

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

UNITED STATES OF AMERICA,)
)
Plaintiff,)
)
v.) No. 08-00026-03, 05-CR-W-FJG
)
TROY R. SOLOMON and)
DELMON L. JOHNSON,)
)
Defendants.)

UNITED STATES’ MOTION IN LIMINE CONCERNING TRIAL PROCEDURES

The United States of America moves *in limine* for an Order concerning trial procedures, and in particular as to whether more than one attorney representing defendant Troy R. Solomon will be permitted to participate in every aspect of the trial on Solomon’s behalf. In support of this motion, the United States provides the following suggestions in support:

Suggestions in Support

Defendants Troy R. Solomon and Delmon L. Johnson are jointly represented by Anthony L. Bannwart of Bannwart & Associates, P.C., Houston, Texas. Defendant Solomon, but not defendant Johnson, is also represented by attorneys Chip Lewis and Mary Grace Ruden, also of Houston, Texas.¹ On September 24, 2008, attorney Bannwart filed a “Notice of Designation of Lead Counsel.” Docket Entry 116. In this filing, defendant Solomon designated attorney Bannwart “as lead counsel and attorney in charge of” the criminal case, and represented that attorney Bannwart

¹The United States has moved to disqualify attorney Bannwart from representing either defendant, based on the conflict-of-interest created for defendant Johnson resulting from defendant Solomon retaining counsel who owe no duty to defendant Johnson, and for other reasons, including attorney Bannwart being prominent in the evidence because of his involvement as defendant Solomon’s transactional attorney during the conspiracy period. This motion remains pending before Magistrate Judge Hays. An order disqualifying attorney Bannwart may render moot this motion *in limine*.

“will be responsible for the lawsuit and will be the attorney to receive all communications from the court and the other parties.”

At a hearing before Magistrate Judge Hays on April 14, 2009, concerning the United States’ motion to disqualify attorney Bannwart, both attorney Bannwart and attorney Lewis sought to cross-examine witnesses and argue to the Court on behalf of defendant Solomon.² Attorney Bannwart and attorney Lewis indicated their intention to follow this same procedure at trial, to include both attorneys participation in the trial on behalf of one defendant, defendant Solomon, in all aspects of the trial, including jury selection, argument to the Court, examination of witnesses, and opening statement and closing argument.

The United States objects to the participation of two attorneys in the trial on the behalf of one defendant. Defendant Solomon has designated attorney Bannwart as his lead attorney for this case, and of course attorney Bannwart will participate in the trial as counsel for both defendant Solomon and defendant Johnson. Consequently, there is no purpose in attorney Lewis also fully participating in the trial on behalf of defendant Solomon in addition to attorney Bannwart. Attorney Lewis’ participation on top of attorney Bannwart’s will cause the trial to last considerably longer than it otherwise would have, while at the same time prejudicing the other parties to the case, who presumably, will not be allowed to have two opening statements and closing arguments, and two attorneys examining each witness on the party’s behalf. Local practice does not generally allow such an arrangement, as the Local Civil Rules make clear. Local Civil Rule 83.3(b) (not more than one counsel for each litigant may examine a witness without the Court’s permission).

CONCLUSION

²Both attorneys were allowed to actively participate in the hearing on behalf of defendant Solomon, over the objection of the United States.

The United States asks the Court to grant the motion *in limine*, and permit only defendant Solomon's designated lead counsel Anthony Bannwart to actively participate in jury selection, give opening statement and closing argument, examine witnesses, or otherwise actively participate in the trial on defendant Solomon's behalf.

Respectfully submitted,

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By s/James Curt Bohling

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was electronically delivered this 22th day of June, 2009, to all counsel of record.

s/James Curt Bohling
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