

IN THE UNITED STATES COURT OF APPEALS
FOR THE FEDERAL CIRCUIT

In re UNITED STATES OF AMERICA,

Petitioner.

No. 2017-104

[Fed. Cl. No. 13-465C]

**OPPOSITION TO RESPONDENTS' MOTION TO EXCEED
PAGE LIMIT**

The government respectfully opposes respondents' motion seeking permission to file an over length response to the government's petition for writ of mandamus. This Court's rules are clear. A petition for a writ of mandamus and an opposition to a petition may be no more than 30 pages in length. *See* Fed R. Civ. P. 21; Fed. Cir. Rule 21. The government's petition complied with the governing rules; it was 30 pages long, and approximately 7,700 words.

Respondents seek to file an opposition of 14,000 words—nearly twice the length of the petition to which they are responding. A filing of this length would be appropriate if the parties were briefing the merits of the case. Here, the only issue is whether the district court erred in its application of privileges. Respondents' request is all the more extraordinary because it is made on the date on which their filing is due. The apparent intention is to present the Court with a *fait accompli*. The Court

should reject this unwarranted circumvention of the rules.

After reading the filings in this proceeding, this Court may determine that additional briefing is necessary. If so, it will likely direct the parties' to respond to matters of concern to the Court and establish page or word limits that the Court believes are appropriate. No basis exists, however, for permitting respondents' significantly over-length filing at this juncture.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on November 3, 2016, I electronically filed the foregoing with the Clerk of the Court for the United States Court of Appeals for the Federal Circuit by using the appellate CM/ECF system. Service will be accomplished by the appellate CM/ECF system:

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