

NAVY-MARINE CORPS TRIAL JUDICIARY  
WESTERN JUDICIAL CIRCUIT

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U N I T E D S T A T E S	)	GENERAL COURT-MARTIAL
	)	
v.	)	
	)	
WUTERICH, Frank D.	)	GOVERNMENT NOTICE OF
XXX XX 3221	)	UNCOOPERATIVE WITNESSES
Staff Sergeant	)	
U.S. Marine Corps	)	
	)	30 DECEMBER 2011

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1. Nature of Notice.

The Government wishes to apprise the Court and the Defense of the possibility of failed attendance by a number of witnesses due to loss of contact or failed communications. The Government ensures the Court that it has done its due diligence in attempting to bring these individuals to trial, but has been unsuccessful thus far.

The Government's attempts at contacting the individual witnesses named below includes, but is not limited to: repeated phone calls, voicemails, and emails. Each witness was researched extensively via the internet and social media sites. Local police and/or U.S. Marshals were utilized in an attempt to locate and serve each witness.

The contact attempts listed below only encompass August through December of 2011. Problems locating and/or contacting the below named witnesses has been on-going for a few years in

some instances. The Government has continually attempted contact with each witness and has been unsuccessful in gaining their cooperation for attendance.

The Government respectfully requests relief from producing these witnesses at trial.

2. Uncooperative Witnesses & Contact Attempts since August 2011.

1) John Casiday

- 18 Aug 11: Phone call w/ no answer
- 22 Aug 11: Phone call w/ no answer
- 24 Aug 11: Phone call w/ no answer
- 26 Aug 11: Phone call w/ no answer
- 30 Aug 11: Phone call; left message
- 31 Aug 11: Email w/ no response
- 9 Sept 11: Phone call; left message
- 19 Sept 11: Email w/ no response
- 19 Sept 11: Phone call; left message
- October 2011: Government attempts to research Mr. Casiday and find alternate means of contact.
- October 2011: Local police attempt to serve subpoena, but are unable to locate Mr. Casiday.
- 30 Nov 11: Phone call; left message
- December 2011: Local police attempt service, but are unable to locate Mr. Casiday.
- 19 December 11: Emailed with read receipt; no read receipt returned; no response.

2) Glenn Mefford

- 18 Aug 11: Phone call; invalid number
- 29 Aug 11: Phone call; invalid number
- October 2011: Government researches and attempts to locate alternate contact information. Finds possible address in Nevada and possible address in California.
- October 2011: Local police attempt to serve, but are unable to local Mr. Mefford in Nevada.

- 30 Nov 11: Phone call; invalid number
- December 2011: US Marshals attempt service, but are unable to find Mr. Mefford in California.
- 19 December 11: Emailed with read receipt; no read receipt returned; no response.

### 3) Brian Whitt

- 2010-2011: 1stLt Lynelle Lund attempts to locate by researching friends and family members. 1stLt Lund hires a private investigator to track down Mr. Whitt. Although some family members were found, Mr. Whitt was not located.
- 18 Aug 11: Phone call w/ no answer; not a valid number.
- 18 Aug 11: Emailed; no response or read receipt returned.
- 13 Oct 11: Phone call; no longer his phone number
- December 2011: Local police attempt service, but report that he never lived at the address provided (a woman with the same last name used to, but has since moved).
- 19 Dec 11: Emailed with read receipt; no read receipt returned; no response.

### 4) Salvador Guzman

- 18 Aug 11: Phone call to two numbers on record; no message machine at either
- 19 Aug 11: Phone call to two numbers on record; no message machine at either
- 24 Aug 11: Phone call to parents number on record; left message; no return call
- 29 Aug 11: Phone call to parents number on record; message left in Spanish; no return call
- 1 Sept 11: Phone call; Spoke w/ Mr. Guzman who explained that he lived in a boarding house and shared a phone number with several others. Mr. Guzman provided an address in Tijuana.
- December 2011: Subpoena mailed to address provided by Mr. Guzman.
- 19 Dec 11: Email to address on record; no response

- 21 Dec 11: Phone calls to number on record; no answer; no message machine
- 21 Dec 11: Phone call to parents. A Spanish speaking NCO confirmed with Mr. Guzman's mother that Mr. Guzman returned to the US. The NCO identified the purpose of the call and his mother response was that he was in the hospital and could not be reached. The NCO inquired about the reason for his hospital stay, but the mother wouldn't give any further information. The NCO left a contact number for Mr. Guzman to call.
- 22 Dec 11: Subpoena sent to Mr. Guzman's parent's home in Illinois.

4) Hector Salinas

- 22 Aug 11: Phone call; no answer. Mr. Salinas returned the call the same day and updated his contact information.
- 1 Sept 11: Phone call. Mr. Salinas indicated he was set for trial.
- 13 Sept 11: Phone call regarding the return of the previous travel advance. Mr. Salinas indicated he had the money to pay it back.
- 19 Sept 11: Email regarding recoup of travel advance.
- 19 Sept 11: Phone call to confirm receipt of email; receipt confirmed.
- 13 Oct 11: Phone call; no answer left message.
- November 2011: Phone call to discuss continuance; no answer. Call returned. Mr Salinas indicated he was buying a house.
- December 2011: Multiple phone calls about the 4 January 12 trial date. Mr. Salinas never indicated any problems with coming to trial.
- December 2011: Subpoena sent to mother's address in Channelview Texas. Subpoena was returned unsigned after 3 attempts at service. Mr. Salinas indicated he would go pick it up at Fed Ex, but never did.
- 21 Dec 11: Phone call requesting telephonic interview. Mr. Salinas indicated he may be available the following day at 1600.

- 22 Dec 11: Attempt to have telephonic interview. Mr. Salinas said he was unavailable to talk, but to try the following day.
- 23 Dec 11: Attempt to have telephonic interview. Talked for about 3 minutes before Mr. Salinas indicated he needed to end the conversation.
- 24 Dec 11: Phone call attempt to get address to Mr. Salinas' new house. Mr. Salinas refused and said to send subpoenas to his mother's residence.
- December 2011: Second subpoena sent to Mr. Salinas' mother's residence.

*N. L. Gannon* 30DEC2011

N. L. Gannon  
Major, U.S. Marine Corps  
Trial Counsel

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**Certificate of Service**

I hereby attest that a copy of the foregoing motion was served on the court and opposing counsel by electronic mail on 30DEC2011.

*N. L. Gannon* 30DEC2011

N. L. Gannon  
Major, U.S. Marine Corps  
Trial Counsel