

IN THE UNITED STATES DISTRICT COURT FOR THE  
WESTERN DISTRICT OF MISSOURI  
WESTERN DIVISION

UNITED STATES OF AMERICA

v.

MARY LYNN ROSTIE,  
CYNTHIA S. MARTIN,  
TROY R. SOLOMON,  
CHRISTOPHER J. ELDER, and  
DELMON L. JOHNSON

Defendants

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NO. 08-00026-01/05-CR-W-FJG

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**JOINT AMENDED MOTION TO TRANSFER VENUE AND SEVER**

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TO THE HONORABLE JUDGE OF SAID COURT:

COME NOW, TROY R. SOLOMON and DELMON JOHNSON, Defendants, and file this Joint Amended Motion to Transfer Venue and Sever as authorized by Rules 21 and 14 of the Federal Rules of Criminal Procedure, and in support hereof would respectfully show unto this Court as follows:

I.

Background

Defendants SOLOMON and JOHNON have been charged with distributing and conspiring to distribute controlled substances in violation of the Controlled Substances Act, and conspiring to promote and conceal the laundering of money. Both Defendants reside in Harris County, Texas, which is located in the Southern District of Texas, Houston Division. All of the allegations of wrongdoing involving these Defendants are intertwined with businesses, Ascencia Nutritional Pharmacy and South Texas Wellness Centers, which are also located in Harris County, Texas. All

of the employees of said businesses and other witnesses whom Defendants will call to testify on their behalf are located in Harris County, Texas. In addition, all of the records of these businesses, as well as the other various medical facilities listed in the indictment, are located in Harris County, Texas.

Further, after the Change of Plea hearing currently scheduled for December 18, 2008, all of the remaining defendants in this case, will reside in or around Harris County, Texas. The witnesses, records, and other evidence relied upon by these defendants are also located in Harris County, Texas. Without commenting on the validity of the indictment or the statements contained therein, these Defendants have no connection to the Western District of Missouri, and will endure a substantial and unreasonable burden and inconvenience if forced to defend in said District.

Defendants SOLOMON and MARTIN cannot be expected to mount a proper defense if forced to bear the burden of transporting necessary witnesses all the way to Missouri. The facts underlying the Government's case deal with allegedly illegal prescriptions written by doctors from Houston, for patients from Houston, with every remaining Defendant located in Houston. Given the volume of infractions alleged in the indictment, there are thousands of potential witnesses necessary to the defense all of whom reside in or around Houston, Texas. Moreover, after Defendant CYNTHIA MARTIN changes her plea, the Western District of Missouri will have virtually no local connection with the facts underlying this case.

## II.

### Transfer is Proper under Rule 21(b) of the Federal Rules of Civil Procedure

Rule 21(b) provides that "upon the defendant's motion, the court may transfer the proceeding, or one or more counts against that defendant to another district for the convenience of the parties and witnesses and in the interest of justice." In this matter, all three (3) of the remaining

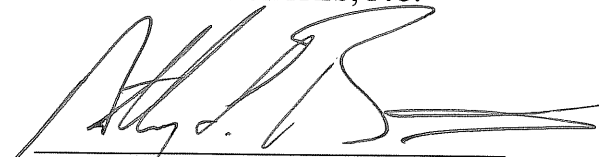
defendants are charged with criminal activity that allegedly occurred in Harris County, Texas, located in the Southern District of Texas, Houston Division. The medical facilities and pharmacy wherein the alleged wrongful conduct occurred are located in said District and Division. The Movants' witnesses and the bulk of the evidence exonerating them are located in said District and Division. Given these facts, it will be extremely inconvenient and expensive for the Defendants to present their defense in the Western District of Missouri. Defendants lack the financial resources to present a viable defense in the Western District of Missouri and will incur substantial burden, inconvenience, and violation of their due process rights unless the charges against them are severed and transferred to the Southern District of Texas, Houston Division. Given the vast disparity of resources between Defendants and the United States of America, it is in the interest of justice and the convenience of the parties to sever and transfer the charges against Defendants SOLOMON and JOHNSON to the Southern District of Texas, Houston Division.

WHEREFORE, TROY R. SOLOMON and DELMON JOHNSON, Defendants, request that this Court order the severance and transfer of this case to the Southern District of Texas, Houston Division.

Respectfully submitted,

BANNWART & ASSOCIATES, P.C.

By:



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ATTORNEYS FOR DEFENDANTS

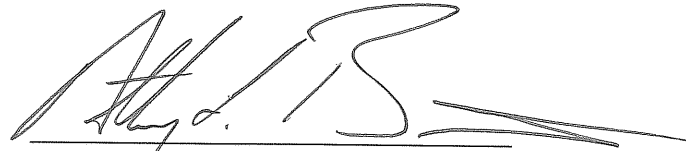
CERTIFICATE OF SERVICE

This is to certify that a true and correct copy of the above and foregoing Joint Amended Motion to Transfer Venue has this day been sent via electronic filing to counsel for all parties of record.

SIGNED this 15<sup>th</sup> day of DECEMBER, 2008

BANNWART & ASSOCIATES, P.C.

By:



ANTHONY L. BANNWART

ATTORNEYS FOR DEFENDANTS

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