

BETTS, PATTERSON & MINES P.S.

Christopher W. Tompkins (WSBA #11686)

CTompkins@bpmlaw.com

701 Pike Street, Suite 1400

Seattle, WA 98101-3927

BLANK ROME LLP

James T. Smith (admitted *pro hac vice*)

Smith-jt@blankrome.com

Brian S. Paszamant (admitted *pro hac vice*)

Paszamant@blankrome.com

One Logan Square, 130 N. 18th Street

Philadelphia, PA 19103

Attorneys for Defendants Mitchell and Jessen

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF WASHINGTON
AT SPOKANE**

JAMES ELMER MITCHELL and
JOHN "BRUCE" JESSEN,

Petitioners,

vs.

UNITED STATES OF AMERICA,

Respondent.

NO. 16-MC-0036-JLQ

(PROPOSED) ORDER ON
DEFENDANTS' THIRD AND
FOURTH MOTIONS TO COMPEL

Motion Hearing:
To Be Scheduled At Court's Discretion
Oral Argument Requested

Related Case:

SULEIMAN ABDULLAH SALIM, et
al.,

Plaintiffs,

vs.

JAMES E. MITCHELL and JOHN
JESSEN,

Defendants.

NO. CV-15-0286-JLQ

DEFENDANTS' THIRD AND FOURTH
MOTIONS TO COMPEL
NO. 2:16-MC-0036-JLQ

1 The Court, pursuant to Defendants James E. Mitchell and John Jessen's
2 (collectively, "Defendants") Third and Fourth Motions to Compel **HEREBY**
3 **ORDERS:**

4 Defendants' Third and Fourth Motions to Compel are **GRANTED**.

5 **IT IS FURTHER ORDERED** that upon consideration of the assertion of
6 certain privileges by the Central Intelligence Agency ("CIA") in response to
7 Defendants' Third and Fourth Motions to Compel:

8
9 1. The CIA's assertion of the CIA Act privilege is **DENIED** as to
10 Documents 40, 41, 66, 67, 105, 106, 114, 117, 120, 121, 122, 123, 127, 133, 135,
11 137, 149, 157, 158, 163, 165, 166, 167, 169, 185, 186, 187, 192, 197, 217, 221,
12 223, 224, 226, 230, 233, 244, 246, 247, 250;

13 2. The CIA's assertion of the state secrets privilege is **DENIED** as to
14 Documents 37, 39, 40, 41, 46, 47, 48, 66, 67, 101, 103, 105, 106, 108, 114, 117,
15 120, 121, 122, 123, 127, 130, 131, 133, 135, 136, 137, 139, 149, 157, 158, 159,
16 163, 165, 166, 167, 169, 185, 186, 187, 192, 197, 206, 212, 214, 216, 217, 221,
17 223, 224, 225, 226, 230, 233, 237, 241, 244, 246, 247, 250;

18 3. The CIA's assertion of the deliberative process privilege is **DENIED**
19 as to Documents 37, 39, 46, 47, 103, 105, 106, 108, 114, 117, 120, 121, 123, 127,
20 131, 133, 135, 136, 137, 139, 149, 157, 158, 159, 167, 197, 206, 212, 214, 221,
21 223, 225, 226, 230, 233, 237, 241, 244, 247;

22 4. The CIA's assertion of the National Security Act privilege is
23 **DENIED** as to Documents 37, 39, 40, 41, 46, 47, 48, 66, 67, 101, 103, 105, 106,
24 108, 114, 117, 120, 121, 122, 123, 127, 130, 131, 133, 135, 136, 137, 139, 149,
25 157, 158, 159, 163, 165, 166, 167, 169, 185, 186, 187, 192, 197, 206, 212, 214,
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1 216, 217, 221, 223, 224, 225, 226, 230, 233, 237, 241, 244, 246, 247, and 250;

2 5. The CIA’s assertion of the attorney-client privilege is **DENIED** as to
3 Documents 46, 47, 48, 127, 165, 212, 216, 226, 237, and 247;

4 6. The CIA’s assertion of the attorney work product doctrine is
5 **DENIED** as to Documents 101, 105, 106, 130, 214, and 230;

6 **IT IS FURTHERED ORDERED** that the Government produce
7 unredacted copies of those documents enumerated above for which the assertions
8 of the privileges have been denied.

9 **IT IS FURTHER ORDERED** that the CIA’s assertion of certain
10 privileges in response to Defendants’ Third and Fourth Motions to Compel the
11 depositions of Mr. James Cotsana and Ms. Gina Haspel are **DENIED.**:

12 **IT IS FURTHER ORDERED** that the Government produce for
13 deposition Mr. James Cotsana and Ms. Gina Haspel as identified in the *Touhy*
14 Requests and accompanying subpoenas served by Defendants on or about
15 September 6, 2016 and December 1, 2016.

16 **IT IS SO ORDERED.** The Clerk is hereby directed to enter this Order
17 and furnish copies to counsel.

18 DATED this _____ day of _____, 2017.

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23 _____
24 JUSTIN L. QUACKENBUSH
25 SENIOR UNITED STATES DISTRICT JUDGE
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