

EXHIBIT E

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

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3	SULEIMAN ABDULLAH SALIM,)
4	MOHAMED AHMED BEN SOUD, and) Case No. 2:15-CV-00286-JLQ
5	OBAID ULLAH, as personal)
6	representative of Gul Rahman,) July 8, 2016
7) Spokane, Washington
8	Plaintiffs,)
9	vs.) Telephonic Scheduling
10) Conference
11	JAMES ELMER MITCHELL and JOHN)
12	"BRUCE" JESSEN,) Pages 1 - 27
13)
14	Defendants.)

BEFORE THE HONORABLE JUSTIN L. QUACKENBUSH
SENIOR UNITED STATES DISTRICT COURT JUDGE

APPEARANCES:

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TELEPHONIC SCHEDULING CONFERENCE - JULY 8, 2016

1 So I don't know if we're going to get into any discussions
2 as to classified information. I don't even know if they still
3 have the classifications that I understood. We started with
4 "Restricted," went to "Confidential," went to "Secret," and,
5 then, "Top Secret." Do they still have those, Mr. Warden?

6 MR. WARDEN: Yes, your Honor. There are currently
7 three levels of classification.

8 THE COURT: Well, which one did they delete?

9 MR. WARDEN: From the contracts?

10 THE COURT: No. You say that there's three levels.

11 MR. WARDEN: Three levels. There's "Confidential,"
12 "Secret," and "Top Secret."

13 THE COURT: Oh, they did away with "Restricted."

14 MR. WARDEN: That's not currently a classification.

15 THE COURT: Okay.

16 MR. WARDEN: Correct.

17 THE COURT: All right. Do you want to speak to any of
18 these dates, Mr. Warden?

19 MR. WARDEN: The dates you've set, your Honor, are
20 acceptable to the Government.

21 THE COURT: Okay. Well, if you run into matters that
22 need my attention, just -- I try to stay on top of these cases
23 and move them along. You can call either Ms. Mauk or
24 Mr. Johnson, Jeremy Johnson; and we'll accommodate you.

25 MR. TOMPKINS: Your Honor, this is Chris Tompkins.

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1 concerns about what information we're going to be able to
2 receive and what we might be able to do with it if we receive
3 it. How that might play into information being put before the
4 Court, I can't say at this point. I could envision motions to
5 require the United States to respond to *Touhy* requests or to set
6 a timeline for them to respond and that might bring such
7 information before the Court, but I'm not certain at the moment
8 how that might play out.

9 THE COURT: Well, it may well be that there's
10 classified information that the Government says it's classified
11 and I would, then, enter an order saying, therefore, it will be
12 furnished only to the Court; and, then, I would hear from the
13 Government as to why it should not be furnished to the parties.

14 I just don't want to delay this with all this
15 classification. You know, if it's confidential, that's
16 different than being secret or top secret I think.

17 But I'm just not going to delay this case at the instance
18 of the Government that's got a -- both, as I say, I sense a
19 monetary and other interest in the outcome of this case.

20 MR. TOMPKINS: Your Honor, this is Chris Tompkins.
21 May I ask a question related to what the Court just said?

22 THE COURT: Sure.

23 MR. TOMPKINS: One of the issues that we have, your
24 Honor -- and it's not an issue with Mr. Warden, but it is an
25 issue with the agencies on whose behalf -- or may be an issue

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1 with the agencies on whose behalf he's appearing. We have -- we
2 have served *Touhy* requests, and -- and I understand that the
3 process involves review to identify potentially responsive
4 documents and, then, review for actual responsiveness and
5 classification. We don't know at the moment how long the
6 Government is going to claim that that requires on any
7 individual request.

8 Does the Court take the position that it would be able to
9 order the Government to respond within a defined period of time
10 if -- if there is an issue? Or that the Court is -- is in a
11 position to address disputes as to whether a response is
12 appropriate or -- or not?

13 THE COURT: Well, the case is assigned to me. I'll
14 decide the issues, Mr. Tompkins, as they arise. And, if there's
15 an issue, get it timely noted in a motion or other filing; and
16 I'll give the Government a reasonable period of time. I'm not
17 going to let the Government delay this case, and I'm not going
18 to let the defendants delay this case because they say, well,
19 there's classified information that need -- issues that need to
20 be resolved. So --

21 MR. TOMPKINS: I appreciate -- I'm sorry. I didn't
22 mean to interrupt.

23 THE COURT: That's all right. I'll -- I'll make
24 myself available.

25 MR. TOMPKINS: All right. And, as a related issue,