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Attorneys for Intervenor
D
UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK
----------x
G.,

Applicant,

-against-

Case No.: _____
Agency File No:
_____

D,

Intervenor.

----------x

MEMORANDUM OF LAW IN SUPPORT OF MOTION TO INTERVENE

D ("the **Intervenor")** respectfully submits this Memorandum of law in support of their Motion to Intervene pursuant to Fed. R. Civ. P. 24.

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INTRODUCTION

1. The Intervenor has been a legal permanent resident alien since ____, and resides within the jurisdiction of the Honourable Court. On ____, the Intervenor filed an application to naturalize as a U.S. citizen on Form N-400 Application for Naturalization and bearing receipt number ____ (the "N-400 Application"). The Intervenor's claim to naturalization as a citizen of the United States arises under the provisions of 8 U.S.C. § 1446. The Intervenor has met all the statutory requirements for naturalization.

2. The Intervenor sets out that his N-400 Application has been managed, and continues to be managed, by the Controlled Application Review and Resolution Program Unit ("CARRP") of USCIS. The CARRP Unit is a formerly secretive unit of USCIS whose mission is to delay, derail and deny immigration applications including N-400 applications for naturalization. The Intervenor submits that the activities of CARRP in general, and specifically in his case, are unconstitutional.

3. The Intervenor submits that the Subpoena is void as invalid on its face and/or is *ultra vires* the authority of the DHS to issue the Subpoena. In the alternative, it is unlawful as overly burdensome and is an unlawful interference in non-party E., ("**E**") business and employment relationships and amounts to an unwarranted breach of privacy.

4. Moreover, in light of the CARRP Unit's actions and omissions to date, it is submitted that the Subpoena has been issued in bad faith in disregard of, and as a further interference with, the Intervenor's statutory right to naturalize, and in violation of the broad provisions of a Court Ordered Stipulation.

5. In that regard, it is submitted that the issuance of the Subpoena should more properly be considered in light of the Government's ongoing actions in depriving the Intervenor of the benefits of U.S. citizenship, including the right to vote, the right to travel without encumbrance, freedom from immigration controls, as well as the emotive benefits of naturalization.

6. G, Esq. (the "Applicant") is external counsel to E. The Applicant filed a Memorandum of law in support of his Motion to Quash Subpoena pursuant to Fed. R. Civ. P. 45.

7. Through this action the Intervenor seeks to file a Motion to Intervene the Applicant's Motion to Quash Subpoena.

PROCEDURAL BACKGROUND

The Intervenor's Application for Naturalization

8. On _____, the Intervenor filed the N-400 Application. Part 6 of the N-400 Application at Section B set out the standard question in relation to previous employment: "*Where have you worked (or, if you were a student, what schools did you attend) during the last five years? Include military service. Begin with your current or latest employer and then list every place you have worked or studied for the last five years. If you need more space, use a separate sheet of paper.*" The Intervenor completed this part of the form by providing that he had worked for E for the previous five years (from ____ through ____).

9. The Intervenor was not scheduled for a naturalization interview on his N-400 interview until almost ____ years later, on ____. At the N-400 interview, which was recorded by audio and video, he was asked questions regarding his previous employment. The Intervenor answered "*no*" to the question: "*…had [you] worked any place else or been a partner or in any way involved in any other business.*" USCIS then asserted that "*background information*" disclosed that between ____ and ____, the Intervenor held the position of "____" and "____" of C.

10. When asked why he had failed to mention C in his N-400 Application, the Intervenor replied "*I thought that I got my pay check from E.*" USCIS noted that the Intervenor had not listed C in a previous N-400 Application in ____.

11. On ____, USCIS issued an N-14 Request for Evidence to the Intervenor, requesting the submission of Form 1040 Federal Tax Returns, W-2s and tax return transcripts for fiscal years ____,

as well as tax returns for C from _____. The requested documentation was duly submitted by the Intervenor along with an explanation that C had been dissolved in _____.

12. On _____, USCIS issued a denial of the N-400 Application, relying on what it asserted to be "*false testimony*" in relation to the Intervenor's employment status with C. In particular, USCIS made a finding of fact that the Intervenor was employed with C, as well as a finding that he had provided "*false testimony.*"

13. On the basis that the Intervenor had been paid a profit as a business owner of C, USCIS determined that the Intervenor was obliged to provide information about C in his N-400 Application. USCIS did not refer to any Federal statute, regulation, or case law in support of its assertion that the Intervenor is obliged to provide any such information.

14. Part 10, Section 10, Question 23 of the N-400 form asks "*Have you ever given false or misleading information to any U.S. Government official while applying for any immigration benefit or to prevent deportation, exclusion or removal"* to which the Intervenor answered "*no*" on the N-400 form and during his interview on _____.

15. As a result of the foregoing, USCIS found that, on _____, the Intervenor "*…failed to disclose that [he] did in fact give false and misleading information on his N-400 application (_____) filed on _____ and during your naturalization interview in _____ and _____.*" Consequently, USCIS found that he had provided false testimony with respect to whether he had ever provided false and misleading information to the U.S. government.

16. Significantly, USCIS determined that any false testimony need not be material, relying on *Kungys v. United States,* 485 U.S. 759 (1988).

The Intervenor's Appeal from the Denial of Naturalization

17. The Intervenor timely filed an N-336 Request for Hearing on Denial of Naturalization, to appeal from the _____ decision. On _____, he was compelled to send a letter, by and through his

attorney, _____ addressed to ISO _____ at the Controlled Application Review and Resolution Program Unit Carrp Unit of USCIS. The letter complained of the failure of USCIS to schedule a hearing within 180 days of the appeal filing date contrary to 8 C.F.R. § 336.2(b).

18. On or around the _____, the Intervenor presented for the N-336 appeal hearing, in the course of which legal arguments were presented setting out the factual and legal errors of the denial. The Hearing Officer did not proffer any reason why the Application should not be granted but stated that it had to be cleared by CARRP. The N-336 appeal was not adjudicated within the 120-day timeframe set forth in the regulations for determinations of appeals. See 8 U.S.C. §1447(b) and 8. C.F.R. §336.1(a).

19. Upon the expiration of 120 days, the Intervenor made a request for a prompt determination. A determination was not forthcoming, but rather, on _____, USCIS issued an N-14 Request for Evidence, seeking "*police clearance letters from the United Kingdom, including Northern Ireland...which details any and all arrests in these jurisdictions, what the charges were and what the disposition (including court dispositions) of those arrests were."* The N-14 Request for Evidence contained the standard warning that *"[f]ailure to submit the evidence requested may result in denial of your application*."

20. On _____, the Intervenor initially responded by declining to produce this evidence on the grounds that the request was clearly *ultra vires* the agency's authority, had no bearing whatsoever on the Intervenor's Application for naturalization, and was further evidence of bad faith and frivolity on the part of the USCIS. Notwithstanding the foregoing, the Intervenor subsequently furnished the requested evidence, which clearly demonstrated no history of arrests of criminal convictions in the _____. or _____.

21. On _____, USCIS issued its decision in relation to the N-336 appeal. The appeal decision reiterates the findings of fact in the _____ N-400 decision, and followed the same reasoning. USCIS

found that the Intervenor had "*failed to establish that [he was] not employed by C.*" and that he had "*not overcome the grounds for your Form N-400 denial"* as he had been found to have "*given false testimony under oath with the intent to obtain an immigration benefit."* USCIS determined that the Intervenor had not established that he was a person of good moral character because, during the statutory period, he gave false testimony to obtain an immigration benefit, and was ineligible for naturalization pursuant to INA§§316(a)(3) and 101(f)(8) and 8 C.F.R. §316.l0(b)(l)(ii).

The Intervenor's Civil Action challenging Denial of Naturalization

22. On _____, the Intervenor brought a civil action in the U.S. District Court for the Southern District of New York pursuant to 8 U.S.C. §1421(c) which provides for a review by a U.S. District Court of a denial of an application for naturalization.

23. On _____, following close of pleadings, upon agreement and stipulation of the parties, the Court by way of a Stipulation and Order of Dismissal ordered the action to be dismissed pursuant to Fed. R. Civ. P., Rule 41 (a) (2).

24. The So-Ordered Stipulation directed USCIS to file a motion to reopen the denial of the Intervenor's N-400 Application by _____, and interview the Intervenor by _____. The matter has been reopened and the Intervenor was interviewed on _____. USCIS is required to issue a decision regarding his N-400 Application within 120 days of the interview, namely, by _____.

25. More significantly, for the purposes of this Motion to Quash, the Order directed that "*USCIS shall not deny [D's] application for naturalization based solely on his failure to previously disclose his employment with C.*"

26. Whereas the Stipulation expressly does not "*preclude USCIS from conducting further interviews, requesting evidence, collecting biometric data, or seeking any other information CIS deems relevant in furtherance of its adjudication of [D's] application for naturalization",* it is axiomatic that such further investigative actions must be lawful.

The Intervenor's reopened Naturalization interview

27. The Intervenor was interviewed pursuant to the reopened Naturalization Application on ____ (the "Reopened Interview"). The Reopened Interview, which was recorded, was heard before Senior ISO ____ and Officer ____, who is the officer before whom the Subpoena commands an appearance and production of records.

28. In the course of the Reopened Interview, the Intervenor was questioned about his employment with E in ____, at a time when he was undocumented. His attorney submitted that this would have been dealt when he applied for Adjustment of Status to that of a Legal Permanent Resident.

29. Any period of unauthorized employment is waived by way of an application for Adjustment of Status under INA §245(c)(2) and INA §245(c)(8) for immediate relatives of U.S. Citizens.

30. Form N-400 Application for Naturalization only requires a naturalization applicant to list his/her employment for the five years prior to the date of Application. Moreover, this information gathering is not a statutory requirement, and the Intervenor's employment history is not material to his qualification for naturalization. USCIS is well aware of this fact, and indeed this point had been litigated and formed part of the So-Ordered Stipulation.

31. The Intervenor has properly furnished details of his employment history to the U.S. Citizenship and Immigration Services for the five years prior to his Application for Naturalization. Any dispute over the nature of his relationship with C has been resolved by way of a So-Ordered Stipulation.

32. G, Esq (the "Applicant") is external counsel to E. The Applicant filed a Memorandum of law in support of his Motion to Quash Subpoena pursuant to Fed. R. Civ. P. 45. Through this action the Intervenor seeks to file a Motion to Intervene the Applicant's Motion to Quash Subpoena.

ARGUMENTS

1. **THE INTERVENOR IS ENTITLED TO MOTION TO INTERVENE APPLICANT'S MOTION TO QUASH SUBPOENA**

In *Louis Berger Grp., Inc. v. State Bank of India*, 802 F. Supp. 2d 482, 485 (S.D.N.Y. 2011), the Southern District held that, "Under Fed. R. Civ. P. 24(b) (1) (B), the trial court may grant permissive intervention when: (1) an application is timely, and (2) a federal statute confers a conditional right to intervene or (3) an applicant's claim and the main action share a question of law or fact in common." See also *Chevron Corp. v. Donziger*, 2011 U.S. Dist. LEXIS 57573 (S.D.N.Y. May 31, 2011); *Tide Nat. Gas Storage I, L.P. v. Falcon Gas Storage* Co., No. 10 CV 5821 (KMW) (THK), 2012 U.S. Dist. LEXIS 188864 (S.D.N.Y. Aug. 7, 2012). The court also held that, "A district court has broad discretion in deciding whether to grant permissive intervention, but must consider whether the intervention will unduly delay or prejudice the adjudication of the original parties' rights." *Id.*

In re *Louis*, the court granted the intervenor's motion to intervene pursuant to Rule 24 (b) (1) (B) because the intervenor demonstrated that the instant action and its putative claim shared the common question of law or fact. The court was also convinced that the intervenor's intervention will not cause any undue delay.

In *Thai-Lao Lignite (Thail.) Co. v. Gov't of the Lao People's Democratic Republic*, 2012 U.S. Dist. LEXIS 176646 (S.D.N.Y. Nov. 29, 2012), the Southern District concluded that it need not reach the issue of whether the intervenor satisfied the requirements for intervention as of right under Rule 24(a) because the in any event, the intervenor was entitled to permissive intervention under Rule 24(b).

Permissive intervention is appropriate when Intervenor's timely claim or defense shares a question of law or fact in common with the underlying action and if the intervention will not unduly delay or prejudice the rights of the parties. *Fed. R. Civ. P. 24(b)).* The applicability of the permissive intervention to the case at Bar, is established hereunder.

(a) Timeliness of Motion to Intervene

To determine whether an intervention motion is timely, the Southern District considered four factors: "(1) how long the applicant had notice of the interest before it made the motion to intervene; (2) prejudice to existing parties resulting from any delay; (3) prejudice to the applicant if the motion is denied; and (4) any unusual circumstances militating for or against a finding of timeliness." *Consumer Fin. Prot. Bureau v. Sprint Corp.*, 320 F.R.D. 358, 361 (S.D.N.Y. 2017). The critical inquiry in every such case is whether in view of all the circumstances the intervenor acted promptly after the entry of final judgment. In the case at Bar, the Intervenor filed this Motion to Intervene at an early stage instantaneously after the reopening of the Intervenor's Naturalisation Application. Therefore it can be concluded that the Intervenor's Motion to Intervene was timely filed and should be granted.

In *Dow Jones & Co. v. United States Dep't of Justice*, 161 F.R.D. 247, 254 (S.D.N.Y. 1995), the Southern District held that, "The determination of timeliness of a motion to intervene is committed to the discretion of the trial court and must be based on all of the circumstances of the case." The court alternatively granted the proposed intervenor's motion to intervene pursuant to Fed. R. Civ. P. 24 (b) because the motion to intervene fulfilled the timeliness requirement while determining the motion. The court held that the motion to intervene was timely because it was filed just 18 days after the issuance of the order for summary judgment and before the clerk of the court entered final judgment. The timeliness requirement only bars intervention applications made too late. *Spirt v. Teachers' Insurance & Annuity Association*, 93 F.R.D. 627, 637 (S.D.N.Y.) (denying intervention request filed "approximately two years after a final judgment was entered in the *Spirt* action")

In the case at Bar, the Intervenor has acted timely within the legal framework designed for the purpose. Significantly, the need for the Intervenor to intervene was occasioned by the Subpoena issued in the reopening of the Naturalisation Application. It is asserted that the Motion to Intervene

is timely where the Intervenor promptly moves upon learning of its interest in the litigation, where USCIS would not suffer prejudice from allowing the intervention, and where no other special or unusual circumstances render the motion untimely. In the present matter, all requirements are readily satisfied because the Intervenor moved while the case was still in its infancy. The Intervenor's Application for Naturalisation was reopened pursuant to the Court Order dated _____. USCIS requested employment records through Subpoena dated _____. On _____, USCIS further requested for additional information on after the examination of the N-400 Application. No other significant developments have taken place thereafter. The Intervenor has acted promptly and moved the Court for intervening the Motion to Quash filed on _____ by E's Counsel. Further, USCIS does not face any injury from whatever delay intervention would occasion.

The Intervenor asserts that intervention in action is necessary for the protection of its interest. The Intervenor's interest in the present matter lies in the successful processing of its Naturalisation Application and the Intervenor has taken efforts in the same direction. However, the Intervenor asserts that USCIS' recurrent demands for the Intervenor's records constitutes abuse of the powers vested in the authority, more so, when the Intervenor has already produced the requisite records for the Application in question. As detailed above, the Intervenor would be prejudiced if the Motion to Intervene is not granted. As such, the Court must acknowledge the protection of the Intervenor's significant interest in motion based on potential loss of the Intervenor if the Application is denied. Accordingly, the Court should grant permissive intervention without reaching question of intervention as of right. The Motion to Intervene is timely as set forth above.

(b) Prejudice to the parties

In re Bear Stearns Cos., 297 F.R.D. 90, 97 (S.D.N.Y. 2013), the Southern District stated that Rule 24(b) (3) provides that in exercising its discretion regarding permissive intervention, the court

must consider whether the intervention will unduly delay or prejudice the adjudication of the original parties' rights. See also *Padilla v. Maersk Line, Ltd.*, 2009 U.S. Dist. LEXIS 100954, at *4 (S.D.N.Y. Oct. 29, 2009) [court granted the motion for permissive intervention, pursuant to Rule 24(b)]. The court determined that the motion to intervene pursuant to 24 (b) (1) (B) was timely. The court also concluded that the intervenor's permissive intervention would not cause undue delay and there will be no prejudice to the original parties. Therefore, the court granted the intervenor's motion for permissive intervention under Fed. R. Civ. P. 24 (b) (1) (B).

In the case at Bar, the Intervenor asserts that the present matter and the underlying action involves same issues and common question of law and facts. Therefore, the denial of the motion would prejudice the Intervenor if he is not permitted to intervene in the underlying Motion to Quash. It is pertinent to mention here that the underlying action and the present Motion to Intervene emanates from the same source of the Intervenor's Naturalisation Application. As such, the denial of the Intervenor's Motion to Intervene would result in multiplicity of suits and delay the proceedings of the underlying action. Therefore, in order to circumvent multiplicity of legal proceedings constituting irreparable harm and also to shield the parties from prejudice, the Court should grant the Motion to Intervene.

The Intervenor asserts that the Motion to Intervene will not result in prejudice to the existing party, USCIS as they would not face any damage from the intervention that would occasion through the present action. Moreover, allowing the Intervenor to intervene will not cause any undue delay in the schedule of the underlying action or otherwise affect the rights of the parties in any respect. Finally, there are no special or unusual factors present that would render the Intervenor's Motion untimely or improper. The Intervenor has therefore satisfied the threshold requirement as the underlying case is in its early stages. As such, the intervention will not cause any undue delay or prejudice to USCIS.

(c) The Intervenor's claim and the Motion to Quash share a question of law or fact in common

In *Dorchester Fin. Holdings Corp. v. Banco BRJ, S.A.*, 2016 U.S. Dist. LEXIS 26034, at *3-4 (S.D.N.Y. Mar. 2, 2016), the Southern District stated that district courts enjoy very broad discretion to determine whether to permit intervention based on a claim of commonality. In re Dorchester, the intervenor filed the motion to intervene pursuant to Federal Rule of Civil Procedure 24(b). The Southern District determined that the motion to intervene was appropriate because as per Fed. R. Civ. P. 24(b)(1)(B), the intervenor shared several factual and legal issues in common with the litigation which are more than suffice to permit intervention and also the intervention of the intervenor was not likely to cause undue delay or prejudice to the original parties in the adjudication of their rights.

In *Thai-Lao Lignite (Thail.) Co. v. Gov't of the Lao People's Democratic Republic*, 2012 U.S. Dist. LEXIS 176646 (S.D.N.Y. Nov. 29, 2012), the Southern District granted the motion to intervene pursuant to Fed. R. Civ. P. 24(b) because the intervenor certainly shared a common question of law or fact with the main action.

The Intervenor asserts that under Rule 24(b), the Intervenor's motion and the Motion to Quash already before this Court have sufficiently common questions of law or fact. The common issues in both the matters are outlined below:

(i) The issuance of the Subpoena in the course of naturalization hearing is *Ultra Vires*

The provisions of 8 USC §1225(d)(4) and 8 CFR §287.4, which are the authorities relied on by USCIS, expressly preclude the issuance of the Subpoena in the course of a naturalization hearing. The provisions of 8 CFR 287.4(a)(1) set out who may issue a subpoena and includes *any other* immigration officer *who has been expressly delegated such authority as provided by* 8 CFR 2.1. It is

not clear that FDNS Chief John T. Ryan is so authorized, but that will be a matter for USCIS to establish.

More particularly, 8 CFR §287.4(a)(2) sets out the authority in *other than naturalization proceedings,* and expressly stated that designated officers may issue a subpoena requiring the attendance of witnesses or the production of documentary evidence, or both "*for use in any proceeding under this chapter I, other than under* 8 CFR part 335*, or any application made ancillary to the proceeding."* This is confined at 8 CFR §287.4(a)(2)(ii) which sets out procedures for the issuance of a subpoena after the commencement of proceedings, in cases other than those arising under part 335 of this chapter. See also 8 CFR §287.4(b)(2).

The provisions of 8 CFR §335 address the examination on an application for naturalization. This section contains its own investigative authority under 8 CFR §335.1 which sets out as follows:

> *Subsequent to the filing of an* **application** *for naturalization, the* **Service** *shall conduct an investigation of the applicant. The investigation shall consist, at a minimum, of a review of all pertinent records, police department checks, and a neighborhood investigation in the vicinities where the applicant has resided and has been employed, or engaged in business, for at least the five years immediately preceding the filing of the* **application**. *The district director may waive the neighborhood investigation of the applicant provided for in this paragraph.*

Accordingly, USCIS is clearly in disregard of, or attempting to circumvent, the statutory restrictions and separate provisions for investigations of a naturalization application.

The Intervenor submits that there can be no uncertainty in this regard. However, if there are any residual uncertainties, the Court should resolve it in the Intervenor's favour. *United States v Minker*, 350 US 179 [1956] (*Concerns regarding the subpoena power are emphatically pertinent to investigations that constitute the first step in proceedings calculated to bring about the*

denaturalization of citizens. This may result in loss of both property and life; or of all that makes life worth living. In such a situation where there is doubt it must be resolved in the citizen's favor.)

The Intervenor asserts that, in any event, it is unequivocally clear that the legal framework upon which the USCIS relies in issuing the Subpoena, for production of the employment records of the Intervenor for ____ years, is entirely improper. It is sufficiently demonstrated that the Intervenor is only required to harvest its employment details for the past five years before applying for the naturalization process which obligation has already been fulfilled by the Intervenor. Further, Motion to Quash also seeks the same relief. As such it is evident that the issuance of the Subpoena in the course of naturalization hearing is common question of law in the both matters, the underlying action and the present action.

(ii) <u>The records sought by Subpoena are irrelevant and immaterial</u>

In *Aristocrat Leisure Ltd. v Deutsche Bank Trust Co. Ams.*, 262 FRD 293 [SDNY 2009], the Southern District Court held that, "*Fed. R. Civ. P. 45 mandates a court to quash or modify a subpoena that subjects a person to undue burden. Fed. R. Civ. P. 45(d)(3)(A)(iv).*"

The Court also held that, "*Motions to quash a subpoena are entrusted to the sound discretion of a district court.*" *Id.* It further held that, "*A court engages in a balancing test to determine whether an undue burden exists*." *Id*.

Fed. R. Civ. P., Rule 45(d)(3) requires that the Court must quash or modify a Subpoena that requires disclosure of privileged or other protected matter, if no exception or waiver applies; or if it subjects a person to an undue burden. The Intervenor asserts that in the present matter, Part 6 of Section B of the N-400 Application only requires an applicant to respond to the standard question of where s/he has worked during the last five years prior to the Application. The Subpoena in the

case at Bar, is overreaching, and concerns matters which are entirely irrelevant and immaterial to the Naturalization Application, as outside the statutory period and not compellable by any statutory provision. The information sought in the case at bar is not material for the purposes of the Intervenor's Naturalization Application.

Moreover, the documents requested from the Applicant are subject to attorney-client privilege. In re *Okean B.V.*, 60 F Supp 3d 419 [SDNY 2014], the Southern District Court held that, "*Under United States law, communications that otherwise would be protected by the attorney-client privilege or the attorney work product privilege are not protected if they relate to client communications in furtherance of contemplated or ongoing criminal or fraudulent conduct*." *Id.* There is no suggestion that there has been any *"ongoing criminal or fraudulent conduct"* in the case at bar.

Similarly, in *Orbit One Communs., Inc. v Numerex Corp.*, 255 FRD 98 [SDNY 2008], the Southern District New York held that, "*Unless it offers an adequate excuse, a party or non-party must obey a valid subpoena. Fed. R. Civ. P. 45(e). However, the court must not enforce a subpoena that requires disclosure of privileged or otherwise protected matter or presents an undue burden. Fed. R. Civ. P. 45(d)(3)." Id.* The court concluded that "*Ultimately, the determination of issues of burden and reasonableness is committed to the sound discretion of the trial court." Id*.

In the case at Bar, the USCIS has sought production of the Intervenor's employment records over the course of a 33 year period. As set out above, an applicant for naturalization is only required to list his employer for the previous five years on the N-400 Application for Naturalization. There is no statutory requirement for this, or any requirement to produce employment records for that five year period or otherwise. It is axiomatic that the Subpoena does not seek any potential relevant records in connection to the Intervenor's Application. The

Intervenor has fulfilled his requirements in relation to his employment details for previous five years which is not in dispute.

The Intervenor's proposed Motion to Intervene relates to the same Application in connection with which the Subpoena was served on E's counsel (the Applicant herein). The final pronouncement in the Motion to Quash will eventually affect the Intervenor's Application. Permissive intervention is appropriate where the question of commonality exists. The Intervenor has sufficiently established that the underlying Motion to Quash and the present Motion to Intervene share analogous goals and consequently seek the same relief. Moreover, as set out above, proposed Motion to Intervene is timely and will result in no prejudice to USCIS. As such, the Intervenor has met the requirements of permissive intervention for several separate and independent reasons that are set forth above. Accordingly, even in the absence of intervention as of right, the Intervenor respectfully submit that this Court should allow permissive intervention.

Therefore, given the importance of the issues involved in the present matter, the stake that the Intervenor has in the Motion to Quash, and the early stage of the litigation, the Court should allow permissive intervention.

CONCLUSION

WHEREFORE, for the foregoing reasons, the Intervenor respectfully requests that this Honorable Court enter an Order GRANTING

1. Motion to Intervene the action filed by the Applicant concerning the Motion to Quash Subpoena;
2. For such other and further relief that this Court deems just and proper.

Dated: _____

_____.

Respectfully submitted,

_____

_____

_____

_____

(*Attorney Name & Address*)

Attorneys for the Intervenor
D

To:

_____
_____
_____
_____
Attorneys for the Applicant
_____
_____
_____
_____
Attorney for the Respondents
_____
cc.
_____
Assistant United States Attorney
_____
_____
_____
_____.

CERTIFICATE OF SERVICE

I certify that a true and correct copy of the **Notice** of **Motion to Intervene and** Memorandum of Points and Authorities in Support of **Motion to Intervene** together with all attachments and exhibits, were _____ [delivered in person *or* sent by first-class U.S. mail (in a properly-addressed envelope with first class postage duly paid) *or other method of service*] before 5:00 p.m. on _____ to the attorneys of record for all of the parties in this action at the addresses listed below:

1. _____
_____
_____
_____.
Attorneys for the Applicant

2. _____
_____
_____.
Attorney for the Respondents

3. _____
Assistant United States Attorney
_____
_____
_____.

Dated: ____,

_____[*signature*]
_____
_____
_____
_____.

_____[*signature*]
_____
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_____.
Attorneys for the Intervenor