

From: Paul Cassell <[REDACTED]>
To: "[REDACTED] (USAFLS)" <[REDACTED]>
Cc: "[REDACTED] (USAFLS) ([REDACTED])"
<[REDACTED]>, Brad Edwards <[REDACTED]>

Subject: RE: Doe [REDACTED] USAO

Date: Tue, 15 Nov 2011 00:34:11 +0000

Importance: Normal

Hey [REDACTED] and [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

[REDACTED]
[REDACTED]

Voice: [REDACTED]

Fax: [REDACTED]

Email: [REDACTED]

<http://www.law.utah.edu/profiles/default.asp?PersonID=57&name=Cassell,Paul>

CONFIDENTIAL: This electronic message - along with any/all attachments - is confidential. This message is intended only for the use of the addressee. If you are not the intended recipient, the person responsible to deliver it to the intended recipient, you may not use, disseminate, distribute or copy this communication. If you have received this message in error, please immediately notify the sender by reply electronic mail and delete the original message. Thank you.