

FILED  
U.S. DISTRICT COURT  
EASTERN DISTRICT ARKANSAS

NOV 16 2004

IN THE UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF ARKANSAS  
WESTERN DIVISION

JAMES W. McCORMACK, CLERK  
By: \_\_\_\_\_  
DEPUTY CLERK

MICHAEL GALSTER,

PLAINTIFF

VS.

CASE NO.: 4:03CV01013 GTE

KELLY DUDA,

DEFENDANT

DEFENDANT'S RENEWED MOTION FOR CONTINUANCE

Comes now the Defendant Kelley Duda, by and through his attorney Robert R. Cortinez II, and for his Motion for Continuance would state as follows:

1. The Scheduling Order pertaining to this matter contains a trial date setting set for February 14, 2005.
2. The discovery cutoff deadline is December 3, 2004.
3. Defendant's retained counsel previously advised the court, and opposing counsel that he has a 3 day jury trial for February 1, 2 and 3 in Jonesboro, Craighead County, Arkansas, Hunt vs. Hunt Case No.: DR-2003-392
4. In addition to this conflict, Defense counsel has a jury trial scheduled in Second Division, Pulaski County, Circuit Court on February 8, 2005 in matter of Purvis vs. Donn Patrick Bowen And Swift Transportation Company, Inc. Pulaski County Circuit Court Case CV01-01812 and Kim & Doug Brass vs. USAA Casualty Insurance Company, Fifth Division Pulaski County Circuit Court Case CV. 2003-005815 on the same day.
5. In addition defense counsel has a February 9, 2005 jury trial scheduled in the matter of Hokams vs. Glover Circuit Court Case CV2003-4132, Pulaski County Circuit Court

Sixth Division.

6. All of these trials were scheduled prior to defense counsel being retained by Defendant, Kelly Duda on or about October 15, 2004.

7. Plaintiff's counsel indicated that Mr. Duda has made several last minute efforts to avoid trial of this matter due to failure to obtain counsel.

8. The Defendant has attempted to retain three law firms namely, Quattlebaum, Grooms, Tull & Burrow, P.L.L.C.; Williams and Anderson, and The law Firm of Greg Knudson.

9. The retainer fees for each of these law firms ranged from \$7,500.00 to \$25,000.00. Defendant was, and is, without funds to pay these retainers.

10. Defendant's previous counsel had stated to Defendant that he would represent the Defendant "pro se" due to this matter involving constitutional rights issues.

11. That after initially agreeing to represent Defendant "pro se" the Defendant's previous attorneys advised the defendant the he would be required to pay \$3,000.00 for work previously performed and \$1,500.00 for transcripts of the proceedings for an appeal to the 8<sup>th</sup> Circuit Court of Appeals.

12. Defendant raised the monies that were required by previous counsel, and paid said monies. Defendant's previous counsel then aborted the appeal but kept the transcript fees monies paid by a third party friend of Defendant, Kelly Duda.

13. Defendant has since terminated the relationship between himself and his previous counsel due to various conflicts and disagreements regarding the progress of the case and work performed on said case.

14. That although Defendant has requested a return of his monies and deposits for the transcript on several occasions, as of today's date Defendant has not received any monies from

previous counsel and has in fact been instructed by previous counsel of previous counsels intention to file a lien against the case.

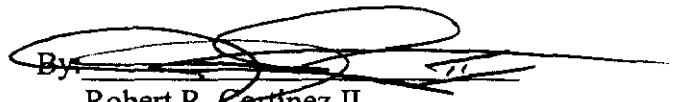
15. As such Defendant has been financially unable to afford counsel until he retained the services of his current counsel who has agreed to represent the Defendant with a minimal retainer so that Defendants rights can be protected and so that the justice will be served.

16. That by forcing Defendant to go to trial with limited advance preparation time by his current counsel, would be a violation of Defendant's due process rights and would deprive him of his artistic work rendering Defendants' presentation of his case moot and weak.

17. In addition, Defendant anticipates the necessity of calling at least two out of town witnesses and will in all likelihood present several witnesses testimony by deposition. It is virtually impossible for these matters to be accomplished during the holidays with undersigned counsel's current work load.

18. This continuance is not sought for improper reasons and is justified under the law and equity.

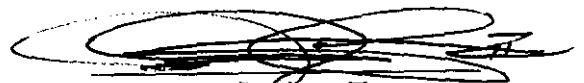
WHEREFORE, Defendant prays that his Motion be granted and for all other just and proper relief.

By:   
Robert R. Cortinez II  
Attorney for Defendant  
P.O. Box 217  
Little Rock, AR 72203  
501-372-6000

CERTIFICATE OF SERVICE

I, Robert R. Cortinez II, do hereby state that on this 15<sup>th</sup> day of November, 2004, a copy of the foregoing pleading was furnished, via US Mail, postage prepaid, upon the following:

Mr. Joseph Walker Woodson, Jr.  
Whetstone Law Firm  
Regions Center  
400 West Capitol, Suite 2990  
Little Rock, AR 72201



Robert R. Cortinez II