

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
vs.)	No. 08 CR 888-6
)	
ROBERT BLAGOJEVICH,)	The Honorable
)	James B. Zagel,
Defendant.)	Judge Presiding.

**DEFENDANT ROBERT BLAGOJEVICH'S
MOTION FOR SEVERENCE**

NOW COMES the defendant, ROBERT BLAGOJEVICH, by and through his attorneys, MICHAEL D. ETTINGER and CHERYL A. SCHROEDER, moves this Honorable Court, pursuant to Rule 14 of the Federal Rules of Criminal Procedure to grant the defendant a separate trial. In support thereof, the defendant states as follows:

1. Count One of the Second Superseding Indictment charges a conspiracy to commit various offenses. Robert Blagojevich is an unindicted co-conspirator.
2. Robert Blagojevich is charged in Counts 21, 22 and 23 of the Second Superseding Indictment. Counts 21 and 22 charge Robert Blagojevich with extortion. Count 23 charges Robert Blagojevich with bribery.
3. Robert Blagojevich is scheduled to be tried in a joint trial with his brother, Rod Blagojevich.
4. A joint trial will prejudice the substantial rights of Robert Blagojevich for the following reasons:
 - (a) the expense of having to sit through a lengthy trial, where the Second Superseding

Indictment alleges a conspiracy that began in 2002 and lasted until December 9, 2008. (Ind. Count One, ¶ 4) The Second Superceding Indictment states that, beginning in August 2008, Robert Blagojevich served as the chairman of Friends of Blagojevich. (Count One, ¶ 1(f)) The Government will present its case in a chronological fashion, beginning in 2002 and ending in December of 2008. In other words, the conspiracy ran for approximately 84 months, the last four months of which Robert Blagojevich was allegedly associated. Robert Blagojevich's alleged involvement translates into approximately 5% of the 84-month conspiracy.

(b) The overwhelming evidence presented at trial will be against Robert Blagojevich's brother, Rod. The "spill over" effect at a joint trial, where the jury will hear a great deal of evidence that would not be admissible against Robert Blagojevich if he were tried alone. This poses a danger that the jury may be prevented from making a reliable judgment about Robert Blagojevich's guilt or innocence.

(c) The publicity and media exposure regarding Rod Blagojevich will distract the jury's focus of the case and the evidence against Robert Blagojevich.

(d) United States Attorney Peter Fitzgerald made extremely inflammatory and prejudicial statements concerning Rod Blagojevich at the press conference announcing the filing of criminal charges in this case, which remain in the mind of the public and prospective jurors.

(e) The Sixth Amendment affords the accused the right to have a jury of his peers. This trial will take approximately 5 months. Jurors will be excused for hardship reasons which would not occur if Robert Blagojevich would be tried alone since that trial wouldn't take more than a month.

(f) Robert Blagojevich resides approximately 500 miles away in Nashville, Tennessee, where he operates a business. The logistics of an extended trial presents a serious demand on Robert

Blagojevich's ability to oversee and run his business. Moreover, the expense of having a legal team sit through months and months of testimony which has no bearing on their client, is a burden that Robert Blagojevich should not be made to incur.

5. This Court has the authority and the discretion, pursuant to Rule 14 of the federal Rules of Criminal Procedure to order a separate trial for Robert Blagojevich.

WHEREFORE, the defendant requests that this Honorable Court grant his motion for a separate trial.

Respectfully submitted,

/s/ Michael D. Ettinger

Michael D. Ettinger

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