

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW MEXICO

UNITED STATES OF AMERICA,

Plaintiff,

vs.

NO. CR 06-538 JH

DANUEL QUAINANCE et al.,

Defendant.

**JOINT, UNOPPOSED MOTION TO VACATE TRIAL SETTING**

Defendants Danuel Quaintance, Mary Quaintance, and Joseph Butts, by and through their respective attorneys Jerry Daniel Herrera, John F. Robbenhaar, and Bernadette Sedillo, respectfully request this Court to vacate the jury selection and trial presently scheduled for January 14, 2008. As grounds in support, the Defendant states as follows:

1. The Court has scheduled a calendar call on January 3, 2008.
2. Jury trial is scheduled to commence on January 14, 2008.
3. Counsel for defendants have filed an interlocutory appeal with the United States Court of Appeals for the Tenth Circuit. At this time, the parties are engaged in the briefing process, which is anticipated to be completed in February or March, 2008. It is assumed that oral argument will follow in the Spring or Summer, 2008, with a decision by the Tenth Circuit at some time thereafter. At present, this Court is without jurisdiction to proceed to trial on the merits.
4. Undersigned counsel has contacted the Assistant United States Attorney Luis Martinez, who does not oppose the relief sought herein.

5. The parties agree that the time between this motion and the trial date should be excluded for speedy trial purposes under Title 18 U.S.C. §3161(h)(8)(A).

WHEREFORE, Defendants Danuel Quaintance, Mary Quaintance, and Joseph Butts respectfully request that the Court enter an Order vacating and continuing the current calendar call and trial settings.

Respectfully submitted,

*Filed Electronically*  
JOHN F. ROBBENHAAR  
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#### **CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on January 2, 2008, I filed the foregoing electronically through the CM/ECF system, which caused the following parties or counsel to be served by electronic means, as more fully reflected on the Notice of Electronic Filing:

LUIS MARTINEZ  
United States Attorney's Office  
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Las Cruces, NM 88001

*Electronically Filed*  
JOHN F. ROBBENHAAR