

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WISCONSIN

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UNITED STATES OF AMERICA,  
Plaintiff,

v.

Case No. 19-CR-151

FRANCISCO MARTINEZ,  
Defendants.

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**AMENDED MOTION FOR BILL OF PARTICULARS**

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Pursuant to Federal Rule of Criminal Procedure 7(f), Francisco Martinez, by Attorney Edward J. Hunt, The Hunt Law Group, S.C., moves the court to compel the government to answer his bill of particulars as it relates to the Superseding Indictment. **Martinez specifically requests that the government identify the names of unindicted co-conspirators, and known aliases used by those co-conspirators; the times, places and dates**

**on which the conspiracy allegedly began; the times, places and dates on which the defendant and each alleged co-conspirator joined and where applicable, withdrew from, the conspiracy; a description of any and all overt acts in furtherance of the alleged conspiracy and the times, places and overt acts; the names of all participants in any overt acts, and a statement of each participant's activities, including which alleged co-conspirators performed which alleged overt acts and roles played by each participant in such acts; the means used to accomplish the objectives of the conspiracy; a description of defendant's alleged roles and overt acts in furtherance of the conspiracy, including whether he is an aider and abettor or a supervisor, manager, or organizer; and any other information or relief the Court deems necessary and proper to allow the Defendant to prepare for his defense.**

Count One of the Superseding Indictment charges Francisco Martinez with being involved in a drug conspiracy which involved a number of different types of controlled substances and a number of different co-defendants. The Indictment alleges, “[t]he quantity of drugs involved in the

conspiracy involved 1 kilogram or more of a mixture and substance containing cocaine, a Schedule II controlled substance; 28 grams or more of a mixture and substance containing cocaine base, in the form of “crack” cocaine, a Schedule II controlled substance; in excess of 400 grams of a mixture and substance containing a detectable amount of N-phenyl-N-[1-(2-phenylethyl)-4-piperidinyl] propanamide, also known as fentanyl, a Schedule I controlled substance; 50 grams or more of a mixture and substance containing methamphetamine, a Schedule II controlled substance; and a mixture and substance containing marijuana, a Schedule I controlled substance.” Martinez is at a loss for having notice of the type of drugs he was allegedly involved in distributing as well as the quantities of drugs. **Martinez also specifically requests that the government identify the type of drugs he was allegedly involved in distributing as well as the quantities of drugs.**

A bill of particulars is not required when information necessary for a defendant’s defense can be obtained through some other satisfactory form. *United States v. Canino*, 949 F.2d 928, 949 (7<sup>th</sup> Cir. 1991) The information

sought by Martinez is not clearly set forth in either the indictment or the discovery provided to date by the government. The statements of unindicted co-conspirators are admissible under Fed. R. Evid. 801(d)(2)(e). In order for the trial court and counsel to identify which statements are potentially subject to admissibility under Fed. R. Evid. 801(d)(2)(e), courts in this district have uniformly granted a bill of particulars with respect to the names of unindicted co-conspirators. *See, e.g., United States v. Knowles*, 2 F. Supp. 1135, 1141 (E.D.1998). Courts in this district have also granted a bill of particulars with respect to the names of unindicted co-conspirators recognizing that doing so is essential to the preparation of a defense to a conspiracy charge. *See, e.g., United States v. Barnes*, Case No, 09-CR-248, ECF 388 , U.S. Dist. LEXIS 45769 (Order of April 7, 2010) (In cases where a far reaching conspiracy is alleged and where there are apparently a number of co-conspirators who, for whatever reason, have not been indicted, disclosure of these non-indicted individuals the government alleges to have been members of the conspiracy is essential to permit a defendant to prepare a defense.); *See United States v. Urbina*, U.S. Dist.

LEXIS 55589 (E.D. Wis. July 31, 2007). In the very least, the court should grant a bill of particulars with respect to the names of unindicted co-conspirators.

**On February 28, 2020, pursuant to United States District Court for the Eastern District of Wisconsin Criminal Local Rule 16 (b), the government, by Assistant United States Attorney William J. Roach, and defendant, by Attorney Edward J. Hunt, conferred in good faith regarding this motion. The government opposes this motion and Martinez believes that the government's position is that the information, now requested by this Bill of Particulars, is set forth in the discovery already provided in this case and the Superseding Indictment. The government and the defendant disagree. And so the Court will have to decide this motion. The parties are unable to reach an accord.**

In light of the above, Francisco Martinez, asks the Court to grant his motion for a bill of particulars.

Dated this 1<sup>st</sup> day of March, 2020.

Respectfully submitted:

s/Edward John Hunt

By: Edward John Hunt

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