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**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

UNITED STATES OF AMERICA,

Plaintiff,

v.

JOSEPH R. FRANCIS,

Defendant.

NO. CR 08-00494 SJO

**ORDER DENYING DEFENDANT'S MOTION
TO CONTINUE THE TRIAL DATE**

[Docket No. 438]

This matter is before the Court on Defendant Joseph R. Francis' Motion to Continue the Trial Date, filed September 9, 2009. The Government filed a Response, in which it asked the Court to grant Mr. Francis' Motion. For the foregoing reasons, the Court DENIES Mr. Francis' Motion.

I. BACKGROUND

Mr. Francis has been charged by a federal grand jury in a two-count Indictment, alleging that he committed tax evasion in violation of 26 U.S.C. § 7201 for tax years 2002 and 2003. Since the filing of the action in April 2007, trial has been continued six times at Mr. Francis' request. Most recently, the Court continued the trial from August 17, 2009 to October 14, 2009 in response to Mr. Francis' request for a one to two month continuance, and confirmed with both Mr. Francis and the Government that the new date was acceptable before setting it. (See Tr. of Aug. 17, 2009 Hearing at 34:16-35:7.)

1 Mr. Francis now asks the Court to continue the trial for an additional five to six weeks for
2 two reasons: (1) Mr. Francis' expert Darrell Hallett will be representing the plaintiff in a civil case
3 in King County Superior Court in Washington (the "Washington action") that is scheduled to begin
4 on October 12, 2009; and (2) the Government disclosed to Mr. Francis on September 8, 2009 that
5 its key witness Michael Barrett has admitted to defrauding and stealing thousands of dollars from
6 Mr. Francis and his company, Mantra Films, and Mr. Francis needs additional time for discovery
7 on this issue.

8 II. DISCUSSION

9 Mr. Francis asks the Court to continue the trial based on his expert Mr. Hallett's
10 representation of the plaintiff in the Washington action. While Mr. Francis explains that the
11 Washington case has been continued two times, the instant action has been continued six times,
12 and was most recently continued to a date Mr. Francis explicitly said was acceptable to him. In
13 addition, criminal matters take precedence over civil ones. Moreover, although Mr. Francis claims
14 that Mr. Hallett must be present during the entirety of the trial in order to testify, transcripts of the
15 trial will be available for him to review, eliminating the need for him to be at the trial at any time
16 other than the day he testifies. Accordingly, Mr. Hallett must resolve any irreconcilable conflicts
17 between the Washington action and this case in favor of his responsibilities in the instant matter.
18 If necessary, the Court will order Mr. Hallett to appear in this Court. The Court is also willing to
19 accommodate and work with the judge in the Washington action to allow Mr. Hallett to appear in
20 both cases.

21 In reference to the alleged newly discovered fraud on the part of Mr. Barrett, the Court will
22 consider appropriate sanctions or remedies, if any, at the time of trial. The Court also orders the
23 Government to turn over all notes and memoranda made by Government agents of the interviews
24 with Mr. Barrett forthwith, except the personal notes of Government attorneys.

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1 III. RULING

2 For the foregoing reasons, the Court DENIES Mr. Francis' Motion.

3 IT IS SO ORDERED.

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5 Dated: September 11, 2009



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S. JAMES OTERO
UNITED STATES DISTRICT JUDGE

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