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2/28/01 PF
Circuit

IN THE CIRCUIT COURT OF THE SEVENTH JUDICIAL
CIRCUIT, IN AND FOR VOLUSIA COUNTY, FLORIDA

TERESA EARNHARDT, et al.,

Plaintiff,

CASE NO: 2001-30373-CI-CI

v.

VOLUSIA COUNTY, OFFICE OF THE
MEDICAL EXAMINER,

Defendant.

ORLANDO SENTINEL COMMUNICATIONS COMPANY'S
MOTION TO INTERVENE

Orlando Sentinel Communications Company, publisher of the *Orlando Sentinel* ("the Sentinel") moves to intervene in this matter as interested parties in order to present argument on the merits. Grounds for this motion are as follows:

1. The Sentinel is a daily newspaper of general circulation in Central Florida. It regularly relies upon public records to gather and report news and issues of public concern to its readers.

2. On the Plaintiffs' motion, this Court has entered a temporary injunction prohibiting disclosure or dissemination of any photographs created in connection with Defendant's investigation into the death of Dale Earnhardt.

3. Prior to this Court's order, the Sentinel had made requests to inspect the subject photographs pursuant to the Public Records Act and Article I, Section 24 of the State Constitution.

4. The Sentinel and the general public enjoy strong constitutional and statutory rights of access to public records. See Fla. Const. Art. I § 24 ("Every person has the right to inspect or copy any public record . . ."); Fla. Stat. § 119.07 (1)(a) (1999) ("Every person who has custody of a public record shall permit the record to be inspected and examined by any person desiring to do so . . .").

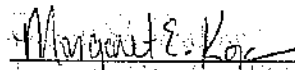
5. Members of the news media are entitled to take part in litigation concerning access issues and, therefore, must be accorded notice and an opportunity to be heard prior to closure of any records. See *Times Publ'g Co. v. Penick*, 433 So. 2d 1281, 1284 (Fla. 2d DCA 1983) (recognizing the media's right to notice and an opportunity to be heard on access issues); *News-Press Publ'g Co. v. State*, 345 So. 2d 865, 866 (Fla. 2d DCA 1977) (newspaper "was properly permitted to intervene" in criminal case for limited purpose of opposing closure of records).

6. Rule 1.230 of the Florida Rules of Civil Procedure allows for intervention for anyone claiming an interest in pending litigation. Because of the Sentinel's right of access to Public Records it has the requisite interest to intervene in this action and present arguments on the merits.

WHEREFORE, the Sentinel requests the opportunity to intervene - as interested parties and to present arguments as to why the injunction entered in this action should be lifted.

Respectfully Submitted,

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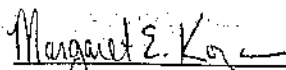
AND

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Attorneys for Orlando Sentinel
Communications Company

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing was served by facsimile transmission to Joseph E. Foster, Esq., P.O. Box 231, Orlando, Florida 32802; Laurence H. Bartlett, Esq., 1800 W. International Speedway Blvd., Building 2, Suite 201, Daytona Beach, Florida 32114; Office of the Volusia County Medical Examiner, 1360 Indian Lake Road, Daytona Beach, Florida 32124, this 28th day of February, 2001.



Margaret E. Kozan, Esquire

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