

UNITED STATES DISTRICT COURT  
DISTRICT OF COLUMBIA

|                                     |   |                      |
|-------------------------------------|---|----------------------|
| _____                               | ) |                      |
| AMIR MESHAL,                        | ) |                      |
|                                     | ) |                      |
| Plaintiff,                          | ) |                      |
|                                     | ) |                      |
| v.                                  | ) | No. 09-cv-2178 (EGS) |
|                                     | ) |                      |
| CHRIS HIGGENBOTHAM, <i>et al.</i> , | ) |                      |
|                                     | ) |                      |
| Defendants.                         | ) |                      |
| _____                               | ) |                      |

**UNITED STATES’ MOTION TO INTERVENE  
AS AN INTERESTED PARTY**

Pursuant to 28 U.S.C. § 517, the United States moves to intervene in this matter for the purpose of submitting a response to Plaintiff’s motion for expedited discovery. A proposed order is attached. As support for this motion, the United States submits the following:

On November 10, 2009, Plaintiff Amir Meshal filed a Complaint for Damages and Declaratory Relief against a number of government officers or employees in their individual capacities. The defendants are Federal Bureau of Investigation (“FBI”) Supervisory Special Agents (“SSAs”) Chris Higgenbotham and Steve Hersem; two “unknown named employees, officers, or agents of the United States government” (Doe Defendants 1 and 2); and John and Jane Does 3-10. All of the defendants are sued in their individual capacities. On November 30, 2009, Plaintiff filed a Motion for Leave to Conduct Limited Expedited Doe Discovery. Plaintiff moved, pursuant to Fed. R. Civ. P. 26 and 45, for an order allowing Plaintiff to serve a Rule 45 subpoena on the FBI, a non-party, for the production of documents identifying the true names and identities of Doe Defendants 1 and 2, whom Plaintiff believes to be current or former FBI agents. Plaintiff would require that the FBI respond to the subpoena within fifteen (15) business

days of the date of service.

28 U.S.C. § 517 expressly authorizes the Attorney General to send any officer of the Department of Justice “to attend to the interests of the United States” in any action pending in a state or federal court. Plaintiff’s motion seeks permission to conduct discovery against the United States. However, the United States is not a party to this matter. For this reason, pursuant to 28 U.S.C. § 517, the United States submits this motion to intervene in order to respond to Plaintiff’s motion for expedited discovery. This motion and the United States’ response, which is submitted concurrently for filing in this matter, is submitted solely on behalf of the United States, not on behalf of any individual capacity defendant,<sup>1</sup> and does not waive their right to separately object to any discovery sought by Plaintiff. Nor does this motion and response waive the United States’ right to seek to quash or otherwise oppose a subpoena or other discovery request that might eventually be served on the United States by Plaintiff in this action.

### **CONCLUSION**

For the foregoing reasons, this Court should grant the United States’ motion to intervene and accept the United States’ response to Plaintiff’s motion for expedited discovery, submitted concurrently, for filing in this matter.

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<sup>1</sup> SSAs Higgenbotham and Hersem have not yet entered an appearance in this matter but they are in the process of seeking representation by the United States for the claims asserted against them in their individual capacities. *See* 28 U.S.C. § 50.15.

Respectfully submitted,

Dated: December 11, 2009

ANN M. RAVEL  
Deputy Assistant Attorney General

TIMOTHY P. GARREN  
Director, Torts Branch, Civil Division

MARY HAMPTON MASON  
Senior Trial Counsel, Torts Branch

*s/ Glenn S. Greene*

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ATTORNEYS FOR THE UNITED STATES

**CERTIFICATE OF SERVICE**

I hereby certify that on December 11, 2009, a copy of the foregoing **UNITED STATES' MOTION TO INTERVENE AS AN INTERESTED PARTY** was served by first-class mail, postage prepaid, upon the following:

Arthur B. Spitzer (D.C. Bar No. 235960)  
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A courtesy copy was also served on the above counsel by e-mail.

Dated: December 11, 2009 s/ **Glenn S. Greene**  
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| Defendants.                         | ) |                      |
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**PROPOSED ORDER**

The Court, having considered the United States’ Motion to Intervene as an Interested Party, hereby ORDERS that:

The United States’ Motion is **GRANTED**.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2009

\_\_\_\_\_  
Emmet G. Sullivan  
United States District Judge