

IN THE
 UNITED STATES DISTRICT COURT
 WESTERN DISTRICT OF TEXAS

Case No. EP-07-CR-87-KC

FILED
 2009 AUG -6 AM 11:09
 CLERK OF DISTRICT COURT
 WESTERN DISTRICT OF TEXAS
 BY _____
 DEPUTY

THE UNITED STATES OF AMERICA,)
)
 Plaintiff,)
)
 v.)
)
 LUIS POSADA CARRILES,)
)
 Defendant.)
 _____)

Ann Louise Bardach's Opposed Motion for Leave to File
 Motion to Quash Trial Subpoena & Supporting Materials Under Seal

Ann Louise Bardach, a professional journalist upon whom the Government has served a subpoena to testify at the trial of this matter, files this motion in accordance with the procedures set forth in *Standard Order Regarding the Filing & Sealing of Documents*, All Cases (W. D. Tex. El Paso Div. Nov. 18, 2008), for leave to file under seal the attached motion to quash trial subpoena and to preclude use of her interview of the defendant and memorandum of law and appendix in support thereof.

Bardach requests this relief in an abundance of caution and even though it may not be necessary or appropriate to seal the attached motion, memorandum, and supporting appendix materials. The motion discusses and is accompanied by copies of sealed pleadings and orders from a federal grand jury proceeding in another district. The Government and a U.S. district court provided the pleadings and orders to Bardach and her counsel although the pleadings and orders are sealed. No known order, statute or rule requires Bardach to maintain the confidentiality of the sealed materials provided to her. Nevertheless, counsel for the

Government, John W. Van Lonkhuizen, has indicated that the sealed materials should not be disclosed and has asked that they not be disclosed.

By filing this motion, Bardach seeks to provide the Court and all interested parties an opportunity to address whether the attached materials should be filed under seal or openly. Bardach herself has no objection to the materials being filed openly.

Respectfully submitted,

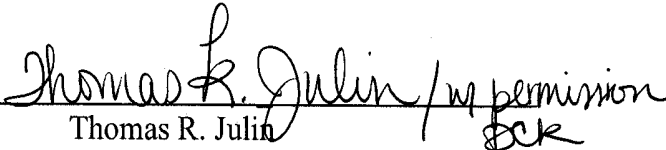
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CERTIFICATE OF CONSULTATION

Prior to filing this motion, counsel for Bardach asked counsel for the Government and the defendant for consent to this motion. Counsel for the Government agreed that the motion to quash should be filed under seal. Counsel for Posada said he does agree to the granting of this motion and will file a response to the motion.


Thomas R. Julin / w permission
BJR

CERTIFICATE OF SERVICE

I hereby certify that on August 5, 2009, I filed the foregoing with the Clerk of the Court via Federal Express and on the following counsel of record via certified mail:

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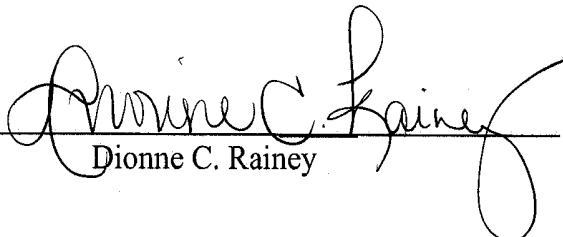
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RECEIVED

AUG 06 2009

CLERK, U.S. DISTRICT COURT
WESTERN DISTRICT OF TEXAS
BY [Signature]
DEPUTY CLERK

IN THE
UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS

CASE NO: EP-07-CR-87-KC

THE UNITED STATES OF AMERICA,)
)
Plaintiff,)
)
v.)
)
LUIS POSADA CARRILES,)
)
Defendant.)
)

Order on Motion to Allow Filing of
Motion to Quash Trial Subpoena Under Seal

This cause came before the Court on the motion of Ann Louise Bardach, a witness subpoenaed by the United States to testify at the trial in this case, to allow the filing under seal of a motion to quash the trial subpoena and for other relief. Upon consideration of the motion and the responses of the Government and the defendant, the motion is granted / denied.

[If denied, the order should specify that the motion and supporting materials shall be filed in the open court file]. [If granted, the order should specify whether the parties will have access to the motion and supporting materials and, if so, any conditions that will be placed on their dissemination of the materials].

Done and ordered in chambers in El Paso, Texas, this ____ day of _____, 2009.

Kathleen Cardonne
United States District Judge

Copies furnished to
all counsel of record.