

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF NEW MEXICO

JOHN EASTMAN
v.
UNITED STATES OF AMERICA
Case No. 1:22-mc-00023

MOTION TO EXCEED LENGTH LIMITATIONS IN MOVAN'TS REPLY BRIEF

Under Local Rule 7.5 a reply brief must ordinarily not exceed 12 double spaced pages. Movant's reply brief is 22 pages not counting the Table of Contents, Table of Authorities and caption. ECF 16. Movant respectfully requests that the Court grant permission to exceed the reply page limit for the following reasons.

First, as a general matter, this case involves fairly complex legal issues for a Rule 41 motion. Movant has raised issues related to the jurisdiction of the investigating agency, the constitutionality of the warrant, the execution of the search, and the legal sufficiency of the government's taint team procedures.

More particularly, the government raised several novel legal issues in its response brief that could not have been reasonably anticipated. For example, the government raised a novel argument about DOJ OIG authority (ECF 15 at 10-11) and alleged that it had obtained a second warrant with taint team procedures which mooted Movant's claim (Id. at 21-22). These issues could not have been reasonably anticipated at the time of Movant's initial filing. Movant estimates that up to 11 pages of the reply (ECF 16 at 6-9, 16-17, 22-25, 26-27) were spent addressing these

new issues. Movant submits that the need to address the novel issues raised in the government's response constitutes good cause for extending the normal lengthy limitation of the reply brief.

The government's position on this request is as follows: "The Government opposes the relief requested but would consent to an additional five pages, for a total of 17 pages. In addition, the Government may later seek leave to file a sur-reply." Movant takes no position on the appropriateness of a surreply but requests that if the Court allows a surreply that it is required to be filed no later than September 2.

/s/ Charles Burnham
Charles Burnham
Burnham & Gorokhov, PLLC
1424 K Street NW, Suite 500
Washington, DC 20005
(202) 386-6920 (phone)
(202) 765-2173 (fax)
charles@burnhamgorokhov.com

/s/ Joseph J. Gribble
Joseph J. Gribble
Crowley & Gribble, P.C.
300 Central Ave SW, Suite 3500
Albuquerque, NM 87102
(505) 314-1450
(505) 314-1452 (fax)
jjg@crowleygribble.com

Attorneys for Plaintiff