

FILED

SEP 14 2006

U.S. MAGISTRATE JUDGE
DISTRICT OF NEVADA

BY _____ DEP.

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15 *Admitted Pro Hac Vice in related Federal Case No. 3:06-cv-0056-BES-VPC*

16 **UNITED STATES DISTRICT COURT**
17 **FOR THE DISTRICT OF NEVADA**

18 In the Matter of the Search of:) CASE NO.: 3:06-MJ-0023-VPC
19 12720 Buckhorn Lane, Reno, NV)
20 and) *EX PARTE* APPLICATION FOR AN EXTENSION
21 888 Mastro Drive, Reno, NV, Storage Unit) OF TIME WITHIN WHICH TO FILE POST-
22 Numbers 136, 140, 141, 142, and 143) HEARING BRIEF
23 _____)
24)
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26)
27)
28)

1 Movant Dennis Montgomery and the Montgomery Family Trust hereby request, pursuant to
2 Fed. R. Civ. P. 6(b), a six day extension of time within which to file their Post-Hearing Brief, from
3 September 15, 2006 to September 21, 2006. Counsel for the Government is out of his office and is
4 not expected to return until Monday, September 18. However, AUSA Pugliese has been informed of
5 this *ex parte* application by email at 10:15 a.m. on September 15. As grounds for this application,
6 the Montgomerys state as follows:
7

8 1. As the Court is aware, a comprehensive filing summarizing the evidence in this case is
9 due on September 15. The preparation of this brief is obviously time-consuming and requires a
10 detailed analysis of the three days of testimony. The last of the transcripts was only received last
11 week by counsel.
12

13 2. Counsel for the Montgomerys is currently out of state on a personal matter and
14 requires the additional time to adequately prepare and edit the Post-Hearing Brief.
15

16 3. Counsel for the Montgomerys attempted to reach AUSA Pugliese, but is out of the
17 office, although he is apparently checking his email. Counsel accordingly notified him of this *ex*
18 *parte* application at 10:15 a.m.

19 4. Accordingly, the Montgomerys' counsel requests an extension of time within which to
20 file the Post Hearing Brief until September 21, 2006.
21

22 ARGUMENT

23 I.

24 GOOD CAUSE HAS BEEN ESTABLISHED

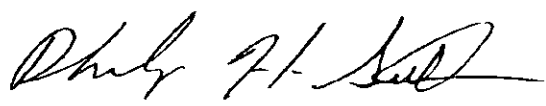
25 Fed. R. Civ. P. 6(b) states that "the court for cause shown may at any time in its discretion
26 with or without motion or notice order the period enlarged if request therefor is made before the
27 expiration of the period originally prescribed or as extended by a previous order." As discussed
28

1 above, good cause exists for the short extension of time due to counsel's absence and the receipt of
2 the trial transcript for the last day of testimony only last week. The extension would permit an
3 orderly and thorough Post Hearing Brief and aid consideration by the Court. Counsel for the
4 Government is not prejudiced in any way by the continuance.
5

6 **CONCLUSION**

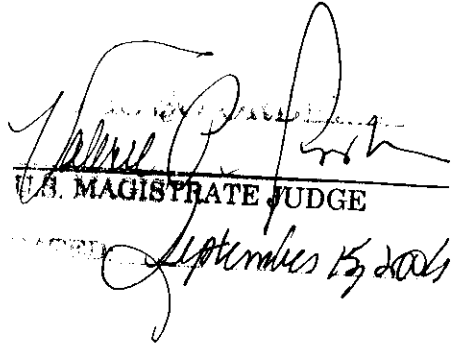
7 Accordingly, the Montgomerys respectfully requests that this Court the extension of time.

8 FLYNN & STILLMAN

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11
12 Dated: September 15, 2006

13 By: _____
14 Philip H. Stillman, Esq.
15 Attorneys for DENNIS MONTGOMERY, BRENDA
16 MONTGOMERY and THE MONTGOMERY FAMILY
17 TRUST

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19 U.S. MAGISTRATE JUDGE
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CERTIFICATE OF SERVICE

I, Philip H. Stillman, declare: I am an employee in the Town of Cardiff, County of San Diego, State of California, employed by the Law Office of Flynn & Stillman, located at 224 Birmingham Drive, Suite 1A4, Cardiff, CA 92007. I am over the age of 18 years and not a party to this action.

I am readily familiar with the Law Office of Flynn & Stillman's's practice for the collection of mail, delivery of its hand-deliveries, their process of facsimile's and the practice of mailing.

On the 15th day of September, 2006, I caused the foregoing document to be delivered to the following persons and/or entities:

Paul Pugliese, AUSA
United States Attorney's Office for the District of Nevada
100 W. Liberty Street
Reno, NV 89501

BY FACSIMILE

/S/PHS
Philip H. Stillman
Flynn & Stillman