

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA**

	)	
UNITED STATES OF AMERICA,	)	
	)	Case No. 1:21-cr-175-TJK
	)	
v.	)	
	)	
ETHAN NORDEAN, et al.,	)	
	)	
Defendants.	)	
	)	

**PARTIES’ JOINT MOTION TO CLARIFY THAT OPENING STATEMENTS WILL BE  
MADE ON OR AFTER JANUARY 3, 2023**

The parties jointly move the Court to clarify that they will make their opening statements at trial on or after January 3, 2023. The government joins in the relief sought by this motion, i.e., that openings will not commence before January 3. Its reasons were stated on the record in the hearing on December 14. Defendants alone provide the following additional reasons for granting the parties’ joint motion.

At least some of the Defendants intend to use PowerPoint presentations and demonstratives in their openings. Finalizing these is a time-consuming and work-intensive process. Although it appears highly unlikely that the Court and parties will pick a jury next week with time to spare for opening statements, the mere possibility alone compels the parties to complete not just their statements but also accompanying demonstratives and visual presentations against the low-probability outcome materializing. Providing certainty to the parties eliminates an inefficient use of time for trial preparation. In addition, the Court has yet to rule on the parties’ competing jury instructions. As of the date of this filing, then, the Defendants do not have a set of final instructions on the charges to inform the direction and content of their openings with less than a week to go before trial.

For all these reasons and the ones stated in the December 14 hearing, the parties move the Court to clarify that opening statements will not be made before January 3, 2023.

Dated: December 15, 2022

Respectfully submitted,

/s/ David B. Smith

David B. Smith, D.C. Bar No. 403068  
David B. Smith, PLLC  
108 North Alfred Street, 1st FL  
Alexandria, Virginia 22314  
(703) 548-8911 / Fax (703) 548-8935  
dbs@davidbsmithpllc.com

Nicholas D. Smith, D.C. Bar No. 1029802  
1123 Broadway, Suite 909  
New York, NY 10010  
(917) 902-3869  
nds@davidbsmithpllc.com  
*Counsel to Ethan Nordean*

**Certificate of Service**

I hereby certify that on the 15th day of December, 2022, I filed the foregoing motion with the Clerk of Court using the CM/ECF system, which will send a notification of such filing (NEF) to the following CM/ECF user(s):

Jim Nelson  
Assistant United States Attorney  
555 4th Street, N.W., Room 4408  
Washington, D.C. 20530  
(202) 252-6986

And I hereby certify that I have mailed the document by United States mail, first class postage prepaid, to the following non-CM/ECF participant(s), addressed as follows: [none].

/s/ David B. Smith

David B. Smith, D.C. Bar No. 403068  
David B. Smith, PLLC  
108 North Alfred Street, 1st FL

Alexandria, Virginia 22314  
(703) 548-8911 / Fax (703) 548-8935  
dbs@davidbsmithpllc.com