



U.S. Department of Justice

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February 22, 2016

By Hand and ECF

The Honorable James Orenstein
United States Magistrate Judge
Eastern District of New York
225 Cadman Plaza East
Brooklyn, New York 11201

Re: In re Order Requiring Apple Inc. to
Assist in the Execution of a Search Warrant
Docket No. 15 Misc. 1902 (JO)

Dear Judge Orenstein:

The government respectfully submits this letter in response to Apple Inc.'s letter to the Court dated February 17, 2016.

In its letter, Apple provided a list of All Writs Act orders that it has received during the pendency of this case. The government does not request any redactions to the list. As Apple's submission makes clear -- and as the government has confirmed -- numerous judges around the nation have found it appropriate, under the All Writs Act, to require Apple to assist in accessing a passcode-locked Apple device where law enforcement agents have obtained a warrant to search that device.¹

This Court also ordered Apple to specify, for each order, whether it "opposed the request or otherwise sought or obtained an opportunity to be heard on it before it was resolved." In its letter, Apple stated that it had "objected" to some of the orders. That is misleading. Apple did not file objections to any of the orders, seek an opportunity to be heard from the court, or otherwise seek judicial relief. The orders therefore remain in force and are not currently subject to litigation.

In most of the cases, rather than challenge the orders in court, Apple simply deferred complying with them, without seeking appropriate judicial relief. In one case (in the Southern District of California), Apple indicated that it would assist the government in

¹ Indeed, the government has identified at least one additional All Writs Act order, issued in the District of Massachusetts, for an iPhone 5S with iOS version 8.3.

