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8 Attorneys for Defendant,  
9 DUNCAN D. HUNTER

10 **UNITED STATES DISTRICT COURT**  
11 **SOUTHERN DISTRICT OF CALIFORNIA**

12 UNITED STATES OF AMERICA,  
13 Plaintiff,  
14 v.  
15 DUNCAN D. HUNTER,  
16 Defendant.

CASE NO. 18-CR-3677-W

**NOTICE OF MOTION AND MOTION  
TO DISMISS OR, IN THE  
ALTERNATIVE, TO RECUSE THE  
UNITED STATES ATTORNEY'S  
OFFICE FOR THE SOUTHERN  
DISTRICT OF CALIFORNIA**

DATE: March 17, 2020  
TIME: 9:00 AM  
COURT: 3C (Schwartz)  
JUDGE: HON. THOMAS J. WHALEN

17  
18 **TO: ALL PARTIES AND THEIR COUNSEL OF RECORD:**

19 PLEASE TAKE NOTICE THAT on March 17, 2020 at 9:00 a.m. or as soon  
20 thereafter as the matter may be heard, in the Courtroom of the Honorable Thomas  
21 J. Whelan, United States District Court Judge, Courtroom 3C, located at 221 West  
22 Broadway, San Diego, California, 92101, Defendant Duncan D. Hunter hereby  
23 moves the Court to Dismiss the Indictment, or, in the Alternative to Recuse the  
24 United States Attorney's Office for the Southern District of California from further  
25 proceedings in this matter.

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This Motion is based on the instant Notice, Motion, and Memorandum of Points and Authorities submitted herewith, the pleadings and other matters on file in this case, and on such other and further argument and evidence as may be presented to the Court at the hearing of this matter.

DATED: March 3, 2020

HIGGS FLETCHER & MACK LLP

By: /s/ Paul J. Pfingst  
PAUL J. PFINGST, ESQ.  
Attorneys for Defendant  
DUNCAN D. HUNTER

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2 [pfingst@higgslaw.com](mailto:pfingst@higgslaw.com)  
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8 Attorneys for Defendant  
9 DUNCAN D. HUNTER

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11 **UNITED STATES DISTRICT COURT**  
12 **SOUTHERN DISTRICT OF CALIFORNIA**

13 UNITED STATES OF AMERICA,  
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15 v.  
16 DUNCAN D. HUNTER,  
17 Defendant.

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1 Defendant DUNCAN D. HUNTER, by and through his attorneys, Paul J.  
 2 Pfingst, Higgs Fletcher & Mack LLP, respectfully moves the Court to Dismiss the  
 3 Indictment, or, in the Alternative to Recuse the United States Attorney's Office for  
 4 the Southern District of California from further proceedings in this matter.

### 5 **I. FACTUAL BACKGROUND**

6 This motion is based upon the same authorities and many same facts as  
 7 Defendant Hunter's July 1, 2019 "Motion to Dismiss or, in the Alternative, to  
 8 Recuse the United States Attorney's Office for the Southern District of California".  
 9 The Court denied that motion.

10 Since the Court's ruling, new information has come to light and the  
 11 Defendant therefore renews his motion and requests that the prosecutorial team be  
 12 recused from participating in the sentencing of the Defendant.

13 As the Court will recall, on Friday, August 7, 2015, a political fundraiser was  
 14 held at a private home in La Jolla, California for Presidential candidate Hillary R.  
 15 Clinton. The fundraiser was from 9:00 a.m. until approximately noon, and  
 16 contributors paid from \$1,000 to \$2,700 to attend. Present at the political  
 17 fundraiser were First Assistant US Attorney Alana Robinson and Assistant US  
 18 Attorney Emily W. Allen.<sup>1</sup> In our original motion it was alleged that their  
 19 attendance at the event raises serious concerns regarding a conflict of interest and a  
 20 loss of impartiality. In part, the original motion relied on the internal directives and  
 21 requirements of the Department of Justice.

22 The United States Attorney's Manual provides that when a United States  
 23 Attorney becomes aware of an actual or apparent conflict of interest that could  
 24 require a recusal and the "conflict of interest exists or there is an appearance of a  
 25 loss of impartiality," the United States Attorney must notify the General Counsel  
 26 of the Executive Office of United States Attorneys (EOUSA). *USAM 3-1.140*.

27 \_\_\_\_\_  
 28 <sup>1</sup> A third Assistant US Attorney not directly involved in the investigation of Congressman Hunter  
 also attended the Clinton Fundraiser

1 Here, the former Acting US Attorney for the Southern District of California and  
2 the Assistant US Attorney leading the investigation of Congressman Hunter both  
3 attended a political fundraiser for candidate Clinton and shortly thereafter both  
4 were involved in initiating an investigation of the first Congressman to endorse  
5 candidate Trump. The Defendant argued those facts alone warranted recusal.

6 On August 1, 2018, our request to the DOJ for recusal was denied in a letter  
7 from Jay Macklin, General Counsel for the Executive Office for United States  
8 Attorney. (Attached hereto as Exhibit 1) A basis for the denial of the motion was  
9 “[A]USA Robinson and AUSA Allen were not at the Hillary Clinton event as  
10 Clinton supporters but in their official capacity assisting law enforcement.”  
11 (emphasis added) One can reasonably expect that Mr. Macklin’s response was at  
12 least, in part, based on information provided to him from the United States  
13 Attorney’s Office that the prosecutors were there in their official capacity to assist  
14 law enforcement.<sup>2</sup>

15 The day after Mr. Macklin’s response, the Secret Service issued a statement  
16 somewhat consistent (although not on point) with what the defense was told by  
17 Mr. Macklin:

18 The Secret Service regularly requests representation  
19 from United States Attorney’s Offices around the  
20 country during protective mission visits. The in-person  
21 representation provides for, and facilitates, real-time  
22 direct communications in the event of a protective  
23 security related incident where immediate prosecutorial  
24 guidance could be necessary.

25 On September 10, 2018, the Defendant made a Freedom of Information Act  
26 (“FOIA”) request to the United States Secret Service for all documents related to  
27 communications between any Secret Service agents that attended the Hillary  
28 Clinton fundraiser in La Jolla, California on August 7, 2015 and either Assistant US  
29 Attorney Alana Robinson or Assistant US Attorney Emily W. Allen related to

<sup>2</sup> Recusal would have likely been ordered had Mr. Macklin known that AUSAs Robinson and Allen attended the Clinton Event for reasons other than to assist law enforcement. *USAM 3-1.140*.



1 attending the Hillary Clinton fundraiser.

2 A response to the above-mentioned FOIA request to the Secret Service was  
3 received on June 12, 2019. The responsive document is a redacted email from the  
4 Secret Service to the United States Attorney's Office sent on August 5, 2015, two  
5 days before the Clinton fundraising event. (Attached hereto as Exhibit 2).

6 **From:** [Redacted] (SDO) [Redacted]

7 **Sent:** Wednesday August 5, 2015 9:26 PM

8 **To:** [Refer to EOUSA]  
9 (USACAS) [Redacted] (SDO) [Redacted] (SDO)

10 **Subject:** Photo

11 All,

12 Here is the info for your photo with HRC on Friday,  
13 8/7/15. Please meet me at 0900 hours Friday morning at  
14 [Redacted] in La Jolla. You can park on [Redacted] and  
15 walk to the residence (please don't park on [Redacted]).

16 You do not need to bring anything to the site. I will  
17 meet you outside the front door of the residence and  
18 lead you inside to the photo op room. If you have any  
19 questions / issues feel free to call or email me.

20 I look forward to seeing you on Friday.

21 Thanks,

22 [Redacted]  
23 US Secret Service  
24 [Redacted]

25 The defense asserted in our original recusal motion that the evidence proved  
26 the prosecutors who initiated the investigation had a conflict of interest and loss of  
27 impartiality. The Defendant also suggested the Government explanations for their  
28 attendance should be viewed with some skepticism. Claims that the Secret Service  
requested three prosecutors to assist at a La Jolla luncheon were implausible.

Since that time, the Judicial Watch foundation separately unearthed  
additional emails (not provided in response to the Defendant's FOIA demand)  
which confirm that the AUSAs who attended the fundraiser were not there on  
official business. Representations to the contrary were, at best, inaccurate and  
certainly not forthright.

1 The two emails below (as Judicial Watch received them) are attached as  
2 exhibits and disprove the Government's claim that the AUSAs were at the  
3 fundraiser for a legitimate law enforcement purpose:

4 From: [REDACTED] EOUSA b6, b7C  
 5 Sent: Friday, August 7, 2015 4:17 PM  
 6 To: [REDACTED] EOUSA b5, (SDO); [REDACTED] EOUSA b6, b7C @pd.sandiego.gov; [REDACTED] EOUSA b6, b7C (USACAS);  
 [REDACTED] EOUSA b6, b7C (USACAS); [REDACTED] EOUSA b6, b7C (SDO)  
 7 Subject: RE: Photo

8 [REDACTED] EOUSA b6, b7C

9 Thank you so much for the invitation to this morning's event! I was blown away by your incredible hospitality and can't  
 10 thank you enough for allowing us to crash that fabulous party. It was a really memorable morning.

11 Have a great weekend,  
 12 [REDACTED] EOUSA b6, b7C

13 [REDACTED] EOUSA b6, b7C (USACAS)

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14 From: [REDACTED] EOUSA b6, b7C (USACAS)  
 15 Sent: Friday, August 7, 2015 4:24 PM  
 16 To: [REDACTED] EOUSA b6, b7C (SDO)  
 17 Subject: RE: Photo

18 [REDACTED] EOUSA b6, b7C you totally downplayed that amazing invitation! I had no idea it would be so spectacular. I didn't even realize we'd  
 19 be invited in! I am so grateful for the invitation, thank you.

20 I'm out next week but will touch base when we get back. And if you need anything in the meantime feel free to call:  
 21 (617) 230-[REDACTED] EOUSA b6, b7C

22 The Defense contends that the evasive way this fundraiser/bias issue has  
23 been handled by the Government reinforces the reliability of our claim. The  
24 accurate facts were avoided because they look like what they are; evidence of bias.  
25 Mr. Hunter's charge of bias was met with widespread derision in the media. The  
26 Government fueled that public scorn with inaccurate denials. It is unlikely, human  
27 nature being what it is, that the prosecutors have shed their bias now that the truth  
28 has been revealed to the Court.

///

///



1 *Marshall v. Jerrico, Inc.*, 446 U.S. 238, 249 (1980). “Prosecution by someone  
2 with conflicting loyalties calls into question the objectivity of those charged with  
3 bringing a defendant to judgement.” *Young v. Vuitton*, 481 U.S. 787, 810 (1987)  
4 (quoting *Vasquez v. Hillery*, 474 U.S. 254, 263-264 (1986)) (internal quotations  
5 marks omitted).

6 The Young Court reasoned:

7 [A]n interested prosecutor creates an appearance of  
8 impropriety that diminishes faith in the fairness of the  
9 criminal justice system in general. The narrow focus of  
10 harmless error analysis is not sensitive to the underlying  
11 concern. If a prosecutor uses the expansive  
12 prosecutorial powers to gather information for private  
13 purposes, ***the prosecution function has been seriously  
14 abused even if, in the process, sufficient evidence is  
15 obtained to convict a defendant.*** Prosecutors “have  
16 available a terrible array of coercive methods to obtain  
17 information,” such as “police investigation and  
18 interrogation, warrants, informers and agents whose  
19 activities are immunized, authorized wiretapping, civil  
20 investigative demands, [and] enhanced subpoena  
21 power.” C. Wolfram, *Modern Legal Ethics* 460 (1986).  
22 The misuse of those methods “would unfairly harass  
23 citizens, give unfair advantage to [the prosecutor’s  
24 personal interests], and impair public willingness to  
25 accept the legitimate use of those powers.” *Ibid.*  
26 Notwithstanding this concern, the determination of  
27 whether an error was harmful focuses only on “whether  
28 there is a reasonable possibility that the [error]  
complained of might have contributed to the  
conviction.” *Chapman v. California*, 386 U.S. 18, 23  
(1967) (quoting *Fahy v. Connecticut*, 375 U.S. 85, 86-  
87 (1963)). ***A concern for actual prejudice in such  
circumstances misses the point, for what is at stake is  
the public perception of the integrity of our criminal  
justice system.*** “[J]ustice must satisfy the appearance of  
justice,” *Offutt v. United States*, 348 U.S. 1, 14 (1954)  
and a prosecutor with conflicting loyalties presents the  
appearance of precisely the opposite. Society’s interest  
in disinterested prosecution therefore would not be  
adequately protected by harmless-error analysis, for  
such analysis would not be sensitive to the fundamental  
nature of the error committed. (**emphasis added**)

*Young*, 481 U.S. at 811 (citations amended).

1 The investigation and prosecution of Congressman Hunter comes squarely  
 2 within the reasoning of the Supreme Court holding in *Young* to dismiss an  
 3 indictment for the improper conduct of the investigating prosecutors. Here both the  
 4 Department of Justice and the Secret Service, an agency of the Department of  
 5 Homeland Security, have been exposed for concealing relevant information from  
 6 the Court.

### 7 **III. THE APPEARANCE OF IMPROPRIETY**

8 The appearance of impropriety is critical under these circumstances.  
 9 Congress has directed that

10 [t]he Attorney General shall promulgate rules and  
 11 regulations which require the disqualification of any  
 12 officer or employee of the Department of Justice,  
 13 including a United States attorney or a member of such  
 14 attorney's staff, from participation in a particular  
 15 investigation or prosecution if such participation may  
 result in a personal, financial, or *political* conflict of  
 interest, or the appearance thereof. Such rules and  
 regulations may provide that a willful violation of any  
 provision thereof shall result in removal from office.

16 28 U.S.C. §528. (**emphasis added**)

17 Pursuant to that congressional directive, The United States Attorney's  
 18 Manual § 3-2.170 provides:

19 When United States Attorneys, or their offices become  
 20 aware of an issue that could require a recusal in a  
 21 criminal or civil matter or case as a result of a personal  
 22 interest or professional relationship with parties  
 23 involved in the matter, they must contact General  
 Counsel's Office (GCO), EOUSA. The requirement of  
 recusal does not arise in every instance, but only where  
 a conflict of interest exists or there is an appearance of a  
 conflict of interest or loss of impartiality.

24 A United States Attorney who becomes aware of  
 25 circumstances that might necessitate a recusal of  
 26 himself/herself or of the entire office, should promptly  
 27 notify GCO, EOUSA, at (202) 252-1600 to discuss  
 28 whether a recusal is required. If recusal is appropriate,  
 the USAO will submit a written recusal request  
 memorandum to GCO. GCO will then coordinate the

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recusal action, obtain necessary approvals for the  
recusal , and assist the office in arranging for a transfer  
of responsibility to another office, including any  
designations of attorneys as a Special Attorney or  
Special Assistant to the Attorney General (see USAM  
3-2.300) pursuant to 28 U.S.C. Sec. 515.

United States Attorney’s Manual § 3-2.170

At a minimum, the lack of impartiality by the United States Attorney’s  
Office for the Southern District of California in the investigation of Congressman  
Hunter created the appearance of impropriety that warrants recusal.

**IV. CONCLUSION**

Accordingly, Defendant DUNCAN D. HUNTER respectfully requests that  
the Court dismiss the indictment or in the alternative, recuse the United States  
Attorney’s Office for the Southern District of California from any further  
participation in this matter. This court must do what the Department of Justice  
surely would have done had it been provided with accurate information at the  
outset.

DATED: March 3, 2020

HIGGS FLETCHER & MACK LLP

By: /s/ Paul J. Pfingst  
PAUL J. PFINGST, ESQ.  
Attorneys for Defendant  
DUNCAN D. HUNTER

# Exhibit 1



U.S. Department of Justice

Executive Office for United States Attorneys

General Counsel's Office

Three Constitution Square  
175 N Street, NE, Ste 5.100  
Washington, DC 20530

Phone (202) 252-1600  
FAX (202) 252-1650

August 1, 2018


Mr. Gregory Vega  
Seltzer Caplan McMahon Vitek  
750 B Street, Suite 2100  
San Diego, CA 92101

Dear Mr. Vega:

I am in receipt of your letter, dated July 30, 2018 and addressed to Brian A. Benczkowski, Assistant Attorney General of the Criminal Division, regarding "In re Grand Jury Investigation of Congressman Duncan D. Hunter." It has been referred to me for a response.

We have reviewed the points raised in your letter and since, as I believe you already know, AUSA Robinson and AUSA Allen were not at the Hillary Clinton event as Clinton supporters but in their official capacity assisting law enforcement, we do not believe the circumstances necessitate a recusal of the United States Attorney's Office for the Southern District of California (USAO). As a result, you should direct any issues relating to the investigation to the USAO or raise them with the appropriate court.

Sincerely,

  
Jay Macklin  
General Counsel



# Exhibit 2



**U.S. Department of Justice**

Executive Office for United States Attorneys

Freedom of Information and Privacy Staff

*Suite 5.400, 3CON Building  
175 N Street, NE  
Washington, DC 20530*

*(202) 252-6020  
FAX (202) 252-6048*

January 13, 2020

William F. Marshall  
Judicial Watch, Inc.  
425 Third St. SW  
Suite 800  
Washington, DC 20024  
[bmarshall@judicialwatch.org](mailto:bmarshall@judicialwatch.org)

Re: Request Number: 2020-000091  
Date of Receipt: October 10, 2019  
Subject of Request: AUSA Clinton Fundraiser/Communications

Dear Mr. William F. Marshall:

Your request for records under the Freedom of Information Act/Privacy Act has been processed. This letter constitutes a reply from the Executive Office for United States Attorneys, the official record-keeper for all records located in this office and the various United States Attorneys' Office.

To provide you with the greatest degree of access authorized by the Freedom of Information Act and the Privacy Act, we have considered your request in light of the provisions of both statutes.

The records you seek are located in a Privacy Act system of records that, in accordance with regulations promulgated by the Attorney General, is exempt from the access provisions of the Privacy Act. 28 CFR § 16.81. We have also processed your request under the Freedom of Information Act and are making all records required to be released, or considered appropriate for release as a matter of discretion, available to you. This letter is a [ X ] partial release.

Enclosed please find:

\_\_\_page(s) are released in full (RIF);  
\_7\_ page(s) are released in part (RIP);  
\_\_\_ page(s) are withheld in full (WIF).

The exemption(s) cited for withholding records or portions of records are marked below. An enclosure to this letter explains the exemptions in more detail.

(b)(6)

(b)(7)(C)

In addition, a review of the material revealed:

Our office located records that originated with another government component. **These records were found in the U.S. Attorney's Office files.** These records were referred to the following component(s) listed for review and direct response to you:

United States Secret Service  
Communications Center  
245 Murray Drive, Building T-5  
Washington, DC 20223

There are public records which may be obtained from the clerk of the court or this office, upon specific request. If you wish to obtain a copy of these records, you must submit a new request. These records will be provided to you subject to copying fees.

Please note that your original letter was split into separate files ("requests"), for processing purposes, based on the nature of what you sought. Each file was given a separate Request Number (listed below), for which you will receive a separate response:

See additional information attached.

This is the final action on this above-numbered request. If you are not satisfied with my response to this request, you may administratively appeal by writing to the Director, Office of Information Policy (OIP), U.S. Department of Justice, Sixth Floor, 441 G Street, NW, Washington, DC 20001, or you may submit an appeal through OIP's FOIAonline portal by creating an account on the following website: <https://foiaonline.gov>. Your appeal must be postmarked or electronically transmitted within ninety (90) days of the date of my response to your request. If you submit your appeal by mail, both the letter and the envelope should be clearly marked "Freedom of Information Act Appeal."

You may contact our FOIA Public Liaison at the Executive Office for United States Attorneys (EOUSA) for any further assistance and to discuss any aspect of your request. The contact information for EOUSA is 175 N Street, NE, Suite 5.400, Washington, DC 20530; telephone at 202-252-6020; or facsimile 202-252-6048. Additionally, you may contact the Office of Government Information Services (OGIS) at the National Archives and Records Administration to inquire about the FOIA mediation services they offer. The contact information for OGIS is as follows: Office of Government Information Services, National Archives and Records Administration, 8601 Adelphi Road-OGIS, College Park, Maryland 20740-6001; e-mail at [ogis@nara.gov](mailto:ogis@nara.gov); telephone at 202-741-5770; toll free at 1-877-684-6448; or facsimile at 202-741-5769.

Sincerely,

A handwritten signature in blue ink, appearing to read "Kevin Krebs", is written over a light pink rectangular background.

Kevin Krebs  
Assistant Director

Enclosure(s)

**From:** [REDACTED] (USACAS)  
**To:** [REDACTED] (SDO), [REDACTED]  
**Subject:** RE: Picture  
**Date:** Tuesday, August 4, 2015 11:14:19 AM

---

Hey [REDACTED]

Thanks for the heads-up! Yes I'm interested. What's the time / details?

Thanks,

[REDACTED]

Sent from my iPhone using [Mail+ for Enterprise](#)

---

REFERRED



**From:** [REDACTED] EOUSA b6, b7C (USACAS)  
**To:** [REDACTED] EOUSA b6, b7C; [REDACTED] SDO; [REDACTED] EOUSA b6, b7C  
**Subject:** RE: Picture  
**Date:** Tuesday, August 4, 2015 11:22:24 AM

---

Yep that works. Thanks!

Sent from my iPhone using [Mail+ for Enterprise](#)

REFERRED

DUPLICATE

EOUSA b6, b7C

(USACAS)

**From:** Robinson, Alana (USACAS)  
**Sent:** Thursday, August 6, 2015 3:03 PM  
**To:** [REDACTED] EOUSA b6, b7C (USACAS); [REDACTED] EOUSA b6, b7C (USACAS)  
**Subject:** Photo Op

**Follow Up Flag:** Follow up  
**Flag Status:** Completed

You might want to plan some extra time to get into La Jolla tomorrow morning because there's always a lot of traffic on La Jolla Parkway between 7:30 am and 8:30 am. If you get into the Village early and want to hang out at my house, you are more than welcome. My address is [REDACTED] EOUSA b6, b7C. It's right by the high school. We're early risers, so swing by if you like.

Alana W. Robinson  
Chief, Criminal Division  
Alana.Robinson [REDACTED] EOUSA b6, b7C  
Desk: (619) 546 [REDACTED] EOUSA b6, b7C  
Cell: (619) 726 [REDACTED] EOUSA b6, b7C

EOUSA b6, b7C  
(USACAS)

---

**From:** EOUSA b6, b7C (USACAS)  
**Sent:** Thursday, August 6, 2015 3:16 PM  
**To:** Robinson, Alana (USACAS); EOUSA b6, b7C (USACAS)  
**Subject:** RE: Photo Op

**Follow Up Flag:** Follow up  
**Flag Status:** Completed

Thanks Alana! I think I will take you up on that. Can we bring coffees to share? How do you take it?

Also, are you headed to the office afterwards? In the event I get a ride to your place but don't have a car (since EOUSA b6, b7C and I share one), I'd love to trouble you for a ride to work. If not, no worries, I will muscle the car away from EOUSA b6, b7C

DUPLICATE



EOUSA b6, b7C

(USACAS)

**From:** Robinson, Alana (USACAS)  
**Sent:** Thursday, August 6, 2015 3:20 PM  
**To:** [REDACTED] (USACAS); [REDACTED] (USACAS)  
**Subject:** RE: Photo Op

**Follow Up Flag:** Follow up  
**Flag Status:** Completed

[REDACTED] - I'm glad you will come by. If you're not too particular about your coffee, we brew it every morning at home, and you're welcome to join us. I will not be offended, though, if you want to bring your own. I am going to the office afterwards and can definitely give you a ride. A

DUPLICATE

EOUSA b1P

EOUSA b6, b7C

**From:** [redacted] EOUSA b6, b7C  
**Sent:** Friday, August 7, 2015 4:17 PM  
**To:** [redacted] EOUSA b5, (SDO); [redacted] EOUSA b6, b7C @pd.sandiego.gov; [redacted] EOUSA b6, b7C (USACAS); [redacted] EOUSA b6, b7C (USACAS); [redacted] EOUSA b6, b7C (SDO)  
**Subject:** RE: Photo

EOUSA b6, b7C

Thank you so much for the invitation to this morning's event! I was blown away by your incredible hospitality and can't thank you enough for allowing us to crash that fabulous party. It was a really memorable morning.

Have a great weekend,

EOUSA b6,  
b7C

REFERRED

EOUSA b6, b7C

(USACAS)

**From:** [redacted] (USACAS)  
**Sent:** Friday, August 7, 2015 4:24 PM  
**To:** [redacted] (SDO)  
**Subject:** RE: Photo

[redacted] you totally downplayed that amazing invitation! I had no idea it would be so spectacular. I didn't even realize we'd be invited in! I am so grateful for the invitation, thank you.

I'm out next week but will touch base when we get back. And if you need anything in the meantime feel free to call:  
(617) 230- [redacted]

EOUSA b6, b7C

REFERRED

**From:** [redacted] (USACAS) [mailto:[redacted]@usdoj.gov] EOUSA RIP  
**Sent:** Thursday, August 06, 2015 2:51 PM  
**To:** [redacted] (SDO)  
**Cc:** [redacted] (SDO)  
**Subject:** RE: Photo

Thanks, looking forward to it, I'll see you tomorrow at 9:00 [redacted]

DUPLICATE

1 Paul J. Pfingst, Bar No. 112967  
2 [pfingst@higgslaw.com](mailto:pfingst@higgslaw.com)  
3 HIGGS FLETCHER & MACK LLP  
4 401 West "A" Street, Suite 2600  
San Diego, California 92101-7913  
Telephone: 619.236.1551  
Facsimile: 619.696.1410

5 Attorneys for Defendant,  
6 DUNCAN D. HUNTER

7  
8 **UNITED STATES DISTRICT COURT**  
9 **SOUTHERN DISTRICT OF CALIFORNIA**

10 UNITED STATES OF AMERICA,  
11 Plaintiff,  
12 v.  
13 DUNCAN D. HUNTER,  
14 Defendant.

CASE NO. 18-CR-3677-W

**CERTIFICATE OF SERVICE**

DATE: March 17, 2020  
TIME: 9:00 AM  
COURT: 3C (Schwartz)  
JUDGE: HON. THOMAS J. WHALEN

15  
16 I, the undersigned, declare:

17 I am a citizen of the United States and employed in San Diego County,  
18 California. I am over the age of eighteen years and not a party to the within-entitled  
19 action. My business address is 401 West "A" Street, Suite 2600, San Diego,  
20 California 92101-7913.

21 On March 3, 2020, I electronically filed the attached document:

22 **NOTICE OF MOTION AND MOTION TO DISMISS OR,**  
23 **IN THE ALTERNATIVE, TO RECUSE THE UNITED**  
24 **STATES ATTORNEY'S OFFICE FOR THE SOUTHERN**  
**DISTRICT OF CALIFORNIA**

25 with the Clerk of the court using the CM/ECF system which will then send a  
26 notification of such filing to the following:

27 Phillip L. B. Halper [Phillip.Halpern@usdoj.gov](mailto:Phillip.Halpern@usdoj.gov)  
28 W. Mark Conover [Mark.Conover@usdoj.gov](mailto:Mark.Conover@usdoj.gov)

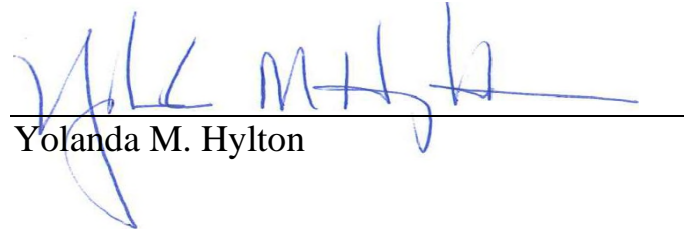
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Emily Allen [Emily.Allen@usdoj.go](mailto:Emily.Allen@usdoj.go)

Devin Jai Burnstein [DB@wabulaw.com](mailto:DB@wabulaw.com)

I declare that I am employed in the office of a member of the bar of this court at whose direction the service was made.

Executed on March 3, 2020, at San Diego, California.



---

Yolanda M. Hylton