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11 Attorneys for Plaintiff  
 12 UNITED STATES OF AMERICA

13 UNITED STATES DISTRICT COURT

14 FOR THE CENTRAL DISTRICT OF CALIFORNIA

15 UNITED STATES OF AMERICA,

16 Plaintiff,

17 v.

18 ROBERT HUNTER BIDEN,

19 Defendant.

No. CR 23-cr-00599-MCS

GOVERNMENT’S UNOPPOSED *EX*  
*PARTE* APPLICATION FOR ORDER  
SEALING GOVERNMENT’S  
UNREDACTED OPPOSITION TO  
DEFENDANT’S MOTION TO DISMISS  
THE INDICTMENT FOR DUE PROCESS  
VIOLATIONS BASED ON  
OUTRAGEOUS GOVERNMENT  
CONDUCT AND THREE EXHIBITS

Hearing Date: March 27, 2024

Hearing Time: 1:00 p.m.

Location: Courtroom of the  
 Hon. Mark Scarsi

20 The government hereby applies ex parte for an order that seals the Government’s  
 21 *Unredacted* Opposition to Defendant’s Motion to Dismiss the Indictment for Due  
 22 Process Violations Based On Outrageous Government Conduct and Three Exhibits  
 23 (Exhibits 2, 4, & 5). The government filed a redacted version of its opposition on the  
 24 public docket which includes redactions to a potential ongoing investigation in one

1 paragraph of the filing, and the government has filed three exhibits that reference a  
2 potential ongoing investigation under seal. The justification for the redaction and the  
3 sealed exhibits is that the redacted information contained in the filing and the sealed  
4 exhibits relates to a potential ongoing investigation(s) and the investigating agency(cies)  
5 specifically requested that the government request that the court seal the exhibits, as well  
6 as any accompanying reference in the pleading, in order to protect the integrity of the  
7 potential ongoing investigation(s). *See Kamakana v. City and County of Honolulu*, 447  
8 F.3d 1172 (9th Cir. 2006); *Times Mirror Co. v. United States*, 873 F.2d 1210 (9th Cir.  
9 1989). Here, the potential investigation(s) may involve allegations of wrongdoing, and  
10 the potential investigation(s) could be frustrated, not served, if the public were allowed  
11 access to these materials in the midst of the potential investigation(s). To be clear, the  
12 aforementioned potential ongoing investigations are not references to any investigation  
13 of the defendant conducted by the U.S. Department of Justice.

14 On March 11, 2024, undersigned counsel emailed counsel for the defendant for his  
15 position on this motion to seal. Mr. Abbe Lowell, counsel for the defendant, responded  
16 and indicated that the defendant does not object to the motion to seal.

17 This ex parte application is made pursuant to Local Criminal Rule 49-1.2(b)(3)  
18 and is based on the attached declaration of Senior Assistant Special Counsel Derek E.  
19 Hines.

20 Dated: March 11, 2024

Respectfully submitted,

21 DAVID WEISS  
22 Special Counsel

23 /s/  
24 \_\_\_\_\_  
25 LEO J. WISE  
26 Principal Senior Assistant Special Counsel

27 DEREK E. HINES  
28 Senior Assistant Special Counsel

**DECLARATION OF DEREK E. HINES**

I, Derek E. Hines, declare as follows:

1. I am the Senior Assistant Special Counsel and represent the government in the prosecution of United States of America v. Robert Hunter Biden, No. CR 23-cr-00599-MCS.

2. On or about March 11, 2024, the government filed the “Government’s Opposition to Defendant’s Motion to Dismiss the Indictment for Due Process Violations Based On Outrageous Government Conduct.” The public filing of this document included a partially redacted paragraph that references a potential ongoing investigation(s). Three exhibits (Exhibits 2, 4, and 5) reference a potential ongoing investigation(s). The government was advised by the Office of IRS Chief Counsel that the investigating entity referenced in each of Exhibits 2, 4, and 5 agreed that the documents could be provided to the government and used in a filing with the court provided that the government asked the court to seal these exhibits and certain references to those exhibits in order to protect the integrity of the potential ongoing investigation(s).

3. I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct and that this declaration is executed in the Commonwealth of Pennsylvania on March 11, 2024.



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DEREK E. HINES  
Senior Assistant Special Counsel