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UNITED STATES DEPARTMENT OF JUSTICE  
 EXECUTIVE OFFICE FOR IMMIGRATION REVIEW  
 OFFICE OF THE IMMIGRATION JUDGE  
 JENA, LOUISIANA

In the Matter of:
 MAHMOUD KHALIL,
 In Removal Proceedings.
 File No.:

MOTION FOR PUBLIC ACCESS TO RESPONDENT’S MAY 22, 2025 HEARING

I. Introduction

Respondent Mahmoud Khalil, by and through undersigned counsel, hereby moves this Honorable Court to allow increased public access to any upcoming hearings in his case, including the one currently scheduled for May 22, 2025. The press and the public’s First Amendment right

to bear witness to court proceedings should be narrowly tailored to the government's compelling interest in limiting in-person seating to available courtroom seats. Providing the press and public access to telephonic, Webex, and overflow room access to hearings in Mr. Khalil's case is a reasonable accommodation that this Court could readily order. These options and arguments in support thereof were outlined in a letter sent by undersigned counsel to the Court on April 10, 2025. That letter is attached as Exhibit A to this motion and is incorporated herein by reference.

## **II. Statements of Facts**

This Court has to date held three hearings in Mr. Khalil's case—first on March 21; next on April 8; and third on April 11, 2025. At the latter two hearings, the number of individuals intent on observing the proceedings exceeded the courtroom seats available. At the April 8 hearing, more than 550 people were waiting in the Webex queue, intent on witnessing Mr. Khalil's proceeding that day. Other than Mr. Khalil's counsel in his federal court case and his wife, all prospective attendees were denied entry into the Webex, and in-room seating was limited to approximately 22 people. The Court explained that the Webex link to court proceedings is not intended for public or press access, and indicated that those seeking to attend the proceedings could do so in person, provided there was sufficient space in the courtroom. The Court required the few individuals on the Webex seeking to observe the hearing to identify themselves and to turn on their video so the Court could see their faces throughout the proceedings.

On April 10, 2025, the ACLU of Louisiana sent a letter to the Court requesting broader access to Mr. Khalil's April 11 hearing, considering the wide public interest in this case and the attendant likelihood that individuals who travelled far and wide to witness the proceedings would be turned away with no way to access the hearing live. The Court did not respond to that letter, which laid out reasonable accommodations that would appropriately narrowly tailor the

government's compelling interest in ensuring in-person attendance at the April 11 hearing did not exceed courtroom capacity. That evening, undersigned counsel filed a notice of appearance in order to address the Court on the issue of ensuring broader public access to the hearing.

On April 11, neither Webex nor telephonic access was provided to the hearing. Despite the fact that both the press and the public had been turned away at the courthouse gates, no provisions were made to accommodate those individuals in any overflow space inside the courthouse. The Court informed counsel that no arguments could be made on the record concerning access to the proceedings, but that the letter sent to the Court concerning access could be filed into the record.

Had counsel been provided the opportunity to make a statement to the Court, that statement would have been along the following lines:

We ask the Court to make reasonable accommodations for additional members of the press and the public to attend today's hearing. While we understand the government has a compelling safety and security interest in ensuring that immigration courtrooms do not exceed capacity, that interest must be narrowly tailored to the public and the press's right to observe immigration court proceedings. Providing for Webex or telephonic access to this hearing can be accomplished readily with the click of a few buttons—an accommodation that we would posit is beyond reasonable, and also favors a deeply rooted principle in our Constitution's First Amendment, which provides for open access to the courts.

Today, a decision will be made about whether Mr. Khalil is removable from this country. For many, this case strikes at the core of our nation's fabric and the rule of law. It speaks to who we are as a country. After all, we are largely a country of immigrants. It was immigrants who settled this country; it was immigrants who enshrined the core civil rights and civil liberties applicable to *all* in our nation's founding document.

All to say, Your Honor, what transpires today—determining who is allowed to stay on American soil and who must leave it—will have reverberations for years to come. As such, we ask this Court to

accommodate those intent on observing these proceedings by opening up the Webex link or providing a teleconference link. We could readily inform the public and the press in real-time that they have access to these proceedings without delaying them in any way. The public, the press—indeed, the country writ large—have the right to bear witness to what happens here today.

This statement was in alignment with both the principles enshrined in the First Amendment to the United States Constitution and the Court’s website, which explains that proceedings are “open to the public, with limited exceptions, as specified in law.” *See* Executive Office of Immigration Review, *LaSalle Immigration Court*, <https://www.justice.gov/eoir/lasalle-immigration-court> (accessed Apr. 15, 2025).

### **III. Argument**

Members of the press and public should be granted telephonic, Webex, and overflow room access to hearings in Mr. Khalil’s case. It is true that the Code of Federal Regulations provides for an immigration judge to limit the number of people in attendance at a public hearing, based on the limitations of the physical facility. *See* 8 C.F.R. § 1003.27. It is also true that the Court’s guidance on Webex access limits that access to parties and witnesses. *See* Dep’t of Just., *Webex Instructions for Immigration Court Hearings*, <https://www.justice.gov/eoir/media/1264061/dl?inline=1>. Nevertheless, members of the press and public inspired and committed to observe courtroom proceedings count on the courts to uphold the public and the press’s First Amendment rights to courtroom access. *See, e.g., Richmond Newspapers, Inc. v. Virginia*, 448 U.S. 555, 566-79 (1980) (discussing the history and tradition of criminal and civil court proceedings being open to the public).

Significantly, immigration court proceedings are generally open to the public, absent certain exceptional restrictions provided for by law, including the safety and protection of the individual seeking relief. *See* U.S. Dep’t of Just., *Immigration Court Practice Manual*, Chapter 4.9

– Public Access, <https://www.justice.gov/eoir/reference-materials/ic/chapter-4/9> (citing to 8 C.F.R. §§ 1003.27, 1003.31(d), 1003.46, 1208.6, 1240.10(b), 1240.11(c)(3)(i)). None of these exceptions apply here. And remote public access for the press and public is wholly practicable and indeed favored by First Amendment jurisprudence. *See Richmond Newspapers*, 448 U.S. at 599 (Stewart, J., concurring) (describing the traditional legal right of the press and public to access civil and criminal courts).

Respondent’s case presents a matter of public concern and, as such, has dominated the airwaves, print media, and social media for more than a month now. Ex. A at 2. For many, this case strikes at the core of this nation’s fabric and the rule of law.<sup>1</sup> *Id.*; *see also Nebraska Press Assn. v. Stuart*, 427 U.S. 439, 587 (stating that press access to courtroom proceedings “contribute[s] to public understanding of the rule of law and to comprehension of the functioning of the entire criminal justice system.”); *U.S. v. Brown*, 250 F.3d 907 (5th Cir. 2001) (similar). The ability for the interested press and public to view the court proceedings in this case is thus paramount and, crucially, deeply rooted in this nation’s legal tradition.<sup>2</sup> *See, e.g., Richmond*

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<sup>1</sup> *See e.g., Victoria Albert, U.S. Can Deport Columbia Student Mahmoud Khalil, Immigration Judge Says*, Wall St. J. (Apr. 12, 2025), <https://www.wsj.com/us-news/mahmoud-khalil-columbia-student-immigration-hearing-2550a0a0>; Sarah Rumpf-Whitten & Brooke Taylor, *Columbia anti-Israel protestor Mahmoud Khalil can be deported, judge rules* (Apr. 11, 2025), <https://www.foxnews.com/us/columbia-anti-israel-protester-mahmoud-khalil-can-deported-judge-rules>; Mona Charen, *Mahmoud Khalil Has Rights, Dammit*, The Bulwark (Mar. 13, 2025), <https://www.thebulwark.com/p/mahmoud-khalil-has-rights-dammit-immigration-israel-hamas-october-7-free-speech-antisemitism-columbia>; Patrick G. Eddington, *Politically Motivated Deportations: The Mahmoud Khalil Test Case*, Cato Inst. (Mar. 12, 2025), <https://www.cato.org/blog/politically-motivated-deportations-mahmoud-khalil-test-case>.

<sup>2</sup> *See, e.g., Freedom of the Press Foundation, Let the public watch Mahmoud Khalil deportation case* (Apr. 10, 2025), <https://freedom.press/issues/let-the-public-watch-the-mahmoud-khalil-deportation-case/>; Chloe Atkins, *Government’s case against Mahmoud Khalil is reliant on Tabloid accounts, review of evidence shows*, NBC News (Apr. 15, 2025), <https://www.nbcnews.com/news/us-news/governments-case-mahmoud-khalil-shaky-reliant-tabloid-accounts-review-rcna201254>.

*Newspapers*, 448 U.S. at 566-79 (discussing the history and tradition of criminal and civil court proceedings being open to the public); *see also cf. In re Hearst Newspapers, L.L.C.*, 641 F.3d 168 (5th Cir. 2011), *as revised* (June 9, 2011) (affirming right of the public and press at criminal sentencing hearings).

Restrictions on access to courtroom proceedings should be narrowly tailored to the compelling government interest of limiting in-person seating to the courtroom seats available. *Cf. Globe Newspaper Co. v. Superior Ct. for Norfolk Cnty.*, 457 U.S. 596, 606–07 (1982) (describing the importance of press and public access to courts). Providing Webex, telephonic, and overflow room access to these proceedings are narrowly-tailored, reasonable accommodations that meet both the government’s objectives and the foundational principles that animate the press and the public’s First Amendment right to observe court proceedings. *Id.* at 606 (stating “[I]n the broadest terms, public access to criminal trials permits the public to participate in and serve as a check upon the judicial process – an essential component in our structure of self-government.”).<sup>3</sup> Categorically denying remote access to these proceedings for members of the public and the media falls far short of this bar. It is further out of step with the view that court matters are public matters—particularly in this case, which implicates the intersection between government action and a core constitutional value of this country: freedom of speech. *See* Ex. A at 2; *see also* Jonathan L. Hafetz, *The First Amendment and the Right of Access to Deportation Proceedings*, 40 Cal. W. L. Rev. 265 (2004); Jacqueline Stevens, Heather Schoenfeld, Elizabeth Meehan, *The Case Against Absolute Judicial Immunity for Immigration Judges*, 37 Law & Ineq. 309 (2019).

Separately, there does not appear to be any safety or security need to force individuals

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<sup>3</sup> *See also cf. Texas Trib. v. Caldwell Cnty., Texas*, 121 F.4th 520, 527 (5th Cir. 2024) (noting the “First Amendment’s right of access extends to additional criminal pretrial proceedings, including suppression hearings, due process and entrapment hearings, and hearings at which a criminal defendant pleads guilty.”).

attending any of Mr. Khalil's hearings via Webex or telephonically to state their names and show their faces. Indeed, based on the experience of undersigned counsel, federal courts all over the country allow for Webex hearings to be attended by the press and the public. At times, these hearings have included hundreds of observers, and there has been no requirement that these observers announce themselves and show their faces. Such a requirement has the potential to wrongly chill public and press observation of court hearings. *See United States v. Smith*, 426 F.3d 567, 571–72 (2d Cir. 2005) (discussing First and Sixth Amendment concerns relating to press and public access to courtrooms where public trials may be occurring, and acknowledging that requesting identification “presumably may have ‘chilled’ attendance by some potential spectators who opted not to present themselves at the courthouse”). Importantly, while the *Smith* court held that the appellant's Sixth and First Amendment rights to a public trial failed, that case squarely addressed safety and security concerns involving people observing courtroom proceedings in-person—not those seeking to attend a hearing broadcast over the internet.

Because no legitimate justification exists to prevent the media and public's remote access to hearings in Mr. Khalil's case, he asks this Court to open Webex, telephonic, and/or overflow room access viewing to proceedings in his case going forward.

#### **IV. Conclusion**

Mr. Khalil respectfully moves this Court to make reasonable accommodations to account for public and press interest in this case at future hearings. Those accommodations include providing Webex, telephonic, and/or overflow room access to those who seek to bear witness to how this case plays out.



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# Exhibit A

April 10, 2025

The Honorable Jamee E. Comans  
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**SENT VIA EMAIL**



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To the Honorable Court:

The ACLU of Louisiana is writing to request that members of the press and public be granted telephonic, Webex, and overflow room access to Mahmoud Khalil's April 11, 2025 LaSalle Immigration Court proceedings.

As this Court well knows, Mr. Khalil's case has gained both national and international attention. That interest resulted in a significant number of people – over 500 – signing in to view or listen live to his April 8, 2025 immigration court hearing. While a small fraction of individuals was allowed to attend that hearing in person, seating appeared limited to approximately 25 people. Taking into consideration the removability determination the Court indicated it would make at this Friday's hearing, the prospect of a significant turnout at the LaSalle Court is without question going to exceed the current number of seats available. In turn, there is an extremely high likelihood that numerous members of the media and the public, who will have travelled far and wide to observe the hearing, will be physically unable to attend the proceedings.

In order to ensure that any limitation placed on the public's right to access this Friday's hearing is narrowly tailored to the compelling government interest of limiting in-person seating to available courtroom seats,<sup>1</sup> we ask the Court to grant the following reasonable accommodations:

- Telephonic access to the hearing;
- Webex access to the hearing; and
- Overflow viewing access to the hearing in any other available courtrooms.

These three options would serve to meet the needs of the press, the public, and the Court. It would also provide the facility with an orderly means of addressing the large number of individuals planning to arrive at the LaSalle Court on Friday.

We fully understand that the Code of Federal Regulations provides for an immigration judge to limit the number of people in attendance at a public hearing based on the limitations of the physical facility.<sup>2</sup> We also understand that the Court's guidance on Webex access is limited to parties and witnesses.<sup>3</sup> That said, the members of the press

<sup>1</sup> *Compare Globe Newspaper Co. v. Superior Ct. for Norfolk Cnty.*, 457 U.S. 596, 606–07 (1982) (describing the importance of press and public access to courts).

<sup>2</sup> See 8 C.F.R. § 1003.27.

<sup>3</sup> See Department of Justice, *WebEx Instructions for Immigration Court Hearings*, <https://www.justice.gov/eoir/media/1264061/dl?inline=>.

and public inspired and committed to observe Friday’s hearing are counting on this Court to uphold the nation’s deeply-rooted principle and longstanding tradition of allowing access to the courts.<sup>4</sup> Indeed, the right to access court proceedings is a cornerstone of the First Amendment.<sup>5</sup> As outlined in Department of Justice Guidance, which tracks the Code of Federal Regulations, immigration court hearings are generally open to the public, albeit with certain exceptional restrictions—such as the expressly-declared request of a respondent seeking asylum or withholding of removal; the protection of minors; or where protective orders or matters under seal are heard.<sup>6</sup> None of these restrictions apply to Mr. Khalil and alternative means of allowing press and public access are available to the Court.




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Mr. Khalil’s case presents a critical issue of public concern. The government’s position that Mr. Khalil is deportable has dominated news media for months because of its wide-ranging implications. For many, the case strikes at the core of our nation’s fabric and the rule of law. The matters for consideration that will be submitted to this Court on Friday, and the arguments framing that evidence, will have consequences for a sweeping number of people in the United States—the vast majority of whom live their lives pursuant to the Constitution and the principles and freedoms outlined therein, a key one of which is the press and public’s right to access the courts.

On behalf of itself and myriad interested parties who stand to be denied access to Mr. Khalil’s hearing this Friday, the ACLU of Louisiana asks this Court to provide telephonic, Webex, and overflow room access to those individuals who aspire to witness Mr. Khalil’s hearing live.

Respectfully submitted,

Nora Ahmed, Esq.
<i>*Admitted to the New York Bar, not admitted to the Louisiana Bar</i>

<sup>4</sup> See, e.g., *Richmond Newspapers, Inc. v. Virginia*, 448 U.S. 555, 566-79 (1980) (discussing the history and tradition of criminal and civil court proceedings being open to the public).

<sup>5</sup> Compare *id.* 448 U.S. at 599 (Stewart, J., concurring) (describing the traditional legal right of the press and public to access civil and criminal courts).

<sup>6</sup> See Department of Justice, *Immigration Court Practice Manual, Chapter 4.9 – Public Access*, <https://www.justice.gov/eoir/reference-materials/ic/chapter-4/9> (citing to 8 C.F.R. §§ 1003.27, 1003.31(d), 1003.46, 1208.6, 1240.10(b), 1240.11(c)(3)(i)).

### **CERTIFICATE OF SERVICE**

On April 28, 2025, I, Nora Ahmed, caused the enclosed document to be served on the U.S. Department of Homeland Security via the EOIR Courts and Appeals System (ECAS). This document was electronically filed through ECAS and both parties are participating in ECAS. Therefore, there is no separate service completed.

Executed this 28th day of April 2025.

A handwritten signature in blue ink, appearing to read "Nora Ahmed", is enclosed in a thin black rectangular border.