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7 Attorneys for Plaintiff
 8 United States of America

9 UNITED STATES DISTRICT COURT
 10 CENTRAL DISTRICT OF CALIFORNIA
 11 SOUTHERN DIVISION

13 UNITED STATES OF AMERICA,)	Case No. SA CR 08-180-DOC
)	
14 Plaintiff,)	STIPULATION RE CONTINUANCE OF
)	TRIAL DATE TO APRIL 2, 2013 AT
15 v.)	8:30 A.M. AND EXCLUDABLE TIME
)	
16 MOSES ONCIU, BEATA GIZELLA)	New Trial Date: April 2, 2013
PRIORE, and IRENE PEMKOVA,)	Proposed New Time: 8:30 a.m.
)	Place: Courtroom of the
17 Defendants.)	Honorable David O. Carter
)	
)	

19
 20 Plaintiff United States of America, by and through its
 21 counsel of record, the United States Attorney for the Central
 22 District of California, and defendants, Moses Onciu, by and
 23 through his counsel of record, Gerald Werksman, Beata Gizella
 24 Priore, by and through her counsel of record, Joel Levine, and
 25 Irene Pemkova, by and through her counsel of record, Diane Bass,
 26 stipulate as follows.

27 1. Defendants Onciu and Priore first appeared before a
 28 judicial officer in the court in which this charge is pending on

1 August 4, 2008. The Indictment in this case was filed on July 2,
2 2008. The Speedy Trial Act of 1974, 18 U.S.C. § 3161 et seq.,
3 originally required that the trial as to defendants Onciu and
4 Priore commence on or before October 13, 2008. Defendant Pemkova
5 first appeared before a judicial officer in the court in which
6 this charge is pending on August 18, 2008. The Speedy Trial Act
7 of 1974, 18 U.S.C. § 3161 et seq., originally required that the
8 trial as to defendant Pemkova commence on or before October 27,
9 2008.

10 2. On August 4, 2008, defendants Onciu and Priore were
11 arraigned on the Indictment and the Court set a trial date of
12 September 30, 2008. On August 18, 2008, defendant Pemkova was
13 arraigned on the Indictment and the Court set the same trial date
14 of September 30, 2008.

15 3. Defendants are released on bond pending trial. The
16 parties estimate that the government's case-in-chief in the trial
17 of this matter will last approximately 6 days.

18 4. The Court has previously continued the trial date in
19 this case from September 30, 2008 to November 27, 2012 upon the
20 parties' stipulations, and found the interim period, as well as
21 the period to December 4, 2012, to be excluded in computing the
22 time within which the trial must commence, pursuant to the Speedy
23 Trial Act.

24 5. By this stipulation, the parties jointly move to
25 continue the trial date from November 27, 2012 to April 2, 2013
26 at 8:30 a.m.

27 6. The parties request the continuance based upon the
28 following facts, which the parties believe demonstrate good cause

1 to support the appropriate findings under the Speedy Trial Act:

2 a) Pursuant to defendants' requests, the government
3 produced to defendants discovery including search warrants and a
4 written affidavit, voluminous email messages and attachments,
5 memoranda of interviews, investigative reports, digital files
6 that include correspondence and investment documents, financial
7 records, internet connection records, expert witness disclosures,
8 and other documentation. In addition, the government produced to
9 defendants audio recordings of telephone conversations and an in-
10 person meeting, along with transcriptions of these conversations.

11 b) Defendant Priore's car and property suffered
12 significant damage in the hurricane that occurred at the end of
13 October 2012 and she is continuing to be treated for cancer, as a
14 result, she has been unable to engage in preparation for trial.

15 c) Defendant Pemkova was injured in a car accident in
16 October 2012 and is currently undergoing treatment to recover
17 from her injuries; as a result, she has been unable to engage in
18 preparation for trial. Defendant Pemkova anticipates calling two
19 expert witnesses, Rudolf Klika and Rudolf Fak, however, these
20 witnesses are unavailable on the current trial date.

21 d) Counsel for defendants represent that additional
22 time is necessary to confer with defendants, conduct and complete
23 independent investigation of the case, conduct and complete
24 additional legal research including for potential pre-trial
25 motions, review the discovery and potential evidence in the case,
26 including that produced by the government, to obtain additional
27 discovery that defendants may seek from the government, to review
28 that additional discovery after it is produced, and prepare for

1 trial. Defense counsel represent that failure to grant the
2 continuance would deny them reasonable time necessary for
3 effective preparation, taking into account the exercise of due
4 diligence.

5 e) Defendants' counsel have discussed this
6 stipulation with defendants and defendants consent to the
7 requested continuance. The government does not object to the
8 continuance.

9 7. For purposes of computing the date under the Speedy
10 Trial Act by which defendants' trial must commence, the parties
11 agree that the time period of November 27, 2012 to April 2, 2013,
12 inclusive, should be excluded pursuant to 18 U.S.C.

13 §§ 3161(h)(7)(A), (h)(7)(B)(i), and (B)(iv) because the delay
14 results from a continuance granted by the court at defendants'
15 request, without government objection, on the basis of the
16 court's finding that: (i) the ends of justice served by the
17 continuance outweigh the best interest of the public and
18 defendants in a speedy trial; (ii) failure to grant the
19 continuance would be likely to make a continuation of the
20 proceeding impossible, or result in a miscarriage of justice,
21 that it is unreasonable to expect preparation for pre-trial
22 proceedings or for the trial itself within the time limits
23 established by the Speedy Trial Act; (iii) failure to grant the
24 continuance would deny defense counsel the reasonable time
25 necessary for effective preparation, taking into account the
26 exercise of due diligence; and (iv) failure to grant the
27 continuance would deny defense counsel the reasonable time
28 necessary for effective preparation, taking into account the

1 exercise of due diligence.

2 8. In addition, the parties agree that the time period of
 3 November 27, 2012 to April 2, 2013, inclusive, should be excluded
 4 pursuant to 18 U.S.C. § 3161(h)(3)(A), because it results from
 5 the unavailability of essential witnesses.

6 9. The parties further agree that the time period of
 7 November 27, 2012 to April 2, 2013, inclusive, should be excluded
 8 pursuant to 18 U.S.C. § 3161(h)(6), because it is a reasonable
 9 period of delay resulting from defendants' joinder for trial with
 10 each other, the time for trial of defendants has not run, and no
 11 motion for severance has been granted.

12 10. Nothing in this stipulation shall preclude a finding
 13 that other provisions of the Speedy Trial Act dictate that
 14 additional time periods be excluded from the period within which
 15 trial must commence. Moreover, the same provisions and/or other
 16 provisions of the Speedy Trial Act may in the future authorize
 17 the exclusion of additional time periods from the period within
 18 which trial must commence.

19 IT IS SO STIPULATED.

20 Dated: November 15, 2012.

21 ANDRÉ BIROTTE JR.
 United States Attorney

22 DENNISE D. WILLET
 23 Assistant United States Attorney
 Chief, Santa Ana Branch

24
 25 _____/S/
 26 LAWRENCE E. KOLE
 Assistant United States Attorney
 27 Attorneys for Plaintiff United
 28 States of America

1 I am Moses Onciu's attorney. I have carefully discussed
2 this stipulation and the continuance of the trial date with my
3 client. I have fully informed my client of his Speedy Trial
4 rights. To my knowledge, my client understands those rights. I
5 believe that my client's decision to give up the right to be
6 brought to trial earlier than April 2, 2013 is an informed and
7 voluntary one.

8 Dated: November 15, 2012.

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_____/S/*
GERALD WERKSMAN
*pursuant to 11/15/12
email authorization

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Attorney for Defendant
Moses Onciu

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Dated: November 15, 2012.

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_____/S/*
JOEL LEVINE
*pursuant to 11/15/12
email authorization

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Attorney for Defendant
Beata Gizella Priore

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1 I am Irene Pemkova's attorney. I have carefully discussed
2 this stipulation and the continuance of the trial date with my
3 client. I have fully informed my client of her Speedy Trial
4 rights. To my knowledge, my client understands those rights. I
5 believe that my client's decision to give up the right to be
6 brought to trial earlier than April 2, 2013 is an informed and
7 voluntary one.

8 Dated: November 15, 2012.

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_____/s/^{*}
DIANE BASS
*pursuant to 11/15/12
email authorization

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Attorney for Defendant
Irene Pemkova

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7 Attorneys for Plaintiff
 8 United States of America

9 UNITED STATES DISTRICT COURT
 10 CENTRAL DISTRICT OF CALIFORNIA
 11 SOUTHERN DIVISION

12
 13 UNITED STATES OF AMERICA,) Case No. SA CR 08-180-DOC
)
 14 Plaintiff,) [PROPOSED] ORDER CONTINUING
) TRIAL DATE TO APRIL 2, 2013 AT
 15 v.) 8:30 A.M. AND REGARDING
) EXCLUDABLE TIME PERIOD UNDER
 16 MOSES ONCIU, BEATA GIZELLA) SPEEDY TRIAL ACT
 PRIORE, and IRENE PEMKOVA,)
)
 17 Defendants.)

18
 19 The Court has read and considered the Stipulation re
 20 Excludable Time Period under Speedy Trial Act filed by the
 21 parties in this matter on November 15, 2012. The Court hereby
 22 finds that the Stipulation, which this Court incorporates by
 23 reference into this Order, demonstrates facts that provide good
 24 cause for a finding of excludable time pursuant to the Speedy
 25 Trial Act, 18 U.S.C. § 3161.

26 The Court further finds that: (1) the ends of justice served
 27 by the continuance outweigh the best interest of the public and
 28 defendant in a speedy trial; (2) failure to grant the continuance

1 would be likely to make a continuation of the proceeding
2 impossible, or result in a miscarriage of justice; (3) failure to
3 grant the continuance would deny defense counsel the reasonable
4 time necessary for effective preparation, taking into account the
5 exercise of due diligence; (4) this continuance results from the
6 unavailability of an essential witness; (5) this continuance is a
7 reasonable period of delay resulting from defendants' joinder
8 with each other for trial, the time for trial of defendants has
9 not run, and no motion for severance has been granted; and (6)
10 this continuance results from the unavailability of essential
11 witnesses.

12 THEREFORE, FOR GOOD CAUSE SHOWN, IT IS ORDERED THAT:

13 1. The trial in this matter is continued from November 27,
14 2012 to April 2, 2013 at 8:30 a.m.

15 2. The time period of November 27, 2012 to April 2, 2013,
16 inclusive, is excluded in computing the time within which the
17 trial must commence, pursuant to 18 U.S.C. §§ 3161(h)(3)(A),
18 (h)(6), (h)(7)(A), (h)(7)(B)(I), and (B)(iv).

19 3. Nothing in this Order shall preclude a finding that
20 other provisions of the Speedy Trial Act dictate that additional
21 time periods are excluded from the period within which trial must
22 commence. Moreover, the same provisions and/or other provisions
23 of the Speedy Trial Act may in the future authorize the exclusion

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1 of additional time periods from the period within which trial
2 must commence.

3 Dated: _____.

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Honorable David O. Carter
United States District Judge

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