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10 *Attorneys for Plaintiff*

11
12 IN THE UNITED STATES DISTRICT COURT
13 FOR THE DISTRICT OF ARIZONA

14 United States of America,
15 Plaintiff,

16 v.

17 Thomas Mario Costanzo,
18 Defendant.

CR-17-00585-PHX-GMS

**GOVERNMENT'S MOTION TO EXTEND
TIME TO FILE RESPONSES TO
PRETRIAL MOTIONS**

19
20 The United States moves to extend the time to file responses to pretrial motions, as
21 described more fully below.

22 The government moved yesterday to dismiss Counts 1 and 2 of the Superseding
23 Indictment. (dkt. # 70.) This moots out many of the pending motions. Five remain viable
24 as to Mr. Costanzo: 1) the motion to sever the felon in possession count from the money
25 laundering counts, with its responsive filing currently due Wednesday, November 15
26 (dkt. # 58); 2-3) the dispositive motions to dismiss all the money laundering counts
27 (dkt. # 63) and the felon in possession count (dkt. # 67), with their responsive filings
28 currently due on Monday, November 20; 4) the motion to suppress evidence related to the

1 residence search, and for a *Franks* hearing, with its responsive filing currently due on
2 Monday, November 20 (dkt. # 65); and 5) the motion for the grand jury colloquy, with its
3 responsive filing currently due on Monday, November 27 (dkt. # 71).

4 The motion to sever raises a relatively discrete issue, and the government will
5 respond to it on Wednesday, November 15. But the other motions either purport to be
6 dispositive as to certain counts (dkt. ## 63 and 67) and/or contain significant exhibits and
7 attachments (dkt. ## 63 and 65) and/or contain allegations against the government that it
8 intends to carefully address (dkt. ## 63 and 65)¹ and/or contain unusual requests (as to
9 dkt. # 71, seeking the legal colloquy presented to the grand jury). These are detailed
10 motions that will of necessity (and consistent with the Speedy Trial Act) delay the
11 December 5 trial setting. Accordingly, the government seeks an extension of time until
12 Monday, December 4, 2017 to respond to the other four motions, that is, a two-week
13 extension for docket numbers 63, 65 and 67, and a one-week extension for docket number
14 71. This should enable the parties to complete briefing efficiently while also arriving, in
15 consultation with the Court, at a firmer trial setting at the conclusion of the motions
16 practice.

17 For the foregoing reasons, the government moves to extend the time to respond to
18 docket numbers 63, 65, 67 and 71 until through and including Monday, December 4, 2017.
19 Undersigned counsel has spoken with defense counsel Maria Weidner about the motion
20 practice generally and this extension request specifically, and Ms. Weidner reserves her
21 position on the motion to extend time pending consultation with her client.

22 Excludable delay under 18 U.S.C. § 3161(h)(1)(D) may occur as a result of this
23

24
25 ¹ Motions to dismiss under the due process clause and/or the Court's supervisory
26 powers, as well as motions for *Franks* hearings, of necessity involve allegations against
27 agents or prosecutors. Neither type of motion is particularly common in this District, and
28 in the right case the filing of such motions can be an appropriate tool in the defense toolbox.
But these motions can have reputational and other adverse impacts, and the government
therefore seeks the extension to ensure that it has the opportunity to fully absorb the defense
arguments and to discuss each allegation with the prosecution team member to which it is
directed.

1 motion or of an order based thereon.

2 Respectfully submitted this 14th day of November, 2017.

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4 ELIZABETH A. STRANGE
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5
6 *s/ Gary Restaino*

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10 **CERTIFICATE OF SERVICE**

11 I hereby certify that on November 14, 2017, I electronically transmitted the attached
12 document to the Clerk's Office using the CM/ECF System for filing and transmittal of a
Notice of Electronic Filing to counsel of record in this case.

13 *s/ Lauren M. Routen*

14 *United States Attorney's Office*