

OPINIONS OF INDIVIDUAL JUSTICES
IN CHAMBERS

IN RE DOW JONES & CO., INC.

ON APPLICATION FOR STAY

No. A-369. Decided December 5, 1994

The application of Dow Jones & Co., Inc., for a stay of the Court of Appeals' November 3, 1994, order filed "under seal," so that Dow Jones can publish and report on the order and its contents, is moot. A later order in which the Court of Appeals denied Dow Jones' motion for reconsideration and discussed the November 3 order and its contents was not filed "under seal."

CHIEF JUSTICE REHNQUIST, Circuit Justice.

On November 3, 1994, the United States Court of Appeals for the District of Columbia Circuit, Division for Appointing Independent Counsels, issued an order denying Dow Jones & Company, Inc.'s (Dow Jones) "Motion for Disclosure of and Access to Report of Former Independent Counsel Robert B. Fiske." That order was filed "under seal," apparently to prohibit Dow Jones from publishing or reporting on the order or its contents. Dow Jones subsequently filed a motion to unseal the November 3, 1994, order (which has not been ruled on) and a motion for reconsideration of the November 3, 1994, order.

On November 22, 1994, Dow Jones filed in this Court an emergency application for stay of the November 3, 1994, order, seeking permission only to publish and report on the Court of Appeals' order and its contents. The following day, the Court of Appeals denied Dow Jones' previously filed motion for reconsideration by an order in which it discussed the November 3, 1994, order and its contents, and gave its rea-

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sons for refusing to release the report of Independent Counsel Fiske. This order was *not* filed “under seal,” and there is no indication that Dow Jones is prohibited from reporting on or publishing this order. Because Dow Jones may report on and publish this second order, which refers to the November 3, 1994, order and its contents, I believe that Dow Jones’ emergency application for stay is moot.