

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS**

UNITED STATES OF AMERICA,

Plaintiff,

v.

AARON SWARTZ,

Defendant.

Crim. No. 11-CR-10260-NMG

**DEFENDANT’S RESPONSE TO GOVERNMENT’S
MOTION FOR A STATUS CONFERENCE**

As the Government accurately noted in its Motion for Status Conference in this case, Dkt. 85, Defendant Aaron Swartz agrees that it would be beneficial for the Court to hold a status conference. In particular, a status conference is likely to assist the Court in addressing scheduling issues relating to a hearing on Swartz’s pending motions.

Swartz files this Response in order to inform the Court about certain conflicts in his lead counsel’s schedule for the following month. Swartz has previously provided this information to the AUSAs handling the matter. It would be Swartz’s strong preference for his lead trial counsel, Elliot Peters, to be able to attend any such status conference in person, and counsel will make all efforts to do so. Swartz therefore respectfully requests that the Court take these scheduling conflicts into account in scheduling a status conference, if the Court elects to hold one. Specifically, the undersigned counsel is unavailable during the week of December 3, 2012; has a full-day mediation on December 11, 2012; has hearings in California on both December 12 and 13, 2012; has an arbitration scheduled for the entire week of December 17, 2012; has a hearing in San Francisco on January 3, 2012; and has a sentencing in Sacramento, California on January 8, 2012. Swartz respectfully suggests that the Court hold a status conference on either January 10 or 11, 2012. AUSA Heymann has informed me that he considers this request “unreasonable” and that he would prefer an earlier status conference.

Dated: December 3, 2012

Respectfully submitted,

/s/ Elliot R. Peters

Elliot R. Peters (admitted *pro hac vice*)

Daniel Purcell (admitted *pro hac vice*)

Keker & Van Nest LLP

633 Battery Street

San Francisco, CA 94111

Tel.: (415) 391-5400

Fax: (415) 397-7188

Email: epeters@kvn.com

dpurcell@kvn.com

Michael J. Pineault

Clements & Pineault, LLP

24 Federal Street

Boston, MA 02110

Tel.: (857) 445-0135

Fax: (857) 366-5404

Email: mpineault@clementspineault.com

Attorneys for Defendant AARON SWARTZ

CERTIFICATE OF SERVICE

I hereby certify that this document filed through the CM/ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing and paper copies will be sent to those indicated as non-registered participants on December 3, 2012.

/s/ Elliot R. Peters

ELLIOT R. PETERS