

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

_____)	
UNITED STATES OF AMERICA)	
)	
v.)	Criminal No. 21-0598 (PLF)
)	
TERENCE SUTTON)	
and)	
ANDREW ZABAVSKY,)	
)	
Defendants.)	
_____)	

ORDER

On June 12, 2022, the Court issued an amended scheduling order setting forth the schedule for trial and pretrial proceedings, which included July 26, 2022 as the date for oral argument on Rule 12 motions. See Amended Scheduling Order [Dkt. No. 179] at 3. On July 22, 2022, the Court directed the parties to meet and confer and file a joint status report addressing how much time should be allotted for argument on each of the three separate motions, as well as how much time should be allotted to the movant for argument on each motion, to the party opposing the motion, and to the movant for rebuttal. See Minute Order (July 22, 2022).¹ The parties filed a joint status report on July 25, 2022, which stated that “the parties are unable to agree upon a proposed schedule” and provided the Court with separate proposals for time allotments. See Joint Status Report [Dkt. No. 207] at 1-2.

The Court has considered the parties’ separate proposals and has devised a schedule it deems reasonable. The Court further informs the parties that oral argument will now

¹ The Court also rescheduled the oral argument time to July 26, 2022 at 1:00 p.m. See Minute Order (July 22, 2022).

be held in-person in Courtroom 29 in the William B. Bryant Annex to the E. Barrett Prettyman Courthouse at 333 Constitution Avenue N.W., Washington, D.C. 20001. But for those who wish to participate virtually, Zoom videoconference information will be made available upon request by the Courtroom Deputy Clerk, Tanya Johnson, who can be contacted at Tanya_Johnson@dcd.uscourts.gov. Accordingly, it is hereby

ORDERED that oral argument scheduled for July 26, 2022 at 1:00 p.m. will be held in Courtroom 29 in the William B. Bryant Annex to the E. Barrett Prettyman Courthouse at 333 Constitution Avenue N.W., Washington, D.C. 20001; it is

FURTHER ORDERED that the following additional procedures and restrictions will govern the proceeding, consistent with the practices outlined in Appendices 7 and 8 of the Continuity of Operations Plan During the COVID-19 Pandemic. See Continuity of Operations Plan During the COVID-19 Pandemic (July 15, 2020), <https://www.dcd.uscourts.gov/coronavirus-covid-19-response-information-and-announcements>; id., Appendix 7 (updated Oct. 27, 2020); id., Appendix 8 (updated Mar. 2, 2022).

1. All persons who attend oral argument must wear face masks covering their mouth and nose throughout the entire proceeding, except as directed by the Court. The Court may provide participants with a clear protective facial mask. See Appendix 7 ¶ 4; Appendix 8 ¶ 2(c)(iii). Participants are reminded that, pursuant to Standing Order No. 21-45, “[a]ll individuals, regardless of vaccination status, are required to wear a face mask, which must completely cover the nose and mouth, at all times while in the public and non-public areas” of the courthouse. In Re: Reinstatement of Mask Requirement for All Individuals in Public and Non-Public Areas of Courthouse, Standing Order No. 21-45 (BAH) (July 30, 2021), at 1-2, available at: <https://www.dcd.uscourts.gov/coronavirus-covid-19-response-information-and->

announcements; see also Mask Requirements in the Public Areas of the Courthouse and Courtrooms (Apr. 4, 2022), <https://www.dcd.uscourts.gov/coronavirus-covid-19-response-information-and-announcements>.

2. The number of individuals in the courtroom will be limited to the maximum necessary. Each party may have a maximum of three individuals seated at counsel table. A maximum of fifteen individuals, including any observers, may be seated on each side of the gallery in a physically distanced manner.

3. Attorneys shall speak using the microphones at the podiums beside their respective counsel table, and they shall not move away from their assigned places at counsel table unless the Court authorizes them to do so. Attorneys may remove their masks while speaking.

4. Any individual who has tested positive for COVID-19, is experiencing symptoms consistent with COVID-19, or learns of exposure to an individual who has tested positive for COVID-19, should not come to the courthouse and should contact the courtroom deputy clerk for further instructions. If during the proceeding any participant experiences symptoms consistent with COVID-19 or learns of exposure to an individual who has tested positive for COVID-19, that person should notify the courtroom deputy clerk immediately. See Appendix 7 ¶ 6; Appendix 8 ¶ 2(c)(i)-(ii); and it is

FURTHER ORDERED that oral argument will proceed pursuant to the following schedule:

Motion(s)	Mr. Sutton	Mr. Zabavsky	The Government	Mr. Sutton's Rebuttal	Mr. Zabavsky's Rebuttal
Mr. Sutton's and Mr. Zabavsky's Arguments re: Failure to State a Claim [Total = 75 min]	20 min	15 min	25 min	10 min	5 min
Recess – 15 min					
Mr. Sutton's and Mr. Zabavsky's Arguments re: Prosecutorial Misconduct Before the Grand Jury [Total = 70 min]	20 min	10 min	25 min	10 min	5 min
Mr. Zabavsky's Argument re: Selective Prosecution [Total = 25 min]	N/A	10 min	10 min	N/A	5 min

SO ORDERED.

/s/

 PAUL L. FRIEDMAN
 United States District Judge

DATE: July 25, 2022