

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TENNESSEE  
WESTERN DIVISION

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UNITED STATES OF AMERICA,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	No. 04-20017-D
	)	
RANDE LAZAR, M.D., d/b/a	)	
OTOLARYNGOLOGY	)	
CONSULTANTS OF MEMPHIS,	)	
Defendants.	)	

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ORDER GRANTING DEFENDANT'S MOTION TO STRIKE SURPLUSAGE

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Before the court is the October 7, 2004 motion of the defendant, Rande H. Lazar, requesting that the court strike the language "\$3,260 for frontal sinus surgery" from counts 1 through 63 of the indictment. The motion was referred to the United States Magistrate Judge for a determination.

Pursuant to Local Criminal Rule 12.1, responses to motions are required to be filed within eleven days of the service of the motion if a party opposes the motion. The government has failed to respond to Lazar's motion, and the time for response has expired. Local Rule 12.1 further provides that "[f]ailure to file a response will constitute a waiver of any objections which the party may have to a motion."

In the absence of any response by the government, it is assumed that the government has no opposition to the motion and any

objections it might have had to the motion are waived. Accordingly, the Lazar's motion to strike "\$3,260 for frontal sinus surgery" from counts 1 through 63 of the indictment is granted.

IT IS SO ORDERED this 26th day of October, 2004.

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DIANE K. VESCOVO  
UNITED STATES MAGISTRATE JUDGE