

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF MISSOURI
ST. JOSEPH DIVISION**

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|---------------------------|---|-------------------------------|
| UNITED STATES OF AMERICA, |) | |
| |) | |
| Plaintiff, |) | |
| |) | |
| vs. |) | Case No. 12-06001-19-CR-W-HFS |
| |) | |
| MELISSA L. SCALLIONS, |) | |
| |) | |
| Defendant. |) | |

MOTION TO CONTINUE TRIAL SETTING

COMES NOW Melissa L. Scallions, by and through appointed counsel and pursuant to Rule 47, Fed. R. Crim. P., and Rule 7.1(b) and (c) of the Local Rules of Procedure for the United States District Court for the Western District of Missouri, and moves this Honorable Court to remove this case from the joint criminal jury trial docket scheduled to commence on November 26, 2012, in support of which is offered the following:

1. Ms. Scallions is charged by way of a September 25, 2012, superseding indictment with one count of conspiring with others to transport illegal aliens, unlawfully produce identification documents, unlawfully transfer a means of identification, and commit social security fraud, all in violation of 18 U.S.C. §371.
2. Ms. Scallions was one of four defendants added to a preexisting indictment. The other defendants added were Christopher B. Escobar, Shayna R. Vanvacter, and Jon L. Grippando.
3. This matter is currently set on the November 26, 2012, joint criminal jury trial docket.
4. Discovery in this case was only recently provided to undersigned counsel and

consists of approximately fifteen disks worth of materials. An initial review of the materials shows that some of the documents are not electronically searchable due to the nature of the documents (e.g., hand written, scanned phone records, etc.), which will add to what would already have been the daunting task of discovery review.

5. In addition to discovery review, undersigned counsel will require additional time to investigate the allegations, engage in discussions with the government regarding resolution short of trial, and otherwise prepare to defend Ms. Scallions.

6. Counsel has discussed this continuance request with Ms. Scallions, and she does not object to the request. Ms. Scallions is not detained.

7. Counsel has discussed this continuance request with the attorneys for defendants Escobar, Vanvacter, and Grippando, and they do not oppose the request.

8. Counsel has discussed this continuance request with Assistant United States Attorney Jess Michaelsen, and he does not oppose the request.

9. Concerning potential trial dates, the parties discussed in this motion provided the following responses, which would indicate that the May 2013 docket is appropriate for resetting this matter:

a. David Guastello (for Escobar) stated that he already has trials set on the dockets in January 2013 and April 2013.

b. Christine M. Blegen (for Vanvacter) stated that she has a complex post-conviction motion due in a capital case in March 2013, which will preclude her from preparing for trial in this case before then.

c. Chase Higinbotham (for Grippando) stated that he already has trials set on the dockets in January 2013 and March 2013.

- d. AUSA Michaelsen stated that he can be available in April 2013 or May 2013.
- e. Undersigned counsel currently has trials scheduled in January 2013 and March 2013. The trial in March 2013 has been resolved by change of plea; however, counsel's client will be a cooperating witness who is required to testify against co-defendants during the timeframe of the March docket.

10. The continuance is sought not for purpose of dilatory delay, but is sought in truth and fact that the defendant may be afforded due process of law under the Fifth and Sixth Amendments to the United States Constitution. In accordance with 18 U.S.C. §§3161(h)(8)(A) and (b)(iv), it is submitted that the above-stated reasons for a continuance outweigh the best interests of the public and the defendant to a speedy trial, which is required by 18 U.S.C. §3161(c)(1).

11. Under the provisions of 18 U.S.C. §3161(h)(8)(A), the period of time until the next criminal trial docket should be excluded in computing the period of time in which the defendant should be brought to trial under the provisions of the Speedy Trial Act.

WHEREFORE, defendant Melissa L. Scallions respectfully prays that this Honorable Court remove this case from the joint criminal jury trial docket scheduled to commence November 26, 2013, and continue it until a trial date mutually agreed upon by the parties.

Respectfully Submitted,

/s/ John G. Gromowsky
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ATTORNEY FOR DEFENDANT

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was served electronically via the Court's CM/ECF Filing System, this 23rd day of November, 2012, upon the following:

Jess Michaelsen
Assistant United States Attorney
Charles Evans Whittaker Courthouse
400 East 9th Street, Fifth Floor
Kansas City, Missouri 64106
ATTORNEY FOR PLAINTIFF

with courtesy copies served upon counsel for all co-defendants.

/s/ John G. Gromowsky
Attorney for Defendant