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14 Attorneys for Petitioners Mitchell and Jessen

15 UNITED STATES DISTRICT COURT
16 FOR THE EASTERN DISTRICT OF WASHINGTON
17 AT SPOKANE

18 JAMES ELMER MITCHELL and
19 JOHN "BRUCE" JESSEN,

20 Petitioners,

21 vs.

22 UNITED STATES OF AMERICA,

23 Respondent.

NO. 16-MC-0036-JLQ

DECLARATION OF BRIAN S.
PASZAMANT IN SUPPORT OF
DEFENDANTS' MOTION TO
EXPEDITE CONSIDERATION
OF PENDING MOTION

24 Related Case:

25 SULEIMAN ABDULLAH SALIM, et
26 al.,

Plaintiffs,

vs.

NO. CV-15-0286-JLQ

DECLARATION OF BRIAN S.
PASZAMANT IN SUPPORT OF
DEFENDANTS' MOTION TO EXPEDITE
NO. 16-MC-0036-JLQ

Betts
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(206) 292-9988

1 JAMES E. MITCHELL and JOHN
2 JESSEN,
3
4 Defendants.

5 I, Brian S. Paszamant, hereby certify under penalty of perjury, that the
6 following is true and correct and within my personal knowledge:

7 1. I am over the age of 18, have personal knowledge of all facts
8 contained in this declaration, and am competent to testify as a witness to those
9 facts.

10 2. I am one of the attorneys representing Defendants James Elmer
11 Mitchell and John “Bruce” Jessen (collectively, “Defendants”) in the above-
12 captioned action.

13 3. On December 1, 2016, Defendants issued subpoenas, via a *Touhy*
14 request to the CIA, for testimony from its employee, “Gina Doe, former Chief of
15 Staff to Jose Rodriguez when he served as the Chief of the CIA’s Clandestine
16 Service and former Deputy to Jose Rodriguez when he served as the Director of
17 the CIA’s Counterterrorism Center.”

18 4. Defendants simultaneously sought testimony from CIA employee,
19 John/Jane Doe, former Chief of Special Missions for the CIA’s CTC and
20 immediate successor to Jim Cotsana in that position and who also served as the
21 Chief of the CIA’s CTC Renditions Group. The *Touhy* Request set January 4,
22 2017, as the proposed deposition date for Gina “Doe,” and January 5, 2017, for
23 John/Jane “Doe”; it also identified counsel’s Washington, D.C. office as the
24 proposed location.

25 5. On December 14, Mr. Warden responded to the email as follows:
26

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1 I am in receipt of your *Touhy* request and attendant subpoenas for
 2 depositions of Gina Doe and John/Jane Doe. In accordance with
 3 paragraph 6 of the discovery stipulation, I accept service of the
 4 *Touhy* request on behalf of the CIA and I have passed the request on
 5 to the appropriate officials at CIA for a decision. I am not authorized
 6 to accept service of the subpoena on behalf of the two Doe witnesses
 7 at this time and will not be authorized to do so, at a minimum, while
 8 the *Touhy* request remains under consideration with the CIA. I will
 9 advise you once the CIA has made a decision on your *Touhy* request.

10 6. Having heard nothing for another two weeks, defense counsel again
 11 reached out to Mr. Warden via email on January 2, 2017—i.e., two days before
 12 the first proposed deposition was to occur—to inquire about “any movement”
 13 from the CIA. Defense counsel received no response.

14 7. On February 8, counsel emailed Mr. Warden yet again to say they
 15 were “following up on the [*Touhy* Request]. As you can see, it has been quite
 16 some time since service of the *Touhy* requests. Of course, we would like to avoid
 17 unnecessary motion practice if possible. Please advise.” Finally, on February 13,
 18 Mr. Warden said the CIA will “not authorize” the depositions.

19 8. Counsel for Defendants communicated with counsel for the
 20 Government regarding this Motion, and the Government opposes Defendants’
 21 Motion to Expedite.

22 9. Counsel for Defendants notified chambers of this motion on
 23 February 14, 2017.

24 /s Brian S. Paszamant
 Brian S. Paszamant

25 Executed this 14th day of February, 2017
 26 at Philadelphia, PA.

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CERTIFICATE OF SERVICE

I hereby certify that on the 14th day of February, 2017, I electronically filed the foregoing document with the Clerk of Court using the CM/ECF system which will send notification of such filing to the following:

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By s/ Shane Kangas
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