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Attorneys for Defendants

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF UTAH
CENTRAL DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

v.

DONALD BALL, DUSTIN HEARD,
NICHOLAS SLATTEN, PAUL SLOUGH,
AND EVAN LIBERTY,

Defendants.

**MOTION FOR LEAVE TO FILE
MEMORANDUM OF LAW IN EXCESS
OF PAGE LIMITATION**

Case No.:

Magistrate Judge Paul M. Warner

Defendants move the Court for leave to file an overlength Memorandum in Support of Defendants' Motion for Finding of No Probable Cause Due to Absence of Subject Matter Jurisdiction And Lack of Venue Pursuant to 18 U.S.C. 3261, Et Seq.

The Government's vehicle for this prosecution is the recently amended and judicially untested Military Extraterritorial Jurisdiction Act, 18 U.S.C. § 3261 *et seq.* (2000 & Supp. V 2005) (amended by Pub L. No. 108-375, 118 Stat. 2006 (2004)). The Act and its recent amendment extend the jurisdictional reach of American civilian criminal laws (including firearms laws) -- which ordinarily do not apply beyond U.S. borders -- to cover American

civilians, including contractors, who work for the Department of Defense or whose work supports the mission of the Department of Defense overseas. 18 U.S.C. § 3267(1)(A)(ii)

The Defendants here do not fall within the Military Extraterritorial Jurisdiction Act, a decision the Act expressly confers on a Magistrate Judge to determine. They were not employed by the Department of Defense or under any Defense Department contract, nor were they employed in support of the Defense Department's mission overseas. Rather, Defendants were employed pursuant to a *Department of State* contract to support the *Department of State's* mission in Iraq.


The Defendants respectfully submit that the legal issues raised in the motion and accompanying memorandum are complex and unique and cannot be properly briefed within the 25-page limit proscribed by DUCiv Rule 7-1(b)(4).

Dated this 8th day of December 2008

Respectfully submitted,

HATCH, JAMES & DODGE, P.C.

By: 
Brent O. Hatch

By: 
Paul G. Cassell

Attorneys for Defendants

CERTIFICATE OF SERVICE

I hereby certify that on the 8th day of December 2008, I caused a true and correct copy of the foregoing to be served as indicated on the following persons at the following addresses:

Via Hand Delivery and Via Electronic Delivery:

Office of the United States Attorney
185 South State Street, Suite 400
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:
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United States Attorney's Office
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<p>UNITED STATES OF AMERICA,</p> <p>Plaintiff,</p> <p>v.</p> <p>DONALD BALL, DUSTIN HEARD, NICHOLAS SLATTEN, PAUL SLOUGH, AND EVAN LIBERTY,</p> <p>Defendants.</p>	<p>[PROPOSED] ORDER REGARDING MOTION FOR LEAVE TO FILE MEMORANDUM OF LAW IN EXCESS OF PAGE LIMITATION</p> <p>Case No.:</p> <p>Magistrate Judge Paul M. Warner</p>
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Based upon Defendants Motion for Leave to File Memorandum of Law in Excess of Page Limitation, and exceptional circumstances and good cause having been shown:

IT IS HEREBY ORDERED that Defendants Motion for Leave to File Memorandum of Law in Excess of Page Limitation is **GRANTED**. Defendants may file a Memorandum in Support of their Motion for Finding of No Probable Cause Due to Absence of Subject Matter Jurisdiction And Lack of Venue Pursuant to 18 U.S.C. 3261, Et Seq. not to exceed 40 pages.

December ____, 2008

Magistrate Judge Paul M. Warner
United States Magistrate Judge