

1 JOSEPH P. RUSSONIELLO (CSBN 44332)  
2 United States Attorney

3 BRIAN J. STRETCH (CSBN 163973)  
4 Chief, Criminal Division

5 DAVID B. COUNTRYMAN (CSBN 100374)  
6 Assistant United States Attorney

7 450 Golden Gate Avenue, 9<sup>th</sup> Floor  
8 San Francisco, CA 94102  
9 Telephone: 415.436.7303  
10 Facsimile: 415.436.6748  
11 Email: david.countryman@usdoj.gov

12 Attorneys for United States of America

13 UNITED STATES DISTRICT COURT  
14 NORTHERN DISTRICT OF CALIFORNIA

15 UNITED STATES OF AMERICA, )  
16 Plaintiff, )  
17 v. )  
18 APPROXIMATELY \$104,994 IN UNITED )  
19 STATES CURRENCY, )  
20 Defendant. )

No. 08-08-02331 JL

JOINT CASE MANAGEMENT  
CONFERENCE

21 Plaintiff, United States of America and Claimant Todd Dunphy respectfully submit this  
22 Joint Case Management Statement.

23 **1. Jurisdiction and Service**

24 This Court has jurisdiction pursuant to Title 28, United States Code, Sections 1345 and  
25 1355 and Title 21, United States Code, Section 881(a)(6). Plaintiff has served notice of this  
26 action on all persons who may have an interest in the property. Todd Dunphy, represented by  
27 David Michael, has filed a verified claim and an answer. To date, no other claims have been filed  
28 in this action.

1           **2. Facts**

2           This is a forfeiture action. The money was seized from Todd Dunphy during a search at  
3 the San Francisco Airport on November 5, 2007. The government contends that there is  
4 sufficient evidence to believe that the defendant currency is subject to forfeiture, pursuant to Title  
5 21, United States Code, § 881(a)(6), as money furnished or intended to be furnished in  
6 exchange for a controlled substance, traceable to such an exchange or used or intended to be used  
7 to facilitate a violation of Subchapter I, Chapter 13 of title 21 United States Code. Claimant  
8 denies that the defendant currency is subject to forfeiture..

9           **3. Principal Factual and Legal Issues**

10          The principal factual and legal issues in dispute are: 1) whether plaintiff can establish by  
11 a preponderance of the evidence that the defendant currency is drug proceeds and thus forfeitable  
12 under Title 21, United States Code, Section 881(a)(6) and 2) whether claimant Todd Dunphy can  
13 establish by a preponderance of the evidence that he is an innocent owner of the defendant  
14 currency.

15          **4. Anticipated Motions**

16          The parties contemplate the possibility of filing pre-trial dispositive and non-dispositive  
17 motions. Because of a related criminal investigation that is currently pending in the District of  
18 Hawaii, the parties request that this case be stayed for sixty (60) days.

19          **5. Amendment of Pleadings**

20          At this time, the parties do not anticipate filing any amended pleadings.

21          **6. Disclosures**

22          This is an *in rem* forfeiture case and is exempt from initial disclosures pursuant to Federal  
23 Rule of Civil Procedure 26 (a)(1)(B)(ii).

24          **7. Discovery**

25          The parties have not engaged in discovery at this time. Because of a related criminal  
26 investigation that is currently pending in the District of Hawaii, the parties request that this case  
27 be stayed for sixty (60) days.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**8. Class Action**

This is not a class action.

**9. Related Case**

The parties are aware of a related criminal investigation that is currently pending in the District of Hawaii

**10. Relief/Damages**

Plaintiff seeks a judgment of forfeiture of the defendant currency. This is not a damages case. Claimants seek the return of the defendant currency.

**11. Settlement**

At this juncture, matters are far too undeveloped to ascertain the possibility of settlement.

Dated: December 9, 2008

/s/  
DAVID M. MICHAEL  
Attorney for Claimant  
TODD DONALD DUNPHY

Dated: December 9, 2008

/s/  
DAVID B. COUNTRYMAN  
Assistant United States Attorney

The Case Management Conference has been continued to Wednesday, February 11, 2009 at 10:30 a.m.

IT IS SO ORDERED.

12/9/08

