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March 11, 2013

**FILED VIA ELECTRONIC MAIL AND HAND DELIVERY**

Honorable Dennis M. Cavanaugh  
United States District Judge  
U.S. Post Office & Courthouse Building, Room 451  
P.O. Box 999  
Newark, New Jersey 07101-0999

**Re: United States v. Paul W. Bergrin,  
Docket No. 09-369**

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Dear Judge Cavanaugh:

Please accept this letter on behalf of defendant Paul W. Bergrin in lieu of a more formal application seeking a continuance of the trial until March 19, 2013, or until the soonest date the United States Marshals Service is able to produce two witnesses in federal custody whom the defense has subpoenaed for trial. On Friday, Your Honor expressed the view that, if any of the remaining incarcerated witnesses whom Mr. Bergrin wishes to call cannot be produced by Tuesday, March 12, 2013, then the defense case will likely conclude at that time. Tr. (3/8/13) at 8248-8249. Mr. Bergrin accordingly seeks a continuance of the proceedings to enable two (2) such witnesses to testify on his behalf: Syed Rehman, who is expected to arrive on March 14, 2013, and Rahoo Drew, who is expected to arrive on March 19, 2013. The testimony of each of these witnesses is, as set forth below, necessary to Mr. Bergrin's defense. Please note that, upon consideration, and after we consulted with their counsel, Mr. Bergrin has determined not to call Maria Corriea and Jan Ludvick; we have so informed the United States Marshals Service so that their writs can be cancelled.

This Court has broad discretion to grant a continuance. *See United States v. Alessandrello*, 637 F.2d 131, 147 (3d Cir. 1980). While the public, the Court and the defendant have an interest in an expeditious resolution of the charges, as the Supreme Court has noted, "a myopic insistence upon expeditiousness in the face of a justifiable request for a delay can render the right to defend with counsel an empty formality." *Ungar v. Sarafite*, 376 U.S. 575, 589 (1964). The request for a seven-day delay from the date on which the Court anticipates the end of the defense case is justifiable here, where Mr. Bergrin merely seeks to facilitate the presence of certain key defense witnesses. *See Washington v. Texas*, 388 U.S. 14, 19, 87 (1967) ("The right to offer the testimony of witnesses, and to compel their attendance, if necessary, is in plain terms the right to present a defense, the right to present the defendant's version of the facts as well as the prosecution's to the jury so that it may decide where the truth lies."); *Chambers v. Mississippi*, 410 U.S. 284, 302 (1973) (right of defendant to present witnesses in his defense is fundamental under the Sixth Amendment and the Due Process Clause).

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To that end, Your Honor requested that Mr. Bergrin provide a proffer regarding the proposed testimony of the witnesses at issue. He provides that proffer here.

The testimony of Syed Rehman is necessary to undermine the testimony previously received from Government witness Abdul Williams. While incarcerated together, Williams confided in Rehman, in direct contradiction of his testimony in this case, *see* Tr. (2/14/13) at 3680, that unless Williams lied about Mr. Bergrin, Williams's father and sister would be prosecuted for the sale of cocaine and Williams would be incarcerated for life. Indeed, Williams told Rehman that his testimony about Mr. Bergrin's involvement in drug trafficking was completely fabricated. Rahoo Drew was also present during the conversations between Syed Rehman and Abdul Williams and will, it is expected, corroborate Rehman's account. We are in the process of contacting Mr. Rehman's counsel (A. Paul Condon, Esq., and Christian P. Fleming, Esq.) and Mr. Drew's counsel (Assistant Federal Public Defender Donald J. McCauley), but have not yet spoken to them, to assure that these witnesses will not assert their Fifth Amendment rights.

As discussed above, a brief delay in the proceedings to enable the testimony of these two witnesses is necessary to vindicate Mr. Bergrin's constitutional rights to a fair trial and to compulsory process. If Your Honor has any questions or concerns or require any additional information, please do not hesitate to contact me. Thank you for your kind attention to this matter.

Respectfully submitted,

s/ Lawrence S. Lustberg

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Standby Counsel for Defendant Paul W. Bergrin

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Paul W. Bergrin