UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

UNITED STATES OF AMERICA	)	CASE NO. 97-0853-CR-NESBITT
	)	
v.	)	
	)	
ATLAS IRON PROCESSORS, INC., et al.,	)	
	)	Magistrate Judge Robert L. Dubé
	)	(May 7, 1998, Amended Order of Reference)
Defendants.	)	
	)	**MEMORANDUM IN SUPPORT OF**
	)	**MOTION OF UNITED STATES**
	)	**TO REQUIRE DEFENDANTS**
	)	**TO PRODUCE MACHINE**
	)	**READABLE DATA COPIES OF**
	)	**ALL DOCUMENTARY EXHIBITS**
	)	**THEY WILL USE AT TRIAL**

I
FACTS

On January 8, 1999, Magistrate Judge Dubé entered an *Order* requiring the United States "to provide defense counsel with machine readable data copies of all documentary exhibits it will use in the Trial Director system," by January 12, 1999. The Court's *Order* also provided the "defendants shall have until January 19, 1999, to produce all documents and tangible objects not already produced to the Government."

On January 12, 1999, the United States complied with its discovery obligations in Magistrate Judge Dubé's *Order* of January 8, 1999. Each defendant now has machine readable data copies of all documentary exhibits the United States intends to use in the Trial Director system.

On January 15, 1999, Ian Hoffman, a government trial attorney assigned to this case, had a telephone conversation with John McCaffrey, an attorney for defendant Atlas Iron Processors, Inc. Mr. Hoffman asked Mr. McCaffrey if, based on Magistrate Judge Dubé's *Order* of January 8, 1999, Atlas and the Giordano defendants planned to provide the United States with machine readable data copies of all documentary exhibits it will use at trial. Mr. McCaffrey told Mr. Hoffman the Atlas defendants (Atlas Iron Processors, Inc., Anthony J. Giordano, Sr., Anthony J. Giordano, Jr., and David Giordano) intend to fully comply with Magistrate Judge Dubé's *Order* of January 8, 1999, but, without reviewing the *Order* further, McCaffrey said he did not know if they would interpret the *Order* to require the defendants to produce machine readable data copies of all documentary exhibits they will use at trial.

II
ARGUMENT

The defendants should not be allowed to use electronic documents to the disadvantage of the United States. To date the defendants have not even provided the United States with any of the underlying documents which they may electronically present to the jury. To ensure the defendants' use of electronic documents does not disadvantage the United States, the United States respectfully asks the Court to modify its *Order* of January 8, 1999, to explicitly require the defendants to provide the United States with machine readable data copies of all documentary exhibits they will use in Trial Director or any other electronic data display system. Modifying the *Order* will level the playing field for the government and the defendants. If the United States does not have access to the defendants' electronic images, substantial prejudice will result.

In the alternative, the United States respectfully requests that the Court enter a new *Order* requiring the defendants to provide the United States copies of any electronic documents the defendants intend to use at trial.

Respectfully submitted,

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