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UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION

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UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA, FLORIDA

UNITED STATES OF AMERICA

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v.

CASE NO.: 8:03-CR-77-T-30-TBM

SAMI AMIN AL-ARIAN, et al.

UNITED STATES' MOTION TO STRIKE OR,
IN THE ALTERNATIVE, OPPOSITION TO
DEFENDANT AL-ARIAN'S MOTION TO REQUIRE
IMMEDIATE PRODUCTION OF ALL DISCOVERY MATERIAL
REFERRED TO IN THE INDICTMENT IN THEIR ENTIRETY

The United States moves to strike defendant Al-Arian's motion to require immediate production of all discovery material, D-170, or, in the alternative, opposes Al-Arian's motion for the following reasons:

1. Defendant Al-Arian's pro se motion should be struck because it violates Local Rule 2.03(d). This rule provides that for "[a]ny person for whom a general appearance of counsel has been made shall not thereafter take any step or be heard in the case in proper person absent prior leave of Court . . . ". Local Rules, United States District Court, Middle District of Florida, July 1, 2002. To date, Al-Arian is still represented by counsel, has not been permitted to proceed in this case pro se, and has not received leave of Court to file his pro se pleading. Accordingly, his pending pro se motion should be struck from the record.

2. The motion should also be struck because it violates Part VI of the *Discovery Order*. Part VI provides in part:

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Absent good cause, the Court will not entertain any motion relating to discovery unless counsel for the moving party certifies that counsel for the parties have been unable to resolve their differences or reach agreement after holding a conference, or that opposing counsel has refused to confer without good cause.

Neither the defendant nor his counsel has made any effort to comply with Part VI. Part VI appears in Middle District of Florida discovery orders to keep the Court out of the middle of trivial or routine disputes which occur from time to time during the course of discovery in a criminal case. This motion is proof of why Part VI is necessary in Middle District of Florida discovery orders.

3. Should this Court be inclined to consider Al-Arian's motion on its merits, however, the United States opposes Al-Arian's motion in its entirety. The United States is well aware of its discovery obligations as outlined by the Court's Second Amended Discovery Order (D-152) and as discussed at the June 5, 2003, discovery hearing (D-157), as well as Rule 16, Federal Rules of Criminal Procedure. The United States is proceeding with its discovery obligations in good faith and will continue to do so in the manner structured by the Court and the Rules of Criminal Procedure.

3. Requests No. 3 and Nos. 5 through 8 all represent an effort by the defendant to persuade the Court to alter the manner and timing of the discovery schedule previously ordered. There is simply no reason to change it based on some defendant's whim. Moreover, requests Nos. 5 through 7 seek an order compelling the government to not just produce documents in its possession, but to create them, namely, translations. The United States will produce final translations of documents which it intends to offer as exhibits at trial in accordance with the Second Amended Discovery Order. At the present time, no such final translations exist.

4. Defendant's request Nos. 1, 2 and 4, if construed as complaints about discovery material already produced, will be closely examined. To the extent that the United States is made aware of any problem with discovery materials already provided to this or any defendant, the United States will take all necessary steps to correct any identified deficiencies and will provide corrected versions as required by its continuing discovery obligations and to the best of its technical ability. There is no need for a separate court order.

The United States requests that this Court strike Al-Arian's motion due to violation of Local Rule 2.03(d) and Part VI of the Discovery Order. In the alternative, the United States requests that the Court deny Al-Arian's motion in its entirety for the reasons discussed above.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing was sent by
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