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UNITED STATES DISTRICT COURT
DISTRICT OF HAWAII

IN RE:

PUBLIC FIRST LAW CENTER,

Movant.

CR No. 22-00048-TMB-NC

MC No. 24-00215-TMB-NC

UNITED STATES' RESPONSE
TO ORDER ON PUBLIC FIRST
LAW CENTER'S MOTION TO
UNSEAL COURT RECORDS

Pursuant to the Court's Order on Public First Law Center's Motion to Unseal Court Records, the United States has reexamined the filings in question to determine whether and to what extent they can be unredacted or unsealed. As set forth below, for raw grand jury transcripts and grand jury material that has yet to be discussed at trial, the United States requests maintaining that material under seal at this time under Rule 6(e). Given the witness tampering that occurred earlier in this case involving grand jury testimony, the United States submits that preserving the secrecy of this material at this time is prudent and necessary to protect the integrity of trial.

For grand jury material that has already been addressed at trial, the United States defers to the Court on whether to un-redact at this time.

| Dkt. No. / Document Title | USA Request | Reason |
|---------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 422 – USA R&O to Defense MIL 12 | No changes to current redactions and sealing. | Rule 6(e) – redacted grand jury material pertains to potential upcoming trial evidence. |
| 423 – USA MIL 5 | (1) defer to Court on un-redacting portions of sealed brief that pertain to Jodee Haugh and JoAnn Aurello (on pp. 2-4); (2) maintain redactions to remainder of brief. ¹ | (1) Witnesses in question have testified. (2) Rule 6(e) – the remaining redacted grand jury material pertains to potential upcoming trial evidence; the United States requests that this material remain under seal until the evidence has been presented. |
| 581 – USA MIL 9 | (1) defer to Court on unsealing entirety of USA’s brief. (2) maintain Exhibit 3– a raw grand jury transcript—under seal. | (1) Witness in question has testified. (2) However, Rule 6(e) supports continued sealing of Rudy Alivado’s raw grand jury transcript, particularly given recent events to confront Alivado with that testimony. |
| 615 – USA MIL 12 | Defer to Court on unsealing entirety of brief and attachments. | Witness in question has testified. |

¹ The redacted, publicly filed version of this brief is at ECF No. 349. The United States will lodge the sealed brief with the Court, highlighting the specific portions related to Haugh and Aurello which may be suitable for further un-redacting. (In sum, nothing on pages 2–4 of the updated brief would be redacted.)

| | | |
|----------------------------------------------|------------------------------------------------|-----------------------------------------------------------------------------------------|
| 652 – USA R&O to Defense MIL 20 | No changes to current redactions and sealing. | Rule 6(e) – redacted grand jury material pertains to potential upcoming trial evidence. |
| 654 – USA Brief on Attorney-Client Privilege | No changes to current redactions and sealing. | Rule 6(e) – redacted grand jury material pertains to potential upcoming trial evidence. |
| 686 – USA R&O to Defense Motion to Compel | Defer to Court on unsealing entirety of brief. | Witnesses in question have testified. |
| 714 – USA MIL 13 | Defer to Court on unsealing entirety of brief. | Witnesses in question have testified. |

Dated: May 3, 2024.

Respectfully submitted,

MERRICK B. GARLAND
Attorney General

/s/ Colin M. McDonald

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UNITED STATES DISTRICT COURT
DISTRICT OF HAWAII

UNITED STATES OF AMERICA,
Plaintiff,

v.

KEITH MITSUYOSHI KANESHIRO (1),
DENNIS KUNIYUKI MITSUNAGA (2),
TERRI ANN OTANI (3),
AARON SHUNICHI FUJII (4),
CHAD MICHAEL MCDONALD (5),
SHERI JEAN TANAKA (6),
Defendants.

CR No. 22-00048-TMB-NC
CERTIFICATE OF SERVICE

IT IS HEREBY CERTIFIED that:

I, Colin M. McDonald, am a citizen of the United States and am at least eighteen years of age. My business address is 880 Front Street, Room 6293, San Diego, CA 92101-8893. I am not a party to the above-entitled action. I have caused service of the foregoing on all parties in this case by electronically filing the foregoing with the Clerk of the District Court using its ECF System, which electronically notifies them.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on May 3, 2024.

/s/ Colin M. McDonald
COLIN M. MCDONALD