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**LLOYD EPSTEIN  
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March 17, 2020

[Via EngelmayerNYSDCChambers@nysd.uscourts.gov](mailto:ViaEngelmayerNYSDCChambers@nysd.uscourts.gov)

Hon. Paul A. Engelmayer  
Thurgood Marshall United States Courthouse  
40 Foley Square  
New York, NY 10007

**Re: United States v. Lorenzo Randall et al  
Dkt. No. 19-Cr-131 (PAE)**

Dear Judge Engelmayer:

I am writing on behalf of all counsel for the defendants Rivera and Conley in response to the email inquiry of Friday, March 13<sup>th</sup> concerning our availability for trial.

Since the Court inquired of our availability, the health crisis in New York and nationwide has changed dramatically. Given the fluidity of the situation, we believe setting a June 15<sup>th</sup> trial date at this point would place an unfair burden on our ability to provide our clients with effective assistance. The current crisis is dynamic and the information we receive seems to change on a daily, if not hourly, basis. We would respectfully prefer to set a telephone conference for April 27, 2020, the current termination date of the Chief Judge's Order suspending Speedy Trial, to determine a trial date then if circumstances permit. *In re: Coronavirus/COVID19 Pandemic*, 20 Misc. 154 (S.D.N.Y. Mar. 13, 2020). While we appreciate the goal and focus on a return to normalcy, we are mindful of the unprecedented crisis we face and our responsibilities to all of our clients, each other, and colleagues amidst this apparently rampant contagion.

To do our part in preventing transmission of the virus, all of our offices are closed. Both of our clients are housed in the MCC without visitation for the immediate future. We do not know when we will be able to see our clients again. The CDC currently estimates that it will be a minimum of eight weeks before our social systems return to normal. The Trump administration has suggested that the crisis could last through the summer and has urged people to avoid congregating in numbers greater than ten. Assuming that the CDC's estimate is correct, this will place us in mid-May, less than five weeks before trial, the time frame in which the Government has promised to provide 3500 material, and only a week before the Government has promised to provide us with statements of witnesses whom it does not intend to call.<sup>1</sup>

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<sup>1</sup> While only tentative, Ms. Walsh has been requested to reserve the week of May 18<sup>th</sup> to begin the trial she was scheduled to begin on March 16, 2020 when jury trials were suspended in this District. That matter will convene telephonically on April 27, 2020 to evaluate the situation and determine whether such a short adjourn date for a trial under these circumstances is realistic.

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Under ordinary circumstances, we could manage this schedule. The practice of defense attorneys of the quality that you demand in your courtroom is to clear his or her schedule for the weeks before trial to review the large amounts of 3500 material, prepare opening statements and crosses based on this material, prepare new in limine motions, and conduct any investigations based on the statements of the non-witnesses. This is a full-time job.

However, given our lack of full access to our offices and the reality that, once the system normalizes, other judges will also expect us to appear before them, negotiate pleas, take part in probation interviews etc., it will be impossible to clear our schedules. The time which we can devote to this case will be severely compromised. Setting a trial date of June 15<sup>th</sup> will unfairly burden our ability to provide effective assistance.

Even if we were able to clear our calendars completely, we still face the uncertainty of whether the virus will affect our health or those of our loved ones or clients. Currently, Ms. Walsh, Ms. Scolari, and I are all asymptomatic. But I am currently in quarantine because of close contact with at least two people who are sick and waiting test results. We understand that in the United States Attorney's office, a special security officer and a Special agent assigned to the office have tested positive. It has also been reported that at least one Assistant United States Attorney has exhibited symptoms and is awaiting test results. Clearly the full impact of the virus on our community has not yet revealed itself. That is not even to mention the limitations the virus will place on availability of an adequate venire of jurors.

Under these circumstances, we respectfully request a telephone conference for April 27<sup>th</sup> and hopefully we will all be better prepared to set a schedule at that time.

Sincerely,

s/s

Lloyd Epstein

LE:pc

cc. AUSA Daniel Wolfe, et al.  
(Via email)

Susan Walsh, Esq.  
Lisa Scolari, Esq.  
(Via email)