

Nos. 13-12923, 13-12926, 13-12928

IN THE
United States Court of Appeals

FOR THE ELEVENTH CIRCUIT

JANE DOE NO. 1 AND JANE DOE NO. 2,

Plaintiffs-Appellees

v.

UNITED STATES OF AMERICA,

Defendant-Appellee

ROY BLACK ET AL.,

Intervenors-Appellants

**MOTION TO POSTPONE DUE DATE FOR FILING APPELLEE BRIEF
UNTIL COURT RULES ON PENDING MOTION TO DISMISS FOR LACK
OF JURISDICTION**

Bradley J. Edwards
FARMER, JAFFEE, WEISSING
EDWARDS, FISTOS & LEHRMAN, P.L.
425 North Andrews Ave., Suite 2
Fort Lauderdale, FL 33301
[REDACTED]
[REDACTED]

Paul G. Cassell
S. J. Quinney College of Law at
the University of Utah
332 S. 1400 E., Room 101
Salt Lake City, UT 84112
[REDACTED]

Attorneys for Plaintiffs-Appellees Jane Doe No.1 and Jane Doe No. 2

**MOTION TO POSTPONE DUE DATE FOR FILING APPELLEE BRIEF
UNTIL COURT RULES ON PENDING MOTION TO DISMISS FOR LACK
OF JURISDICTION**

INTRODUCTION

This case involves a discovery order concerning certain correspondence that the district court has ordered the Government to produce to two crime victims, appellees Jane Doe No. 1 and Jane Doe No. 2 (hereinafter “the victims”). On July 2, 2013, this Court docketed the appeal of limited intervenors-appellants’ Roy Black, Jeffrey Epstein and Martin Weinberg (collectively referred to as “Epstein”) challenging that discovery order. On July 2, 2013, the victims filed a motion to dismiss the appeal for lack of jurisdiction, contending that this Court did not have jurisdiction to review the discovery order under *Mohawk Industries v. Carpenter*, 558 U.S. 100 (2009). On July 12, 2013, Epstein responded in opposition to the motion to dismiss, and on July 16, 2013, the victim’s replied in support of the motion to dismiss.

On August 5, 2013, even though no briefing schedule had been set by this Court, Epstein filed his opening brief on the merits. The Clerk’s Office has advised the victims that their brief on the merits is now due in thirty days, i.e., on September 5, 2013.

Under Local Rule 31-1(d), if the Court had raised the jurisdictional question on its own motion, that question would have automatically postponed the date for the victims to file any response brief until the Court determined the jurisdictional question. The victims respectfully assert that they have raised a substantial jurisdictional issue and that they should not have a deadline to file their brief on the merits until this Court resolves that issue or otherwise determines that it wants the victims to file a brief on the merits. Accordingly, the victims move this Court to postpone the deadline for filing their brief on the merits until the Court resolves the jurisdiction issue or otherwise sets a schedule directing the victims to file their appellee brief.

POSITION OF THE PARTIES

Epstein objects to the Court considering the motion to dismiss without also considering the merits of the appeal. Epstein notes that he has filed his merits brief and does not object to the court ordering expedited briefing on the remaining briefs (response brief and reply brief) and an expedited oral argument schedule.

The Government has informed the victims that it does not intend to participate in this appeal.

CONCLUSION

For all the foregoing reasons, the Court should postpone the deadline for the victims to file their merits brief until it resolves the jurisdictional question or otherwise directs the victims to file a brief on the merits.

DATED: August 8, 2013

Respectfully Submitted,



Paul G. Cassell
S.J. Quinney College of Law at the
University of Utah
332 S. 1400 E.
Salt Lake City, UT 84112
Telephone: [REDACTED]
Facsimile: [REDACTED]
E-Mail: [REDACTED]

and

Bradley J. Edwards
FARMER, JAFFE, WEISSING,
EDWARDS, FISTOS & LEHRMAN,
P.L.
425 North Andrews Avenue, Suite 2
Fort Lauderdale, Florida 33301
Telephone [REDACTED]
Facsimile [REDACTED]
Florida Bar No.: 542075
E-mail: [REDACTED]

Attorneys for Jane Doe No. 1 and Jane Doe No. 2

CERTIFICATE OF SERVICE

The foregoing document was served on August 8, 2013, on the following
using the Court's CM/ECF system:

Dexter Lee
A. Marie Villafaña
Assistant U.S. Attorneys
500 S. Australian Ave., Suite 400
West Palm Beach, FL 33401



Attorneys for the Government

Roy Black, Esq.
Jackie Perczek, Esq.
Black, Srebnick, Kornspan & Stumpf, P.A.
201 South Biscayne Boulevard
Suite 1300
Miami, FL 33131



Martin G. Weinberg
Martin G. Weinberg, PC
20 PARK PLZ STE 1000
Boston, MA 02116-4301





Paul G. Cassell