

IN THE SUPREME COURT OF THE UNITED STATES

IN RE GRAND JURY

On Writ of Certiorari
to the United States Court of Appeals
for the Ninth Circuit

**PETITIONER'S MOTION FOR LEAVE TO FILE JOINT APPENDIX UNDER
SEAL**

Pursuant to Supreme Court Rule 21, Petitioner respectfully seeks leave to file a joint appendix consisting of one volume under seal.

1. Petitioner is a law firm that provided legal services to a client (the Client) who is the subject of a federal criminal investigation. In connection with that investigation, the United States served grand jury subpoenas on Petitioner and two of its employees. This petition arises from the government's motion to compel Petitioner to disclose certain records that Petitioner contends are protected by attorney-client privilege.

2. Because the case arises from grand jury subpoenas related to an ongoing criminal investigation, the district court and court of appeals dockets are sealed, including all briefing by the parties. The district court's orders are all sealed and the court of appeals issued one published opinion and a separate memorandum opinion under seal. This court previously granted Petitioner's motion to file under seal a supplemental appendix containing the sealed opinions of the lower courts.

3. In conjunction with its opening brief, Petitioner has filed a joint appendix consisting of one volume. The volume includes three categories of documents that contain confidential information or tend to reveal the identities of Petitioner and Client. All of the material in this joint appendix was either filed under seal in the district court and Ninth Circuit or provided under seal and in camera to the district court and Ninth Circuit. None of it has been publicly filed.

4. First, the volume contains three declarations by current or former employees of Petitioner law firm, all of which were sealed in the underlying district court case. The declarations identify the Petitioner, the declarant, additional employees of Petitioner, and the Client. The declarations also discuss the specific work performed for the Client, providing details of the Client's legal needs and financial and business enterprises. Two of the three declarations also attach accompanying exhibits. Petitioner seeks to maintain the confidentiality of the declarations and accompanying exhibits.

5. Second, the volume contains 54 documents that the district court ordered disclosed to the government, in whole or part. Pet. App. 54a.¹ These documents were originally submitted ex parte, in camera, and under seal to the district court, and then submitted ex parte, in camera, and under seal to the Court of Appeals for the Ninth Circuit. The district court had stayed its disclosure order until 10 days after the Ninth Circuit issued its mandate. After the Ninth Circuit denied Petitioner's motion to stay its mandate pending the filing of a petition for certiorari

¹ The documents in the Sealed Joint Appendix include the court-ordered redactions.

with this Court, and after the mandate issued, Petitioner produced these 54 documents to the Government pursuant to the district court's order. These documents are appropriately filed under seal in this Court because (a) Petitioner continues to assert attorney-client privilege over the 54 documents, and intends to claw them back in the event that this Court reverses the Ninth Circuit's underlying decision; (b) the documents discuss the names of Petitioner, Petitioner's employees, and the Client, and detail the specific work performed for the Client; and (c) the documents were ordered produced pursuant to a criminal grand jury subpoena and are therefore subject to the secrecy provisions of Federal Rule of Criminal Procedure 6(e). Accordingly, Petitioner seeks to maintain the confidentiality of these documents pending the outcome of the present controversy.

6. Third, the volume contains docket sheets from the district court and the court of appeal, which contain the names of Petitioner and Client. Both dockets remain sealed from the public. Petitioner seeks to maintain the continued confidentiality of the docket sheets which reflect ongoing criminal investigation.

7. The government does not oppose the sealing requests presented in this motion.

For the foregoing reasons, Petitioner respectfully requests that the Court grant
Petitioner leave to file a joint appendix under seal.

Respectfully submitted,

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