

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

UNITED STATES OF AMERICA)	
)	
Plaintiff,)	
)	
v.)	No. 10-00320-CR-W-DEK
)	
JOHN GASCA,)	
)	
Defendant.)	

**DEFENDANT’S MOTION TO CONTINUE THE TRIAL
SETTING TO THE MARCH 2012 DOCKET WITH SUGGESTIONS
IN SUPPORT**

COMES NOW defendant John Gasca and moves the Court to continue the trial of this case until the March 2012 regular trial docket. As grounds defendant submits:

1. Mr. Gasca and his 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 1000 pages of discovery consisting of witness statements; search warrant information; records of court authorizations of GPS tracking of cell phone calls; confidential informant reports; grand jury transcripts; laboratory reports; telephone record print outs; wire tap interception orders and evidence gathered as a result of those taps; and other

information which is and continues to be under review and study. The case is by any criteria exceedingly complex.

2. Undersigned counsel for defendant Gasca has discussed a continuance with AUSA Rhodes and he is not opposed to this continuance and is agreeable to and would prefer the March 2012 regular trial docket setting. Mr. Gasca is indicted with 18 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 voluminous discovery in the case.

3. In accordance with local rules, counsel has contacted counsel 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. This effort was commenced on July 24, 2011 by email. As of close of business on this filing date, more than one-half have responded. The following chart indicates those responses:

No	Defendant	Current Attorney of Record	Oppose or agree to continuance Yes/No	Preferred new trial date or dates	Phone Number	Email
01	Juan A. Marron	Susan M Hunt	Agreed YES 7/28/11	None specified	816 221 4588	shunt5733@aol.com
02	David Hernandez-Montoya	Kenton M. Hall	Agreed YES 7/28/11	Prefers March 2011	816 471 1060	kent.hall@yahoo.com
03	Mario Marron	P.J. O'Connor	Agreed YES on 7/24	none specified in response	816 701 1100	pjoconnor@wcllp.com
04	Peter Adam Flores	Chuck McKeon	Agreed YES on 7/28/11	No preferred date	816 221 5706	mckeon@kcleghservices.com
05	Robert Joseph Olvera	Mark A. Thomason			816 252 5050	mthomasonlaw@yahoo.com
06	Anthony Francis Alvarez	Ronald E. Partee	Agreed YES on 7/25	No date specified in response	816 531 3500	rpartee@fox-partee-nigro.com
07	Benito Castillo Gutierrez	David H. Johnson	Agreed YES on 7/28/11	Prefers March	816 531 7100	dhjlaw@live.com
08	John Gasca, Jr.	John R. Osgood	Agreed YES on 7/25	Feb or March 2012	816 525 8200	jrosgood@earthlink.net
09	Jason Richardson	John G. Gromowsky			816 842 1130	jgromowsky@gromowsky-law.com
10	Marco Antonio Mursia	Angela Claire Hasty	Agreed YES on 7/26	No date specified	816 651 5678	angela@hastylaw.com
11	Armando Mendez	Lance D. Sandage	Agree - YES on 7/25	Has a Nov possible conflict prefers Jan 2011 setting	816 753 0800	lance@sandagelaw.com

12	DeShaun Latkeek Ceruti	Kelly Conor-Wilson			(913) 323-4900	kconnor@ccrlaw.com
13	Maria Marron	Adam M Crane			816 474 3350	adamcrane@kc.rr.com
14	Rafael Zamora	E. Eugene Harrison	undecided as of 7/24/11 - will get back on this		816 550 4289	eharrison@kc.rr.com
15	Joseph Michael Lopez	Dione C Greene	Agree - YES on 7/25	No particular dates requested	816 221 3420	dgreene@armstrongteasdale.com
16	Frank Michael Alvarez - PRO SE	Dana M. Altieri standby counsel	letter sent to Alvarez on 7/25 asking his position		816 347 1818	dana@mokanlegal.com
17	Gilbert Lupercio	Anthony Sicola	Agree - YES on 7/25	No particular date requested	816 808 7169 816 241 8599	ajs@sicolalaw.com
18	Margot Charlene Davidson	Ronald L. Hall			913 648 1999	ronhall@swbell.net
19	Muhammad Ibrahim Rollie	Michael L. Barrera	Agree - YES on 7/25	No particular dated requested	913 461 2499	mbarrera1978@yahoo.com
	UNITED STATES ATTORNEY WDMO					
	Plaintiff US Government	Bruce A. Rhoades	Not opposed	Unavailable until Feb or March 2011	816 426 4280	bruce.rhoades@usdoj.gov

4. Taking into account the number of “no preference” responses and the specific requests for a March 2012 setting, it would appear this is the most reasonable date to move the setting to. Mr. Gasca is not incarcerated and consequently he will suffer no personal prejudice from a continuance. None of the attorneys who have responded indicated that any of their clients, a number of who are confined pretrial, have expressed objection based on their incarceration.

5. 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.

6. 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 and reschedule the matter for the March 2012 regular trial docket.

Respectfully submitted,

/s/

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Counsel for John Gasca

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 July 28, 2011.

/s/

JOHN R. OSGOOD