

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
v.)	
)	
GERARD MARCHELLETTA, JR.,)	Case No. 1:07-CR-107-TCB
a/k/a Jerry Marchelletta, Jr.,)	
GERARD MARCHELLETTA, SR.,)	
a/k/a Jerry Marchelletta, Sr.)	
and THERESA L. KOTTWITZ)	
)	
Defendants.)	
)	

**THE MARCHELLETTAS’ MOTION TO DISMISS THE
INDICTMENT FOR OUTRAGEOUS GOVERNMENT MISCONDUCT**

Gerard Marchelletta, Jr. and Gerard Marchelletta, Sr. (the “Marchellettas”), by and through counsel of record, Robert G. Bernhoft, hereby respectfully move the court to dismiss this case for outrageous government misconduct. This motion is filed pursuant to the Due Process Clause of the Fifth Amendment. This motion is based on the memorandum of points and authorities, the supporting declaration and exhibits and the record in this and other related cases. The memorandum of points and authorities is filed as a separate document because of its length.

Respectfully submitted on August 6, 2012.

THE BERNHOFT LAW FIRM, S.C.
Attorneys for the Defendant

By: /s/ Robert G. Bernhoft
Robert G. Bernhoft
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LOCAL RULE 7.1(D) CERTIFICATION

The undersigned hereby certifies that this paper was prepared using Times New Roman, 14-point font, which is one of the fonts allowed under Local Rule 5.1(C).

Respectfully submitted on August 6, 2012.

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CERTIFICATE OF SERVICE

This is to certify that the foregoing document and all supporting documents have been served on the following persons by utilizing the Court’s electronic filing system on this day:

Christopher Bly, Asst. U.S. Attorney – Counsel for the government
Jerome Froelich, Esq. – Counsel for Theresa L. Kottwitz

Dated: August 6, 2012

/s/ Daniel J. Treuden

Daniel J. Treuden