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 UNITED STATES OF AMERICA
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11 UNITED STATES DISTRICT COURT

12 FOR THE CENTRAL DISTRICT OF CALIFORNIA

13 UNITED STATES OF AMERICA,

14 Plaintiff,

15 v.

16 CHARLES LYNCH,

17 Defendant.

No. CR 07-689-GW

GOVERNMENT'S EX PARTE APPLICATION
 TO TAKE HEARING OFF CALENDAR

18
 19 Plaintiff United States of America, by and through its counsel
 20 of record, the United States Attorney for the Central District of
 21 California, here by moves to take off-calendar the evidentiary
 22 hearing currently scheduled for January 22, 2024.
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24 This ex parte application is based upon the attached declaration
 25 of Assistant United States Attorney David Kowal.
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1 counsel would have to address those issues, and related timing issues
2 in the motion to dismiss, while also addressing defendant's legal
3 arguments including citations to case law, that the failure to timely
4 file an extension should be remedied by dismissal. It apologizes for
5 that mistaken understanding, and asks now for the evidentiary hearing
6 to be taken off calendar at this time, to be rescheduled, if
7 necessary, at the hearing on the motion to dismiss.

8 4. The government requests this adjustment in schedule for the
9 following reasons. First, as practical and general matter, it makes
10 sense to avoid a burdensome and potentially complex evidentiary
11 hearing, when there is a threshold legal or less complicated factual
12 issue that could conclusively address all the pending issues in this
13 case. Second, as the government referenced in its recent application
14 to move dates on the motion to dismiss, the government is intending
15 in the response to the motion to dismiss to address its failure to
16 timely request an extension of time to respond to defendant's motion
17 to enjoin spending, and to set out good cause for allowing additional
18 time for the government to respond to the pending motion to enjoin
19 notwithstanding that error. As noted in the government recent ex
20 parte application to continue dates on the motion to dismiss granted
21 by the Court, an important reason for the need for more time to
22 respond to the motion to dismiss is to provide the Court with an
23 estimate of the time necessary for a proper response, including,
24 e.g., time for experts to complete their work for the government and
25 the other tasks, and to support the request for more time in detail.

26 5. Third, the government will not be able to effectively go
27 forward with an evidentiary hearing on the dates scheduled, given
28 again, that it needs additional time to prepare the government's

1 response, and assumed that the evidentiary hearing would not be going
2 forward until the motion to dismiss was resolved.

3 6. Defendant is not in custody, but on bond with minimal to no
4 conditions. (See, e.g., Dkt. 543).

5 7. Due to the need to file this application immediately on
6 seeing the Court recent order (Dkt 562) before the coming hearing I
7 have not sought the position of defense counsel. I assume that they
8 oppose the motion given their opposition to the government's recent
9 application to continue the dates on the motion to dismiss.

10 I declare under penalty of perjury that the following is true
11 and correct to the best of my knowledge and belief.

12 Date: January 18, 2024.

13 /s/

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DAVID KOWAL
15 Assistant United States Attorney
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11 FOR THE CENTRAL DISTRICT OF CALIFORNIA

<p>12 UNITED STATES OF AMERICA, 13 Plaintiff, 14 v. 15 CHARLES LYNCH, 16 Defendant.</p>	<p>No. CR 07-689-GW <u>[PROPOSED] ORDER</u></p>
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19 FOR GOOD CAUSE SHOWN, the evidentiary hearing on defendant's
20 motion to enjoin spending is taken off calendar. A new hearing date
21 and time will be set, if necessary, at the hearing on defendant's
22 motion to dismiss (Dkt.557), set for February 26, 2023.

23 IT IS SO ORDERED.

24 Dated: January __, 2024

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26 HON. GEORGE WU
UNITED STATES DISTRICT JUDGE