

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA**

DAVID M. HICKS,	)	
	)	
Petitioner,	)	
	)	
v.	)	Civ. Act. No. 1:02-cv-00299-CKK
	)	
	)	Judge Kollar-Kotelly
GEORGE W. BUSH, President of the United States;	)	
DONALD RUMSFELD, United States Secretary of	)	
Defense; GORDON R. ENGLAND, Secretary of the	)	
United States Navy; JOHN D. ALTENBURG, JR.,	)	
Appointing Authority for Military Commissions,	)	
Department of Defense; Brigadier General JAY	)	
HOOD, Commander, Joint Task Force, Guantanamo	)	
Bay, Cuba, and Colonel BRICE A. GYURISKO,	)	
Commander, Joint Detention Operations Group,	)	
Joint Task, Guantanamo Bay, Cuba	)	
	)	
Respondents, all sued in their	)	
	)	
individual and official capacities.	)	

**MOTION FOR FILING OF AFFIDAVIT UNDER SEAL**

Petitioner David M. Hicks, by his undersigned counsel, respectfully submits this Motion to file the affidavit of David Hicks under seal and in support thereof states as follows:

1. On August 5, 2004, Petitioner executed a Declaration (“Hicks Declaration”) in connection with the military commission proceedings pending against him, the legality of which is the heart of this case.
  
2. On this date, Petitioner is filing a Brief in Opposition to Respondents’ Motion to Dismiss and in Support of Petitioner’s Cross-Motion for Partial Summary Judgment.

The content of the Hicks Declaration is acutely relevant to the arguments made in Petitioner's Brief.

3. The Hicks Declaration is not a classified document. There is nothing in the Declaration that may not be released to the public. Indeed, it is in the public interest that the Declaration be a part of the public record.

4. The Hicks Declaration was released to Major Michael D. Mori, Petitioner's Military Counsel, and other members of Petitioner's legal team with an understanding that it was not for public consumption.

5. As a result, out of an abundance of caution, Petitioner has filed the Declaration under seal with the Clerk of Court, pursuant to Local Rule of Civil Procedure 5.1(j)(1).

6. Nonetheless, we would encourage the Court to unseal the Declaration promptly. A similar declaration was unsealed by the district court of Washington in the analogous case of *Hamdan v. Rumsfeld* (#2:04-cv-00777-RSL). *See* DOCKET # 27 (attached hereto). (That case was subsequently transferred to this court.)

Dated: November 1, 2004  
Washington, D.C.

Respectfully submitted,

/s/ Marc A. Goldman  
One of His Attorneys

Marc A. Goldman, Esq.  
District Bar No. 449230  
Jenner & Block LLP  
601 13th St. N.W., Suite 1200 South  
Washington, D.C. 20005-3823  
(202) 639-6087

Andrew A. Jacobson

David E. Walters  
Hillary A. Victor  
Andrew W. Vail  
(pro hac vice pending)  
Jenner & Block LLP  
One IBM Plaza  
Chicago, IL 60611  
(312) 222-9350

Leon Friedman, Esq.  
District Bar No. NY0028  
148 East 78<sup>th</sup> Street  
New York, New York 10021  
(212) 737-0400

Major Michel D. Mori, U.S. Marine Corps  
(pro hac vice pending)  
Office of Military Commissions  
Office of the Chief Defense Counsel  
1931 Jefferson Davis Highway, Suite 103  
Arlington, Virginia 22202  
(703) 607-1521, ext. 193

Joshua L. Dratel, Esq  
Attorney Registration No. 1795954  
Joshua L. Dratel, P.C.  
Civilian Defense Counsel  
14 Wall Street, 28<sup>th</sup> Floor  
New York, New York 10005  
(212) 732-0707  
*Attorneys for Petitioner David M. Hicks*