

**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK**

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UNITED STATES OF AMERICA,

-vs-

RICHARD PETIX,

*Defendant.*

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**CASE NO. 15-CR-227-A**

**ATTORNEY AFFIRMATION IN  
SUPPORT OF MOTION  
FOR EXTENSION OF TIME TO  
FILE RESPONSE TO  
MAGISTRATE'S REPORT AND  
RECOMMENDATION**

I, Matthew R. Lembke, having been duly admitted to practice law in the Western District of New York, do hereby affirm, under penalty of perjury, as follows:

1. I am an attorney duly licensed to practice in the United States District Court for the Western District of New York.
2. I am co-counsel with Stephen M. Leonardo represent, the defendant, Richard Petix [Petix].
3. I make this motion in support of Petix's request for a four day extension of time – until Friday, January 20, 2017 – to file his response to the government's objections to the magistrates report and recommendation to dismiss Count Two of the indictment currently pending against Petix.
4. The Court has been understanding in granting our previous requests for extensions.
5. Under the Court current order, our response is due today (January 17, 2017). As a mentioned in my most recent motion, I am currently involved in a jury in a civil case in New York State Supreme Court. We selected the jury last Friday and began proof today (January 17, 2017).

6. Last Friday, when I made my most recent motion, I thought the long weekend would give me enough time to finish and file our response to the government's objections. For various reasons, I wasn't able to finish it.

7. I have been working on our response this evening since about 7:00 P.M. but I am getting tired and I still have some preparation to do for trial tomorrow. I am confident I can get it finished by Friday, January 20, 2017 at the latest.

8. Petix agrees to an exclusion of time from under the Speedy Trial Act to the extent the Speedy Trial clock is impacted by this request for an extension.

WHEREFORE, it is respectfully requested that the Court grant an order modifying the current scheduling order by extending Petix's time to file a response to the government's objections to the Magistrate Judge's Report and Recommendation until Friday, January 20, 2017; and that the Court grant such other, further and different relief, as to the Court may seem just and proper.

Dated: January 17, 2017

/S/ Matthew R. Lembke  
Matthew R. Lembke  
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