

UNITED STATES DISTRICT COURT
DISTRICT OF COLUMBIA

IN RE MEDIA APPLICATION FOR
AUDIOVISUAL ACCESS TO TRIAL
PROCEEDINGS IN UNITED STATES OF
AMERICA V. DONALD J. TRUMP

Case No. 23-mc-99 (TSC)

IN RE APPLICATION OF
NBCUNIVERSAL MEDIA, LLC TO
PERMIT VIDEO AND AUDIO OF TRIAL
PROCEEDINGS IN UNITED
STATES V. DONALD TRUMP

Case No. 23-mc-107 (TSC)

**UNOPPOSED MOTION FOR CONSOLIDATION AND
FOR ENTRY OF A BRIEFING SCHEDULE**

The United States respectfully moves to consolidate the above-captioned matters pending before this Court and to set a combined briefing schedule for responding to the applications filed in each matter. Both media applicants consent to this motion. Counsel for Mr. Trump did not respond to an email seeking his position. Good cause supports this request, for the reasons that follow:

1. On October 5, 2023, a coalition of media organizations filed an application for audiovisual access to the criminal trial in *United States v. Trump*, Crim. No. 23-257 (TSC). The application was docketed as a new miscellaneous matter and assigned to this Court. *See* Misc. No. 23-99 (TSC). The application argues generally that Federal Rule of Criminal Procedure 53 and Local Criminal Rule 53.1.1 violate the First Amendment as applied.

2. On October 11, 2023, NBCU News Group filed a similar application. It raises some additional arguments, but also argues that Rule 53 is unconstitutional and that the

Court should not follow it.

3. Federal Rule of Civil Procedure 42(a) permits consolidation where “actions before the court involve a common question of law or fact.” *Hanson v. Dist. of Columbia*, 257 F.R.D. 19, 21 (D.D.C. 2009) (quoting *Devlin v. Transp. Comm’n Intern. Union*, 175 F.3d 121, 130 (2d Cir. 1999)). Consolidation “relieves the parties and the Court of the burden of duplicative pleadings and Court orders.” *New York v. Microsoft Corp.*, 209 F. Supp. 2d 132, 148 (D.D.C. 2002). If “savings of expense and gains of efficiency can be accomplished without sacrifice of justice,” consolidation may be warranted. *Hanson*, 275 F.R.D. at 21 (quoting *Devlin*, 175 F.3d at 130).

4. The two media applications merit consolidation because they seek similar relief, *i.e.*, some method of broadcasting the criminal trial of *United States v. Trump*. The applicants’ legal theories are not entirely overlapping, but they overlap in large part, with both applications arguing that Rule 53 violates the First Amendment as applied to this particular trial. Briefing and deciding these matters together would promote judicial economy and provide the most efficient means for resolving both applications. To that end, the government and the media applicants have conferred, and propose the following briefing schedule for the consolidated applications:

November 3: United States to file combined opposition to the applications;
November 17: Media Coalition and NBCU News Group to file separate replies.

Respectfully submitted,

Dated: October 18, 2023

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