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8 **UNITED STATES DISTRICT COURT**
9 **DISTRICT OF ARIZONA**

10 GEORGE F. BOBOLAS, a Greek
11 individual,

12 Plaintiff,

13 v.

14 JOHN DOES 1 – 100, Internet website
15 bloggers;

16 Defendants.

Case No. 2:10-cv-02056-DGC

**MOTION FOR LEAVE TO
INTERVENE**

17 Public Citizen, Inc., a District of Columbia corporation, hereby moves this Court
18 pursuant to Rule 24 of the Federal Rules of Civil Procedure, for leave to intervene for the
19 limited purpose of seeking public disclosure of the declarations of George Bobolas and
20 Ioannis Vekris, which refute allegedly defamatory statements made by a group of
21 unnamed bloggers, as well as exhibits containing English translations of the statements.
22 The documents are judicial records and thus subject to the strong presumption of public
23 access. Movant seeks to enforce this strong presumption and wants to see the documents
24 for the purpose of continuing to report on this case.

25 This motion seeks the following relief: an order granting movant leave to intervene
26 for the limited purpose of filing the motion to unseal that is being filed simultaneously
27 with this motion.
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1 Counsel for proposed intervenor Paul Alan Levy sought the consent of plaintiff's
2 counsel to this motion, but counsel indicated the plaintiff will oppose the motion.

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4 This Motion is supported by the following Memorandum of Points and Authorities
5 and the Court's entire file in this matter.

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7 **MEMORANDUM OF POINTS AND AUTHORITIES**

8 Pursuant to Rule 24 of the Federal Rules of Civil Procedure, Public Citizen, Inc.
9 has moved the Court for leave to intervene for the limited purpose of seeking public
10 disclosure of the Bobolas and Vekris declarations and the attached exhibits, on which
11 plaintiff's motion for a temporary restraining order was based, for the following reasons:

12 1. Public Citizen is a non-profit advocacy organization founded in 1971 with
13 approximately 90,000 members nationwide. From its inception, Public Citizen has taken
14 an active role in protecting First Amendment rights, including advocating in Congress and
15 the courts. In particular, since 1999, Public Citizen, Inc. has advocated on behalf of
16 ordinary citizens against powerful entities seeking to curtail or suppress the exchange of
17 ideas and criticism over the Internet. This case has previously been discussed on Public
18 Citizen's Consumer Law and Justice blog. [http://pubcit.typepad.com/clpblog/2010/10/
19 federal-judge-denies-greek-tycoon-preliminary-injunction-against-go-daddy-but-misses-
20 the-lack-of-fed.html](http://pubcit.typepad.com/clpblog/2010/10/federal-judge-denies-greek-tycoon-preliminary-injunction-against-go-daddy-but-misses-the-lack-of-fed.html). Public Citizen is interested in the records under seal because they
21 will enable it to continue reporting on the case and because the records will shed light on
22 the underlying controversy and the grounds on which the temporary restraining order
23 sought by Bobolas was predicated.

24 2. Public Citizen seeks to assert its right under Rule 26(c) of the Federal Rules of
25 Civil Procedure, under the First Amendment, and under the common law presumption that
26 judicial records will be available for public scrutiny to review the declarations and
27 statements. Public Citizen has long been concerned with issues of open government and
28 access to courts, and is well-positioned to represent the general public's right of access.

1 Public Citizen has handled numerous cases concerning the right of public access to
 2 litigation documents, including *Public Citizen v. Liggett Group*, 858 F.2d 775 (1st Cir.
 3 1988); *Brown & Williamson Tobacco Corp. v. FTC*, 710 F.2d 1165 (6th Cir. 1983);
 4 *McMann v. Doe*, 460 F.Supp.2d 259 (D. Mass. 2006); *Cardiac Pacemakers, Inc. v. Aspen*
 5 *II Holding Co.*, 2006 WL 3043180 (D. Minn. Oct. 24, 2006); *Chao v. Estate of Frank*
 6 *Fitzsimmons*, 349 F. Supp. 2d 1082 (N.D. Ill. 2004); *In re Am. Historical Ass'n*, 62 F.
 7 Supp. 2d 1100 (S.D.N.Y. 1999); *In re Agent Orange Prod. Liab. Litig.*, 104 F.R.D. 559
 8 (E.D.N.Y. 1985); and *Hammock v. Hoffmann-LaRoche*, 142 N.J. 356 (1995).

9 3. “Nonparties seeking access to a judicial record in a civil case may do so by
 10 seeking permissive intervention under Rule 24(b)(2).” *San Jose Mercury News v. United*
 11 *States District Court*, 187 F. 3d 1096, 1102 (9th Cir. 1999) (granting mandamus and
 12 reversing denial of motion for leave to intervene). *Accord Foltz v. State Farm Mut. Auto*
 13 *Ins. Co.*, 331 F.3d 1122, 1120-30 (9th Cir. 2003) (court of appeals had jurisdiction to
 14 consider appeal of parties who intervened to seek unsealing of judicial records); *Beckman*
 15 *Indus. Inc. v. Int’l Ins. Co.*, 966 F.2d 470, 473 (9th Cir. 1992) (holding that permissive
 16 intervention is proper method to modify protective order); *In re Associated Press*, 162
 17 F.3d 503, 506-509 (7th Cir. 1998) (“[T]he most appropriate procedural mechanism [for
 18 third parties to obtain access to court proceedings and documents] is by permitting those
 19 who oppose the suppression of the material to intervene for that limited purpose.”).

20 21 CONCLUSION

22 For all of the foregoing reasons, the motion for leave to intervene should be
 23 granted.¹

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¹ Counsel are grateful to Jonathan E. Taylor, a Redstone Fellow at Public Citizen, for his work preparing this brief.

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DATED this 19th day of November, 2010.

JABURG & WILK, P.C.

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Certificate of Service

I hereby certify that on 19th day of November, 2010, I electronically transmitted the attached document to the Clerk's Office using the CM/ECF System for filing, and for transmittal of a Notice of Electronic Filing to the following CM/ECF registrants:

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