

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF PENNSYLVANIA**

UNITED STATES OF AMERICA,)	Criminal No. 06-26
)	
Plaintiff,)	
)	Honorable Arthur J. Schwab
v.)	
)	
CYRIL H. WECHT,)	
)	ELECTRONICALLY FILED
Defendant.)	

**DEFENDANT’S BRIEF IN SUPPORT OF MOTION TO REQUIRE DISCLOSURE
OF MANNER AND MEANS BY WHICH THE FBI OBTAINED JUROR NAMES**

No extensive recitation of this Court’s orders regarding juror anonymity is required, as the Court and the parties are intimately familiar with those orders. See, e.g., Doc. No. 629, p. 42. As stated most recently on April 8, 2008, the names of the actual jurors have not been released by the Court and were not going to be released by the Court.

Notwithstanding these orders, widespread reports have circulated beginning on April 11, 2008 that the FBI has contacted the jurors and that some felt intimidated by those contacts. Indeed, no doubt aware that the media had learned of and would report those activities, AUSA Stallings advised the Court on April 10, 2008 of Government attempts to contact jurors but did not disclose it was FBI personnel. Ironically, the Government did so despite clear indications from the Court after it had declared a mistrial that it did not want the parties to attempt to contact the jurors. Indeed, jurors were told by the Court to contact law enforcement if unwelcome attempts to contact jurors persisted.

This Court’s power to enforce its orders is self-evident and has been extensively briefed in other contexts. Indeed, as this Court will recall, it was ironically the Government which

suggested the anonymous jury order was justified prior to trial by its spurious suggestions that Dr. Wecht, a 77 year old man, would somehow intimidate jurors. Now, following an extensive trial which produced no guilty verdict on any charge, it is that same government now intimidating jurors by having FBI agents call them.

None of these activities relate to an attempt by the Government to inform itself as to whether a retrial was a prudential step to take or not. AUSA Stallings immediately confirmed the desire to retry Dr. Wecht with the jurors present and before they were discharged. Just as the United States Attorney is thumbing her nose at the public she serves by ignoring the universal condemnation of the hasty decision to retry this case, so too did that office thumb its nose at the jury who had faithfully served for ten weeks by not requesting to poll them before deciding to subject Dr. Wecht to the ruinous expense of another trial.

This issue does not simply relate to compliance with the Court's orders. It dramatically affects Dr. Wecht's fair trial rights if, in fact, the retrial goes forward. Absent strong action by the Court, designed to flush out how the FBI got jurors names, every prospective juror now has to fear the specter of FBI agents calling them if they do not vote to find Dr. Wecht guilty.

Accordingly, Dr. Wecht respectfully requests the interim relief requested in the proposed order, fully reserving all rights pending a response by the Government.

Respectfully submitted,

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Dated: April 14, 2008

Attorneys for Cyril H. Wecht

CERTIFICATE OF SERVICE

I hereby certify that on this 14th day of April, 2008, a true and correct copy of
**DEFENDANT'S BRIEF IN SUPPORT OF MOTION TO REQUIRE DISCLOSURE OF
MANNER AND MEANS BY WHICH THE FBI OBTAINED JUROR NAMES** was served
by electronic filing upon:

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James R. Wilson, Esquire
United States Attorney's Office, Western District of Pennsylvania
U. S. Post Office & Courthouse
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