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IMPORTANT NOTICE TELECOPY/FACSIMILE COVER LETTER

TO: Allan J. Favish

FROM: Carol A. Licko

DATE: 5/28/2003

TIME: 4:34 PM

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MESSAGE:

Please see attached.

FOR INTERNAL PURPOSES ONLY

TELECOPY/FAX NUMBER: 661-513-2068
CLIENT NUMBER: 86665.0001
ATTORNEY BILLING NUMBER: 3146
CONFIRMATION NUMBER: 661-513-2068

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May 28, 2003

Via Facsimile

Theodore B. Olsen
Solicitor General
U.S. Department of Justice
Washington, DC 20530

James Hamilton
Swindler, Berlin, Shereff
3000 K Street, NW, Suite 300
Washington, DC 20007

Allan J. Favish
22406 Holly Court
Santa Clarita, CA 91390-4202

Re: Office of Independent Counsel, et. al. v. Favish, et. al.
Supreme Court Case Numbers: 02-409, 02-599, 02-954

Dear Gentlemen:

We represent Teresa Earnhardt, individually and as Personal Representative on behalf of The Estate of Dale Earnhardt, Dale Earnhardt, Jr. and Taylor Earnhardt (the "Earnhardt Family"). Pursuant to Supreme Court Rule 37, we are writing to request your consent to the filing of an amicus curiae brief by Teresa Earnhardt in support of Petitioners Office of the Independent Counsel, et al., in the above-referenced appeals. Mrs. Earnhardt understands the issues raised by this appeal, and can bring to the attention of the Court relevant matters not already brought to its attention by the parties.

Mrs. Earnhardt has an interest in this appeal, and speaks from personal experience. She was married to Dale Earnhardt, a famous racecar driver who was killed in an automobile accident at the Daytona 500 in 2001. Mrs. Earnhardt has been involved in litigation in the Florida courts since that time in order to prevent the public dissemination of the autopsy photographs of her late husband. As a result of her efforts, the Florida legislature adopted Florida Statute Section 406.135, the

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May 28, 2003

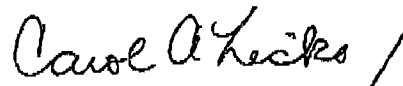
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Family Protection Act, which exempts from public records disclosure the photographs, videotapes and recordings of an autopsy unless a court finds good cause for such disclosure. Under current Florida law, a court must balance the public's right to access with the intrusion upon the family privacy that disclosure occasions. Issues related to Florida's law, including the specific issue of the release of Mr. Earnhardt's autopsy photographs, are currently pending in Florida appellate courts. *Campus Communications, Inc. v. Teresa Earnhardt, et. al.*, Florida Supreme Court Case No. SC02-1635 (on appeal from a decision rendered by the Fifth District Court of Appeal in *Campus Communications, Inc. v. Earnhardt*, 821 So.2d 388 (Fla. 5th DCA 2002)); and *Orlando Sentinel Communications Company, et.al. v. Joshua A. Perper, et.al.*, Fourth District Court of Appeal, Case No. 4D02-2814. Both Florida appeals are fully briefed, but no dates for oral argument have been set.

Mrs. Earnhardt's interests are aligned with the interests of the widow and sister of Vincent Foster - who like her, simply want to be left alone to grieve, without the continued intrusion occasioned by public release of a loved one's autopsy photographs. She has been the catalyst for reform legislation adopted by the State of Florida; and she continues to be the catalyst for other states that have now adopted laws similar to Florida's Family Protection Act. In short, Mrs. Earnhardt has become the voice for many grieving, anguished families who had no voice. Her opinions on this subject have been widely reported, and are respected.

For these reasons, Mrs. Earnhardt would like to file an amicus brief in support of the petitioners in the above-referenced appeal. Please advise us if you will consent to the filing of her amicus brief. If you have any questions, please do not hesitate to call us.

Sincerely,



Carol A. Licko

CAL

cc: Robert D. McCallum, Jr.
Edwin S. Kneedler
Patricia A. Millett
Leonard Schaitman
Robert M. Loeb