

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND
(Southern Division)**

UNITED STATES OF AMERICA,)	
)	
<i>Plaintiff,</i>)	
)	
v.)	Crim. No. DKC-99-0452
)	
DANIEL GERSHONI)	
and)	
FRANCISCO SANTINI,)	
)	
<i>Defendants.</i>)	
<hr/>		

**DEFENDANTS DANIEL GERSHONI'S AND FRANCISCO SANTINI'S
JOINT MOTION TO REQUIRE THE GOVERNMENT TO
PRODUCE A LIST OF THE NAMES AND ADDRESSES
OF THE WITNESSES IT INTENDS TO CALL AT TRIAL AND TO
DESIGNATE THE DOCUMENTS UPON WHICH IT INTENDS TO RELY AT TRIAL**

Defendants Daniel Gershoni and Francisco Santini, by their undersigned counsel, hereby move, pursuant to Fed. R. Crim. P. 7(f) and 16(a)(1)(C) (1), to require the Government to produce a list of the names and addresses of the witnesses it intends to call at trial and (2) to designate the documents upon which it intends to rely at trial. The particulars supporting this motion are stated in the accompanying memorandum of points and authorities.

Respectfully submitted,

By: _____
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Counsel for Daniel Gershoni

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**DEFENDANTS DANIEL GERSHONI’S AND FRANCISCO SANTINI’S
MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT
OF THEIR JOINT MOTION TO REQUIRE THE GOVERNMENT TO
PRODUCE A LIST OF THE NAMES AND ADDRESSES
OF THE WITNESSES IT INTENDS TO CALL AT TRIAL AND TO
DESIGNATE THE DOCUMENTS UPON WHICH IT INTENDS TO RELY AT TRIAL**

Defendants Daniel Gershoni and Francisco Santini, by their undersigned counsel, state the following in support of their joint motion (1) to require the Government to produce a list of the names and addresses of the witnesses it intends to call at trial and (2) to designate the documents upon which it intends to rely at trial.

As already set forth in defendant Santini’s Motion to Transfer Venue and Motion for Bill of Particulars, this case is a complex health care fraud prosecution. The Indictment alleges that defendant Santini submitted false claims for reimbursement for interpreting electro-cardiographic reports when “the services represented were not provided to Medicare beneficiaries” (Superseding Indictment, Count One, ¶ 16); that Santini billed for interpreting electro-cardiographic (ECG) tests that were “unnecessary, illegible, and/or otherwise unacceptable, and therefore, of no use in the diagnosis or treatment of the patients” (*Id.*, ¶ 17); that Santini billed for

utilizing ECG equipment “which did not have the capability of providing the service billed” (*Id.*, ¶ 18); that Santini and co-conspirators employed by Cardio-Tel improperly utilized the ECG equipment “by using a single piece of equipment to take measurements of multiple patients at scheduled or predetermined periods rather than permitting each patient to keep his or her equipment as needed to record an event” (*Id.*, ¶ 19); and that defendant Santini “did pay and/or receive illegal kickbacks for the purpose of encouraging the overutilization” of the ECG services that were billed by himself and by Cardio-Tel (*Id.*, ¶ 20).

The Indictment includes fifteen overt acts and seven substantive counts, of which Dr. Santini is named in two. Although Dr. Santini is referred to only in a single overt act (overt act m, where it is said that he “caused” the telephone transmission of cardiac data on an unspecified patient to Cardio-Tel), thirteen of the fifteen overt acts relate to eight individuals who were patients of his.¹ Of the two substantive counts in which Dr. Santini is named, Count Five appears to relate to the four patients referenced in overt act j, while Count Seven apparently relates to the same transaction that is the subject of overt act m. Again, it is impossible from a review of Dr. Santini’s billings to determine which of his patients is supposedly the subject of the transmission of data that is at issue in Count Seven. As to all of these patients, moreover, the Indictment utterly fails to specify which of the various types of fraudulent conduct set forth in the “Manner and Means” section of the Indictment is at issue in each case. Nor does the Indictment ever provide the slightest specification with regard to its allegation relating to kickbacks. (Indeed, the

¹ Overt acts a-c apparently relate to services provided to Trinidad Burgos in late May 1994; overt acts d-f relate to services provided to Maria Acevedo; overt acts g-i relate to services provided to Antonia Reynes; and over acts j-l relate to services provided to Rosa Torres, Pedro Alicea, Roberto Ocasio, Maria Berdeciatore, and Virgen Cintron Roman. As noted above, it is not clear which patient is the subject of overt act m.

Indictment does not even clearly identify whether Dr. Santini is being charged with *paying* or *receiving* kickbacks.)

As part of pre-trial discovery in this case, the Government has afforded Dr. Santini and his counsel access to a storage room at the FBI's offices in Calverton, Maryland containing the documents the Government has assembled during its investigation in this case. That room contains a total of at least sixty-six (66) boxes of documents, many of which are oversized banker's boxes. A reasonable estimate would be that the FBI's storage room contains at least 150,000-200,000 pages of documents.

Defense counsel have attempted to locate and review all the records that relate to the eleven patients who are actually named in the Indictment. However, after assembling and reviewing the materials relating to the services provided to these patients on the dates at issue, defense counsel are still unable to determine what the Government's specific complaint is with regard to each of these cases.

Moreover, the Government is not normally limited at trial to just presenting evidence relating to the patients actually specified in the Indictment. *United States v. Upton*, 856 F. Supp. 727, 747-48 (E.D.N.Y. 1994). During the course of its investigation in this case, the Government subpoenaed records relating to almost 380 of Dr. Santini's patients. Absent further specification, the defense must be prepared to meet allegations from the Government at trial relating to *all* of these patients, as well as -- in the case of Mr. Gershoni -- an unknown number of patients at the Servicios Medicos Clinic in Cabo Rojo. Because the Government has alleged that in some cases the ECG services were never actually performed, and given that the Government's co-operating witnesses are unlikely to make themselves available for interviews by the defense, it appears that

it would be impossible for the defense to be prepared to meet that allegation without interviewing every patient for whom Dr. Santini or a physician at the Servicios Medicos Clinic prescribed ECG monitoring.

Under the unusual circumstances of this case, the Court may appropriately require the Government to provide additional information relating to the allegations it actually intends to prove against Mr. Gershoni and Dr. Santini at trial so that the defense may reasonably focus its pre-trial preparation. We therefore request that the Government be required to (1) provide the defense with a list of the names and addresses of the witnesses it intends to call at trial and (2) designate the documents upon which it actually intends to rely at the trial of this case.

ARGUMENT

I. THE GOVERNMENT SHOULD BE ORDERED TO PRODUCE A LIST OF THE NAMES AND ADDRESSES OF THE WITNESSES IT ANTICIPATES CALLING AT TRIAL

“It is by now well established that district courts have the discretionary authority to compel pretrial disclosure of the identity of government witnesses in appropriate cases.” *United States v. Shoher*, 555 F. Supp. 346, 353 (S.D.N.Y. 1983); *see also, e.g., United States v. Cannone*, 528 F.2d 296, 300 (2d Cir. 1975); *United States v. Anderson*, 481 F.2d 685, 693 (4th Cir.), *aff’d on other grounds*, 417 U.S. 211 (1973); *United States v. Jackson*, 508 F.2d 1001, 1007 (7th Cir. 1975); *United States v. Madeoy*, 652 F. Supp. 371, 375 (D.D.C. 1987); *United States v. Turkish*, 458 F. Supp. 874, 880-81 (S.D.N.Y. 1978). In resolving defense requests for pre-trial disclosure of the Government’s witness list, the applicable standard is whether the defendant has made a specific showing of the need for advance disclosure that outweighs a

specific showing by the Government of a need for continued concealment. *Turkish*, 458 F. Supp. at 881; *see also Upton*, 856 F. Supp. at 750-51 (court may compel disclosure of Government's witness list where it is "appropriate"); *Shoher*, 555 F. Supp. at 353-54 (*id.*). The defense must simply demonstrate that disclosure of the requested list is "material to the preparation of the defense." *Shoher*, 555 F. Supp. at 354; *Cannone*, 528 F.2d at 301-02.

In resolving defense motions requesting a list of the names and addresses of the witnesses the Government anticipates calling at trial, the courts have usually considered the following six factors enunciated in *United States v. Turkish*:

- (1) Did the offense alleged in the indictment involve a crime of violence?
- (2) Have the defendants been arrested or convicted of crimes involving violence?
- (3) Will the evidence in the case largely consist of testimony relating to documents (which by their nature are not easily altered)?
- (4) Is there a realistic possibility that supplying the witnesses' names prior to trial will increase the likelihood that the prosecution's witnesses will not appear at trial, or will be unwilling to testify at trial?
- (5) Does the indictment allege offenses occurring over an extended period of time, making preparation of the defendants' defense complex and difficult?
- (6) Do the defendants have limited funds with which to investigate and prepare their defense?

458 F. Supp. at 881; *see also Shoher*, 555 F. Supp. at 354; *United States v. Upton*, 856 F. Supp. 727, 750-51 (E.D.N.Y. 1994); *United States v. Price*, 448 F. Supp. 503, 505 (D. Colo. 1978).

Other courts have considered the following factors: "Preparation for trial, effective cross-examination, expediency of trial, and the intrinsic reasonableness of the request . . ." *Madeoy*,

652 F. Supp. at 375; *see also United States v. Oprager*, 589 F.2d 799, 804 (5th Cir. 1979); *United States v. Sclamo*, 578 F.2d 888, 890 (1st Cir. 1978).

Defense requests for pre-trial disclosure of the Government's witness list are frequently granted in cases involving complex and involved white-collar fraud schemes in which a large number of fraudulent transactions are alleged. *See Shoher*, 555 F. Supp. at 354 (Government required to disclose the names and addresses of its witnesses in a case in which defendants were charged with selling allegedly worthless oil futures contracts to approximately 400 investors); *United States v. Madeoy*, 652 F. Supp. 371, 375 (D.D.C. 1987) (defendants established a compelling need for the government's witness list where the case involved many potential witnesses and thousands of documents to be reviewed). At the same time, in complex white-collar cases where there is no significant likelihood of witness intimidation, the Government usually has difficulty successfully opposing such a request by the defense, because it cannot establish "a specific showing of need for concealment." *Upton*, 856 F. Supp. at 751; *see also Madeoy*, 652 F. Supp. at 376 ("where requests for discovery of the government's witness list have been denied outright, it has usually been done on the basis of prior witness intimidation"); *Shoher*, 555 F. Supp. at 354; *Turkish*, 458 F. Supp. at 881 & n.2; *Price*, 448 F. Supp. at 506.²

All of the factors set forth above weigh strongly in favor of compelling the Government

² The Justice Department itself does not in all cases oppose pre-trial disclosure of the Government's witness list. Rather, the department's official position is that "whether or not to disclose the identity of a witness prior to trial is committed to the discretion of the federal prosecutor . . ." The Department has advised its attorneys that pretrial disclosure of a witness's identity or statement can be made unless the prosecutor believes there is "reason to believe that such disclosure would endanger the safety of the witness or any other person, or lead to efforts to obstruct justice." *United States Attorney's Manual*, § 9-6.200. There is no basis for such concerns here.

to provide the defense with a list of the names and addresses of its intended trial witnesses in this case. The offenses charged are not crimes of violence, and neither of the defendants has ever been charged with any crime of violence. As the existence of sixty-six boxes of documents in the FBI's offices in Calverton demonstrates, this is a case that will turn largely on documentary evidence. The number and frequency of occasions that the defendants submitted claims in connection with ECG monitoring are preserved on paper; the medical history of all of Dr. Santini's patients is likewise established by medical records, both his own and those of any other doctors and hospitals that may also have treated his patients; and Cardio-Tel's business relationships with all of its independent contractor salespeople are likewise set forth in documents that are under the Government's control. Nor is there any likelihood that disclosure of the names of any of the Government's witnesses will cause them to be unwilling to testify at trial.³ At 65 years old, less than average height, with thirty years' experience as a medical practitioner behind him and afflicted as he is by significant health problems, Dr. Santini is not likely to be regarded as an intimidating or threatening figure by anyone who knows him.

But the most compelling reasons for requiring early disclosure of the Government's witness list relate to the ability of defense counsel – particularly that representing Dr. Santini – to prepare intelligently for trial. The charges brought by the Government put at issue Dr. Santini's treatment of some 380 patients over an eighteen-month period. To the extent that the Government raises issues about the appropriateness of ECG monitoring for any given patient, the

³ Of course, the Government has the ability to compel the testimony of any of the likely witnesses in this case simply by issuing trial subpoenas to them. This is not a case where any witnesses are likely to be so afraid of testifying that they would endure contempt rather than appear and testify.

defense needs, at the very least, to interview that patient and ascertain whether there were other physicians who likewise treated that patient who may share Dr. Santini's view that ECG monitoring was an appropriate diagnostic tool to use, given the known facts of the patient's condition.

Finally, the last of the *Turkish* factors – whether the defendants have limited funds with which to investigate and prepare their defense – is alone sufficient to tilt the balance lopsidedly in favor of granting the defense's request. Dr. Santini has court-appointed counsel who -- given his distance from the scene of the key events and his lack of fluency in Spanish -- will be almost entirely dependent on the services of a private investigator to conduct interviews with Dr. Santini's patients and to investigate the background and veracity of the Government's principal co-operating witnesses. And while Mr. Gershoni has been able to retain counsel, his attorney is working for significantly less than his usual fee and Mr. Gershoni does not appear to have the ability to finance limitless defense efforts in his behalf.

In *United States v. Savides*, 661 F. Supp. 1024 (N.D. Ill. 1987), the district court recognized that it is entirely appropriate to compel the Government to specify which of a lengthy list of potential witnesses it actually intends to call at trial. In that case, the Court noted that there appeared to be at least twenty to thirty potential witnesses. Although the defendants knew the identities of those witnesses, the district court found that it was unreasonable to require the defense to guess which of these would actually testify at trial:

The identity of potential government witnesses thus does not appear to be an issue. Rather, determining which will testify is the upshot of defendants' motions. To enable defense counsel to provide competent representation, investigation into the witnesses' background and possible testimony is generally necessary.

Id. at 1026. The *Savides* court therefore found that “disclosure is both material to the preparation of defendants’ defense and reasonable in light of all the circumstances” *Id.* at 1027. The same is certainly true here, where the number of potential witnesses is far greater than was the case in *Savides*.

In addressing a defense request for the Government’s witness list in *Shoher*, the court found that the “balance tips perceptibly in favor of defendants” where (1) no crime of violence was alleged by the Indictment, and the defendants had never been arrested or convicted of such a crime; (2) it appeared that the trial testimony would relate in large part to documentary evidence already in the Government’s possession; (3) the alleged offense took place over a seventeen-month period of time; (4) and three of the four defendants were represented by court-appointed counsel. *Shoher*, 555 F. Supp. at 354. Similarly, in *Turkish*, the court granted a defense request for the names and addresses of the Government’s witnesses where (1) the conspiracy alleged in the indictment covered a fifteen-month period and was broad in scope; (2) the Government had identified 25,000 documents as potentially relating to its case, and it was clear the case would turn largely on documentary evidence; and (3) there was no discernible danger of intimidation, “[g]iven the nature of the charges in the indictment and the occupations of the defendants” (who were commodities traders). 458 F. Supp. at 881 & n.2. Likewise, in *Madeoy*, Judge Harold Greene granted a defense request for the government’s witness list in a case involving a “wide-ranging but other wise rather uncomplicated” real estate fraud scheme involving the sale of twenty-three properties. 652 F. Supp. at 374-76. Judge Greene found that the defense’s request was intrinsically reasonable, given the large number of potential witnesses and many thousands of pages of documents involved, and that there was an “extreme unlikelihood of witness

intimidation” in a white-collar fraud case of this character. *See also Price*, 448 F. Supp. at 506 (finding it appropriate to compel disclosure of the Government’s witness list where there was no reason to believe that any witnesses would be placed in danger if their names were disclosed; the Indictment charged offenses occurring over a 15-month period; and “the government had considerable documentary evidence and would intend to offer in excess of 50 documents during the trial”).

Defendants therefore have a compelling case for requiring the Government to disclose its witness list. The Government may object that it does not yet know who its trial witnesses will be. *See* Letter from AUSA Sandra Wilkinson to Defense Counsel, dated June 13, 2000 (“I have not yet determined who will be called as witnesses”) (attached as Exhibit 1). This representation by the Government hardly argues against compelling disclosure, however. First, the undersigned counsels’ own experience as federal prosecutors was that most Assistants, when they bring an indictment in a substantial white-collar fraud case, have already conducted sufficient investigation to know who most of their witnesses – and, in particular, who their most important witnesses – at trial will be. While the Government may not yet necessarily know the identities of various documents custodians it will call, it presumably does know the identity of most of the institutions or entities whose documents will be introduced at trial, and it can simply specify those in its advance witness list.⁴ Finally, of course, the Government should be afforded a reasonable opportunity to supplement its advance witness list as the actual date of trial draws

⁴ Of course, even in many of these cases, the Government likely knows the identity of the custodian of records for documents subpoenaed during its investigation based on the cover letter accompanying the response to its subpoena.

closer. *Cf. Shoher*, 555 F. Supp. at 354 (Government can be required to update the list it presents if it learns of additional witnesses prior to trial).

Although defense counsel are aware that Ms. Wilkinson has another case scheduled for trial this autumn, two government attorneys are assigned to this matter, and the Government's subpoena file from the Grand Jury investigation should enable it to readily prepare a list of the names and addresses of the witnesses it currently believes it is likely to call at trial.⁵ We further request that the Court's disclosure Order specify that the Government not engage in coy practices such as producing a list of "Witnesses and Others Whose Names Are Likely to Be Mentioned by Government Witnesses

Trial," a tactic that the U.S. Attorney's Office is known to have used in other cases. As noted above, a primary purpose of this defense motion is to determine which of a lengthy list of potential Government witnesses will actually be called at trial, and that need cannot be met if the Government presents a list with such a qualification.

II. THE GOVERNMENT SHOULD BE REQUIRED TO DESIGNATE THE DOCUMENTS WHICH IT INTENDS TO OFFER, USE, OR REFER TO IN CONNECTION WITH THE TESTIMONY OF ANY WITNESS IN ITS CASE IN CHIEF

The courts have recognized that in cases involving mammoth quantities of documents, the Government's obligation under Fed. R. Crim. P. 16 (a)(1)(C) to allow the defense to "inspect and copy or photograph . . . papers [and] documents . . . which . . . are intended for use by the

⁵ We note that in the prosecution of former National Security Adviser John Poindexter -- a case even more complicated than this one is likely to be -- the Government was able to *voluntarily* produce a list of its witnesses almost eighteen months in advance of trial. *See United States v. Poindexter*, 727 F. Supp. 1470, 1483 (D.D.C. 1989).

government as evidence in chief at trial” cannot be satisfied “merely by providing mountains of documents to defense counsel who were left unguided as to which documents would be proven falsified” *United States v. Bortnovsky*, 820 F.2d 572, 575 (2d Cir. 1987). *See also United States v. Poindexter*, 727 F.Supp. 1470, 1484 (D.D.C. 1989) (“broad brush approach,” whereby Government merely identified several thousand pages of financial information and various diary and calendar pages on which it “may” rely at trial, was not sufficient to satisfy Government’s discovery obligations under Rule 16(a)(1)(C)); *United States v. Upton*, 856 F. Supp. 727, 747-48 (E.D.N.Y. 1994) (“the language and policy concerns of Rule 16[] require that the government provide defendants with adequate notice of the allegedly falsified documents upon which it plans to rely at trial in order to allow them to adequately prepare their defense”); *United States v. Turkish*, 458 F. Supp. 874, 882 (S.D.N.Y. 1978) (Government could not satisfy the requirements of Rule 16(a)(1)(C) merely by making 25,000 pages of documents available to defense without actually specifying those on which it intended to rely at trial); *United States v. Countryside Farms, Inc.*, 428 F. Supp. 1150, 1154 (D. Utah 1977). Another court has granted similar relief pursuant to Fed. R. Crim. P. 7(f). *See United States v. Nachamie*, 91 F. Supp. 565, 569-72 (S.D.N.Y. 2000). Given that the FBI has assembled sixty-six regular and banker’s-size boxes of documents in its storage room in Calverton, containing at least 150,000-200,000 pages of records,⁶ this case likewise may fairly be said to involve mountains of documents. The medical records for the 380 patients of Dr. Santini’s that were subpoenaed by the Government alone

⁶ According to representatives of a Baltimore copying service, a regular-size file box can contain as much as 2,500 pages of documents, while an oversize banker’s box can contain 4,000-4,500 pages.

probably total 10,000-12,000 pages of documents.⁷ This case therefore involves a far greater number of records than were at issue in *Bortnovsky* (some 4,000 pages), *Turkish*, (25,000 pages), or, it appears, *Upton* (involving “thousands of pieces of paper”). Moreover, Dr. Santini has little familiarity with the great mass of the Cardio-Tel records, since the only ones he had contact with were the patient registration forms used to advise the company’s technicians of the prescriptions he wrote and the resulting ECG monitoring reports.

The defense’s problems in conducting an intelligent review and analysis of these mountains of records are further compounded by two additional factors: (1) the Indictment’s lack of specificity and (2) the Government’s refusal to provide any additional detail in response to the defense’s reasonable requests for additional information.⁸ *See* Exhibit 1 (discovery correspondence between Christopher B. Mead, Esq. and Government counsel). Although the “Manner and Means” section of the Indictment sets forth no fewer than six potential ways in which any submitted claim could be fraudulent,⁹ the Indictment never specifies -- as to *any* individual claim for reimbursement submitted by either Cardio-Tel or Dr. Santini -- which of

⁷ The task of reviewing these records is further complicated in that (1) Dr. Santini’s notes are written in the hard-to-read scrawl that is apparently taught to most physicians in medical school and (2) the notes are written largely in Spanish.

⁸ The Government’s lack of responsiveness to the defense’s request for a greater level of specificity with regard to its charges suggests strongly that the Indictment’s generality and vagueness is calculated and intentional.

⁹ These are: (1) the services billed for were never provided (Count One, ¶ 16); (2) the ECG tests were unnecessary (¶ 17); (3) the test reports were illegible (¶ 17); (4) the tests or test reports were “otherwise unacceptable” (¶ 17); (5) the equipment used did not have the capability of providing the service billed (¶ 18); or (6) that the tests were administered at scheduled or predetermined periods, rather than when the patient was actually experiencing a cardiac event (¶ 19).

these alleged methods of defrauding the Government is at issue. Moreover, although the Indictment refers to eleven patients by name (albeit without specifying the nature of the alleged fraud in each case), there is nothing at present to stop the Government from relying on proof relating to dozens or scores of other patients at trial. *Upton*, 856 F. Supp. at 747-48.

As the court in *Bortnovsky* recognized, when a case presents the poisonous combination of (1) a vague and general Indictment (2) that implicates a large number of potentially fraudulent or otherwise criminal transactions (3) which are the subject of thousands of pages of potentially relevant documents and (4) the Government refuses to provide any meaningful guidance to assist the defense in determining which transactions will be the subject of proof at trial, the result is that the burden of proof is impermissibly shifted to the defendants. 820 F.2d at 575. Rather than being able to focus its energies on defending against specific claims of impropriety by the Government, the defense is instead forced to guess at both *which* cases will be the subject of the Government's proof at trial and *what* will be the nature of the alleged violation in those cases once they are revealed. The net result is that Dr. Santini's counsel must potentially be prepared to defend his exercise of medical judgment in the case of several hundred individual patients.

In contrast to the burden on the defense of attempting to prepare for trial under these circumstances, the burden on the Government of providing advance designation of the documents on which it will rely at trial is moderate. The Government must have presented specific testimony to the Grand Jury relating to particular cases which it contains were characterized by one or another of the fraudulent devices set forth previously. Moreover, experienced Government prosecutors such as those assigned to this case typically maintain careful records of those documents that are introduced during the Grand Jury testimony of

various witnesses. Accordingly, the burden on the Government of specifying the documents it intends to use necessarily will be far less than that on the defense of attempting to prepare for trial in the absence of such specification.

Of course, it may be that after designating those documents it currently intends to use or refer to, the Government may identify others that it also wishes to use at trial. In that case, the Government is of course free to supplement its submission, provided this is done promptly and in a way that does not raise issues of good faith. *Poindexter*, 727 F. Supp. at 1484; *Turkish*, 458 F. Supp. at 882.

CONCLUSION

For the reasons stated above, this Court should enter an order (1) requiring the Government to supply the defense with a list of the names and addresses of the witnesses it presently intends to call at trial, subject to supplementation in the case of witnesses identified subsequently and (2) requiring the Government to provide a list of all documents that will be introduced in evidence or referred to or relied upon at trial by the Government's witnesses during its case in chief.

Respectfully submitted,

By: _____
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CERTIFICATE OF SERVICE

I hereby certify that I have, this ____ day of July, 2000, caused a copy of the foregoing Defendants' Joint Motion to Require the Government to Produce a List of the Names and Addresses of the Witnesses it Intends to Call at Trial and to Designate the Documents on Which It Intends to Rely at Trial to be delivered by first-class mail, postage prepaid, to

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**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND
(Southern Division)**

UNITED STATES OF AMERICA,)
)
 Plaintiff,)
)
 v.)
)
 DANIEL GERSHONI)
 and)
 FRANCISCO SANTINI,)
)
 Defendants.)
 _____)

Crim. No. DKC-99-0452

ORDER

Upon consideration of Defendants Daniel Gershoni's and Francisco Santini's Joint Motion to Require the Government to Produce a List of the Names and Addresses of the Witnesses it Intends to Call at Trial and to Designate the Documents on Which It Intends to Relay at Trial, the Government's Opposition thereto, and the record herein, it is this ____ day of _____, 2000, hereby

ORDERED that defendant Santini's Motion is GRANTED; and it is further

ORDERED that the Government shall, as soon as possible but in no event later than 60 days prior to the current trial date of January 8, 2000, provide the defense with a list of the names and addresses of those persons that the Government intends to call as witnesses in its case in chief at trial, *except that*, with regard to documents custodians, the Government may simply specify that it will call a documents custodian from a particular business or institution if it does not currently know the name of the individual who will testify; and it is further

ORDERED that the Government shall, after submitting this list to the defense, promptly supplement this list if it subsequently becomes aware of other witnesses it intends to call as part of its case in chief at trial; and it is further

ORDERED that the Government shall, as soon as possible but in no event later than 60 days prior to the current trial date of January 8, 2000, provide the defense a list of all documents that will be introduced in evidence or referred to or relied upon at trial by the Government's witnesses during its case in chief, subject to supplementation in the case of any documents identified subsequently.

The Hon. Deborah K. Chasanow
U.S. District Court Judge

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