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10 UNITED STATES OF AMERICA

11 UNITED STATES DISTRICT COURT

12 FOR THE CENTRAL DISTRICT OF CALIFORNIA

13 UNITED STATES OF AMERICA,

14 Plaintiff,

15 v.

16 NATIONAL DISTRIBUTION SERVICES,
INC.,

17 aka "NDSI,"

WHOLESALE DISTRIBUTION, INC.,

18 dba "Quality Services,"

CARL BRADLEY JOHANSSON,

19 aka "Brad Johnson,"

aka "Carl Johnson,"

20 aka "C. Brad Johanson,"

aka "Keith Golatta,"

21 ENRIQUE GARCIA,

aka "Henry Garcia," and

22 DONALD CAMERON SPICER,

23 Defendants.

24 *And the additional following*
25 *case*
26
27
28

CR No. 5:18-00114(B) -VAP

CR No. 5:21-00170-VAP

GOVERNMENT'S OPPOSITION TO
DEFENDANT CARL BRADLEY JOHANSSON'S
THIRD REQUEST TO CONTINUE
SENTENCING

1 UNITED STATES OF AMERICA,
2 Plaintiff,
3 v.
4 WESTERN DISTRIBUTION, LLC,
5 aka "Advanced Distribution
6 Inc.," and
7 CARL BRADLEY JOHANSSON,
8 aka "Brad Johnson,"
9 aka "Carl Johnson,"
10 aka "C. Brad Johanson,"
11 aka "Jay Johnson,"
12 aka "Keith Golatta,"
13 Defendants.

14 Plaintiff United States of America, by and through its counsel
15 of record, the United States Attorney for the Central District of
16 California, and Assistant United States Attorneys Matthew O'Brien and
17 Joseph Johns, hereby submits this opposition to defendant CARL
18 BRADLEY JOHANSSON's ("JOHANSSON") Motion to Continue Sentencing,
19 based on the following grounds.

20 On August 12, 2021, the government filed JOHANSSON's plea
21 agreement. (Dkt. No. 264.)¹ After several unsuccessful change of
22 plea hearings, JOHANSSON pled guilty on September 29, 2021. The
23 Court scheduled his sentencing for May 9, 2022. (See Dkt. No. 282.)

24 On April 4, 2022, the Probation Office disclosed its Presentence
25 Report and letter for JOHANSSON, recommending an above-Guidelines
26 sentence of 90 months in prison. (Dkt. Nos. 305, 306.)

27 On April 12, 2022, JOHANSSON filed a stipulation in which the
28 parties agreed - at JOHANSSON's request - to continue his sentencing

¹ All references to the docket herein refer to the docket in
5:18-CR-114(B)-VAP; references to the "PPP Dkt." refer to the docket
in 5:21-00170-VAP.

1 from May 9, 2022 to August 22, 2022 because JOHANSSON "wishe[d] to
2 retain new counsel to prepare for his sentencing" and he therefore
3 "need[ed] time either to resolve this conflict or for new counsel to
4 prepare for the sentencing." (Dkt. No. 314, ¶¶ 3, 4.)

5 Nonetheless, for the next three months, JOHANSSON did nothing.
6 Finally, on July 28, 2022, JOHANSSON moved ex parte to retain new
7 counsel and continue the sentencing once again. (Dkt. Nos. 346,
8 347.) The government opposed JOHANSSON's request because it was
9 untimely: JOHANSSON had had four months to address the issues raised
10 in the application, and almost an entire year to prepare for his
11 sentencing. (Dkt. No. 344.) On July 29, 2022, the government timely
12 filed its sentencing papers for JOHANSSON, seeking a ten-year
13 sentence of imprisonment. (Dkt. No. 345.)

14 On August 8, 2022, over the government's objection, the Court
15 granted JOHANSSON's ex parte application for new counsel and
16 continued JOHANSSON's sentencing to October 24, 2022. (Dkt. No.
17 357.) At the hearing on August 8, 2022, the Court made clear that
18 there would be no further continuances of JOHANSSON's sentencing
19 absent extraordinary circumstances.

20 JOHANSSON now requests yet another continuance. (PPP Dkt. No.
21 82.) The Court should deny JOHANSSON's request because each
22 purported justification for the continuance was foreseeable months
23 ago: (1) the fact that newly retained counsel would need to review a
24 large volume of discovery; (2) the fact that newly retained counsel
25 would need to order and review transcripts; (3) the fact that
26 JOHANSSON's detention would complicate a psychological evaluation;
27 and (4) the fact that JOHANSSON's detention would complicate
28

1 attorney-client communications. (See Declaration of Edward M.
2 Robinson, ¶¶ 5-9.)

3 Due to the lack of any exceptional, unforeseeable circumstances
4 justifying a third continuance of JOHANSSON's sentencing, the
5 government respectfully requests that the Court deny JOHANSSON's
6 motion. This case needs to come to an end: the victims and the
7 public deserve justice and closure, and four other defendants are
8 waiting to be sentenced pending JOHANSSON's sentencing.

9 Finally, the continuity of counsel that JOHANSSON's corporate
10 shells have enjoyed throughout this prosecution mitigates against the
11 Court providing more time for another criminal defense attorney
12 retained by JOHANSSON to get up to speed. In addition to his
13 previous counsel, JOHANSSON has had two other sets of retained
14 counsel continuously representing his interests in United States v.
15 National Distribution Services, Inc. et al. for more than four years.
16 Under JOHANSSON's direction, his co-defendants and corporate shells -
17 National Distribution Services, Inc. ("National") and Wholesale
18 Distribution, Inc. ("Wholesale") - each retained criminal-defense
19 lawyers in this case. JOHANSSON controls National and Wholesale and
20 has been the corporate representative of each entity throughout this
21 prosecution. (See, e.g., PSR ¶ 100.) The identical interests shared
22 by JOHANSSON and his corporate shells in this prosecution are
23 evidenced by the fact that, for example:

- 24 • Wholesale's lawyers initially represented JOHANSSON in his
25 individual capacity in this case (see Dkt. No. 9) and for
26 years represented JOHANSSON in his individual capacity in a
27 related state-court criminal case arising out of the 2014
28 explosion (see PSR ¶ 130); and

- The factual bases to National's and Wholesale's plea agreements are nearly identical to the corresponding portions of the factual basis to JOHANSSON's plea agreement, and each party has acted in unison throughout this prosecution.

In sum, the four teams of highly experienced criminal-defense attorneys that JOHANSSON has retained to defend his interests in this prosecution undermine his latest request to have more time to prepare for sentencing. (JOHANSSON's financial capacity to retain all of these lawyers and their various investigators and experts also undermines his repeated claims to the Court that he is broke.)

Dated: October 3, 2022

Respectfully submitted,

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SCOTT M. GARRINGER
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Chief, Criminal Division

/s/

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