

1 MELODY A. KRAMER, SBN 169984
2 KRAMER LAW OFFICE, INC.
3 4010 Sorrento Valley Blvd., Suite 400
4 San Diego, California 92121
5 Telephone (855) 835-5520
6 mak@kramerlawip.com

7 Attorney for Defendant David Alan Dortch

8 SUPERIOR COURT OF CALIFORNIA
9 COUNTY OF RIVERSIDE
10 (Southwest)

11 THE PEOPLE OF THE STATE OF
12 CALIFORNIA,

13 Plaintiff,

14 v.

15 DAVID ALAN DORTCH
16 DOB 09/28/1965

17 Defendant.

) Case #SWF1400013

)

) **NOTICE OF MOTION FOR**
) **DISMISSAL WITH PREJUDICE**
) **FOR VIOLATION OF**
) **DEFENDANT'S RIGHT TO SPEEDY**
) **TRIAL**

) Date: September 8, 2015

) Time: 8:30am

) Dept: S201

)

) Estimated time: 30 minutes

19
20 TO THE COURT AND PROSECUTING ATTORNEYS:

21 Defendant Dr. David Dortch hereby demands that this criminal prosecution be
22 dismissed with prejudice because he was not accorded a right to speedy trial as
23 guaranteed to him under the United States Constitution and the California
24 Constitution.

25 Furthermore, Defendant demands that all actions taken by this Court against
26 him since the passage of the **deadline for speedy trial – June 9, 2015** – be rendered
27 null and void as being unconstitutional. This specifically includes, though is not
28

1 limited, the Court's issuance of an arrest warrant on August 27, 2015, based on Dr.
2 Dortch's leaving of the courtroom before the Court thought a hearing was concluded,
3 and subsequent criminal charges relating to execution of that unlawful arrest warrant,
4 including the filing of new charges under Case No. SWF1501444.

5 All criminal defendants have a right to a speedy and public trial under the
6 Sixth and Fourteenth Amendments of the U.S. Constitution and Article I, § 15, of the
7 California Constitution. The right to speedy trial is a fundamental right. *Smith v.*
8 *Hooey*, 393 U.S. 374 (1969); *Dickey v. Florida*, 398 U.S. 30 (1970).

9 Defendant Dr. Dortch had a right to have his matter brought to trial within 60
10 days of the arraignment on the information (*Penal Code* § 1382). He was arraigned
11 on November 14, 2014, thus entitled to trial by January 13, 2015.

12 Although a couple of limited time waivers were made, the last waiver of time
13 made by Defendant Dr. Dortch in this case was on February 6, 2015, waiving time
14 for trial to April 10, 2015 plus 60 days, thus placing the **deadline for speedy trial at**
15 **June 9, 2015.**

16 Defendant has not personally entered any other waivers of his constitutional
17 rights to a speedy trial, nor did he authorize any other person, particularly not Mr.
18 Briones-Colman, to waive any constitutional rights on his behalf. To the contrary,
19 Dr. Dortch has repeatedly in court hearings since February 6, 2015 explicitly stated
20 that he was not making any further time waivers.

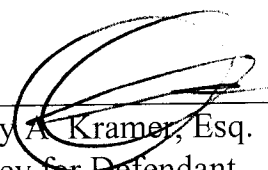
21 This case is now almost three months past the constitutional and statutory
22 limitations on the timeframe before trial. Speedy trial limitations have passed; this
23 case must be dismissed with prejudice.

24 WHEREFORE, for at least the reasons set forth above, Defendant hereby
25 requests the Court to vacate its orders on September 3, 2015 relating to *Penal Code* §
26 1368 and denial of bail to Defendant Dr. Dortch, reinstatement of the bond
27 previously posted by Dr. Dortch, and ordering him released from custody forthwith.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

DATED: September 4, 2015

KRAMER LAW OFFICE, INC.



Melody A. Kramer, Esq.
Attorney for Defendant
Dr. David Alan Dortch

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

PROOF OF SERVICE

I, Melody A. Kramer, declare: I am and was at the time of this service working within in the County of San Diego, California. I am over the age of 18 year and not a party to the within action. My business address is the Kramer Law Office, Inc., 4010 Sorrento Valley Blvd., Suite 400, San Diego, California, 92121.

On Friday, September 04, 2015, I served the following documents:

NOTICE OF MOTION FOR DISMISSAL WITH PREJUDICE FOR VIOLATION OF DEFENDANT’S RIGHT TO SPEEDY TRIAL

on the following parties or their counsel:

Richard A. Necochea Riverside County District Attorney’s Office 30755 Auld Rd, Ste. D Murrieta, CA 92563 rnecochea@rivcoda.org	Attorney for People of State of California
---	--

by the following method of service:

_____(**Personal Service**) I caused to be personally served in a sealed envelope hand-delivered to the office of counsel during regular business hours.

_____(**Federal Express**) I deposited or caused to be deposited today with Federal Express in a sealed envelope containing a true copy of the foregoing documents with fees fully prepaid addressed to the above noted addressee for overnight delivery.

_____(**Facsimile**) I caused a true copy of the foregoing documents to be transmitted by facsimile machine to the above noted addressees. The facsimile transmissions were reported as complete and without error.

 X (**Email**) I emailed a true copy of the foregoing documents to an email address represented to be the correct email address for the above noted addressee.

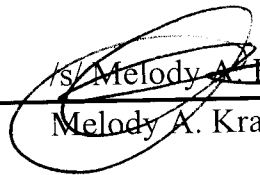
_____(**Email--Pleadings Filed with the Court**) Pursuant to Local Rules, I

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

electronically filed this document via the CM/ECF system for the United States District Court for the Southern District of California.

 X (U.S. Mail) I mailed a true copy of the foregoing documents to a mail address represented to be the correct mail address for the above noted addressee.

I declare that the foregoing is true and correct, and that this declaration was executed on Friday, September 04, 2015, in San Diego, California.



/s/ Melody A. Kramer
Melody A. Kramer