

**IN THE UNITED STATES DISTRICT COURT FOR THE  
WESTERN DISTRICT OF MISSOURI**

UNITED STATES OF AMERICA	)	
	)	
Plaintiff,	)	
	)	
v.	)	No. 11-000460-CR-W-ODS
	)	
LINDSEY NICOLE HILLYARD,	)	
	)	
Defendant.	)	

**DEFENDANT’S MOTION TO CONTINUE THE TRAIL  
SETTING TO THE FEBRUARY 2012 DOCKET  
WITH SUGGESTIONS IN SUPPORT**

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COMES NOW defendant Lindsey Hillyard and moves the Court to continue the trial of this case until the February 2012 regular trial docket. As grounds defendant submits:

1. Ms. Hillyard and her co-defendants all face serious felony charges that could result in substantial incarceration including life in prison upon conviction. As of this filing, defense counsel have been provided well in excess of 500 pages of discovery information which is and continues to be under review and study. The case is complicated and complex and since the return of the indictment is this case,

there has been another indictment of individuals who appear to be connected to this case which may well require yet additional review and investigation.

2. Undersigned counsel for defendant Hillyard has discussed a continuance with AUSA Rhodes and he is not opposed to this continuance and is agreeable to and would prefer the February 2012 regular trial docket setting. Ms. Hillyard is indicted with eight other co-defendants. As of this filing, no defendant has entered a guilty plea and it is therefore presumed at this point that all are for trial. In the event a multi-defendant trial were to be conducted, even assuming one-half or more of the defendants were to ultimately negotiate a settlement, the trial preparation time alone of marshaling witnesses and exhibits and filing motions in limine would likely consume several weeks or more. Moreover, final trial preparation could not begin in earnest until each defendant has thoroughly reviewed the discovery in this case and that which may become available in the newly indicted related case.

3. In accordance with local rules, counsel has contacted the attorneys who represent the co-defendant's in the case to determine their respective views as to whether they object to or are in agreement with a continuance and to determine preferable dates. Counsel for defendants Jacobs, Smith, Scates, Jones, Thomas, and Garrett have no objections to this request. Counsel was unable to speak with Counsel for defendants Wilson and Gangel, although the Assistant US Attorney

believes, based on conversation with Mr. Gromowsky, that Gangle also has no objection.

4. Counsel submits that defendants are entitled to a continuance under the provisions of Title 18, United States Code, Section 3161(h)(8)(B), in that: a) trial on the current docket would result in a miscarriage of justice; b) the case is significant in terms of the outcome for the reasons stated in the above paragraphs; c) it is unreasonable to expect the attorneys and the defendants to be ready for trial by the currently scheduled trial date; and, d) failure to grant the continuance would likely prevent undersigned counsel from being able to adequately prepare and present the defense case for his individual client.

5. This request is not made with intent to gain tactical advantage over the prosecution and counsel is unaware of any prejudice that might result to the prosecution if this request is granted.

WHEREFORE, defendant moves the Court to strike this matter from its present setting on the January 2012 docket and reschedule the matter for the February regular trial docket.

Respectfully submitted,

/s/

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#### CERTIFICATE OF SERVICE

I certify that a copy of this pleading has been caused to be served on the Assistant United States Attorney for Western District of Missouri and other ECF listed counsel through use of the Electronic Court Document Filing System on December 19, 2011.

/s/  
JOHN R. OSGOOD