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8 Attorneys for Defendant AMR MOHSEN

9 **UNITED STATES DISTRICT COURT**  
10 **FOR THE NORTHERN DISTRICT OF CALIFORNIA**

11 )  
12 UNITED STATES OF AMERICA, )

No. CR 03-0095 WBS

13 Plaintiff, )

14 v. )

**REQUEST FOR MODIFICATION  
OF ORDER OF NOVEMBER 28, 2006  
DENYING CONTINUANCE**

15 AMR MOHSEN, )

16 Defendant. )  
17 \_\_\_\_\_ )

18  
19 Attorneys Dennis P. Riordan and Marc J. Zilversmit are in receipt of the Court's Order  
20 denying their request for a continuance of the sentencing in this matter for one week, from  
21 December 8<sup>th</sup> to 15<sup>th</sup>, due to Mr. Riordan's involvement in a murder trial in Santa Clara County.  
22 They accept that ruling, but in the interest of preserving an accurate record in this case, would ask  
23 that it be modified to correct what counsel submit are factual errors.

24 To begin, the order states in its first paragraph that attorneys Riordan and Zilversmit  
25 requested that "the sentencing hearing scheduled for December 8, 2006 be continued to some  
26 date *after* December 15, 2006." That is not correct. In their motion, counsel specifically  
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1 requested a continuance of only “one week to December 15, 2006.” The government recognized  
2 that fact in its opposition when it stated that “December 15, 2006 [was] the proposed new  
3 sentencing date.” Counsels’ motion included the language “or at a later date at the Court’s  
4 convenience” only to indicate that they would make themselves available on any later date set by  
5 the Court that might better suit its schedule.

6 Secondly, the order repeats the government’s assertion that counsels’ motion “does not  
7 state how long that [Santa Clara murder trial] might last.” (Order at 2; Govt’s Opp., at 2: “First,  
8 Mr. Riordan’s declaration does not state the expected length of the trial in People v. Kanda,  
9 which is the conflict identified as the justification for Mr. Riordan’s request to continue the  
10 December 8, 2006 sentencing date”) The government’s assertion is patently untrue, as the motion  
11 to continue plainly states that the Kanda trial “should be completed by December 10<sup>th</sup>.”

12 Counsel is troubled by the Court’s assertions that: “The renewed request, which comes  
13 two weeks before the date of sentencing, appears to be a transparent attempt to again delay the  
14 day of judgment....The court shares the government’s concern that if the requested continuance is  
15 granted it will simply be the first step in a renewed effort to reopen the post-judgment motions,  
16 which the court has previously denied.” (Order, at 2). The Court has concluded that counsels’  
17 request for a continuance was made in bad faith and that, rather than proceeding to sentencing on  
18 December 15<sup>th</sup>, they instead intended to subject themselves to the court’s displeasure (and  
19 possible sanctions) by futilely raising issues unrelated to sentencing that the Court has already  
20 resolved. Counsel respectfully submit that there is not basis in this record or in the record of any  
21 other judicial proceeding in which counsel have appeared which would support a finding of an  
22 intent to engage in such misconduct on their part. Counsel made what they believed to be a  
23 reasonable request for a continuance of one week to permit Doctor Mohsen to be represented by  
24 counsel of choice; had it been granted, sentencing in this matter would have proceeded without  
25 fail on December 15<sup>th</sup>.

1 Counsel appreciate the Court's willingness to permit counsel to appear on the date of  
2 December 8<sup>th</sup>, but will be unable to do so for the reasons previously stated.

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Dated: December 1, 2006

Respectfully submitted,

*Dennis P. Riordan /mz*  
DENNIS P. RIORDAN

**PROOF OF SERVICE BY MAIL -- 1013(a), 2015.5 C.C.P.**

**Re: United States v. Amr Mohsen No. CR 03-0095 WBS**

I am a citizen of the United States; my business address is 523 Octavia Street, San Francisco, California 94102. I am employed in the City and County of San Francisco, where this mailing occurs; I am over the age of eighteen years and not a party to the within cause. I served the within:

**Request For Modification Of Order Of November 28, 2006 Denying Continuance**

on the following person(s) on the date set forth below, by placing a true copy thereof enclosed in a sealed envelope with postage thereon fully prepaid, in the United States Post Office mail box at San Francisco, California, addressed as follows:

**Robin L. Harris**  
**Assistant U. S. Attorney**  
450 Golden Gate Avenue, 11<sup>th</sup> Floor  
San Francisco, CA 94102

**John Balazs**  
**Attorney at Law**  
916 2<sup>nd</sup> Street, 2<sup>nd</sup> Floor  
Sacramento, CA 95814

**BY MAIL:** By depositing said envelope, with postage thereon fully prepaid, in the United States mail in San Francisco, California, addressed to said party(ies);

**BY PERSONAL SERVICE:** By causing said envelope to be personally served on said party(ies), as follows:  **FEDEX**  **HAND DELIVERY**

I certify or declare under penalty of perjury that the foregoing is true and correct.

Executed on December 1, 2006 at San Francisco, California.

  
\_\_\_\_\_  
Jocilene Yue