

1 BENJAMIN B. WAGNER
United States Attorney
2 KEVIN C. KHASIGIAN
Assistant U. S. Attorney
3 501 I Street, Suite 10-100
Sacramento, CA 95814
4 Telephone: (916) 554-2700

5 Attorneys for the United States

6
7
8 IN THE UNITED STATES DISTRICT COURT
9 EASTERN DISTRICT OF CALIFORNIA

10
11 UNITED STATES OF AMERICA,

2:13-CV-00643-JAM-KJN

12 Plaintiff,

13 v.

UNITED STATES' REQUEST TO
POSTPONE THE FILING OF A
JOINT STATUS REPORT; ORDER

14 APPROXIMATELY \$189,040.00 IN U.S.
CURRENCY,

15
16 Defendant.

17
18
19 The United States submits the following request to postpone the filing of a Joint
20 Status Report until the Court rules on the claimant's motion to stay and the United
21 States' motion to strike the claim based on a lack of standing.

22
23 I. Introduction

24 This is an *in rem* forfeiture action against Approximately \$189,040.00 in U.S.
25 Currency seized on June 14, 2013 from two hidden compartments inside a 2008 Lincoln
26 Navigator driven by the claimant. ECF No. 1. The Verified Complaint, filed on April 3,
27 2013, alleges that the cash is forfeitable pursuant to 21 U.S.C. § 881(a)(6) because it was

1 furnished or intended to be furnished by any person in exchange for a controlled
2 substance or listed chemical or represented proceeds “traceable to such an exchange” or
3 moneys "used or intended to be used to facilitate [a] violation of" the Controlled
4 Substances Act. Id.

5 On May 20, 2013, the claimant filed a claim to the cash and moved to stay this civil
6 forfeiture case. ECF Nos. 8 and 11.

7 On June 14, the United States moved to strike the claim based on a lack of Article
8 III and statutory standing. ECF No. 20.

9 10 II. Good Cause

11 There is good cause to postpone the deadline to file a joint status report in this case
12 given the dispute over the claimant’s standing and whether he has established the
13 statutory prerequisites for a stay. Standing is “the threshold question in every federal
14 case, determining the power of the court to entertain the suit.” Warth v. Seldin, 422 U.S.
15 490, 498 (1975). In a forfeiture case, a claimant must demonstrate that he has Article III
16 and statutory standing to assert a claim to the defendant property. United States v.
17 \$100,348 in U.S. Currency, 354 F.3d 1110 (9th Cir. 2004). Here, there exists a threshold
18 dispute over whether the claimant has standing to assert a claim in this case. The
19 claimant has filed a claim and a motion to stay, but standing is a foundational
20 prerequisite for a successful stay motion. See 18 U.S.C. § 981(g)(2). The claimant’s
21 alleged interest in the property – i.e., standing – has been challenged by an affirmative
22 motion to strike. Accordingly, the filing of a litigation scheduling document should be
23 held in abeyance until the Court resolves the disagreement over the claimant’s standing.

24 Moreover, the claimant will not be disadvantaged by postponing the filing of a joint
25 status report. It is his stated intention to stay the entire case pending an alleged
26 criminal matter against him in New York’s Suffolk County.

27 ///

1 For these reasons, the United States seeks to postpone the filing of the joint status
2 report until after the resolution of the pending motion to strike and to stay the case.

3 Dated: 6/17/13

BENJAMIN B. WAGNER
United States Attorney

4
5
6 By: /s/ Kevin C. Khasigian
KEVIN C. KHASIGIAN
7 Assistant U.S. Attorney
8

9
10 ORDER

11 Pursuant to United States' request and good cause appearing, the Court makes the
12 following order:

13 The deadline to submit a joint status report is postponed until the resolution of the
14 claimant's motion to stay and the United States' motion to strike the claim based on a
15 lack of standing.

16 Dated: June 17, 2013

17 /s/ John A. Mendez
JOHN A. MENDEZ
18 United States District Court Judge
19
20
21
22
23
24
25
26
27
28