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 10 **UNITED STATES DISTRICT COURT**
 11 **CENTRAL DISTRICT OF CALIFORNIA**
 12 **WESTERN DIVISION**

13 UNITED STATES OF AMERICA,

14 Plaintiff,

15 v.

16 THOMAS VINCENT GIRARDI,

17 Defendant.
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Case No. 2:23-cr-47-JLS-1

**FURTHER SUPPLEMENT TO EX
PARTE APPLICATION TO
 CONTINUE TRIAL DATE FROM
 AUGUST 6, 2024 TO OCTOBER 8
 OR 15, 2024**

1 **DECLARATION OF CHARLES J. SNYDER**

2 I, Charles J. Snyder, declare as follows:

3 1. I am a California-licensed DFPD appointed to represent Tom Girardi in
4 this matter. Unless otherwise stated, I make this declaration based on personal
5 knowledge and, if called as a witness, would attest to its contents under oath.

6 2. At approximately noon on July 13, Girardi filed an ex parte application to
7 continue the trial date in this matter from August 6, 2024 to October 8 or 15, 2024.
8 Among many other things, in seeking a continuance of the trial date, he wrote: “despite
9 discussing evidentiary stipulations in mid-June, and despite my proposal of certain
10 evidentiary stipulations on July 1, as of July 12, and despite the government’s
11 statements about circulating stipulations ‘soon,’ we have not received any stipulations
12 from the government.” Docket No. 274 at 10:10-13.

13 3. On the evening of July 14, nearly a month after stipulations were first
14 discussed, the government sent draft stipulations. The draft stipulations were less than
15 two full pages. The government offered no explanation for why the two-page
16 document could not have been sent earlier given that the stipulations were first
17 discussed in June and raised again by Girardi on July 1, among other times. It appears
18 that, as with the late-disclosed witness materials, see Docket No. 275, the filing of the
19 ex parte application caused the government to belatedly attempt to appear diligent even
20 though, contrary to its promises in January (“we are willing to help the defense in
21 whatever way possible”), it has not been. Indeed, while enthusiastically seeking to rush
22 the defense at every turn, the government has taken a lax approach to its own
23 obligations, repeatedly taking late and precatory actions for appearance’s sake only
24 after being called out.

25 4. The draft stipulations sent by the government were explicitly tied to
26 exhibit lists, asking the defense to agree that all of the items on the government’s
27 exhibit list (see below for more) were admissible in exchange for the government’s
28 agreement to admissibility of the defense exhibit list. Not only does Girardi not have

1 an exhibit list for the many reasons discussed in his initial application, even if he did,
2 he would have no obligation to disclose it to the government. Standing Order ¶ 10.
3 Thus, the stipulations were not only late, but appear to have been drafted as a device for
4 obtaining early access to a defense exhibit list to which the government is not entitled
5 (and, again, does not exist). Further, as discussed below, but undisclosed to Girardi at
6 the time that the stipulations were circulated and discussed, Girardi did not even have
7 the current version of the government exhibit list to which it was asking him to
8 stipulate.

9 5. At present, the three parties are trading drafts and the stipulations remain
10 unresolved. Girardi proposed edits to the stipulation on July 15, which the government
11 accepted. Kamon then proposed further edits – the effect of which dilutes the value of
12 the stipulations by reintroducing available objections – which remain unresolved. This
13 process not only underscores the fundamental indeterminacy of the case at this point –
14 which is why stipulations should have been circulated sooner – but the problems that
15 will continually arise if this case proceeds as a joint trial, with Kamon and Girardi
16 battling not only the government, but each other on an exhibit-by-exhibit basis. It is
17 difficult to stress how different a trial looks if a litigant has to authenticate and establish
18 hearsay exceptions for each document rather than if they are coming in by stipulation,
19 which is why Girardi sought the substantial time saving, now lost, of resolving these
20 issues earlier.

21 6. Separately, on Monday, July 15, after receiving draft stipulations tied to
22 exhibit lists, Girardi asked whether the exhibit list it had previously received from the
23 government was final. Despite sending and receiving other emails, the government did
24 not respond. Girardi then sent another email on July 16 asking if the government had
25 produced its exhibit list. The government eventually sent back a new exhibit list. The
26 new exhibit list contains 84 new exhibits, which represent approximately 25% of the
27 government's 372-exhibit list.

1 7. I have not reviewed the new exhibits in detail since they were produced
2 approximately an hour and a half ago. But it appears that many of the exhibits are large
3 spreadsheets containing deposits and checks from six bank accounts for several years.
4 Several non-spreadsheet exhibits span hundreds of pages. Others span thousands of
5 pages, including at least one that appears to be roughly 5,000 pages. The new exhibits
6 appear to have little, if anything, to do with the four client matters on which the
7 government said that it would focus its case in January. See Docket No. 161 at 5:19-
8 6:20. When asked whether this exhibit list was final, the government stated: “[w]e
9 reserve the right to make further changes between now and trial.”

10 8. I have attached my correspondence related to the stipulations and exhibit
11 list as Exhibits 5 and 6.¹ I have attached my July 1 email about the stipulations as
12 Exhibit 7. That email followed a conversation in mid-June during which, while
13 discussing upcoming motions, the parties discussed a series of potential evidentiary
14 deals to be struck.

15 9. Separately – and, again, only after the ex parte application was filed (see
16 also Docket No. 275) – the government sent an email stating that it intended to produce
17 witness interview notes on a rolling basis, as though it were doing the defense a favor.
18 It then produced another witness interview from May, as well notes from seven
19 additional interviews in July. Since the filing of the ex parte application on Saturday,
20 the government has produced 20 notes/memoranda from trial-witness interviews dating
21 from 2021 and July 2024, as well as numerous documents used in those interviews.
22 According to the Indices, its latest productions span approximately 2,000 pages which,
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24 ¹ It is obvious that the government wanted to avoid mentioning that it had a
25 substantially-revised exhibit list in advance of the Status Conference. Indeed, why else
26 would it have sent stipulations tied to an old exhibit list and engaged in a back and forth
27 with Girardi based on his review of the prior list – without ever mentioning that it had a
28 substantially revised exhibit list – if not in an effort to conceal the changes until after
the Court ruled on the continuance request? The continued overt and covert deception
of the defense teams is improper and continues to waste their time.

