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8
9 **UNITED STATES DISTRICT COURT**
10 **DISTRICT OF ARIZONA**

11 United States of America,

Plaintiff,

12 v.

13 Joseph M. Arpaio,
14 Steven R. Bailey,
Michelle Iafrate, and
15 Gerard Sheridan,

16 Defendants.

NO. 2:16-CR-01012-SRB

**DEFENDANT ARPAIO'S WAIVER
OF SPEEDY TRIAL RIGHTS AND
REQUEST FOR CONTINUANCE**

17
18 Defendant Joseph M. Arpaio hereby moves to continue the trial date
19 currently set for December 6, 2016 at 9:00 a.m. The motion is based upon two grounds:

20 1. Defendant Arpaio and his counsel will need considerable time to
21 prepare for the trial. The civil contempt hearing before Judge Murray Snow, which serves
22 as the basis for the Government's allegations, spanned over 20 full trial days, involved
23 thousands of exhibits and dozens of witnesses. In addition to trial testimony, there were
24 dozens of depositions taken of witnesses later called to testify at trial. Defendant Arpaio
25 anticipates that a trial in this matter will involve, at a minimum, the same or more
26 witnesses and exhibits that were presented in the civil contempt proceeding.

27 2. The Government has indicated that it is still investigating other issues
28 referred by Judge Snow. Defendant Arpaio, after reflecting on Judge Snow's referral,

1 believes that he has a right to be tried for all acts referred by Judge Snow in a single trial,
2 rather than in several trials. Consolidating all issues into a single trial would promote
3 judicial economy and prevent the same witnesses from testifying in separate proceedings.
4 In addition, consolidation of all issues, which arise out of the same set of operative facts,
5 ensures that Defendant Arpaio is not prejudiced by different proceedings occurring at
6 different times. Accordingly, any trial against Sheriff Arpaio should include all findings
7 made by Judge Snow that the Government chooses to pursue, including any allegations
8 that Sheriff Arpaio willfully and contemptuously violated the Preliminary Injunction,
9 willfully and contemptuously failed to produce the Montgomery materials and failed to
10 produce the Montgomery documents, and his alleged willful failure to comply with the
11 Court's order of April 23, 2015 regarding the preservation and production of the
12 Montgomery records. In sum, a trial should not be held until the Government's
13 investigation has been completed and all charging decisions have been memorialized in
14 charging documents.

15 Given the voluminous record already developed in this matter and the
16 pending determination of whether the Government will pursue additional charges,
17 Defendant Arpaio respectfully submits that a continuance in this matter serves the "ends
18 of justice" which outweigh the interests of the public in a speedy trial. *See* 18 U.S.C. §
19 3161(h)(7)(A). Sheriff Arpaio waives any and all speedy trial rights.

20 Defendant Arpaio agrees that the duration of the continuance would
21 constitute excludable delay under 18 U.S.C. § 3161(h) and that the grant of the motion
22 would constitute excludable time under defendant's speedy trial rights and agrees that all
23 time covered by the continuance order constitutes excludable delay.

24 Accordingly, based on the foregoing, Defendant Arpaio respectfully
25 requests a continuance of 120 days in this matter with the 120 days commencing at such
26 time as the Government has announced that no further referrals will be made based upon
27
28

1 Judge Snow's findings or order.¹

2 Pursuant to LRCiv 7.3(a), Defendant Arpaio is not aware of any previous
3 extensions of time which have been granted concerning the continuance of the trial date
4 set by this Court for December 6, 2016. Moreover, pursuant to LRCiv 7.3(b), Defendant
5 Arpaio notes that co-defendants Gerard Sheridan, Steven Bailey, and Michele Iafrate do
6 not oppose Defendant Arpaio's continuance as requested. Defendant Arpaio also notes
7 that the Government does not oppose a 120 day continuance. However, the Government
8 does oppose the request in the motion that the continuance start running at the end of any
9 future grand jury investigation into any other conduct referenced in Judge Snow's original
10 contempt referral.

11 RESPECTFULLY SUBMITTED this 9th day of November, 2016.

12 JONES, SKELTON & HOCHULI, P.L.C.

13
14 By: /s/A. Melvin McDonald

A. Melvin McDonald

Joseph J. Popolizio

Justin M. Ackerman

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Phoenix, Arizona 85004

Attorneys for Defendant Joseph M. Arpaio

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19 **CERTIFICATE OF SERVICE**

20 I hereby certify that on this 9th day of November, 2016, I electronically
21 filed the foregoing filing with the Clerk of Court through the CM/ECF System which
22 will send notification of such filing to the attorneys of record for the defendants.

23 /s/Karen Gawel

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26
27 ¹ Defendant Arpaio reserves the right to request the Court to further continue this
28 matter, as necessary, to the extent the Government contemplates additional charges arising
out of Judge Snow's criminal referral.