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12  
13 **UNITED STATES DISTRICT COURT**  
14 **CENTRAL DISTRICT OF CALIFORNIA**  
15

16 UNITED STATES OF AMERICA,  
17 Plaintiff,  
18 vs.  
19 ROBERT HUNTER BIDEN  
20 Defendant.  
21

**Case No. 2:23-cr-00599-MCS**

*Hon. Mark C. Scarsi*

**DEFENDANT’S NOTICE OF MOTION  
AND MOTION TO DISMISS COUNTS 1  
– 4 FOR IMPROPER VENUE**

Date: March 27, 2024  
Time: 1:00 PM  
Place: Courtroom 7C

**NOTICE OF MOTION AND MOTION TO DISMISS**

TO: SPECIAL COUNSEL DAVID WEISS, PRINCIPAL SENIOR ASSISTANT  
SPECIAL COUNSEL LEO J. WISE, SENIOR ASSISTANT SPECIAL COUNSEL  
DEREK E. HINES

PLEASE TAKE NOTICE that on March 27, 2024, at 1:00 p.m., or as soon thereafter as the matter may be heard, in the courtroom of Honorable Mark C. Scarsi, Defendant Robert Hunter Biden, by and through his attorneys of record, will, and hereby does, respectfully move this Court for an order dismissing Counts 1-4 of the Indictment for improper venue. Dismissal is warranted because venue is proper in the district where the charged offenses are alleged to have occurred, and the Indictment alleges the offenses charged in Counts 1-4 were completed before Mr. Biden moved to California when he lived in Washington D.C.

Mr. Biden's motion is based on Federal Rules of Criminal Procedure 7(c) and 18, this Notice of Motion and Motion, the attached Memorandum of Points and Authorities, the pleadings, papers, and documents on file with the Court, the oral arguments of counsel, and such other matters as the Court may deem proper to consider.

Dated: February 20, 2024

Respectfully submitted,  
WINSTON & STRAWN LLP

By: /s/ Angela M. Machala  
Angela Machala  
Abbe David Lowell  
Christopher D. Man

*Attorneys for Robert Hunter Biden*

1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 **INTRODUCTION**

3 Counts 1-4 must be dismissed for improper venue. DOJ’s Criminal Tax Manual  
4 (CTM) acknowledges Mr. Biden’s “right to be tried in the district where the offense took  
5 place.” CTM Section 10.06[5] (2024); *see also United States v. Cabrales*, 524 U.S. 1, 6–  
6 7 (1998) (discussing the *locus delicti* of a crime); Fed. R. Crim. P. 18. As discussed in a  
7 contemporaneously filed motion, (1) failure to pay violations are completed and the statute  
8 of limitations (SOL) begins to run from the first alleged instance of willful failure to pay  
9 on or after the April deadline and (2) failure to file claims are completed and the SOL  
10 begins to run from the last filing deadline (including any extensions). *See* Motion to  
11 Dismiss Count I As Untimely Or, In the Alternative, For Failure To State A Claim And  
12 Lack of Specificity (SOL Motion) at 5-6; *id.* at 1, n.2; CTM Section 7.02[2]; *id.* Section  
13 10.06[6]. Counts 1-4 all allege failure to pay or file claims that the Indictment alleges  
14 accrued before Mr. Biden moved to California in summer of 2019, and California is thus  
15 an improper venue for those charges.<sup>1</sup>

16 With respect to *failure to pay* claims (Counts 1, 2, and 4), the CTM explains “a  
17 person required to pay a tax must pay the tax at the place fixed for filing the return” and  
18 “[v]enue would therefore normally be in the district in which the return was filed.” CTM  
19 Section 10.06[5] (2024). That is because if the return is not filed on time, the prosecution  
20 “normally would [charge] failure to file rather than a failure to pay.” *Id.* Counts 1, 2, and  
21 4 allege Mr. Biden failed to file his returns on time, yet the prosecution nevertheless  
22 proceeded with failure to pay charges. More specifically, Count 1 alleges Mr. Biden  
23 willfully failed to pay his 2016 taxes by April 18, 2017, Count 2 alleges Mr. Biden

24  
25 <sup>1</sup> In fact, during the proceedings in Delaware on July 26, 2023, the prosecution  
26 acknowledged that venue in Delaware had to be waived for a plea to the 2017 and 2018  
27 charges because it was aware Mr. Biden resided in Washington D.C. at that time.  
28 (07/26/2023 Hr. Tr. at 46, 60.) Moreover, DOJ approached D.C. U.S. Attorney Matthew  
Graves about partnering in D.C. on prosecuting these charges (although his Office  
declined after reviewing the merits of the claims). *See Biden-Picked LA US Attorney  
Claimed He Was Too ‘Resource-Strapped’ To Charge Hunter*, N.Y. Post (Oct. 26, 2023),  
<https://nypost.com/>.

1 willfully failed to pay his 2017 taxes by April 17, 2018, and Count 4 alleges Mr. Biden  
2 willfully failed to pay his 2018 taxes on April 15, 2019.

3 The CTM explains that, for *failure to file* claims, the district “in which the taxpayer  
4 was required to file a return for the year at issue” is where “the crime was committed.”  
5 CTM Section 10.05[7] (2024). For individuals, tax returns must be filed in the district in  
6 which the taxpayer lives. *Id.* Count 3 of the Indictment alleges Mr. Biden failed to file  
7 his 2017 returns by the extended deadline of October 15, 2018.

8 As noted, Mr. Biden moved to California in the summer of 2019, which the  
9 prosecution knows. Because the Indictment alleges Counts 1-4 occurred before then when  
10 Mr. Biden was living outside of California and was required to file and pay his taxes  
11 outside of California, venue is not proper in California for those charges, and they must  
12 be dismissed from the Indictment pursuant to Federal Rule of Criminal Procedure 18.

13 **CONCLUSION**

14 For the foregoing reasons, Mr. Biden respectfully requests that the Court dismiss  
15 Counts 1-4 of the Indictment for improper venue.

16 Dated: February 20, 2024

Respectfully submitted,

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