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BREMERTON OFFICE

August 21, 2020

**VIA ECF**

Honorable Loretta A. Preska  
U.S. District Court  
Southern District of New York  
500 Pearl Street  
New York, NY 10007

Re: *United States v. Steven Donziger*, No. 19-CR-561 (LAP); 11-CIV-691 (LAK)

Dear Judge Preska:

I write to request that you reconsider your decision regarding our motion for a trial continuance given the serious and potentially life-threatening health issues involved in summoning defense counsel and witnesses from around the country and the world due to the COVID pandemic. While I understand that people in New York are feeling safer, the same is not true for the rest of the country.

As reflected in the attached declaration of co-counsel Zoe Littlepage, it is reasonable to assume that on commercial flights, one or more passengers will have COVID-19. It is also reasonable to assume that those sitting near the infected passengers will themselves become infected. That is probably why Dr. Anthony Fauci, one of the most knowledgeable people in the country on the dangers of COVID-19, will not engage in air travel or eat in restaurants at this time. See <https://www.marketwatch.com/story/anthony-fauci-tells-marketwatch-i-would-not-get-on-a-plane-or-eat-inside-a-restaurant-2020-07-24> And that is why Ms. Regan's doctor has recommended against flying unless someone's "life depends on it." (Ex. A, attached).

Requiring the defense team to travel across a country reeling from a dangerous pandemic to try a petty offense puts all defense counsel in an irreconcilable conflict position. In essence, holding the trial as scheduled places not only every defense lawyer and staff person at risk, but their families, friends and associates as well.

While the annals of history are filled with brave lawyers who risked their lives for important causes, the risk in those situations was unavoidable, and the cause was important. Here, the risk is easily avoided, and the "cause" is, as far as I can tell from the prosecution's arguments and the Court's ruling, to move one particular petty offense off the docket. Are any other criminal cases being tried in the Southern District in August or September?



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Under these circumstances, it is apparent that the personal interests of the defense lawyers conflict with exercising independent, professional judgment on behalf of our client. That has been abundantly clear in the few days since you issued your order and we have met to determine how to move forward.

I want to say once more that every member of the defense team considers it a privilege to represent Mr. Donziger. We have no interest in delaying this trial for any reason other than our own safety and the safety of those we care about. As a matter of professional courtesy, if nothing else, I ask that you postpone the trial until it can be held without risking the health of those involved.

Sincerely,

FRIEDMAN | RUBIN

A handwritten signature in black ink, appearing to read 'Richard H. Friedman', written in a cursive style.

Richard H. Friedman