

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

JAMES ELMER MITCHELL and
JOHN JESSEN,

Petitioners,

vs.

UNITED STATES OF AMERICA,

Respondent.

No. 16-MC-0036-JLQ

ORDER SETTING DOCUMENT
PRODUCTION DEADLINE

Related Case:

SULEIMAN ABDULLAH SALIM, et al.,

Plaintiffs,

vs.

JAMES E. MITCHELL and JOHN
JESSEN,

Defendants.

No. CV-15-0286-JLQ

BEFORE THE COURT are the parties' Statements (ECF No. 87 & 88) concerning a proposed deadline for document production by the CIA in compliance with the court's Order of October 4, 2016, and in response to a subpoena issued on June 28, 2016.

The Government proposes a final production deadline of January 20, 2017, stating it will be difficult to meet that date considering the potential national security implications, classification issues, and security restrictions. (ECF No. 87, p. 2).

Defendants propose a deadline of November 18, 2016. Defendants argue the November deadline is nearly five months after service of the subpoena and they need the documents

1 prior to expert witness disclosures on December 12, 2016. Defendants further state they
2 are beginning to schedule depositions in November and they desire to have the
3 documents prior to that date.

4 The court has considered the positions presented in both Statements. The
5 Government argues Defendants will suffer no prejudice from the January deadline due to
6 "the wide range of detailed information about the operation of the CIA program that the
7 Government has already produced." (ECF No. 87, p. 5). The Government contends any
8 further information discovered in the document search will likely be "at the periphery of
9 the case." (*Id.*). The court also has considered Plaintiffs have long maintained: "The facts
10 necessary to adjudicate this matter are available in the public record. Plaintiffs'
11 mistreatment as part of the CIA's Rendition Detention and Interrogation, and the details
12 of Defendants' participation in the Program are publicly available." (ECF No. 34, p. 3).
13 Plaintiffs' position much information is already publicly available is supported by the
14 extensive investigation conducted by the Senate Select Committee on Intelligence and the
15 report issued. However, the fact some information is publicly available does not
16 foreclose Defendants from conducting additional discovery and the court granted in part
17 the Motion to Compel. However, with such information already available, the court finds
18 the identification of expert witnesses and further preparation of the case need not await
19 the CIA response to the subpoena. In addition, much of the information sought by the
20 Defendants relates to matters in which the Defendants were contractually involved in
21 with the Government.

22 **IT IS HEREBY ORDERED:**

23 1. The Government shall complete its production of documents pursuant to the
24 court's Order of October 4, 2016 (ECF No. 80) and the subpoena served on June 28,
25 2016, **no later than December 20, 2016**. The Government shall produce documents on a
26 rolling basis, and shall file status reports as previously directed.

27 2. If Defendants determine some of the documents produced by the Government
28 necessitate an amendment to their lay or expert witness lists, they may file a motion to

1 amend the witness list(s) if a demonstration of good cause for the amendment is shown.

2 3. Defendants have filed a Motion for Reconsideration/Clarification (ECF No. 32
3 in Case #16-36) of the court's October 4th Order. Defendants have also filed a Motion to
4 Expedite (ECF No. 34). The Motion to Expedite is **GRANTED**. The Government has
5 agreed to file a response in 5 business days and shall file such response no later than
6 **October 26, 2016**. If Defendants determine a reply is necessary, it shall be filed no later
7 than **October 31, 2016**, and the Motion for Reconsideration shall be deemed submitted
8 on that date.

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

11 **DATED** this 20th day of October, 2016.

12 s/ Justin L. Ouackenbush
13 JUSTIN L. QUACKENBUSH
14 SENIOR UNITED STATES DISTRICT JUDGE
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