

[REDACTED]
<bedwards@pathtojustice.com>

Subject: RE: Voluntary Production of Materials?

Date: Mon, 09 Jan 2012 20:31:11 +0000

Importance: Normal

[REDACTED]

As mentioned last week, Brad and I wanted to chat with you about where we are on discovery in this case. I spoke with Brad, and while our recollection of what you promised you were going to do may be slightly different than ours, we believe there was at least a general agreement to the spirit of the voluntary production – that is, you were going to cooperate to the extent that you are able.

As we explained on our phone call, we requested the things that we would like produced. While you may believe those requests to be overly broad and may assert that legal objection in your responses, you indicated that you would be willing to produce certain documents that may not be all the documents in your possession responsive to the request but that would amount to some documents or materials that we do not yet have. Without making us go through the unnecessary exercise of narrowing our requests, it would be most helpful if you would just shoot us over whatever documents or materials that you are willing to share with us voluntarily. We will agree that whatever production you make does not constitute a waiver of any legal objection you may have to any discovery request.

So, are you willing to produce anything to us is, I guess, the bottom line. Thanks for any voluntary help you can extend.

Paul Cassell
Co-Counsel for Jane Doe #1 and Jane Doe #2

Paul G. Cassell
Ronald N. Boyce Presidential Professor of Criminal Law

[REDACTED]

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From: [REDACTED] [mailto:[REDACTED]]
Sent: Saturday, January 07, 2012 8:08 AM
To: Paul Cassell

Subject: Re: Replies and Responses Due on January 6, 2012

Thanks. Hope everyone has a great weekend.

Ed

From: Paul Cassell [<mailto:cassellp@law.utah.edu>]

Sent: Friday, January 06, 2012 07:00 PM

[REDACTED] Brad Edwards <bedwards@pathtojustice.com>

Subject: RE: Replies and Responses Due on January 6, 2012

- [REDACTED]
1. Thanks for the clarification on the 90 day rule.
 2. Brad and I need to confer about the discovery issues, but that is not a basis for our withholding consent for an extension. So you may indicate that we consent to the extension. Brad and I have a different recollection about discovery issues than you do. But let's chat about that next week.

Sorry to hear y'all are working at 7 PM on Friday night. Paul

Paul G. Cassell

[REDACTED]

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Sent: Friday, January 06, 2012 4:07 PM

To: Paul Cassell

[REDACTED] Brad Edwards

Subject: RE: Replies and Responses Due on January 6, 2012

Hi, Paul.

As always, we appreciate your efforts to be accommodating. With respect to the conditions that you have placed on your agreement to the requested extension:

(1) No 90-day notice is called for by Local Rule 7.1(b)(4) for the motions/responses/replies connected to the requested extension because none is a "motion or other matter which has been pending and fully briefed" and none is a "motion or other matter as to which the Court has conducted a hearing." In any event, after the recent amendments to the Local Rules, the 90-day notices are only "serve[d] on all parties and any affected non-parties." Court filing of the 90-day notices is no longer contemplated by the Local Rules.

(2) As to our discussion in early December, we have a different recollection. At that time, notwithstanding our motion to stay discovery, we expressed a willingness to work with you and Brad to attempt to identify items that

might be producible by the government pursuant to a narrowed and specific request for production that seeks relevant items and where the production by the government would not be burdensome or otherwise objectionable. We remain willing to work toward such a goal, but have been waiting to hear from you or Brad to begin the process of identifying the items that would be the subject of such a narrowed request. In fact, [REDACTED] called Brad several weeks ago to discuss the requests for admissions, but they were unable to connect at that time.

If the government's position on these two points causes you to withhold your agreement to our requested extension, we would be happy to inform the Court that you oppose our motion for extension of time. If we do not hear from you by 7:00 pm Miami time that you agree to the requested extension notwithstanding the government's position on these two points, we will report to the Court that you object to the extension. Please be sure to send any reply concerning your position to Dexter, as he will be filing the motion for extension this evening.

Thanks, and have a nice weekend.

From: Paul Cassell [<mailto:cassellp@law.utah.edu>]

Sent: Friday, January 06, 2012 10:41 AM

Subject: RE: Replies and Responses Due on January 6, 2012

As you know, we're happy to try and be accommodating. We would be glad to consent to additional time, but would ask in exchange for two things:

1. The various delays mean that several motions have now been (or will shortly be) pending for more than 90 days, triggering a 90 day report obligation under the local rules. We would trust you would be willing to file that with Judge Marra.
2. When we finished our telephone call with you some weeks back, Brad and I understood that we would be receiving (a) some initial discovery in the case and (b) a list of additional discovery that we could expect if your motion to dismiss is denied. But we have yet to receive anything at all regarding discovery. We would trust that you will carry through on what we understood you had agreed to in the telephone call.

Again, we are happy to help - but would ask you to help us on these two points. Thanks!

Paul Cassell
Co-counsel for Jane Doe #1 and Jane Doe #2

Paul G. Cassell

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[REDACTED]
Sent: Thursday, January 05, 2012 5:24 PM

To: Paul Cassell; Brad Edwards

[REDACTED]
Subject: Replies and Responses Due on January 6, 2012

Paul and Brad,

Happy New Year. I need to ask if you have an objection to the government seeking a second enlargement of time, up to Tuesday, January 24, 2012, to file replies to the victims' two responses to the government's motion to dismiss and motion to stay discovery, and responses to the victims' protective motion to compel and protective motion for remedies.

[REDACTED] is preparing for an evidentiary hearing in a 28 U.S.C. 2255 motion, which is scheduled for January 24, 2012. I am scheduled to go to trial in a tort case sometime during the two week trial period commencing January 17, 2012. I have spent most of the preceding two weeks getting ready for the trial. My colleague Ed Sanchez, with sporadic assistance from [REDACTED] and I, will be preparing the responses and replies.

Please let me know if you have any objections. Thanks.

[REDACTED]