

1 LEGAL AID SOCIETY OF ORANGE COUNTY
BY: WILLIAM T. TANNER
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Santa Ana, CA 92701
3 (714) 571-5243

4 Attorney for defendant

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8 MUNICIPAL COURT OF CALIFORNIA
9 COUNTY OF ORANGE, HARBOR JUDICIAL DISTRICT

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11
12 Plaintiffs,)
13 vs.)
14)
15)
16 Defendants.)
17)


CASE NC
NOTICE OF MOTION AND
MOTION TO CONTINUE
TRIAL; MEMORANDUM OF
POINTS AND AUTHORITIES,
AND DECLARATIONS OF
WILLIAM T. TANNER AND
; ORDER
DATE: 4-17-97
TIME: 1:30 p.m.
DIV.: 1

18 TO: Plaintiffs, and to , their attorney of record:

19
20 NOTICE IS HEREBY GIVEN that on April 17, 1997 at 1:30 p.m. or as soon as thereafter as
21 this matter may be heard, in Division 1 of the above-entitled Court, located at 4601 Jamboree, Newport
22 Beach, California, defendant will and do hereby, move for an order granting
23 continuance of this action.

24 Defendant's motion is made pursuant to Code of Civil Procedure sections 128 subd. 8 and 2023.

25 DATED: 4-17-97

26 
27 WILLIAM T. TANNER
Attorney for Defendant

1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 **I**

3 **THE COURT HAS POWER TO VACATE**

4 **THE TRIAL DATE**

5 Courts of general jurisdiction have a statutory as well as inherent duty and power to control their
6 own processes and orders so as to make them conform to justice (Code Civ. Proc. § 128 subd. (8).) In
7 addition, since the court may stay proceedings until a discovery order is obeyed (Code Civ. Proc. § 2023,
8 subd. (b)(4)), it follows that the court may delay a trial pending the resolution of a discovery dispute.

9 **II**

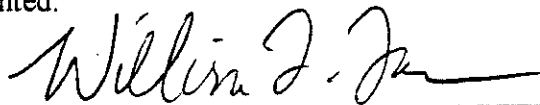
10 **THE COURT MAY SHORTEN TIME FOR**

11 **GIVING WRITTEN NOTICE OF MOTION**

12 The court, or a judge of the court, may prescribe a time shorter than 15 days for giving written
13 notice of motion (Code Civ. Proc. § 1005, subd. (b).)

14 In the present case, Defendants will be denied meaningful discovery and may be unable to present
15 an adequate defense if this motion is not granted.

16 DATED: April 17, 1997



17 William T. Tanner
18 Attorney for Defenda

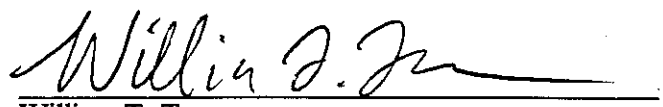
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10. This motion is made in good faith and not for the purpose of delay.

I declare under penalty of perjury under the laws of the state of California that the foregoing is true and correct.

DATED: 4/17/97

LEGAL AID SOCIETY OF ORANGE COUNTY



William T. Tanner
Attorney for Defendant

LEGAL AID SOCIETY OF ORANGE COUNTY
BY: WILLIAM TANNER
902 NORTH MAIN STREET
SANTA ANA, CA 92701
173453

ATTORNEY FOR

MUNICIPAL COURT OF CALIFORNIA
4601 Jamboree Road
Newport Beach, CA 92660-2595
ORANGE COUNTY HARBOR JUDICIAL DISTRICT

CASE NAME:

CASE

**AFFIDAVIT OF THE DEFENDANT
IN SUPPORT OF HER MOTION TO CONTINUE HEARING**

I, _____ of Costa Mesa, County of Orange in the State of California after being sworn make the following affidavit in support of my motion to continue the hearing:

1. My close family has their roots in the Commonwealth of Massachusetts. My father, _____, resides at _____, Worcester, Massachusetts. My maternal grandmother, _____, resides at the _____, _____ Boulevard, of Revere, Massachusetts.
2. My father has been diagnosed with prostate cancer, that is non-operable.
3. Yesterday, April 14, 1997, I received a telephone call that my grandmother is in extreme final stages of her terminal illness, and if we were to see one another one last time before she dies, I would have to be at her bedside at Massachusetts General Hospital, Fruit Street, Boston, Massachusetts immediately.
4. I was informed that my maternal grandmother wished to see my 2 ½ year old daughter before she dies.
5. At short notice, my mother, who lives in California, purchased plane tickets for both of us to fly from Orange County Airport, to Logan International Airport in Boston, Massachusetts.
6. My father, who resides in Worcester, Massachusetts met my mother, his

granddaughter, and myself at Logan International Airport upon our plane's arrival at midnight and drove us directly to the hospital.

7. I believe the action taken by the Plaintiff in this action is retaliatory in nature. I was the prevailing party in this court against the Plaintiff, for substandard housing in February of 1997 which judgment is now final. I was told by the now Plaintiff's attorney _____ in the corridor of the courthouse, immediately following the trial in the first action, that I would be receiving an eviction notice within two weeks. I was served with the eviction notice in this action within two weeks of that conversation. I believe that, therefore, I have a good defense to this action.
8. I therefore request a two week continuance to take care of my urgent family matters in Massachusetts.

At Worcester, in the County of Worcester, Massachusetts, this 15th day of April 1997

COMMONWEALTH OF MASSACHUSETTS

WORCESTER, SS:

April 15, 1997

Before me appeared _____ personally known to me, made oath that the above statements are true, except those made on information and belief, and as to those she believes on the best information that such statements are true.



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Notary Public
My Commission Expires July 17, 1997



FAX TRANSMISSION COVER SHEET OF

TELEPHONE _____

DATE OF TRANSMISSION 4-16-97

TRANSMITTED TO: Attorney William Tanner

TRANSMITTED TO FAX PHONE _____

TIME TRANSMITTED 8:30 AM EST

NUMBER OF PAGES TRANSMITTED THREE INCLUDING THIS SHEET

THIS TRANSMISSION IS INTENDED ONLY FOR THE ADDRESSEE SHOWN ABOVE. IT MAY CONTAIN INFORMATION THAT IS PRIVILEGED, CONFIDENTIAL, OR OTHERWISE PROTECTED FROM DISCLOSURE. ANY REVIEW, DISSEMINATION OR USE OF THIS TRANSMISSION OR ITS CONTENTS BY PERSONS OTHER THAN THE ADDRESSEE IS STRICTLY PROHIBITED.

IF YOU HAVE RECEIVED THIS TRANSMISSION IN ERROR, PLEASE NOTIFY US IMMEDIATELY BY TELEPHONE (508) 753-9124

SPEED MEMO-WE ARE USING THIS INFORMAL MEMO TO AVOID DELAY.

Note: ORIGINALS FedEx TO YOU THIS DATE.

Dear: Attorney Tanner:

I am in Massachusetts because of my father's serious illness and my grandmother's impending death. I herewith fax to you my affidavit concerning my reasons for not being in California on Thursday. Please prepare the necessary emergency motions, and if you direct I will fax the affidavit to the court. Please present these motions, ex parte if you must but make sure that they get heard on an emergency basis..

Very truly yours

[Handwritten signature]

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ORDER

GOOD CAUSE APPEARING THEREFORE,

IT IS ORDERED THAT trial for April 17, 1997 be continued to _____

DATED:

JUDGE OF THE MUNICIPAL COURT