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 UNITED STATES OF AMERICA

10 UNITED STATES DISTRICT COURT

11 FOR THE CENTRAL DISTRICT OF CALIFORNIA

12 UNITED STATES OF AMERICA,

13 Plaintiff,

14 v.

15 FEREIDOUN KHALILIAN,
 16 aka "Prince Fred,"
 "Fred,"
 17

18 Defendant.

No. 23-CR-331-DSF

GOVERNMENT'S MEMORANDUM OF LAW
REGARDING VENUE

19
 20 Plaintiff United States of America, by and through its counsel
 21 of record, the United States Attorney for the Central District of
 22 California and Assistant United States Attorneys Jeremiah Levine and
 23 ///

1 Sara Vargas, hereby files its brief regarding venue.

2 Dated: October 29, 2023 Respectfully submitted,

3
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7
8 /s/ Jeremiah Levine
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2 **MEMORANDUM OF POINTS AND AUTHORITIES**

3 **I. INTRODUCTION**

4 Defendant is charged with violating 18 U.S.C. § 1958(a), which
5 prohibits the use of interstate commerce facilities in the commission
6 of murder-for-hire. Venue lies in the Central District of California
7 because defendant used interstate commerce facilities to direct his
8 bodyguard to murder a victim in the Central District of California;
9 because as a result of defendant's request, the bodyguard used
10 interstate commerce facilities to contact the victim in the Central
11 District of California; because after defendant's murder request, the
12 bodyguard immediately traveled to the Central District of California,
13 from which he continued communicating with defendant about the
14 murder; and because, as a result of defendant's murder request, the
15 victim sent pictures falsely showing his death from the Central
16 District to the bodyguard, who sent them to defendant, which caused
17 defendant to pay the bodyguard for murder.

18 The plain language of the indictment is in accord with the above
19 venue theory. The indictment alleges that the crime happened within
20 the Central District, not that defendant was physically here. Where,
21 as here, an indictment is susceptible to a "more forgiving"
22 interpretation, it is appropriate to adopt that interpretation. See
23 United States v. Doss, 630 F.3d 1181, 1191 (9th Cir. 2011); see also
24 Stirone v. United States, 361 U.S. 212, 218 (1960) (recognizing that
25 a constructive amendment claim may fail where an indictment is "drawn
26 in general terms"). The indictment says that defendant used
27 interstate communications with the intent that victim Juan Esco be
28

1 murdered. That use was within the Central District for all the
2 reasons listed above, including that defendant caused Sherwood to
3 call the Central District and communicated with Sherwood about the
4 murder while Sherwood was in the Central District.

5 **II. BACKGROUND**

6 On October 27, 2023, defendant moved for a judgment of acquittal
7 pursuant to Federal Rule of Criminal Procedure 29. Defendant claimed
8 that (1) the indictment alleged that defendant was physically in the
9 Central District of California when he used interstate commerce
10 facilities to commit murder for hire; and (2) the government had not
11 put on evidence demonstrating defendant's physical presence in Los
12 Angeles when he committed the crime. Further, defendant asserted
13 that if the government's theory is that defendant was physically
14 outside the Central District when he committed the crime, then the
15 government had constructively amended the indictment. The Court
16 denied the Rule 29 motion. It directed the parties to brief
17 constructive amendment and address any appropriate jury instruction
18 regarding venue. The Court then informed the parties that it would
19 accept briefing about venue in regard to defendant's Rule 29 motion.

20 The indictment alleges:

21 Beginning on an unknown date, but no later than on or about
22 March 16, 2023, and continuing until on or about March 21, 2023,
23 in Los Angeles County, within the Central District of
24 California, defendant FERREIDOUN KHALILIAN, also known as ("aka")
25 "Prince Fred," aka "Fred," knowingly used facilities of
26 interstate and foreign commerce, specifically, a telephone and
27 the Internet, with the intent that the murder of victim J.E. be
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1 committed in violation of the laws of the State of California as
2 consideration for the receipt of, and as consideration for a
3 promise and agreement to pay, anything of pecuniary value.

4 (Ecf. No. 5.)

5 **III. FACTS**

6 The evidence introduced at trial shows the following: WhatsApp
7 is an instrument of interstate commerce. Defendant used WhatsApp to
8 contact Michael Sherwood on March 16, 2023. Defendant hired Sherwood
9 to murder Juan Esco in exchange for \$20,000 and a promise of lifetime
10 financial assistance. At the time of the call, the target of the
11 murder for hire scheme, Esco, was in Los Angeles, California. The
12 government did not introduce evidence regarding defendant's location
13 at the time of the March 16 communications¹; Sherwood was in Las
14 Vegas, Nevada during the communications. On March 16, 2023, Sherwood
15 called Esco in Los Angeles by phone to warn him of the murder plot
16 but could not reach him. On March 17, 2023, Sherwood successfully
17 reached Esco by phone to warn him. On that call, Esco and Sherwood
18 agreed to contrive photographs falsely depicting Esco's murder. That
19 same day, Esco contrived the murder photos at his apartment in Los
20 Angeles. He used his phone to send the photos of the fake murder
21 scene to Sherwood. Also on March 17, at 3:39 PM, Sherwood sent the
22 photos to defendant, and received in return a \$3,000 payment for the
23 murder from defendant by CashApp.

24 Sherwood testified that he traveled to Los Angeles and was
25 present here from March 17 to March 19, 2023, for a family event

26
27 ¹ The government believes that defendant was in Paris when he
28 ordered Sherwood to murder Esco. That fact is not in evidence and
was disclosed to the defense on October 29, 2023, two days after the
government received confirmation of defendant's travel itinerary.

1 unrelated to defendant's murder request. On March 16, 2023, Sherwood
2 sent a screenshot of his travel reservations to defendant as proof
3 that he would commit the murder in Los Angeles. In the evening of
4 March 16, at 9:31 PM, defendant sent Sherwood another \$3,500. Since
5 that payment was late in the evening on a day Sherwood testified that
6 he was in Los Angeles, the jury could reasonably infer that Sherwood
7 was in the Central District when he received the payment.² On March
8 21, 2023, Esco reported to law enforcement the plot to kill him by
9 visiting the FBI's Los Angeles field office.

10 **IV. LEGAL STANDARD**

11 The Supreme Court has formulated guidelines for determining
12 criminal venue. In the absence of a specific venue provision in the
13 charging statute,³ "the locus delicti must be determined from the
14 nature of the crime alleged and the location of the act or acts
15 constituting it." United States v. Anderson, 328 U.S. 699, 703
16 (1946). In performing this inquiry, "a court must identify the
17 conduct constituting the offense (the nature of the crime) and then
18 discern the location of the commission of the criminal acts." United
19 States v. Rodriguez-Moreno, 526 U.S. 275, 279 (1999).

20 "Although the focus of this test is on the conduct comprising
21 the offense, the Supreme Court has rejected the so-called 'verb test'
22 -- the notion that action verbs reflected in the text of the statute

24 ² The government believes that Sherwood testified that the
25 \$3,500 was part of the \$20,000 he was promised for murder, but cannot
26 be certain without the transcript. Even if Sherwood did not say that,
27 the jury could infer that the payment was for murder because (1)
28 defendant promised Sherwood \$20,000 for a murder just days earlier;
and (2) defendant believed Sherwood had completed the murder and had
not yet paid him in full.

³ The charged statute, 18 U.S.C. 1958(a) does not have a
specific venue provision.

1 should be 'the sole consideration in identifying the conduct that
2 constitutes an offense.'" United States v. Salinas, 373 F.3d 161,
3 164 (1st Cir. 2004) (quoting Rodriguez-Moreno, 526 U.S. at 280).
4 Rather, this Court should view the "conduct elements comprising the
5 crime through a wider-angled lens." Id. (citing Rodriguez-Moreno,
6 526 U.S. at 280 n.4). Applying a rigid "verb test," would unduly
7 limit "the inquiry into the nature of the offense and thereby creates
8 a danger that certain conduct prohibited by statute will be missed."
9 Rodriguez-Moreno, 526 U.S. at 280; accord United States v. Muhammad,
10 502 F.3d 646, 652 (7th Cir. 2007) (recognizing that "there is no
11 single defined policy or mechanical test to determine constitutional
12 venue. Rather the test is best described as a substantial contacts
13 rule that takes into account a number of factors -- the site of
14 defendant's acts, the elements and nature of the crime, the locus and
15 effect of the criminal conduct, and the suitability of each district
16 for suitable fact-finding") (quoting United States v. Reed, 773 F.2d
17 477, 481 (2d Cir. 1985)).

18 The locus delicti analysis may also consider the effects of a
19 defendant's conduct in another district, when the statute at issue
20 speaks in terms of such effects. See United States v. Johnson, 323
21 U.S. 273, 275 (1944) (observing that the Constitution permits
22 Congress to "provide that the locality of a crime shall extend over
23 the whole area through which the force propelled by an offender
24 operates."). For example, prosecutions under the Hobbs Act for
25 obstructing, delaying, or affecting interstate commerce by means of
26 robbery or extortion, 18 U.S.C. 1951(a), may be brought in the
27
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1 district where the requisite effect on interstate commerce was felt,
2 as well as in the district where the robbery or extortion took place.
3 See, e.g., United States v. Stephenson, 895 F.2d 867, 875 (2d Cir.
4 1990) ("Venue under the Hobbs Act is proper in any district where
5 interstate commerce is affected or where the alleged acts took
6 place."). Similarly, an offense involving the use of the mails may
7 constitutionally be prosecuted "in any district from, through, or
8 into which" the materials passed in transit, even if the defendant
9 never possessed the materials in each such district. 18 U.S.C.
10 3237(a); see In re Palliser, 136 U.S. 257, 266 (1890) (holding, under
11 predecessor version of general venue statute, that an offense
12 committed through the use of the mails could be prosecuted in the
13 district where the letter is received); United States v. Johnson, 323
14 U.S. 273, 275 (1944) (consistent with the Constitution, "an illegal
15 use of the mails or of other instruments of commerce may subject the
16 user to prosecution in the district where he sent the goods, or in
17 the district of their arrival, or in any intervening district"). A
18 prosecution for illegally accepting transportation of goods from a
19 common carrier at rates less than the carrier's published rates may
20 be brought in any district through which the goods were transported,
21 even if the defendant's only interaction with the carrier was
22 entering into an agreement in a district other than the one in which
23 the prosecution is brought. See Armour Packing Co. v. United States,
24 209 U.S. 56, 73-77 (1908).

25 Federal Rule of Criminal Procedure 18 says that venue lies "in a
26 district in which the offense was committed." Congress has
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28

1 elaborated that, for offenses spanning multiple districts, venue lies
2 in any district where the offense began, continued, or ended:

3 Except as otherwise expressly provided by enactment of Congress,
4 any offense against the United States begun in one district and
5 completed in another, or committed in more than one district,
6 may be inquired of and prosecuted in any district in which such
7 offense was begun, continued, or completed.

8 18 U.S.C. § 3237(a). Venue need only be proved by a preponderance of
9 the evidence and can be established either directly or
10 circumstantially. United States v. Powell, 498 F.2d 890, 891 (9th
11 Cir. 1974). And the finding of a venue defect, “even when styled as
12 a ‘judgment of acquittal’ under Rule 29” does not preclude retrial
13 because it does not trigger the Double Jeopardy Clause. Smith v.
14 United States, 599 U.S. 236, 253-54 (2023).

15 **V. ARGUMENT**

16 This Court should reject defendant’s Rule 29 motion and give the
17 Ninth Circuit’s model instruction on venue, Model Criminal Jury
18 Instruction 6.32. That instruction should read:

19 The Indictment alleges that some act or acts in furtherance of
20 the crime charged occurred in the Central District of
21 California. There is no requirement that all aspects of the
22 crime charged take place here in the Central District of
23 California. Before you may return a verdict of guilty, however,
24 if that is your decision, the government must convince you that
25 some act in furtherance of the crime charged took place in the
26 Central District of California.

27 Unlike all the specific elements of the crime charged that I
28 have described elsewhere in these instructions, this fact
regarding venue need only be proven by a preponderance of the
evidence. This means the government need only convince you that
it is more likely than not that some act in furtherance of the
crime charged took place here.

1 The government, however, must prove all the offense-specific
2 elements of any crime charged, as I have described elsewhere in
3 these instructions, beyond a reasonable doubt. The lesser
4 standard of preponderance of the evidence only applies to your
5 decision on the issue of venue.

6 **A. The Indictment Does Not Allege that Defendant Was
7 Physically in the Central District of California When He
8 Committed the Charged Offense**

9 Defendant argues that the indictment alleges that he committed
10 murder for hire while physically in the Central District of
11 California. (Dkt. 130 at 2-4.) Defendant claims that the jury must
12 be instructed accordingly in evaluating venue and that any other
13 approach would be a constructive amendment of the indictment. (Id.)

14 Defendant misreads the indictment. It alleges that the crime
15 occurred within the Central District of California between March 16
16 and 21, 2023.⁴ Defendant construes the indictment as alleging his
17 physical presence in the Central District of California, but the
18 indictment should not be construed so narrowly. Where, as here, an
19 indictment is susceptible to a "more forgiving" interpretation, it is
20 appropriate to adopt that interpretation. See United States v. Doss,
21 630 F.3d 1181, 1191 (9th Cir. 2011); see also Stirone v. United
22 States, 361 U.S. 212, 218 (1960) (recognizing that a constructive
23 amendment claim may fail where an indictment is "drawn in general
24 terms"). That is particularly so where defendant failed to request a

25 ⁴ The indictment's language allows for defendant to have
26 committed the crime here, but it does not require him to have been
27 here. A person can use facilities of interstate and foreign commerce
28 that reach into the Central District of California without being
here; that is the nature of interstate behavior, which is what the
indictment alleges. For example, defendant placed a phone call to
Sherwood in Las Vegas, who then called Esco in Los Angeles, thereby
using facilities of interstate commerce in the Central District.

1 bill of particulars before trial or raise any claim that the
2 indictment was subject to the narrow interpretation he now advances.

3 The indictment's language, like the law, requires venue in the
4 Central District but does not require that defendant personally have
5 been present here. As a result, the Ninth Circuit Model Jury
6 instruction regarding venue is appropriate here. United States v.
7 Peppers, 697 F.3d 1217, 1221 (9th Cir. 2012) ("preferred practice is
8 for district courts, where possible, to follow the [Ninth Circuit]
9 model instructions.").

10 **B. The Supreme Court's Rodriguez-Moreno Decision Places Venue**
11 **in the Central District of California**

12 The statute at issue in this case, 18 U.S.C. § 1958(a), is
13 silent about venue. The government is not aware of Ninth Circuit
14 authority governing venue in the murder-for-hire context. As a
15 result, the governing authorities are the Supreme Court's locus
16 delicti test interpreting the Constitution's venue requirement,
17 Federal Rule of Criminal Procedure 18's requirement for prosecution
18 where a crime happened, and Congress's allowance for prosecution in
19 multiple venues under 18 U.S.C. § 3237(a).

20 As stated above, in applying the locus delicti test, the Court
21 in Rodriguez-Moreno said that "a court must identify the conduct
22 constituting the offense (the nature of the crime) and then discern
23 the location of the commission of the criminal acts." 526 U.S. at
24 279. To determine what conduct constituted the offense, the Court in
25 Rodriguez-Moreno compared the language of the charged statute with
26 the defendant's conduct. In this case, the charged statute says the
27 following, with the portions shown in bold applying to defendant:
28

1 **Whoever** travels in or causes another (including the intended
2 victim) to travel in interstate or foreign commerce, or **uses** or
3 causes another (including the intended victim) to use the mail
4 or **any facility of interstate** or foreign **commerce, with intent**
5 **that a murder be committed in violation of the laws of any State**
6 or the United States as consideration for the receipt of, or **as**
7 **consideration for a promise or agreement to pay, anything of**
8 **pecuniary value . . .**

9 18 U.S.C. § 1958(a). The statute speaks specifically in terms of the
10 law of the state where the murder would be committed. That is, the
11 statute contemplates the location of the intended victim. In fact,
12 whether the statute is violated at all depends on the state where the
13 murder is to occur. Accordingly, the conduct constituting the
14 offense reaches the victim's location, which was the Central District
15 of California. See United States v. Stephenson, 895 F.2d at 874
16 (venue for Hobbs Act includes anywhere that interstate commerce
17 impacted).

18 Viewing defendant's conduct in light of the statute, when the
19 defendant used the interstate commerce facility, he directed Sherwood
20 to interact with the victim in the Central District. Defendant's use
21 of the interstate wires therefore reached the Central District.
22 Defendant's direction was for Sherwood to travel to the Central
23 District to supervise the three hitmen murdering the victim.
24 Instead, Sherwood interacted with the victim in the Central District
25 by calling him, texting him, and coordinating the staged murder
26 scheme that caused defendant to pay for the murder. It is true that
27 Sherwood contacted the victim in a different manner than defendant
28

1 ordered—Sherwood warned the victim instead of murdering him—but the
2 fact remains that Sherwood contacted the victim in the Central
3 District exclusively because of defendant's charged use of an
4 interstate facility. Sherwood also traveled to the Central District
5 during the time charged in the indictment, and while here,
6 communicated with defendant about the charged crime.⁵

7 Defendant's conduct of using an interstate commerce facility
8 (his phone and the internet) to direct Sherwood to murder the victim
9 in the Central District also harmed Esco here, and caused him to take
10 action here. In response to Sherwood's outreach that defendant
11 caused, Esco arranged to create photographs of his own death scene.
12 And it is no coincidence that the victim contacted the Los Angeles
13 FBI office: this is where the victim experienced defendant's crime.
14 See Hyde v. United States, 225 U.S. 347, 363 (1912) (finding that
15 where conspiracy agreed to in California and overt act committed in
16 District of Columbia, venue was proper in the District of Columbia
17 because "[i]t is not an oppression in the law to accept the place
18 where an unlawful purpose is attempted to be executed as the place of
19 its punishment, and rather conspirators be taken from their homes
20 than the victims and witnesses of the conspiracy be taken from
21 theirs.")

22 Defendant was fully aware that his intended victim was in the
23 Central District of California, so he cannot argue that venue here is
24 a trap of the unwary. The evidence shows that defendant believed he

25
26 ⁵ The evidence indicates that Sherwood may also have received
27 payment from defendant while in the Central District. Sherwood
28 testified that he traveled to the Central District from March 17 to
March 19, and a screenshot of his hotel reservation beginning March
17 is in evidence. Also in evidence is the fact that defendant paid
Sherwood \$3,500 at approximately 9:31 pm on March 17.

1 had men watching the victim in Los Angeles, and that he accepted
2 Sherwood's screenshot of his hotel reservation in Los Angeles as
3 proof that Sherwood would be on site to help murder the victim.

4 **C. The Venue Restrictions of United States v. Pace Do Not**
5 **Apply because Wire Fraud is Dissimilar from Murder for Hire**

6 The defense argues that the charged offense is similar to wire
7 fraud, and that therefore the venue restrictions of wire fraud apply
8 here. (Dkt. 130 at 3.) In wire fraud cases, venue is only
9 appropriate where the interstate commerce facility used for the fraud
10 "originated, passed through, or was received, or from which it was
11 orchestrated." United States v. Pace, 314 F.3d 344, 349 (9th Cir.
12 2002). The defense argues that as a result, venue is proper only in
13 the Central District. (Dkt. 130 at 3.)

14 Pace does not apply here because the wire fraud statute is not
15 like the murder for hire statute. The wire fraud statute says, in
16 pertinent part:

17 Whoever, having devised or intending to devise any scheme or
18 artifice to defraud, or for obtaining money or property by means
19 of false or fraudulent pretenses, representations, or promises,
20 transmits or causes to be transmitted by means of wire, radio,
21 or television communication in interstate or foreign commerce,
22 any writings, signs, signals, pictures, or sounds for the
23 purpose of executing such scheme or artifice [shall be
24 punished].

25 18 U.S.C. § 1343. The statutory language never references victims.
26 Nor does it reference the law of the state in which the victim

1 resides or is present at the time of the offense. As a result, in
2 examining the gravamen of wire fraud, the court in Pace wrote:

3 We have recognized that the nature of a wire fraud offense—the
4 “gist and crux” of the offense—is the misuse of wires. It is
5 appropriate, therefore, that we interpret the essential conduct
6 prohibited by § 1343 to be the misuse of wires as well as any acts
7 that cause such misuse.

8 Pace, 314 F.3d at 349 (internal citations omitted).

9 But the murder for hire statute is different. It is replete
10 with references to the victim: it references the victim twice and is
11 contingent on the laws of the state where the victim resides. So the
12 offense conduct is broader too, and includes impact on the victim.
13 See Stephenson, 895 F.2d at 874 (venue for Hobbs Act includes
14 anywhere that interstate commerce impacted).

15 **D. Venue Lies in the Central District of California Even if**
16 **Pace Applies**

17 Even if this Court were to import into the murder-for-hire
18 statute Pace’s wire-fraud requirement of a wiring into, through, or
19 from the Central District, that requirement was satisfied here.
20 Defendant’s charged communication with Sherwood – the murder call –
21 caused Sherwood to use interstate wires to communicate (1) with the
22 victim while the victim was in Los Angeles on and before March 17;
23 and (2) with defendant while Sherwood was in Los Angeles after
24 traveling to Los Angeles on March 17. Defendant’s charged conduct
25 also caused the victim to use wires to send Sherwood the murder
26 photos from the Central District.

27 Defendant thus “orchestrated” wires both into and out of the
28 Central District. Pace, 314 F.3d at 349. Although Sherwood did not

1 carry out the murder, he acted in the Central District based on
2 defendant's direction nonetheless. When a defendant's criminal act
3 in one district causes a person to act in another district, venue
4 lies in either. See United States v. Ramirez, 420 F.3d 134, 143 (2d
5 Cir. 2005) (where defendant made false statement to government in
6 Brooklyn, and unbeknownst to defendant, government sent false
7 statement to Manhattan for processing, venue lay in Manhattan: "Since
8 the offense was begun and completed in different places, it was
9 continuing under § 3237(a) and could thus be prosecuted "in 'the
10 whole area through which force propelled by an offender operates')
11 quoting United States v. Johnson 323 U.S. 273, 275 (1944)); United
12 States v. Candella, 487 F.2d 1223, 1227 (2d Cir. 1973) (where
13 defendant submitted false statement to federal government in
14 Brooklyn, and government sent statement to Manhattan for processing
15 venue lay in Manhattan). As in Candella and with the false LCA forms
16 in Ramirez, the "force propelled" by the defendant in this case
17 "immediately contemplated" the district in which he was indicted.

18 **E. Steps to Address Venue**

19 The government requests that the Court give the model venue
20 instruction set forth above. The government further requests that
21 the Court permit it to very briefly reopen its case. Not only does
22 this Court exercise "wide discretion" in allowing reopening but the
23 Ninth Circuit has recognized that one purpose of Rule 29 motions is
24 to alert the Court so that it may allow the government to reopen.
25 United States v. Suarez-Rosario, 237 F.3d 1164, 1167 (9th Cir. 2001).

26 Separately, as stated at greater length in the government's
27 October 28, 2023, memorandum respectfully requesting to briefly
28

1 reopen evidence (ECF 134), the government also requests that Court
2 reopen evidence briefly to allow evidence regarding venue. Not only
3 does this Court exercise "wide discretion" in allowing reopening but
4 the Ninth Circuit has recognized that one purpose of Rule 29 motions
5 is to alert the Court so that it may allow the government to reopen.
6 United States v. Suarez-Rosario, 237 F.3d 1164, 1167 (9th Cir. 2001).

7 After the close of evidence, defendant moved for a judgment of
8 acquittal, emphasizing a claimed deficiency of evidence regarding
9 venue. Specifically, defendant claimed that the indictment alleged
10 that defendant was physically in the Central District when he made
11 the murder phone call, that that is the only theory under which there
12 is venue in this case, and that the government failed to offer
13 evidence regarding defendant's physical presence here. This was the
14 first time that the defense had raised its theory about the
15 indictment requiring defendant to be here physically, and the first
16 time it raised its venue theory.

17 Because the government received notice of these defense
18 contentions after the close of evidence, the government respectfully
19 requests to reopen evidence. The evidence the government would seek
20 to admit includes amended exhibits A and B attached to ECF 134, which
21 show Sherwood's communication with defendant while in Los Angeles
22 during the time period specified in the indictment.

23 The government further requests that the Court use the special
24 verdict form attached hereto as Exhibit A.⁶ That form permits the
25 jury to render a decision on venue subject to the correct burden of

26
27 ⁶ The government contacted the defense on Sunday afternoon to
28 ask its position on the special verdict form. The parties were not
able to communicate about the issue before the filing deadline for
this brief.

1 proof and, consistent with the Supreme Court’s decision in Smith, 599
2 U.S. 236, ensures that the government will not be precluded from
3 retrying this case in another venue if the jury “acquits” on the
4 basis of an alleged venue defect. See also United States v. Ghanem,
5 993 F.3d 1113, 1131 (9th Cir. 2021) (suggesting the propriety of “a
6 special-verdict form requiring a venue finding separate from
7 substantive guilt”). Finally, if the Court grants defendant’s Rule
8 29 motion based on a venue defect, the government requests that the
9 Court make clear in its order that the government may retry defendant
10 after superseding to cure any purported constructive amendment and/or
11 transferring this case to another district for retrial.

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Exhibit A

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UNITED STATES DISTRICT COURT

FOR THE CENTRAL DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,

CR No. 23-00331-DSF

Plaintiff,

VERDICT FORM

v.

FEREIDOUN KHALILIAN,

Defendant.

1. We, the Jury, unanimously find, by a preponderance of the evidence, that venue is proper here in the Central District of California:

_____ NO

_____ YES

If your answer to Question 1 is NO, do not consider Question 2 below. If your answer to Question 1 is YES, please answer Question 2.

2. We, the Jury, unanimously find the defendant FEREIDOUN KHALILIAN (check one):

_____ NOT GUILTY

_____ GUILTY

of using the internet or telephone, which are both interstate commerce facilities, in the commission of murder-for-hire.

Dated: _____, 2023, at Los Angeles, California.

FOREPERSON OF THE JURY