## UNITED STATES DISTRICT COURT DISTRICT OF COLUMBIA

NITED STATES OF AMERICA,	:	
	:	
<b>v.</b>	:	CASE NO.
	:	
LEO CHRISTOPHER KELLY,	:	
	:	
Defendant.	:	

CASE NO. 1:21-cr-00708-RCL-1

## GOVERNMENT'S MOTION FOR LEAVE TO FILE REMAINING JOINT PRETRIAL STATEMENT EXHIBIT OUT OF TIME

The United States of America, by and through the United States Attorney for the District of Columbia, move the Court for an order permitting to file the verdict form out of time. The defendant does not object to the motion, and in support thereof state:

Leo Christopher Kelly, the defendant, is charged in an indictment with 18 U.S.C. § 1512(c)(2) (Obstruction of an Official Proceeding) (Count One), violating 18 U.S.C. § 1752(a)(1) (Entering and Remaining in a Restricted Building or Grounds) (Count Two), 18 U.S.C. § 1752(a)(2) (Disorderly and Disruptive Conduct in a Restricted Building or Grounds) (Count Three), 40 U.S.C. § 5104(e)(2)(A) (Entering and Remaining on the Floor of Congress)(Count Four), 40 U.S.C. § 5104(e)(2)(C) (Entering and Remaining in Certain Rooms in the Capitol Building)(Count Five), 40 U.S.C. § 5104(e)(2)(D) (Disorderly Conduct in a Capitol Building) (Count Six), and 40 U.S.C. § 5104(e)(2)(G) (Parading, Demonstrating, or Picketing in a Capitol Building) (Count Seven). ECF 27.

On August 9, 2022, the Court approved and issued a scheduling order, which established various pretrial dates and set a trial date to commence on January 17, 2023. ECF 45.

On November 22, 2022, the Court issued an order vacating the December 14, 2022 pretrial hearing, the January 9, 2023 pretrial conference, and the January 17, 2023 trial date.

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Relevant here, the parties' Joint Pretrial Statement was due January 3, 2023. ECF 77. Although the government filed the Joint Pretrial Statement on January 3, 2023, *see* ECF 78, with almost all of the required documents, the government did not file the proposed verdict form within the allotted time. Additionally, the Court may consider Jury Instruction 36 – Limiting Instruction: Statement of Others – a nonstandard jury instruction, and thus a Word version of the instruction was due on January 3, 2023. Therefore, the government request the Court receive for filing the attached verdict form as Exhibit 8 and permit submission of a Word version of Instruction 36. The defendant does not object to the motion.

Respectfully submitted,

MATTHEW M. GRAVES United States Attorney DC Bar No. 481052

By: /s/ Michael G. James MICHAEL G. JAMES Assistant United States Attorney N.Y. Reg. No. 2481414 Office of the United States Attorney Eastern District of North Carolina (on detail to the USAO-D.C.) 150 Fayetteville Street, Suite 2100 Raleigh, NC 27601 Mike.James@usdoj.gov Telephone: (919) 856-4530

## **CERTIFICATE OF SERVICE**

This is to certify that the undersigned counsel for the United States served a copy of the

foregoing motion upon counsel for Defendant in this action via the Court's CM/ECF addressed to:

LAW OFFICE OF KIRA WEST Kira Anne West 712 H St, NE Unit 509 Washington, DC 20002

> By: /s/ Michael G. James MICHAEL G. JAMES Assistant United States Attorney N.Y. Reg. No. 2481414 Office of the United States Attorney Eastern District of North Carolina (on detail to the USAO-D.C.) 150 Fayetteville Street, Suite 2100 Raleigh, NC 27601 Mike.James@usdoj.gov Telephone: (919) 856-4530