

1 MELINDA HAAG (CABN 132612)
United States Attorney
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3 MIRANDA KANE (CABN 150630)
Chief, Criminal Division
4 JOHN H. HEMANN (CABN 165823)
PETER B. AXELROD (CABN 190843)
5 Assistant United States Attorneys

6 450 Golden Gate Ave., Box 36055
San Francisco, California 94102
7 Telephone: (415) 436-7200
8 Fax: (415) 436-7234
E-Mail: john.hemann@usdoj.gov

9 Attorneys for Plaintiff

10 UNITED STATES DISTRICT COURT
11 NORTHERN DISTRICT OF CALIFORNIA
12 SAN FRANCISCO DIVISION
13

14 UNITED STATES OF AMERICA,) No. CR-11-0573 JSW
15 Plaintiff,)
16 v.) GOVERNMENT’S EX PARTE MOTION
17 WALTER LIEW,) TO FILE LATE REPLY BRIEF;
18 Defendant.) DECLARATION OF JOHN H. HEMANN
19

20 **NOTICE OF MOTION AND MOTION**

21 PLEASE TAKE NOTICE that the United States moves *ex parte* pursuant to Criminal
22 L.R. 47-3 for leave to file a late reply brief. This motion is based on the following Memorandum
23 of Points and Authorities and the subsequent declaration of AUSA John Hemann.

24 **MEMORANDUM OF POINTS AND AUTHORITIES**

25 On March 1, 2013, the Court set a briefing schedule in the above-captioned action for the
26 determination of the government’s appeal of Magistrate Judge Cousins’s order granting bail to
27 defendant Walter Liew. The Court set 12:00 pm March 15, 2013, as the deadline for the filing of
28 the government’s reply brief.

1 The government did not file its reply brief until approximately 6 pm on March 15, 2013.
2 This late filing was the result of a calendaring error by one of the assigned Assistant U.S.
3 Attorneys, as set forth in the Declaration of John Hemann, below.

4 The government respectfully requests that the Court accept it's late-filed reply brief.

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6 DATED: March 18, 2013

Respectfully submitted,

MELINDA HAAG
United States Attorney

/s/

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9 JOHN H. HEMANN
Assistant United States Attorney

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11 **DECLARATION OF JOHN H. HEMANN**

12 I, John H. Hemann, declare as follows:

13 1. I am one of the Assistant U.S. Attorney's assigned to the above-captioned action.

14 2. I was responsible for filing the government's reply to defendant's opposition to the
15 government's motion to revoke the Magistrate Judge's order granting bail to defendant Walter
16 Liew.

17 3. I inadvertently overlooked the noon time deadline for filing the reply brief and did not
18 have in mind on March 15, 2013, that the brief needed to be filed by that time. This was an error
19 on my part.

20 4. Between the time of the defendant's filing of his reply brief on the afternoon of
21 Wednesday, March 13, and the Friday, March 15, date for filing the government's reply, I had an
22 unusual press of business. I was the assigned criminal duty attorney for the San Francisco office
23 and was required to handle a number of matters in that capacity; I had hearings in Oakland on
24 both Thursday and Friday related to a change of plea that ultimately took place on Friday
25 afternoon; on Thursday morning I had a meeting at a local district attorney's office with state,
26 local, and federal prosecutors and investigators regarding a on on-going investigation; on
27 Thursday afternoon I had an interview with a witness whose counsel traveled to the Bay Area
28 from the Midwest for the meeting; and on Friday morning I had a meeting with federal agents

1 regarding their attempt to identify and locate a suspect in another investigation. I also had
2 responsibilities on Thursday evening at my children's school.

3 5. On March 14 and 15, I failed to check the Court's scheduling order for the time deadline
4 for the filing and, thus, did not file the reply brief on time.

5 I declare under penalty of perjury that the foregoing is true and correct. Executed this 18th
6 day of March 2013 at San Francisco, California.

7 /s/

8 John Hemann

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