APPEALS

FOR THE TENTH CIRCUIT

HORACE B. EDWARDS,

Plaintiff - Appellant,

and

JOHN and/or JANE DOES 1-10, et al.,

Plaintiff,

v.

PRAXIS FILMS, INC., et al.,

Defendants - Appellees

and

EDWARD JOSEPH SNOWDEN, et al.,

Defendants.

No. 15-3032
(D.C. No. 2:14-CV-02631-JAR-TJJ)

ORDER

Before **HARTZ** and **PHILLIPS**, Circuit Judges.

This matter is before the Court on Plaintiff's Petition for Rehearing and Request for Rehearing En Banc, or Alternatively in the Nature of Mandamus ("Petition"). As an initial matter, the Court notes that Tenth Circuit Rule 35.7 precludes en banc review of our February 20, 2015 order denying Appellant's Emergency Motion for Expedited Review of Order Denying Motion to Seal Classified Documents Filed and for Injunction

EXHIBIT
4

("Motion"). In accordance with Rule 35.7, Appellant's en banc request was referred to the same panel that issued the February 20, 2015 order; and treated in the same manner as a petition for panel rehearing.

The petition is denied. We deny all requests for relief from the denial of the Motion, which, contrary to Federal Rule of Appellate Procedure 8(a), had not previously been sought in the district court.

Entered for the Court,

ELISABETH A. SHUMAKER, Clerk

by: Chris Wolpert
Chief Deputy Clerk