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November 17, 2008

Defamation Suit Against Rep. Murtha Set for Argument

A three-judge appellate panel is set to hear argument Tuesday in the defamation lawsuit against [Rep. John Murtha \(D-Pa.\)](#), accused of making false statements to news reporters about a U.S. Marine and his role in the deaths of Iraqi civilians. Judges Karen LeCraft Henderson, Judith Rogers, and Harry Edwards of the U.S. Court of Appeals for the D.C. Circuit are the panel.

Mark Zaid and Bradley Moss, counsel for [Frank Wuterich](#), argue Murtha made “outrageous” statements about Wuterich and his comrades regarding the death of Iraqi civilians in Haditha in 2005. Murtha “inappropriately compared the tragic events of Haditha with the infamous war crimes and deliberate widespread massacre of civilians at My Lai in Vietnam,” the lawyers wrote in an appellate brief. Wuterich, a staff sergeant, is charged with manslaughter. Murtha reportedly called Wuterich a “cold-blooded killer.”

The D.C. Circuit must first determine whether it has jurisdiction to hear the case, which has been stayed in federal district court pending appeal. U.S. District Judge Rosemary Collyer of the U.S. District Court for the District of Columbia ordered the deposition of Murtha as part of discovery, triggering Murtha's appeal to the D.C. Circuit. Murtha's lawyer

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in district court is Darrell Valdez of the U.S. Attorney's Office.

The questions on appeal include whether a congressman is acting within the scope of employment in making statements to the press about a private citizen. Valdez says Murtha is immune from a defamation suit stemming from comments to a reporter about a private citizen. Zaid and Moss reject the claim.

“This court was unwilling to proclaim such a sweeping version of absolute immunity” and ordered a deposition of Murtha, Collyer wrote in an order in December 2007. Collyer said a fact record is essential to ensure she is not making decisions in a vacuum. “The court is not as shocked as counsel at the thought of the deposition of a sitting member of Congress. Even presidents can be required to interrupt their tremendous responsibilities when civil litigation requires it.”

Posted by Mike Scarcella on November 17, 2008 at 06:32 PM in [Crime and Punishment](#), [D.C. Courts and Government](#), [Justice Department](#), [Politics and Government](#), [War on Terror](#) | [Permalink](#)

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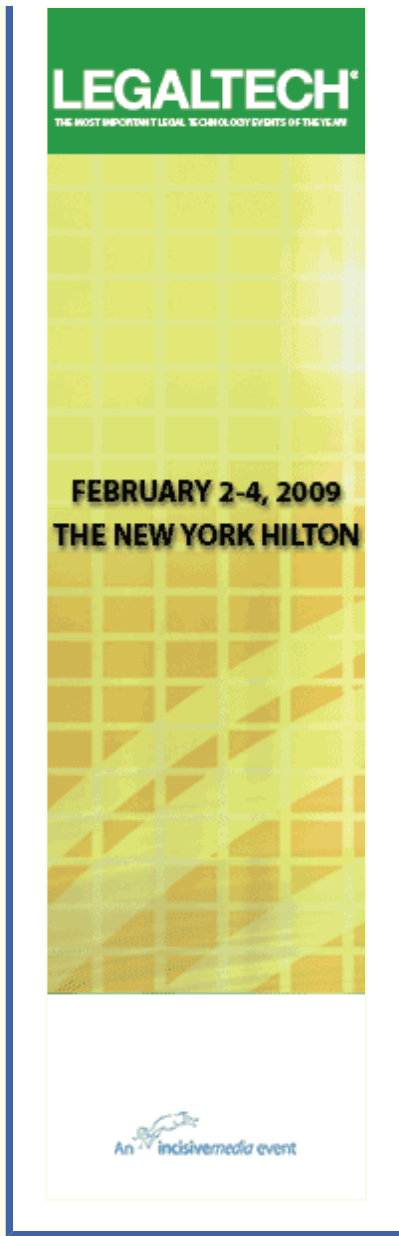
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