

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
EL PASO DIVISION**

UNITED STATES OF AMERICA §
 §
v. § **EP-08-CR-**
 §
 §

**DEFENDANT’S MOTION FOR ADMINISTRATIVE SETTING
IN LIEU OF APPEARANCE AT FIRST DOCKET CALL**

TO THE HONORABLE UNITED STATES DISTRICT COURT JUDGE:

Comes now, undersigned counsel for the Defendant, _____, on this day and respectfully moves the Court to grant Counsel leave to enter this appearance administratively and in lieu of appearing at the Docket Call scheduled for _____, and in support of said Motion shows the Court as follows:

- ___ 1. Counsel, **never having previously requested nor obtained a Continuance**, moves for Continuance of the Docket Call because of the need for investigation, plea negotiations, and/or preparation of the defense due to complex discovery issues in the case. Counsel further avers that the interest of justice outweighs the interest of the Defendant and the public in a speedy trial and agrees that the timing from the scheduled docket calls through the next docket call, is excludable time within the meaning of the Speedy Trial Act, 18 U.S.C. § 3161, *et seq.*; or

- ___ 2. The Defendant moves to have the above styled and numbered cause set for a Plea Hearing and states that said Plea Hearing may be referred to the United States Magistrate to be set at the Court’s convenience; **(the Plea Hearing date may NOT be scheduled after the Court’s next regularly scheduled Docket Call date)** The Defendant requests the plea be set in ___ 2 weeks, ___ 3 weeks; or

- ___ 3. The Defendant moves to have the above styled and numbered cause set for a Plea and Sentencing Hearing before this Court to be set at the Court’s convenience. The Defendant understands it can only be sentenced at the time of the Plea if Defendant obtains that approval from the United States Probation Office to have a Pre-Sentence Investigation Report prepared for that date. The Defendant accepts the responsibility to resolve that approval and sentencing issue with the United States Probation Office. The Defendant requests the plea be set in ___ 2 weeks, ___ 3 weeks.

4. This Motion is filed not later than two (2) business days prior to the scheduled Docket Call.

Respectfully submitted,

_____ (signature)

_____ (typed or printed name)

Defense Counsel for

_____ (typed or printed name)

Defendant

CERTIFICATE OF SERVICE

I certify that a true and correct copy of the above Motion was served upon opposing counsel, UNITED STATES ATTORNEY'S OFFICE by facsimile or electronically filed with the Clerk of the Court using the CM/ECF System which will transmit notification of such filing to the following CM/ECF participant, in accordance with the Federal Rules of Criminal Procedure on the ____ day of _____, 2008.

Defense Attorney

**COURT INSTRUCTIONS REGARDING DOCKET CALL
HON. KATHLEEN CARDONE**

1. Defense counsel will be allowed to file the corresponding Motion for Administrative Setting in Lieu of Appearance at Docket Call (hereinafter “Motion”) if the circumstances of the particular case meet the requirements of the Motion. **ABSOLUTELY NO ALTERATIONS MAY BE MADE TO THE FORM MOTION.** If the particular circumstances of the case do not meet the requirements of the Motion, or if you have a doubt thereof, you **should attend** the Docket Call and discuss the matter with the Court on the record.
2. Very simply, those attorneys who have neither sought nor obtained a “Pass” on a prior occasion and who wish to request one may do so by completing and filing the Motion and marking an “X” in the first space. **Attorneys who have obtained a continuance previously (having requested and obtained a “Pass”) MUST attend Docket Call if a second pass is going to be requested, regardless of the reason.**
3. Those attorneys who wish to request that the Court set a case for a “Plea Hearing” (whether a “Pass” has previously been requested or not) may also complete and file the Motion and mark an “X” in the appropriate space. **Attorneys may not request that the Plea Hearing be scheduled after the Docket Call following the Docket Call to which the filed Motion applies.** For example, if you are scheduled to attend Docket Call in April and you are aware that your client wishes to have a plea hearing set, you may complete the Motion, mark an “X” in the space by Paragraph 2, and the case will be referred to the United States Magistrate and be set prior to the Docket Call following the April Docket Call or you may mark a “X” in the space by Paragraph 3 and the hearing will be set prior to the Docket Call following the April Docket. Information about the Docket Call dates may be obtained from the Courtroom Deputy. If a plea setting is requested by counsel, then the attorney need not attend the docket call.
4. If you wish to request a trial setting (jury or not-jury), you **MUST ATTEND** Docket Call and may not submit the Motion.
5. You may attend Docket Call *even if you are eligible* to file the Motion. In other words, you are never precluded from attending the Docket Call.
6. The corresponding Motion **MUST** be filed no later than two (2) business days (exclusive of federal holidays) prior to the scheduled Docket Call.
7. Any Motion filed pursuant to these instructions requires only the signature of the defense attorney, but service of the Motion upon the United States Attorney is required.
8. File a single Motion for each case. DO NOT file a single Motion with more than one cause number. If you are scheduled to appear at Docket Call on several cases and are eligible to file Motion in each case, you **MUST** file one Motion per case.
9. Questions about this process may be directed by attorneys to the Courtroom Deputy.