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APACHE COUNTY SUPERIOR COURT

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ARIZONA SUPERIOR COURT  
APACHE COUNTY

12 In re the Matter of:  
13 ROMERO, CHRISTIAN RYAN,  
14 Person under eighteen (18) years of age.

No. JV2008065  
**REQUEST OF PHOENIX  
NEWSPAPERS, INC. AND DENNIS  
WAGNER FOR EXPEDITED  
ORAL ARGUMENT ON THEIR  
APPLICATION TO INTERVENE  
FOR THE LIMITED PURPOSE OF  
UNSEALING LETTERS TO THE  
COURT**  
- AND -  
**REQUEST TO APPEAR  
TELEPHONICALLY**  
(Assigned to the Hon. Monica Stauffer)

22 Phoenix Newspapers, Inc., which publishes *The Arizona Republic*, and  
23 *Republic* senior investigative reporter Dennis Wagner (collectively "PNI"), respectfully  
24 request an expedited oral argument on PNI's Application for Leave to Intervene for the  
25 Limited Purpose of Unsealing Letters to the Court ("Application"). For the following  
26 reasons, PNI respectfully requests that the Court hear argument on the Application at the  
27 next scheduled proceeding in this case – on December 3, 2009, at 11:00 a.m., or at the  
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1 earliest practicable date and time thereafter. PNI also requests leave to appear  
2 telephonically at any oral argument that the Court sets on the Application.

3 Set forth below are the essential elements in support of PNI's Application  
4 and this related Request:

5 1. To protect vital rights of the press and public under the First  
6 Amendment and Arizona law, PNI sought to intervene in this matter on November 6, 2009  
7 for the limited purpose of securing public access to certain letters submitted to the Court  
8 by relatives of the victims (the "Letters"). Judge Michael Roca specifically cited the  
9 Letters at the October 22, 2009 hearing in this case (the "Hearing"), when he rejected the  
10 disposition stipulations of the parties. The Court's rejection of the parties' stipulations  
11 prompted Defense counsel to file a Notice of Change of Judge for Cause, and on  
12 November 5, 2009, the *Republic* reported that the Apache County Attorney supported the  
13 Notice. Ultimately, the Court's actions at the Hearing led to the reassignment of this case  
14 to a new Judge.

15 2. Under the First Amendment, the public and the press are entitled to  
16 access to hearings and filings in judicial proceedings except where "specific, on the record  
17 findings are made demonstrating that 'closure is essential to preserve higher values and is  
18 narrowly tailored to serve that interest.'" *Press-Enterprise Co. v. Superior Court*, 478  
19 U.S. 1, 13-14 (1986) (quoting *Press-Enterprise Co. v. Superior Court*, 464 U.S. 501, 510  
20 (1984)). Even where a court is inclined to perpetuate closure of court records, it is  
21 constitutionally required to provide the public and press "sufficient notice to afford them  
22 the opportunity to object or offer alternatives. If objections are made, a hearing on the  
23 objections must be held as soon as possible." *Phoenix Newspapers, Inc. v. District Court*,  
24 156 F.3d 940, 949 (9th Cir. 1998).

25 3. Courts have long recognized that swift judicial action is necessary to  
26 redress violations of the First Amendment. *See, e.g., Elrod v. Burns*, 427 U.S. 347, 373  
27 (1976) ("The loss of First Amendment freedoms, for even minimal periods of time,  
28

1 unquestionably constitutes irreparable injury.”) (citing *New York Times Co. v. United*  
2 *States*, 403 U.S. 713 (1971)).

3 4. Arizona law plainly requires public access to the contents of court  
4 files. Ariz. Const. art. II, § 11 (“Justice in all cases shall be administered openly, and  
5 without unnecessary delay.”); Ariz. Sup. Ct. R. 123(c)(1). Even if the Letters are  
6 considered part of the Juvenile Court’s “Social File,” the Court may order public  
7 inspection of the Letters pursuant to Rule 19.A.2 of the Rules of Procedure for Juvenile  
8 Court.

9 5. To protect the rights of the public and PNI under the First  
10 Amendment, the Arizona Constitution and Arizona law, this Court should hold an  
11 expedited oral argument on PNI’s Application for Leave to Intervene for the Limited  
12 Purpose of Unsealing Letters to the Court, and should grant PNI’s Request to Appear  
13 Telephonically at any oral argument that the Court sets on PNI’s Application.

14 RESPECTFULLY SUBMITTED this 24th day of November, 2009.

15 STEPTOE & JOHNSON LLP

16  
17 By Peter Kozinets

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1 ORIGINAL of the foregoing filed via  
2 Federal Express Priority Overnight Service  
3 this 24th day of November, 2009, to:

4 Clerk of the Apache County Superior Court  
5 Attention: Civil Filing Counter  
6 P. O. Box 365  
7 70 West 3<sup>rd</sup> South  
8 Saint Johns, Arizona 85936

9 COPY of the foregoing served via  
10 facsimile and US Postal Service  
11 this 24th day of November, 2009, to:

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13 Presiding Judge  
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