

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

To: [REDACTED]

Cc: Brad Edwards [REDACTED]

Subject: RE: Doe v. USAO - 4:30 Monday

Date: Tue, 15 Nov 2011 23:29:02 +0000

Importance: Normal

Hey [REDACTED]

Speaking for me, any time Monday afternoon 4:30 or later Florida time works for me. Brad is, I believe, coming up for air. He just won multi-million dollar verdict for his client yesterday in a hotly contested case. He just let me know, though, that he is free any time Monday afternoon. Shall we say 4:30 Eastern on Monday? Does that work at your end?

Thanks for your willingness to discuss. We will move forward with the extension of time. PC

Paul G. Cassell
Ronald N. Boyce Presidential Professor of Criminal Law
S.J. Quinney College of Law at the University of Utah

[REDACTED]

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-----Original Message-----

From: [REDACTED]

Sent: Tuesday, November 15, 2011 4:09 PM

To: Paul Cassell; [REDACTED]

Cc: Brad Edwards; Sanchez, Eduardo (USAFLS)

Subject: RE: Doe v. USAO

Dear Paul:

I hope that the end of the semester is going well. [REDACTED] and I have had a chance to discuss your email. There are some straightforward issues and others that require some discussion.

First, as [REDACTED] mentioned, we have no objection to the extension of time and specifically, no objection to you filing the motion for extension of time that is contained within your email. We agree that there is no reason to file

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that under seal.

Second, with regard to the orders that appear on the docket sheet on November 9, 2011, you were served with the Motions to Seal and the corresponding proposed Orders to Seal. We have not received signed copies of those orders, so we do not know whether those are the orders that are referenced on the docket sheet or whether the Clerk's Office erroneously docketed the Sealed Order Granting the Disclosure of Grand Jury Material (which was attached as an exhibit to each motion). If we receive signed copies of any orders, we will send you copies.

We would appreciate the opportunity to discuss the sealing issues with you and Brad after Brad has finished his trial, which we believe is the end of this week, and before you leave on your vacation. We weren't sure when you are scheduled to begin your vacation, but we were wondering whether you and Brad would be available on the afternoon of Monday, November 21st? If that date does not work, can you let us know when you both would be available?

Thank you very much.

[REDACTED]
Assistant U.S. Attorney
[REDACTED]

-----Original Message-----

From: Paul Cassell [REDACTED]
Sent: Monday, November 14, 2011 7:34 PM
To: [REDACTED]
Cc: [REDACTED], Brad Edwards
Subject: RE: Doe v. USAO

Hey [REDACTED]

1. As you may know, Brad is buried in a three-week jury trial, so I have not been able to consult with him at any length about the pending motion to dismiss and to stay. I also have another brief due on next Wednesday, as well as long-scheduled vacation the week of Thanksgiving. In light of all this, I am writing to inquire about the Government's position concerning a ten-day extension of the due date to respond to the motion to dismiss until December 5.
2. I noticed that you have filed two pleadings entirely under seal - your motion to dismiss and your motion to stay. And yet the vast bulk of both motions do not involve any secret grand jury material and thus (in my view) there is little reason for the vast bulk of the pleadings to be under seal. Are you willing to file redacted pleadings in the public court file?
3. If the answer to question 2 is no, what is your position on a motion from the victims asking for the court to direct the Government to file redacted pleadings in the public court file, redacting only the secret grand jury information?
4. It is our view that a bland motion for extension of time would not need to be filed under seal, because it would not disclose any grand jury materials. Here is the draft of our motion for extension of time, which we are not planning to file under seal. Please advise if you have any concerns.

JANE DOE #1 AND JANE DOE #2'S UNOPPOSED MOTION FOR 10-DAY EXTENSION OF TIME TO RESPONSE TO GOVERNMENT'S MOTION TO DISMISS AND MOTION FOR STAY OF DISCOVERY

COME NOW Jane Doe #1 and Jane Doe #2 (also referred to as "the victims"), by and through undersigned counsel, to file an unopposed motion for extension of time to respond to the Government's motion to dismiss and

motion to stay proceedings.

The victims' response to these two motions is currently due on Friday, November 25, 2011 - the Friday immediately following Thanksgiving. One of the victims' counsel, Bradley J. Edwards, has been in (and continues to be in) a three-week jury trial that has prevented him from turning to the pending motion. The other of the victims' counsel, Paul G. Cassell, has a brief due in the Fifth Circuit on November 23, 2011, and also long-scheduled vacation the week of Thanksgiving. Accordingly, victims counsel seek a 10-day extension to Monday, December 5, 2011, to file their responses to the Government's two pending motions.

Counsel have conferred and the Government does not oppose the motion.

5. I notice in the court file that the Court entered two orders on November 9, 2011. These are sealed orders and we have not received notice of the orders. We are assuming that these are court orders granting your motion to file under seal. If they are something else, we would of course be concerned about ex parte motion practice. If they are granting the motions to file under seal, I wonder why we didn't consult about the extent of the sealing on the phone last week -- it does seem like the Government has gone overboard on sealing here, but I am hopeful that you will agree to filing redacted pleadings and obviate any problem.

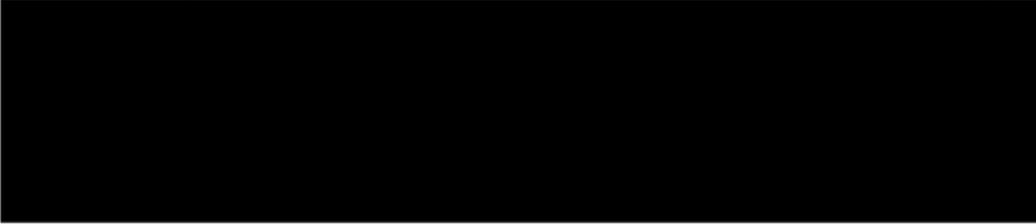
Thanks for your help on these questions/issues.

Paul Cassell

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

Paul G. Cassell

Ronald N. Boyce Presidential Professor of Criminal Law S.J. Quinney College of Law at the University of Utah



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