

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,

WILLIAM J. OBERDICK
Acting Chief
Cleveland Field Office

By: RICHARD T. HAMILTON, JR.
Court I.D. No. A5500338

PAUL L. BINDER
Court I.D. No. A5500339

IAN D. HOFFMAN
Court I.D. No. A5500343

Trial Attorneys,
U.S. Department of Justice
Antitrust Division
Plaza 9 Building
55 Erieview Plaza, Suite 700
Cleveland, OH 44114-1816
Phone: (216) 522-4107
FAX: (216) 522-8332