2 3 4 UNITED STATES DISTRICT COURT EASTERN DISTRICT OF WASHINGTON 5 б UNITED STATES OF AMERICA, No. CR-13-6025-EFS 7 Plaintiff, 8 ORDER SETTING BRIEFING SCHEDULE, STRIKING TRIAL IN LIGHT OF v. PENDING SUPPRESSION MOTION, AND 9 LEONEL MICHEL VARGAS, EXCLUDING SPEEDY TRIAL ACT TIME 10 Defendant. 11

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12 A pretrial conference occurred in the above-captioned matter on 13 February 11, 2014. Defendant Leonel Michael Vargas was present, 14 represented by John Matheson. Alexander Ekstrom appeared on behalf of 15 the U.S. Attorney's Office (USAO). Hanni Fakhoury and Robert Seines 16 appeared on behalf of the Electronic Frontier Foundation, who was 17 given leave of Court to participate in oral argument. Before the 18 Court was Defendant's Motion to Suppress Evidence from Continuous Video Surveillance Pole Cam, ECF No. 47. The Court heard testimony 19 20 from Detective Aaron Clem, who is an agent with the Tri-Cities Metro 21 Drug Task Force, and oral argument. The parties, however, were not 22 prepared to provide the Court with information pertaining to the make 23 and model of the video camera used. It was the USAO's current 24 position that such information is sensitive information that cannot be 25 publically disclosed without negatively impacting law-enforcement 26 investigations. The USAO asked for the opportunity to brief whether

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the make and model of the video camera, as well as the video camera's 1 technical abilities as would be testified to by an FBI agent, should 2 be disclosed to the Court. The Court finds this proposed briefing is 3 4 necessary. To accommodate the proposed briefing, the Court strikes the current March 3, 2014 trial date. The period of delay caused by 5 this briefing and the time necessary for the Court to dispose of the б suppression motion is excluded under the Speedy Trial Act. 18 U.S.C. 7 § 3161(h)(1)(D). 8

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## Accordingly, IT IS HEREBY ORDERED:

- Defendant's Motion to Suppress Evidence from Continuous
  Video Surveillance Pole Cam, ECF No. 47, is HELD IN
  ABEYANCE.
- 2. The USAO's supplemental brief shall be filed no later than February 21, 2014. Defendant and the Electronic Frontier Foundation may both file a response; these responses shall be filed no later than seven days after the USAO's supplemental brief. The USAO's reply shall be filed seven days after the date of the last responsive filing.
- All upcoming dates and deadlines set forth in the October
  18, 2013 Case Management Order are STRIKEN. A case
  management order will be entered following the anticipated
  briefing.

Pursuant to 18 U.S.C. § 3161(h)(1)(D), the Court DECLARES

EXCLUDABLE from Speedy Trial Act calculations the period

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1	from February 11, 2014, to the date the pending suppression
2	motion, ECF No. 47, is resolved.
3	IT IS SO ORDERED. The Clerk's Office is directed to enter this
4	Order and provide copies to counsel (including counsel for the
5	Electronic Frontier Foundation), the U.S. Probation Office, and the
6	U.S. Marshal's Office.
7	<b>DATED</b> this <u>11<sup>th</sup></u> day of February 2014.
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9	S/ Edward F. Shea EDWARD F. SHEA
10	Senior United States District Judge
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