

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

UNITED STATES OF AMERICA,

Plaintiff,

v.

HEALTH VISIONS CORP. and
THOMAS ARTHUR LUTZ,

Defendants.

PRETRIAL MOTION HEARING
and
AMENDED SCHEDULING
ORDER

05-CR-72-C

On March 9, 2007 this court held the pretrial motion hearing. Defendant Health Visions Corporation was represented by Attorney T. Christopher Kelly. The government was represented by Assistant United States Attorneys Peter Jarosz and Daniel Graber.

The main topic of the hearing, under which all other topics were subsumed, was both sides' need for more time. The attorneys re-iterated that this case is complicated not just by its nature as a multi-year, multimillion dollar corporate health fraud investigation, but also because everything occurred in the Philippines. As a result, virtually every action by either party involves significantly more time, money and inconvenience. The parties currently are in "settlement mode" and are making good progress toward resolving this case without a trial. Switching to "trial mode" would require months of lead time and the expenditure of tens of thousands of dollars to send everyone to the Philippines for additional investigation and preparation in anticipation of trial. The upshot of all this is that at the hearing the parties jointly requested that the court postpone trial from March until October, 2007.

After climbing back in my chair, I discussed this request with both sides. As alarming as such an extension is to a court that moves as quickly as this one, the parties persuaded me that the fairest and most efficient course for everybody was to grant the extension. Accordingly, the current schedule is stricken in favor of these dates:

Submissions for final pretrial conference: September 11, 2007

Final pretrial conference: September 14, 2007 at 9:00 a.m.

Final hearing: September 27, 2007 at 3:00 p.m.

Jury selection and trial: October 1, 2007 at 9:00 a.m.

The parties are still predicting a two week trial.

All time from March 9, 2007 through October 1, 2007 is excluded from computation under the Speedy Trial clock pursuant to 18 U.S.C. §§ 3161(h)(8). As explored in more detail at the pretrial motion hearing, the ends of justice served by granting this continuance outweigh the best interest of the public and the defendant in a speedier trial. This case is highly unusual and complex due to the nature of prosecution and the geography involved. Allowing the parties additional time to stipulate to a discovery plan (and perhaps to settle the case) will save thousands of hours and tens of thousands of dollars, and will result in a fair, speedy resolution of this case. It is unreasonable to expect adequate preparation for trial within the time limits previously established. Granting the continuance provides HVC and the government reasonable time necessary for effective preparation taking into account the exercise of due diligence.

To clean up the record, I denied without prejudice the government's evidentiary motions (dks. 48-49) and took no action on the discovery requests (dks 41-42). I advised the parties that it will be their obligation timely to renew their discovery and evidentiary concerns if necessary. The parties had no other matters to bring to the court's attention.

Entered this 12th day of March, 2007.

BY THE COURT:
/s/
STEPHEN L. CROCKER
Magistrate Judge