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**IN THE UNITED STATES DISTRICT COURT
DISTRICT OF UTAH, CENTRAL DIVISION**

UNITED STATES OF AMERICA,	:	CASE No. 2:11-CR-501-DN-PMW
Plaintiff,	:	
vs.	:	GOVERNMENT'S MOTION FOR AN ORDER PURSUANT TO DUCrimR 57-6
JEREMY JOHNSON and	:	Judge David Nuffer
IWORKS, INC.,	:	Magistrate Judge Paul M. Warner
Defendants.	:	

The Government, by and through its undersigned counsel, hereby moves the Court for an Order pursuant to DUCrimR 57-6 to prevent Defendant Jeremy Johnson ("Defendant") and potential witnesses from issuing further extrajudicial statements which have substantial likelihood of materially influencing the ongoing criminal proceeding against Defendant, preventing a fair trial, or impeding the administration of justice.

INTRODUCTION

For over a year, Defendant has used various media outlets to publicly accuse the government of various misdeeds. Since Defendant's unsuccessful change of plea hearing, these efforts have intensified. The United States has to date ignored Defendant's media efforts, but now feels compelled to bring these matters to the Court's attention because they continue to proliferate and appear to present "a substantial likelihood of materially influencing [the] criminal proceeding or of preventing a fair trial or impeding the administration of justice." DUCrimR 57-6. The United States seeks an order to govern the extrajudicial statements of Defendant, all potential witnesses, and his counsel in this case.

FACTUAL BACKGROUND

Defendant is engaged in an ongoing media campaign against the United States Attorney's Office and, in particular, against lead prosecutor Brent Ward, all apparently in an effort to litigate his case publicly rather than in the courtroom. As described below, Defendant is utilizing multiple media outlets to spread his message, including traditional media, websites, and social media.

A. EvilFTC.com Website

In November 2011, Defendant started a website called "EvilFTC.com." (Ex. A, Screenshot of <http://evilftc.com/>, last visited on 1/28/13.)¹ Defendant has used this website to

¹ In late 2011, Defendant registered and paid for the Internet domain "EvilFTC.com." (Ex. B, 1/3/12 Declaration of FTC Investigator Reeve Tyndall, at 2-3.) When the EvilFTC.com website was first created, Defendant was the sole account holder for the website. (Ex. C, Second Declaration of Reeve Tyndall, at 1.) In a hearing before the District of Nevada in January 2012 concerning the EvilFTC.com website (and many other websites against the FTC Defendant had set up), Defendant informed the Court that he "certainly [has] an enormous influence on what happens with these Web sites." (Ex. D, Tr. of 1/5/12 Hearing Before D. Nev, at 24.) The

post videos, articles, and blogs about matters related to the District of Nevada civil case brought by the Federal Trade Commission (“FTC”) in which he is a defendant. The front page of EvilFTC.com has a link called “U.S. Attorney Brent Ward.” (*Id.*) This link directs to a page on the EvilFTC.com website that contains numerous false (and possibly defamatory) statements against Mr. Ward.

A Former Utah US Attorney is prosecuting the criminal case against Jeremy Johnson for one count of mail fraud. The ironic thing about this is that Brent Ward has no idea what he is even prosecuting because he is getting all his information from the FTC. ***Brent Ward is just acting as the minion for the FTC in bringing these criminal charges.*** He admits that he has never spoken to a victim, including the one that he charged Jeremy with for mail fraud.

Not having any evidence to prosecute a criminal case presents some unique problems for government prosecutors. However having no evidence is not a good reason to drop charges against someone when ***you are a powerful government attorney who enjoys complete immunity in such cases.*** Instead Mr. Ward decides to go an [*sic*] ***a rampage and fabricate evidence, using threats and intimidation to force others to lie,*** telling the story the way he wants it to be told as evidenced in this letter from a former I Works employee written to Brent Ward after his 2nd interview with Mr. Ward.

(Ex. E, <http://evilftc.com/US-attorney-brent-ward.aspx>, last visited on 1/28/13.)²

In addition, a video located on the main page of the EvilFTC.com under the title “FTC attorney Collot Guerard caught falsifying evidence and threatening witnesses!” suggests that a new video about Mr. Ward and a video about IRS-CI Special Agent Jamie Hipwell are forthcoming. The video on the main page of EvilFTC.com is a 14-minute diatribe accusing the

District of Nevada held in that hearing that Defendant had “power and authority” over the EvilFTC.com website (among others). (*Id.* at 17.)

² All emphasis added unless otherwise noted.

FTC of witness tampering, lying to a federal judge, falsifying evidence, unlawfully seizing property, and denying Defendant of his right to an attorney and to trial by jury. About half of the video is Defendant himself accusing the FTC of these illegal acts; other persons who are potential witnesses in the criminal case also appear in the video. Near the end of the video (at time 13:40) a screen appears promising two future videos:

If you enjoyed this short film, you'll like these too!

How to get a judge to issue an arrest Warrant Without Evidence. Staring Jamie Hipwell! You may remember Jamie for his role as the real life Sheriff of Nottingham

And

No Evidence? No Problem the A to Z's of Witness Tampering *Starring AUSA Witness Tampering Master Brent Ward!* "Makes Les Miserables look like a comedy!" – Nebraska Mariner

(Ex. F, Screenshot of FTC Video from EvilFTC.com Website, last visited on 1/28/13.) As seen in the screenshot, pictures of SA Hipwell and Mr. Ward appear on the video at this time. (*Id.*)

B. Defendant's Statements to the Media

Unbeknownst to the United States, *before* Defendant's Change of Plea Hearing on January 11, Defendant met with media and stated that he was not guilty and pleading guilty only because Mr. Ward had threatened to indict family and friends if he did not.

In an interview before the hearing, Johnson said he did not believe he was guilty of the bank fraud and money-laundering charges contained in the plea agreement. But he said Assistant U.S. Attorney Brent Ward, the lead prosecutor in his case, had threatened to indict family members, friends and others if he did not plead guilty.

(Ex. G, 1/11/13 Salt Lake Tribune Article “Jeremy Johnson headed to trial as fraud plea deal unravels,” *available at* <http://www.sltrib.com/sltrib/money/55613471-79/johnson-ward-swallow-plea.html.csp>, last visited on 1/28/13.)

Johnson said in an interview before Friday’s hearing that he is innocent and planned to plead guilty only to protect his friends and family, whom he says Ward threatened to arrest if he didn’t cooperate.

(Ex. H, 1/11/13 Deseret News Article “Ex-millionaire’s plea deal unravels in attempt to protect family, new A.G.,” *available at* <http://www.deseretnews.com/article/865570538/Ex-millionaires-plea-deal-unravels-in-attempt-to-protect-family-new-AG.html>, last visited on 1/28/13.)³

On January 23, 2013, Defendant again spoke to the media, this time in reaction to an amended complaint in the FTC civil case in the District of Nevada and charged that “[t]his is their punishment to me and my family for not telling the judge I’m guilty of something that we all know I’m not guilty of.” (Ex. I, 1/23/13 Deseret News Article “AG John Swallow made mistakes in dealings with businessman, Utah GOP says,” *available at* <http://www.deseretnews.com/article/865571293/Advocacy-group-asks-Utah-bar-to-investigate-AG-John-Swallow.html>, last visited on 1/28/13.) Defendant stated that “he assumed his wife and parents will now be arrested and charged with crimes.” (*Id.*)

Defendant, through his attorney, has also hired a public relations firm to represent him, suggesting that further media efforts are in the works. (Ex. J, 1/12/13 Salt Lake Tribune Article, “Democrats want an investigation of Utah A.G. John Swallow,” *available at*

³ Defense counsel informed AUSA Rob Lunnan that he was unaware his client had met with the media prior to the change of plea hearing and did not support his client speaking with the media in this manner. Defendant did not notify the government prior to the plea hearing that he had made these statements to the media.

<http://www.sltrib.com/sltrib/politics/55618852-90/swallow-johnson-rawle-font.html.csp>, last visited on 1/28/13.)

C. “The Life of Jeremy Johnson” Blog

On January 14, 2013, Defendant began a blog titled “The life of Jeremy Johnson.” (Ex. K, Screenshot of “The life of Jeremy Johnson,” *available at* <http://jeremyjohnson22.blogspot.com/>, last visited on 1/28/13.) The blog currently has only one entry, which states:

I do not understand why the US Attorneys office is saying “no threats were made”. They know very well that is the ONLY reason I would ever accept a plea deal. AUSA Bent Ward and IRS Special Agent Jamie Hipwell gave me this hit list and told me they would indict these people if I don’t [*sic*] tell the judge I am guilty. I did what any normal person would do to protect the people they care about and agreed to the deal.

(*Id.*) In this blog post, Defendant also has posted a picture of the slide that Defendant sought to be admitted as an exhibit at his change of plea hearing but that was not admitted in the public record. (*Id.*)

D. Facebook Page - “Unofficial Fan Page United States Attorney for the District of Utah”

On October 21, 2012, a Facebook “Page” was created named “[Unofficial Fan Page] United States Attorney For The District of Utah” (“Facebook Page”). (Ex. L, Screenshot of Facebook page, *available at* <https://www.facebook.com/pages/Unofficial-Fan-Page-United-States-Attorney-For-The-District-of-Utah/279787882140900>, last visited on 1/28/13.” The Facebook Page prominently includes an unauthorized picture of United States Attorney David Barlow and uses this photo as the “cover photo” for all posts made by the administrator. *Neither*

the United States Attorney's Office nor United States Attorney David Barlow has a Facebook page, official or unofficial.

It appears the Facebook Page might be connected to Defendant or his affiliates. It states that it is administered by a group called "Citizens for Equal Justice"—similar to the name "Citizens for Fairness in Government" that produced the 14-minute video on the EvilFTC.com website. Many of the posts on the Facebook Page involve Defendant's case and news stories that have recently been published regarding Utah Attorney General John Swallow and his alleged connection to Defendant. And a number of Defendant's family members and close friends and colleagues (all potential witnesses in this matter) post frequent comments on the Facebook Page. For example, in a post that includes Mr. Ward's picture and a quote stating "We don't intend to prosecute anyone related to I-Works," the following comments appear:

- **Kerry Johnson** (Defendant's father): "Liar, liar are your pants on fire?" (Referring to Mr. Ward.)
- **Ryan Riddle** (worked directly beneath Defendant at I-Works): "Ummmm...does Mr Ward know that when he sends someone an email it doesn't just disappear after its read? These guys are smarter than that right?? Wait, what am I saying ☺"
- **Jason Peterson** (one of Defendant's best friends who owned a company related to I-Works): "Ok for all u retards that can not see or understand the law or truth here u go..When some one is extorted in any case meaning told unless u do this this will happen you can't even threaten a person let alone people like Jj granpa extra that are noble good people. Brent ward and John swallow are working together now for the dumber people who comment if you have no \$\$ and justice department and IRS and FTC on top of u being what a smart young man who used the Internet as a tool to market. Don't assume guilt why if he was guilt guist...They wouldn't be extorting him ding ding ding wake up retards-"

- **Michael Blackburn** (has stated he is doing a documentary on Defendant)⁴: “Brent Ward told Johnson that he better tell the judge he is guilty or he was going to arrest his friends and family including his wife, mother etc. They even gave Johnson a list with all their names on it and what they would be arrested for. So like any normal person Johnson agreed to say he was guilty to protect the people he cares about. Now that its all blown up in their face Brent Ward wants everyone to think that he never made any threats. Problem is that is not true and his hit list is already public now.”

Defendant’s brother, Andy Johnson, has also posted on the Facebook Page.

The existence of this Page has caused substantial confusion in the community, with many, including public officials and media outlets, believing it to be actually connected with the United States Attorney’s Office.

E. Nathan Crane Youtube Video

On or around January 9, 2013, a Youtube.com account was set up under the name “YourEvidenceChannel.” (Ex. M, Screenshot of YourEvidenceChannel from 1/15/13.) On January 12, 2013—the day after Defendant’s change of plea hearing—a video was uploaded on YourEvidenceChannel entitled “AUSA Brent Ward Threatens to Indict 100 Family and Friends of Defendant.” (*Id.*) The tagline of the video, located beneath its title, states: “Even the mother of Jeremy Johnson has been threatened with arrest and all the things that go along with indictment if her son, [*sic*].” (*Id.*) As the attached screenshot also shows, the video is 3:49 in length and shows Defendant’s counsel, Nathan Crane, speaking to the camera in an interview setting with a microphone attached to his suit jacket. (*Id.*) In the video, Mr. Crane and “private

⁴ The government suspects the name Michael Blackburn is an alias being used by Defendant or one of Defendant’s affiliates to post such comments on Facebook. The same “Michael Blackburn” also contacted SA Hipwell’s wife on Facebook and has sent “friend requests” to all of SA Hipwell’s wife’s and SA Hipwell’s Facebook friends.

investigator” David Doddridge from the St. George-based “Doddridge Agency” make unfounded allegations about the contents of confidential plea discussions that occurred between Department of Justice Trial Attorney Brent Ward, AUSA Robert Lunnan, federal agents, Defendant, and Mr. Crane.

The United States has no reason to believe that Mr. Crane was responsible for publishing the video on Youtube.com or that he was responsible for the title of the video. The United States also does not believe that Mr. Crane is behind the YourEvidenceChannel account. When AUSA Robert Lunnan discussed the video with Mr. Crane on January 16, 2013, Mr. Crane stated that he had no knowledge the video had been posted or would be posted on Youtube.com. The same day that AUSA Lunnan spoke with Mr. Crane, the video was removed from Youtube.com.

On January 25, 2013, however, a new video appeared on YourEvidenceChannel entitled “AUSA Brent Ward Threatens Defendants [sic] Mother and Family.” (Ex. N, 1/25/13 Screenshot of YourEvidenceChannel, *available at* <http://www.youtube.com/user/yourevidencechannel>, last visited on 1/28/13.)⁵ This video is an updated version of the earlier video of Mr. Crane—it now includes animation and written allegations, including:

- “US Justice Department engaged Extortion?”
- “Barlow unaware of threats made”
- “Family Threatened by AUSA Brent Ward”
- “Witnesses pressured to lie for the Government”

⁵ For the Court’s convenience, the government is providing the Court a CD containing a copy of this video, which is currently publicly available on Youtube.com. (Ex. O, CD of Nathan Crane Youtube.com video.)

In this video, the same “private investigator” appears and falsely claims that Mr. Ward threatened “a hundred indictments against Jeremy’s family, Jeremy’s friends, really anyone Jeremy knows, unless Jeremy will come in and plead guilty to something, anything.” Edited portions of a filmed interview with Mr. Crane also appear in the video; in these edited segments, Mr. Crane likewise misrepresents the facts of confidential plea discussions.⁶ The video states that Mr. Crane sat to be interviewed and filmed in July 2012. Near the end of the video, James Sapp—a grand jury witness—appears and states that the government wanted him to lie to the grand jury.⁷ The video states that it includes “excerpt[s] from the upcoming Documentary Film ‘Government Cheese.’”

F. January 25, 2013 Jeremy Johnson Email

On January 25, 2013, Defendant sent an email to his counsel and carbon copied Mr. Ward on that email. (Ex. R, 1/25/13 Email from Defendant to N. Crane and B. Ward.) In this

⁶ The same edited portions of Mr. Crane’s interview appear in yet another Youtube.com video entitled “iWorks Video Series – FTC Overview Rough Cut.” Mr. Crane’s interview begins at time 9:05 in this video. (Ex. P, Screenshot of Youtube.com video “iWorks Video Series – FTC Overview Rough Cut,” available at <http://www.youtube.com/watch?v=v6WXPi7t5qI>, last visited on 1/28/13.)

⁷ On June 15, 2012, the Court issued an order which provided that “Defendant shall not personally interview or contact any individual on the witness list provided by the United States. Individuals on the criminal witness list may be interviewed by defendant only with the Defendant’s counsel of record present.” (Doc. No. 158 at 2.) On July 19, 2012, the United States provided this list to the Court and to the Defendant. (See Doc. No. 164.) **James Sapp is included on this list.** (Ex. Q, List of Witnesses Defendant Ordered Not to Contact.) Since the Nathan Crane Youtube video was made sometime after July 2012, it appears likely that James Sapp was interviewed in violation of the Court’s orders. In addition, the video on the EvilFTC.com website, *see supra* at 1-3, contains an interview of Devan Partridge, **another person on the prohibited contact list.** Ex. Q; *see* <http://evilftc.com/>. Mr. Partridge appears in this video beginning at time 4:20.

email, Defendant states that “[t]he government has a loaded gun pointed at the heads of the people I care about. I will do anything to stop them from pulling the trigger. I will persue [sic] any option available to me. ... At this point I see the only option I have left is to expose them, plead for help from our elected officials.” (*Id.*) This email is a clear indication that further public statements and actions from Defendant are forthcoming.

ARGUMENT

The unifying thread in all of these media statements and publications is an effort to publicly besmirch the integrity of the United States Attorney’s Office for the District of Utah and, in particular, to publicly accuse Mr. Ward of prosecutorial misconduct.⁸ These efforts serve twin purposes—to sour the public on the prosecution of this case and to pollute the future jury venire. While Defendant has the right to his day in court, he is not entitled to litigate his case in the media (print, broadcast, or social) by means of false accusation and innuendo. The United States respectfully submits that the Court should issue an order governing the extrajudicial statements of Defendant and potential witnesses to preserve the integrity of these criminal proceedings and ensure a fair trial for all parties.

⁸ Defendant’s campaign against Mr. Ward continued on January 22 when he personally sent United States Attorney David Barlow a copy of the book “The Mormon Murders,” with “A gift note from Jeremy Johnson”: “Mr. Barlow, If you have not read this. Please take the time. Its important. An attorney for the government should never be motivated by anything but seeking justice. A pattern of abuse on the part of one of your attorneys starts here.” (Ex. S, Copy of Amazon.com gift note.) The attorney referred to in Defendant’s note is Mr. Ward—the book concerns the Mark Hoffman bombings in the mid-1980s and discusses Mr. Ward when he was the United States Attorney for the District of Utah. The government has no reason to doubt that this book and the accompanying note came from Defendant.

Trial courts have “an affirmative constitutional duty to minimize the effects of prejudicial pretrial publicity.” *Gannett Co. v. DePasquale*, 443 U.S. 368, 378 (1979). The Tenth Circuit has accordingly long held that “courts must take such steps by rule and regulation that will protect their processes from prejudicial outside interferences. Neither prosecutors, counsel for defense, the accused, witnesses, court staff nor enforcement officers coming under the jurisdiction of the court should be permitted to frustrate its function.” *United States v. Tijerina*, 412 F.2d 661, 667 (10th Cir. 1969) (quoting *Sheppard v. Maxwell*, 384 U.S. 333, 363 (1966)). In *Tijerina*, the Tenth Circuit affirmed a district court’s order barring extrajudicial statements and held that statements made by defense counsel at a public convention about an ongoing criminal matter violated the district court’s order. *Id.* at 662-663, 666-67. Defense counsel in that case had publicly charged both the judge and the government with unlawful conduct. *Id.* at 665-66. The court concluded that “[i]n the context in which they were made such public utterances while a criminal trial was pending are not compatible with the concept of a fair trial,” even though the statements had come from the defense. *Id.* at 666.

This Court has likewise held that “[t]rial courts have ‘broad discretion in gauging the effects of allegedly prejudicial publicity and in taking measures to insure a fair trial.’” *United States v. Koerber*, No. 2:09-cr-302, 2012 WL 3964829, *9 (D. Utah Sept. 11, 2012) (unpublished) (quoting *United States v. Abello-Silva*, 948 F.2d 1168, 1177 (10th Cir. 1991)). The District of Utah has adopted a rule that specifically empowers it to oversee extrajudicial statements made by counsel, parties, and witnesses in widely publicized criminal matters. DUCrimR 57-6 provides that “[i]n a criminal matter that is likely to be widely publicized, the

court, during the investigation *or at any other time*, may issue an order governing extrajudicial statements by parties or witnesses which have a substantial likelihood of materially influencing a criminal proceeding or of preventing a fair trial or impeding the administration of justice.”

The instant case is analogous to *United States v. Fieger*, No. 07-cr-20414, 2008 WL 659767 (E.D. Mich. Mar. 11, 2008) (unpublished). In that case, a criminal defendant produced two commercials accusing the government of unlawful selective and vindictive prosecution. *Id.* at *3-4. The government moved for a protective order to “preclud[e] any party or attorney in this action from making extrajudicial statements about the merits of the case” because the commercials “had a substantial likelihood of materially prejudicing the potential jury pool and as a result potentially prejudicing ... the Government’s right to a fair trial.” *Id.* at *1. The court agreed and granted the order governing extrajudicial statements.⁹ The court found that the “two commercials are unequivocally directed at polluting the potential jury venire in the instant case in favor of [the defendant] and against the Government.” *Id.* at *3.

The Court’s finding in *Fieger* could have been written for this case. Defendant’s media campaign, as in *Fieger*, is aimed directly at prejudicing the public against the government during the criminal proceedings and threatens to pollute the jury venire. *See United States v.*

⁹ The Court’s order in *Fieger* stated: “no lawyer or party to this proceeding, Government and Defendants, shall make any extrajudicial statement about this case which a reasonable person would believe could be publically disseminated. This Order shall not apply to the dissemination of information (bare facts as opposed to opinions, questions, or commentary) regarding scheduling matters or other information that is a part of the public record. However, this Order shall apply to any statement, including advertisements, or website maintained by the parties, that imparts the message that Defendants have been subject to an improper, selective or vindictive prosecution.” 2008 WL 659767 at *6.

Chanthadara, 230 F.3d 1237, 1251 (10th Cir. 2000) (recognizing that “the effect of exposure to extrajudicial, collateral information on a juror’s deliberations may be substantial even though it is not perceived by the juror himself ... assurances from jurors may not be adequate to eliminate the harm done by exposure to prejudicial information, including news reports.” (quoting *Waldorf v. Shuta*, 3 F.3d 705, 711 (3d Cir. 1993))); *see also* *Gentile v. State Bar of Nevada*, 501 U.S. 1030, 1075 (1991) (explaining that courts may constitutionally limit extrajudicial comments that “(1) ... are likely to influence the actual outcome of the trial, and (2) ... are likely to prejudice the jury venire, even if an untainted panel can ultimately be found”).

Defendant’s media messages go even beyond those in *Tijerina* and *Fieger*. Here, Defendant’s media outlets have included the EvilFTC.com website, youtube.com videos, his personal blog, the Facebook Page, and the local newspapers and television networks. Defendant, either personally or through others working with him, has publically accused the government of:

- coercing a plea agreement through threat of arrest and prosecution of family members and friends;
- engaging in extortion by giving Defendant a “hit list” if he did not plead guilty;
- having no evidence to support the charges against Defendant;
- acting as a “minion” for the FTC;
- going on a “rampage” and “fabricating” evidence;
- witness tampering, including using threats to force others to lie; and
- falsely obtaining an arrest warrant.

As in *Tijerina*, these statements simply “are not compatible with the concept of a fair trial.” 412 F.2d at 666. They seek to subvert the fair administration of justice in this case and discredit the

United States Attorney's Office in the eyes of the public in general. Indeed, the only possible purpose behind these false statements can be to materially influence *outside the courtroom* the criminal case against him. If any of these accusations had merit (they do not), Defendant would be free to bring the matter to the Court's attention and seek appropriate relief. It speaks volumes that he has not, choosing instead to spread his charges of prosecutorial misconduct to the public.

This is thus exactly the situation DUCrimR 57-6 was designed to govern. The Rule, applicable to both parties and witnesses, empowers the court to limit extrajudicial statements that are substantially likely to prevent a fair trial, materially influence a criminal proceeding, or impede the administration of justice. The statements described herein are likely to do all three. The government respectfully requests that Defendant and all potential witnesses be ordered to cease any and all statements like the ones described above and to remove from all media outlets over which Defendant and potential witnesses have control all of the accusations described above, including those on the EvilFTC.com website, any and all videos discussing this criminal matter on that website or located on any other website (such as youtube.com), all posts and comments on the Facebook Page, and Defendant's personal blog page. Defendant and all potential witnesses should likewise be ordered to cease making accusations against the government and Mr. Ward to any and all public media outlets.¹⁰

¹⁰ Defense counsel should also come within the scope of this order. While the government does not believe Mr. Crane was involved in publishing the Youtube.com video in which he appears, the fact is that he sat to be filmed discussing confidential plea discussions and falsely accused the government of prosecutorial misconduct. See DUCrimR 57-7(a) ("A government or defense attorney ... may not disseminate by means of public communication, *or means which could reasonably be anticipated to become public*, any information, statement, or

CONCLUSION

For the reasons described, the Court should issue an order under DUCrimR 57-6 to prevent the extrajudicial statements made by Defendant, his counsel, his affiliates, and potential witnesses from continuing and order any other relief the Court deems just and equitable.

Dated this 28th day of January, 2013.

DAVID B. BARLOW
United States Attorney

By:

/s/ Carlie Christensen
Carlie Christensen
First Assistant United States Attorney

By:

/s/ Felice Viti
Felice Viti
Chief, Criminal Division

other matter which will have a substantial likelihood of preventing a fair trial or directly impeding the due administration of justice.”); Utah Model Rule of Professional Conduct 3.6 (“A lawyer who is participating or has participated in the investigation or litigation of a matter shall not make an extrajudicial statement that the lawyer knows or *reasonably should know* will be disseminated by means of public communication and will have a substantial likelihood of materially prejudicing an adjudicative proceeding in the matter.”) Mr. Crane’s statements are similar to those of Defendant and could likewise threaten the integrity of the criminal proceedings. “As officers of the court, court personnel and attorneys have a fiduciary responsibility not to engage in public debate that will redound to the detriment of the accused *or that will obstruct the fair administration of justice.*” *Gentile*, 501 U.S. at 1074 (alteration original) (quoting *Nebraska Press Ass’n v. Stuart*, 427 U.S. 529, 601 n.27 (1976) (Brennan, J., concurring)).

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I am an employee of the United States Attorney's Office, and that I filed a true and correct copy of the GOVERNMENT'S MOTION FOR AN ORDER PURSUANT TO DUCrimR 57-6, along with Exhibits A-S, on this 28th day of January 2013, by electronic transmittal to the Clerk's Office using the CM/ECF system causing a copy to be electronically transmitted to all CM/ECF registrants under this cause number. Exhibit O has been hand delivered to the Clerk's Office and to counsel listed below:

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/s/ Alicia Ackerman
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