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10 UNITED STATES DISTRICT COURT
 11 SOUTHERN DISTRICT OF CALIFORNIA

12 UNITED STATES OF AMERICA,)	Case No.: 15CR1298-AJB
13)	
14 Plaintiff,)	DATE: June 26, 2015
15)	TIME: 9:00 a.m.
16 v.)	
17)	UNITED STATES' RESPONSE AND
18 MOHAMAD SAEED KODAIMATI,)	OPPOSITION TO DEFENDANT'S
19)	MOTIONS TO:
20 Defendant.)	
21)	1) COMPEL DISCOVERY; and
22)	2) FILE FURTHER MOTIONS

23 COMES NOW the plaintiff, UNITED STATES OF AMERICA, by and through
 24 its counsel, Laura E. Duffy, United States Attorney, John N. Parmley, Assistant
 25 United States Attorney, and Michael F. Kaplan, Assistant United States Attorney, and
 26 hereby files its response and opposition to Defendant's above-referenced motions.

27 This response is based upon the files and records of this case, memorandum of
 28 points and authorities, and the United States' motion for reciprocal discovery.

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1 **I.**

2 **STATEMENT OF FACTS**

3 A detailed statement of facts is attached to the complaint filed in this case and
4 incorporated by reference herein.

5 **III.**

6 **POINTS AND AUTHORITIES**

7 **A. COMPEL DISCOVERY**

8 The United States has already produced some discovery. Additional discovery
9 will be produced as it becomes available. At this time, the Government is awaiting
10 translations from Arabic to English of approximately 32,000 Facebook
11 communications involving the defendant. To date, three-quarters of those
12 communications have been translated and are being reviewed to determine which are
13 relevant and, therefore, subject to Rule 16. Additionally, the Government is awaiting
14 translations of other communications involving the defendant. Those will be produced
15 as soon as they become available.

16 The discovery produced thus far contains material in excess of that required by
17 Rule 16 of the Federal Rules of Criminal Procedure and the Jencks Act (now covered
18 by Rule 26.2 of the Federal Rules of Criminal Procedure). To date, the Government
19 has discovered 1 CD and 9 DVDs containing transcripts, reports, images, various
20 documents, and interviews of the defendant. As to any physical evidence currently in
21 the Government's possession, the United States will make it available for viewing by
22 defense counsel at a mutually convenient time and place. As to exculpatory
23 information, the Government is well aware of its obligation under Brady v. Maryland,
24 373 U.S. 83 (1963) and will comply.

25 The Government will provide a list of witnesses in its trial memorandum. The
26 grand jury transcript of any person who will testify at trial will also be produced.

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1 The Government will provide information within its possession or control
2 pertaining to the prior criminal history of the Defendant; however, the Government is
3 currently unaware of any such prior criminal history. Evidence of other acts or crimes
4 by the Defendant similar to this event will also be provided. The Government intends
5 to seek permission to introduce any such evidence under Fed. R. Evid. 404(b) at trial
6 and will provide the defendant notice of its intent to do so. The Government will
7 produce the reports of any experts that it intends to use in its case-in-chief at trial or
8 are material to the preparation of the defense. In view of the above-stated position of
9 the Government concerning discovery, it is respectfully requested that no orders
10 compelling specific discovery by the Government be made at this time. The
11 Government also respectfully requests reciprocal discovery of the Defendant. If and
12 when individual problems arise which cannot be resolved between counsel for
13 Defendant and the Government, the matters can be submitted to the Court for
14 decision.

15 **B. FILE FURTHER MOTIONS**

16 The United States has no opposition to the Defendant's motion to file further
17 motions if based on newly discovered evidence.

18 **IV.**

19 **A. GOVERNMENT'S MOTION FOR RECIPROCAL DISCOVERY**

20 The United States hereby requests Defendant to deliver all materials to which
21 the Government may be entitled under Federal Rules of Criminal Procedure 16(b) and
22 26.2.

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V.

CONCLUSION

For the foregoing reasons, the United States respectfully requests that Defendant's motions be denied where opposed.

DATED: June 16, 2015

Respectfully submitted,

LAURA E. DUFFY
United States Attorney

s/Michael F. Kaplan
MICHAEL F. KAPLAN
Assistant U.S. Attorney