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**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

UNITED STATES)	CASE NO: CR-S-04-0119-KJD-LRL
)	
Plaintiff)	
)	
V)	MEMORANDUM OF LAW TO
)	SUPPORT MOTION TO ALLOW
IRWIN SCHIFF, CYNTHIA NEUN)	CAMERAS IN THE COURTROOM
And LAWRENCE N. COHEN,)	
<u>Defendant</u>)	

Defendant Irwin Schiff submits the following MEMORANDUM OF LAW in support of his motion to permit cameras in the courtroom.

OVERVIEW

By its literal terms, the Sixth Amendment *expressly* secures the Right to a “Public Trial” **to the accused**. The Fifth Amendment guarantees Due Process.

Although FRCP Rule 53 ostensibly bars cameras from federal criminal trials, Defendant hereby asserts that, despite the concerns voiced in prior case law, which have focused intensively on the First Amendment Rights of the *media* at criminal trials and the potential Due Process *harms* that might be visited upon a criminal defendant by cameras or broadcast of the proceedings, this Defendant, knowledgeable and cognizant of such potential harms, and standing as the “accused”, hereby asserts that he has an independent and Constitutionally protected Right to personally utilize **reasonable and non-disruptive means** to record and/or broadcast his criminal trial in order to:

- 1) secure his unalienable Rights,
- 2) insure the integrity of the judicial and prosecutorial process, and
- 3) maximize public access and examination of the trial proceedings by making full “gavel-to-gavel” public access of the proceedings available to significant numbers of interested Americans, that for whatever reason, will be unable to physically attend the trial, or are unable

to secure one of the few seats available to the general public, and who, *like the Defendant*, have a direct and personal stake in the questions of tax law, judicial process and jurisdiction being decided before this Court.

Defendant unequivocally asserts that *his* interests, --i.e., his unalienable Rights --, including his Right to a fair trial and an accurate record for Appeal, and the Right of the People to access to the proceedings to insure Justice, cannot be secured by relying upon a handful of part-time public spectators, the anecdotal quips and quotes of the corporate-biased news media, or a time-delayed Court written record consisting solely of the hand-transcribed notes of a federally employed court reporter, which are effectively immune to public review and scrutiny against an independent mechanical recording and, -- in the worst-case scenario, may be ripe for unlawful tampering for the benefit of the Court or the self-interests of the Government.¹

Defendant further asserts that because the primary legal controversy before this court, i.e., the proper, *bona fide* application of federal income tax laws is of such unquestionable importance to the national agenda and to every American family, that to deny this Defendant, upon specific request, *his* exercise of his 6th Amendment Right, i.e., the Right to record and broadcast a complete, accurate, an independently created transparent record of the trial, is to deny the American People their opportunity to directly exercise their collective Constitutional responsibility of engaging in direct and effective oversight and correction to guard against improper Judicial process and/or abuses of prosecutorial powers, both of which this Defendant

¹ Defendant has already experienced such (“tampering”). At a criminal trial before Judge T. Emmet Clarie in Hartford, Connecticut in June of 1980, I was also representing myself. The government had used three or four IRS agents to testify against me. Attempting to lay a foundation on cross-examination, I approached their main IRS witness with an IR Code book, and asked: “Are you familiar with the Internal Revenue Code?” Looking past me in the direction of the prosecutor, he hesitated and then replied, “No I am not.” His totally unexpected reply caused a loud, collective gasp to emanate from the spectators. Being inexperienced and unprepared for that answer, I did not know how to proceed, but I knew that I could not now ask the questions I had intended to ask. Months later when I was writing a paper on my trial, I sought to quote the IRS agent who had testified against me, but who, later on cross-examination, claimed to be “unfamiliar with the provisions of the IR Code.” I turned to the spot in the transcript where those remarks were made – *and neither my question nor his answer appeared!* I immediately called my stand-by counsel Douglas Gilmore of Westport, Connecticut who was now working on my appeal. He couldn’t believe that those remarks were not there – since no one could forget their having been made. We concluded that this IRS agent was obviously responsible for the conviction of others based on testimony he gave as being knowledgeable in the law. However, based on his testimony at my trial that he was not, could be used to overturn some of those convictions. So to prevent that from happening, his claim had to be expunged from my trial transcript. During the IRS raid on Freedom Books on Feb. 11, 2003, the IRS took my transcript of this trial, therefore, I can not now be sure (as I write this) who specifically that IRS agent was, otherwise I would have named him.”

has previously endured by this District Court, other U.S. District Courts, the IRS and The Department of Justice.

In short, Defendant, being endowed by his Creator with unalienable Rights and fully aware of the possibility and potential for unforeseen biases and/or harms that might result, **nonetheless, seeks to personally -- and fully – invoke and exercise his 6th Amendment Right to a Public Trial by independently preserving and broadcasting to the public, via means that are non-disruptive to the Judicial process or the decorum of the Court, the full proceedings of the trial.** By engaging in such recording and public broadcast and subjecting the Judicial and prosecutorial functions to the resultant and enhanced public scrutiny, Defendant believes he can best secure his unalienable Rights (including the Rights to Due Process and Justice), and independently safeguard for all posterity (and his Appeal if necessary) the events of the trial. Beyond Defendant’s personal interests are the concurrent and compelling interests of the American public to experience -- as live witnesses -- a high-profile criminal controversy involving a **direct legal challenge to the federal tax laws that affect most of this nation’s inhabitants.**

The Government, having aggressively sought and secured a number of criminal and civil tax charges against these multiple Defendants, should relish this opportunity to educate the public further about our nation’s tax system and our system of Justice, and to enable all Americans to witness the trial of several citizens who have (allegedly) committed criminal acts by (allegedly) falsely deceiving others about the laws of the United States and the decisions of the Supreme Court.

The remainder of this motion contains specific discussions of law regarding Defendant’s assertion of his unalienable Right to record and facilitate full public access to the trial in order to secure his Rights to Due Process and a Fair Trial.

The Federal Rules of Criminal Procedure cannot “trump” the unalienable 5th and 6th Amendment Rights of the Defendant. Such rules are unconstitutional.

“Where rights secured by the Constitution are involved, there can be no rule making or legislation which would abrogate them.”

Miranda v. Arizona, 384 U.S. 436 (1966)

Defendant respectfully asserts that the 6th Amendment Right to a Public Trial has deep historical and constitutional roots vesting in **Defendant** the Right to directly use the

contemporary technology of the day, in a manner non-disruptive to the proceedings, to insure the protection and exercise his other Rights, including Due Process and Justice.

While previous case law may have focused primarily on the First Amendment Rights of the media and the necessity for a fair trial, Defendant asserts that *his* Rights, as the accused, include the Right to bring cameras into the federal courtroom to secure and insure Justice. The fact that the media and the public may derive ancillary benefit from Defendant's use of cameras is important for other constitutional reasons, but should only be considered as "additive" justification to the primary exercise of his Defendant's Right to record and broadcast the trial.

Utmost in consideration is Defendant's need to preserve *his* constitutionally protected Rights. Defendant contends that this is best achieved by creating full video recordings and providing live, remote access to the judicial proceedings. Very importantly, and but for the demand of the accused, this broad access might not otherwise be afforded to third parties (such as the media) or the public at large. Unlike many other cases where the accused would shun the light of publicity, this Defendant believes his interests can only be secured by the publicity and widespread virtual, remote access that would be afforded by the recording and broadcast of his criminal trial. Indeed, the admissibility of cameras and live broadcasting is already a well established, and well accepted practice currently afforded by many other courts around the nation, both state (civil and criminal) and federal (civil).

Unlike the media and public at large, which may indeed have practical limitations placed upon them so as not to improperly disadvantage the accused, Defendant's *Individual* Right to secure Due Process and his Right to a Public Trial (though the reasonable use of non-disruptive means) are of constitutional necessity, Fundamental Rights and cannot be infringed by prior case law, federal statute or the discretion of the local court.

Conclusively, Defendant argues, as the accused, that his 6th Amendment Right to a Public Trial, as individually exercised by *his* creation of an independent recording and broadcast of the full trial proceedings (**in a non-disruptive manner**) is the best, if not only,

practical, and constitutionally sanctioned vehicle available to him by which his Rights of Due Process and Justice can be best secured.

The traditional Anglo-American distrust for secret trials has been variously ascribed to the notorious use of this practice by the Spanish Inquisition, to the excesses of the English Court of Star Chamber, and to the French monarchy's abuse of the letter de cachet. All of these institutions obviously symbolized a menace to liberty. In the hands of despotic groups each of them had become an instrument for the suppression of **political** and religious **heresies** in **ruthless disregard of the right of an accused to a fair trial**. Whatever other benefits the guarantee to an accused that his trial be conducted in public may confer upon our society, the guarantee has always been recognized as a **safeguard against any attempt to employ our courts as instruments of persecution**.

The knowledge that every criminal trial is subject to contemporaneous review in the forum of public opinion is an effective restraint on possible abuse of judicial power.

...One need not wholly agree with a statement made on the subject by Jeremy Bentham over 120 years ago to appreciate the fear of secret trials felt by him, his predecessors and contemporaries. Bentham said: '* * * suppose the proceedings to be completely secret, and the court, on the occasion, to consist of no more than a single judge,-that judge will be at once indolent and arbitrary: how corrupt soever his inclination may be, it will find no check, at any rate no tolerably efficient check, to oppose it. **Without publicity, all other checks are insufficient**: in comparison of publicity, all other checks are of small account. Recordation, appeal, whatever other institutions might present themselves in the character of checks, would be found to operate rather as cloaks than checks; as cloaks in reality, **as checks only in appearance**.'" *In re Oliver*, [333 U.S. 257, 266](#)-70 (1948) [emphasis added]

Quoting from Footnote 25 of the same case (*In re Oliver*):

"People v. Murray, 89 Mich. 276, 286, 50 N.W. 995, 998, 14 L.R.A. 809, 28 Am.St.Rep. 294: 'It is for the protection of all persons accused of crime [and] the innocently accused that they may not become the victim of an unjust prosecution, as well as the guilty, that they may be awarded a fair trial [and] that one rule (as to public trials) must be observed and applied to all.' Frequently quoted is the statement in 1 Cooley, Constitutional Limitations (8th Ed.1927) at 647: 'The requirement of a public trial is for the benefit of the accused; that the public may see he is fairly dealt with and not unjustly condemned, and that the presence of interested spectators may keep his triers keenly alive to a sense of their responsibility and to the importance of their functions * * *'"

Defendant seeks nothing less than to exercise a Fundamental Right effectively prohibited by FRCP Rule 53 and local Court rules. Defendant contends these legal and procedural constructions, however well intended, do not serve his interests, and furthermore in the context of a direct request by the accused to fully exercise his 6th Amendment Right to a Public Trial, are infringements that are patently unconstitutional. "[T]he specific guarantees of

the Sixth Amendment are personal to the accused" *Faretta v. California*, 422 U.S. 806, 848 (BLACKMUN, J., dissenting).

It is time to recognize that FRCP 53, as currently applied, is unconstitutional in the face of a direct and specific demand *of the accused*, per the 6th and 5th Amendments to allow recording and broadcast of his trial.

**THE DEFENDANT, THE PEOPLE AND THE MEDIA
ENJOY MUTUAL, FUNDAMENTAL RIGHTS TO FULL PUBLIC ACCESS
TO THIS TRIAL FOR CONSTITUTIONAL PURPOSES.**

Although involving only three Defendants, this trial involves questions of utmost importance for the proper functioning of the constitutional framework of our Republic. Indeed, beyond the mire of the law presented in the Internal Revenue Code that is the subject of this trial, additional questions of grave Constitutional significance have arisen in this trial and the prosecution of the Defendants: the jurisdiction of the IRS, the jurisdiction of this Court with respect to federal tax crimes, and the meaning and limitations of the 16th Amendment and the taxing clauses of our Constitution.

As discussed below, the People have a Fundamental role in our system of Constitutional governance by observing, critiquing and correcting, when necessary, the exercise and/or abuse of the limited judicial and prosecutorial powers delegated by the People for the service and protection of the People, and the People's Rights.

As has been articulated repeatedly in First Amendment access cases, the proper functioning of our form of government and the impartial application and enforcement of our laws could not be possible without substantial public access to our courtrooms.

In this case, the Defendant, the media and the American People all share a common objective: full access to the full proceedings of this trial so that the Individual Rights of the Defendant, as well as the Rights of the People and the Rights of the Press can be preserved. This end can be achieved without cost or detriment to the government, without disruption to the judicial process, without disruption to the courtroom, and without endangering the Rights of the Defendant through the use of non-disruptive recording technology. Full Public access to

criminal trials was the intent of our Founders, it was the rule and practice of our inherited English Common Law, and indeed, the Defendant insists upon this form and mode of public access to his trial in order to protect his unalienable Rights -- particularly his Rights to Due Process and a Fair Trial.

The following are quoted from *GANNETT CO. v. DEPASQUALE*, 443 U.S. 368 (1979) (starting at 429, emphasis added):

“Public judicial proceedings have an important educative role as well. The victim of the crime, the family of the victim, others who have suffered similarly, or others accused of like crimes, have an interest in observing the course of a prosecution. Beyond this, however, is the interest of the general public in observing the operation of the criminal justice system. Judges, prosecutors, and police officials often are elected or are subject to some control by elected officials, and a main source of information about how these officials perform is the open trial. And the manner in which criminal justice is administered in this country is in and of itself of interest to all citizens. In *Cox Broadcasting Corp. v. Cohn*, [420 U.S., at 495](#), it was noted that **information about the criminal justice system "appears to us to be of critical importance to our type of government in which the citizenry is the final judge of the proper conduct of public business."**

The administration of the law is not the problem of the judge or prosecuting attorney alone, but necessitates the active cooperation of an **enlightened public**." *Wood v. Georgia*, [370 U.S. 375, 391](#) (1962).

Solicitor General, Sir John Hawles, in 1685 in his Remarks upon Mr. Cornish's Trial, 11 How. St. Tr. 455, 460, stated: "The reason that all matters of law are, or ought to be transacted publicly, is, That any person, unconcerned as well as concerned, may, as *amicus curiae*, inform the court better, if he thinks they are in an error, that justice may be done: and the reason that all trials are public, is, that any person may inform in point of fact, though not subpoena'd, that truth may be discovered in civil as well as criminal matters."

"[I]t is one of the essential qualities of a court of justice that its proceedings should be public, and that all parties who may be desirous of hearing what is going on, if there be room in the place for that purpose, - provided they do not interrupt the proceedings, and provided there is no specific reason why they should be removed, - have a right to be present for the purpose of hearing what is going on." *Id.*, at 240, 109 Eng. Rep., at 440. See also *Scott v. Scott*, 1913. A. C. 417, 438-439 (Haldane, L. C.), 440-441 (Earl of Halsbury).

The *Gannet* decision also quotes Justice Stewart from his dissent in *Estes v. Texas*. [381 U.S. 532](#) at 614-615: "The suggestion that there are limits upon the public's right to know what goes on in the courts causes me deep concern."

And finally, as Justice Brennan declared:

Secrecy of judicial action can only breed ignorance and distrust of courts and suspicion concerning the competence and impartiality of judges; free and robust reporting, criticism, and debate can contribute to public understanding of the rule of law and to comprehension of the functioning of the entire criminal justice system, as well as improve the quality of that system by subjecting it to the cleansing effects of exposure and public accountability.”
Nebraska Press Ass'n v. Stuart, 427 U.S. at 587 (Brennan, J., concurring)

As a matter of Fundamental Right for both the People generally, and these Defendants specifically, the day of full transparency in federal courtrooms and the ability to conduct comprehensive, intimate, independent and remote examinations (by both time and geography) of the judicial and prosecutorial functions of our federal government has arrived. Indeed, in our contemporary society, the reasonable introduction of non-intrusive recording technology into the courtroom may indeed be the only viable means by which our large, diverse and geographically dispersed citizenry can practically and effectively exercise its role of Constitutional oversight in controlling the servant government that was created to protect and preserve their unalienable Rights. The process of constitutional governance requires that the People must be allowed to bring cameras into the Courtroom so they can observe and examine how the limited prosecutorial and judicial powers delegated by them are being used --- or abused.

**THE SPECIFIC LEGAL ISSUE IN CONTROVERSY
DIRECTLY AFFECTS ALL AMERICANS**

Without doubt, almost every American family is touched in one way or another by the income tax. Unlike a trial for murder or robbery where the effects and impacts of the criminal act are relatively confined and typically experienced only by the local populace or “community,” the criminal acts alleged in this case, and the legal issues before Court, go far beyond mere local interest and prurient curiosity, but are highly relevant, and directly integral

to the daily lives and existences of the majority of American families and the practical functioning of our Republic.

This is to say, beyond the Fundamental generic and innate interest the People have in insuring the proper constitutional functioning of their government (discussed above), as a separate consideration, the *specific* subject matters arising in this case are so compelling and so relevant, that to deny the People the opportunity for full, intimate and live access that has been requested for this trial, is to constitute a substantial offense against the Rights of the People, not the least being an affront to the primary purposes of the First Amendment – i.e., the Right to timely, effective and vital information so as to repel despotism and effect the protection of Individual Liberty.

This case arises from allegations of criminal charges stemming from Defendant's publication and dissemination of legal research **those questions whether the statutes as written authorize the IRS to enforce Title 26, Subtitle A income taxes against the American public.**

Defendant's book, *The Federal Mafia – How the Federal Government Illegally Imposes and Unlawfully Collects Income Taxes*, consists of a detailed analysis of the income tax statutes and related Supreme Court decisions which has led me (and others) to conclude that the income tax "laws": (1) do not require Americans **"to pay"** income taxes; (2) do not make them **"liable"** for income taxes; (3) do not require them **to keep books and records** for income tax purposes; and (4) *even* **makes sure** that no person can **receive** a form of "income" that falls within the meaning of "income" as that term is used in the those "laws." The book has sold almost 100,000 copies and I was recently enjoined from selling it by a U.S. District Court because it was alleged that it constituted "false commercial speech" even though (and despite Defendant's objection) there were was no testimony given by the government at the preliminary hearing as to what specific statements in the book constituted false or unlawful speech. Nor would District Court Judge Lloyd D. George identify such passages from the book when I asked him to do so. It is obvious that the criminal charges at issue were fabricated by agents of the government itself in order to discredit this research so as to impede and hopefully prevent its decimation to the American public.

The People of this nation have an inherent Right to witness the criminal defense of a man that makes these serious charges and learn specifically why he published this controversial book and took the actions that have brought him to stand as the accused.

If this Defendant is wrong, as the Government clearly contends, the People will have the record before them, and the ability to witness – potentially live, (and/or from remote locations across the Republic) the conviction of several citizens who knowingly violated the tax laws of this nation – and who allegedly were responsible for thousands of others doing the same. On the other hand, if the government cannot prove its case, the People will have ready access to the information guaranteed them by the First Amendment to the Constitution so that they may educate themselves further, perform their constitutional duties and take corrective measures against their government – just as our Founders intended and our Constitution guarantees. Who else can “Bind up the government in the chains of the Constitution,” if not private citizens who believe that the federal government has burst the bounds of its constitutional authority? Will the government itself do it? The Supreme Court has already ruled that it is entirely constitutional for the government to compel citizen A to accept the sale of his property to citizen B, because citizen B will use his property to generate more tax revenue for government.

In 2005, the federal Judiciary will expend almost \$5.5 billion taxpayer dollars. (Source: <http://www.uscourts.gov/judiciary2005.html>) Beyond this, the country enjoys a commercial communications and technology infrastructure second to none. Beyond this, contemporary video technology enables an intimate, superior and multi-sense experience virtually equating with physical attendance in a courtroom. Beyond this, the informational value and content of court recordings generated from contemporary video technologies dwarfs the informational content available from the hand-drawn chalk graphics of a courtroom artist, the quips and quibbles of passing journalists, or a sensually-vacant (and much-delayed) written transcript of the trial proceedings.

Indeed, considering the mutual and interrelated interests and requirements of taxpayers, the media and most importantly -- the accused, there is absolutely no credible reason for the Judiciary to deny the use of video technologies in this trial so that the objectives of full public

access and the preservation of constitutional integrity and oversight of governance can be secured.

The birth of this nation was conceived out of controversies surrounding unlawful taxation and the despotic deprivations of Liberty. Americans – and taxpayers – everywhere, have a Fundamental Right to directly, and fully, access *this specific trial*. The issues at bar are of critical national importance and of such personal and vital interest to the workers, families and taxpayers of this Republic, that this motion cannot be rightfully denied. The legislature-contrived construct of FRCP 53 cannot stand as a bar to the People’s superior claim of Right to full courtroom access, which by constitutional necessity, must be honored without infringement.

THE TECHNOLOGY IS NON-DISRUPTIVE TO THE JUDICIAL PROCESS

The technology available today necessary to provide video access into a courtroom is non-intrusive and non-disruptive. In the early years of television, cameras required significant lighting and sound equipment, extensive cabling, professional operators and were a significant eyesore and obtrusive physical presence in the courtroom. Early court decisions leading to the adoption of FRCP 53 were based largely upon such considerations and the relative unfamiliarity with television broadcasting (See *Estes v. Texas*, 381 U.S. 532 (1965) and its progeny). Today, cameras are virtually invisible, can be placed in discrete locations and operated remotely, they require only the ambient light existing normally in the courtroom, and can be of such diminutive size they are virtually unnoticed by the courtroom participants. Indeed, with the exception of federal criminal courts, criminal and civil trials are now routinely recorded and openly broadcast without apparent incident or disruption, and importantly without apparent bias against the Defendant or the judicial process.

As stated, the purpose of this Motion, Defendant desires to record the proceedings and furnish that recording in real-time for broadcast. It is the intent of Defendant to broadcast the proceedings both by the Internet and, if possible by commercial television, if there is adequate interest by a qualified party such as the commercially established cable channel “Court-TV”.

Regardless of who eventually provides the cameras and support equipment necessary to record the trial, Defendant assures the Court that, to the extent it is under his responsibility, he will use experienced, professional video personnel to install, operate and/or manage such equipment, and that Defendant will work with the Court officials to insure that adequate protections are taken to abide by guidelines established by the Court for using such equipment, including as necessary, control of microphones, placement of cameras, restrictions on video coverage, e.g., no jurors on camera, etc., etc.

For additional discussion regarding experiences other Courts have had with video recording of criminal trials and other ancillary issues (both legal and practical) regarding such recording, it may be most efficient to invite the Court to review the 2001 motion for video recording authored by “Court TV” (attached as Exhibit A) in the criminal trial of *USA vs. ZACARIAS MOUSSAOUI* in the Alexandria, Virginia USDC.

IF DENIED, DEFENDANT WILL BE IRREPARABLY HARMED.
DEFENDANT HAS PERSONAL EXPERIENCE WITH, AND PROOF OF
BLATANT JUDICIAL BIAS THAT HE MUST GUARD AGAINST
BY RECORDING & BROADCASTING THE PROCEEDINGS

Defendant makes this request in order to take **preemptive** personal action to insure the security of his unalienable Rights by subjecting the trial participants and court record, per Constitutional design, to levels of public and technological scrutiny and preservation that will insure that Justice will be secured.

Defendant has previously twice been “convicted” of federal tax crimes, while numerous civil actions have all resulted in summary judgments for the government. In *U.S. v. Schiff*, 80-1297, the 2nd Circuit summarily affirmed, at oral argument, my misdemeanor convictions of failure to file, on the basis of an *unpublished* decision in which **none** of the issues I raised were addressed. In *U.S. v. Schiff*, 876 F.2d 272, the Second Circuit affirmed my conviction of tax evasion, even though Connecticut District Court Judge Peter C. Dorsey charged my jury that it could convict me of tax evasion even if the government **did not prove** the act of evasion I was charged with committing. In *Schiff v. Simon and Schuster*, 780 F.2d 210, the Second Circuit affirmed a dismissal of my breach of contract suit against Simon and Schuster by District Court Judge Warren W. Eginton on the grounds that Simon and Schuster was “required” to

honor an IRS notice of levy, even though the record showed that : (1) Simon and Schuster wrote the IRS stating “Accordingly, we have elected not to comply with the Final Demand and will await a court order”; (2) got back a reply from the IRS stating that their, “Understanding is that the funds are being held by Simon & Schuster ...until the question of payment ...is decided by the courts,”; while notifying me that, “We...have decided not to release any monies that may be payable to you...except under court order.” I relied on Simon and Schuster’s promise (Which is why I took no further legal action) to hold my funds pending a “court order,” to my ultimate detriment. So that is how criminal and civil actions are decided against me in federal courts. (All three of these letters are shown in full on pages 134 and 135 of *The Federal Mafia*.)

Defendant is also currently involved in civil tax litigations imposed on me by the government. I have an appeal now pending before the 9th Circuit (No- 05-15233) of a \$2.6 million summary judgment awarded the federal government by District Court Judge Philip M. Pro, and a Petition for Certiorari to the Supreme Court appealing the Preliminary Injunction issued by District Court Judge Lloyd D. George enjoining me from selling *The Federal Mafia* and subjecting me to other unconstitutional restraints.

Defendant asserts that in each of the judicial actions cited above, the government and the Judiciary consistently and repeatedly acted in a manner prohibited by law and the Constitution and those acts directly resulted in Defendant’s loss of his Due Process Right and Right to Justice. Defendant further asserts that the lack of adequate public access and lack of adequate court records are what ENABLED the tyrannical acts of the officials in those cases and that which is occurring in the PRESENT CASE. (See Defendant’s Motions to Dismiss, and Motions to Suppress.)

Since this Defendant, at age 78, has personally experienced the wrath, deprivations and biases of the federal courts and has personally experienced the transcript alterations that litigants in federal courts can be subjected to when the proceedings do not favor the parties the court is aligned with or improperly biased toward – especially cases involving the government’s alleged unlawful collection of income taxes.

In the case of tax “protestor” trials, transcript tampering is but one of the many techniques used by the Courts and the government to deny Justice to the accused and insure that the historical record of the egregious acts committed against them are altered, so as to undermine their grounds for appeal.

As the accused – standing in Propria Persona – and given Defendant’s personal and significant and well documented experiences enduring the abuses of the federal courts and the Department of Justice and also after experiencing the decided lack of Due Process already endured in the instant case, Defendant hereby gives NOTICE TO THIS COURT and invokes his 6th Amendment RIGHT to facilitate full, live public access to the trial using video recording and broadcast, and also hereby invokes his 5th Amendment Due Process RIGHT to create an independent, mechanical record of the trial proceedings so he can insure and verify the accuracy of the official (hand-transcribed) court transcript that he will certainly be forced to rely upon for the appeal, if convicted.

Again, Defendant asserts that as the **ACCUSED**, he has an absolute Right to seek to protect himself from the blatant and undisguised pro government partisanship that defendant has already experienced at the hands of this, and other, courts - by employing non-disruptive recording and broadcast technologies at his criminal trial.

CONCLUSION

The institutionalized forces of modern society aligned against the People require that the People utilize contemporary technology to root out well-protected despotism and to defend their Constitutional Republic. The People need no longer tolerate judicial and prosecutorial collusion that denies them their Fundamental Rights to “public trials” - especially in tax cases in which the government itself has an interest and, therefore, cannot be expected to be “impartial.”

FRCP Rule 53 (and local court rules) cannot be invoked in opposition to a **direct request of the Accused** when the application of such rule would serve to irreparably deprive the Accused of his protected Rights. That FRCP Rule 53 effectively deprives Defendant of his

6th Amendment Right to a full Public and Fair Trial and his 5th Amendment Right to Due Process, FRCR Rule 53 is, *per se*, unconstitutional.

To deny an explicit, pre-trial request *of the accused* who seeks nothing more than to avail himself of these non-disruptive technologies in an effort to preemptively protect *his* Rights against a government that has already shown significant bias and prejudice against him would, indeed, be morally reprehensible.

Sunlight is the antidote to despotism. State criminal courts have had little negative experience with cameras. There is no reasonable basis to deny Defendant's Motion.

Date: September 2, 2005

Irwin A. Schiff pro per

CERTIFICATE OF SERVICE

I certify that I have this date hand delivered a copy of the foregoing Motion To Allow Cameras in the Courtroom to:

MELISSA SCHRAIBMAN
LARRY J. WSZALEK
JEFFREY A. NEIMAN
Trial Attorneys, Tax Division
US Department of Justice
333 Las Vegas Blvd., South, Suite 5000
Las Vegas, Nevada 89101

And that I have this day mailed a copy of this Motion by first class mail, to the following Attorney's of record.

CHAD BOWERS, Esq.
Counsel for Defendant Cohen
3202 W. Charleston Blvd.
Las Vegas, Nevada 89102

MICHAEL CRISTALLI, Esq.
Counsel for Defendant Neun
732 S. 6th St. Suite 100
Las Vegas, Nevada 89109

Date: July 29, 2005

Irwin Schiff

