

1 MICHAEL POSTLE
2 3724 Deer Walk Way
3 Antelope, CA 95843
4 916-790-4112

5 Plaintiff, In Pro Per

6 **SUPERIOR COURT OF CALIFORNIA**
7 **COUNTY OF SACRAMENTO**

8 MICHAEL POSTLE,
9 Plaintiff,

10 vs.

11 TODD WITTELES,
12 Defendants

) Case No.: 34-2020-00286265

) NOTICE OF MOTION AND MOTION TO
) CONTINUE HEARING ON SPECIAL
) MOTION TO STRIKE; POINTS AND
) AUTHORITIES; DECLARATION OF
) MICHAEL POSTLE

) Date: March 18, 2021

) Time: 1:30 p.m.

) Dept: 53

) Judge:

) Date Action Filed: February 24, 2021

) Reservation No.: 2554076

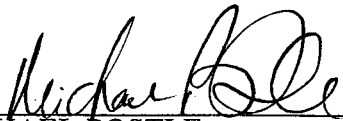
17 To defendant, Veronica Brill, and to her attorney(s) of record: Eric Bensamochan, Esq.
18 NOTICE IS HEREBY GIVEN that on March 16, 2021, at 1:30PM, or as soon thereafter as the
19 matter may be heard, in Department 53 of this court, located at 813 6th Street, Sacramento, Plaintiff,
20 Michael Postle, will, and hereby does, move for an order continuing the trial and mandatory
21 settlement conference, reopening discovery until 30 days prior to the new trial date, and referring this
22 matter back to the case management program for trial setting.

23
24 The motion will be made on the grounds that the plaintiff is interviewing new counsel and
25 needs guidance to answer the opposition. Additionally, the plaintiff has just retained an organization
26 specializing in internet based First Amendment and defamation issues, substantial discovery remains
27 to be completed, and the Plaintiff is unable to adequately prepare in the time remaining.
28

1 The motion will be based on this notice of motion, on the declaration(s) of Michael Postle,
2 and the supporting memorandum served and filed herewith, on the records and file herein, and on
3 such evidence as may be presented at the hearing of the motion.

4 Pursuant to Local Rule 1.06 (A), the court will make a tentative ruling on the merits of this
5 matter by 2:00 p.m., the court day before the hearing. The complete text of the tentative rulings for
6 the department may be downloaded off the court's website. If the party does not have online access,
7 they may call the dedicated phone number for the department as referenced in the local telephone
8 directory between the hours of 2:00 p.m. and 4:00 p.m. on the court day before the hearing and
9 receive the tentative ruling. If you do not call the court and the opposing party by 4:00 p.m. the court
10 day before the hearing, no hearing will be held.

11
12 Dated: February 24, 2021

13 By: 
14 MICHAEL POSTLE
15 Plaintiff, In Pro Per
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1 **Memorandum of Points and Authorities in Support of Motion to Continue**

2 **I. Background**

3 This lawsuit arises from a lengthy, calculated course of action that purposefully defamed the
4 plaintiff, caused him to be held in contempt by his peers and the general public, damaged his ability
5 to earn a living, and put his life in danger. The plaintiff was initially represented by counsel, however
6 their lack of experience in online defamation has resulted in their excusing themselves from the case
7 and the Plaintiff interviewing more appropriate counsel. To date, Plaintiff has not retained new
8 counsel and is unable to prepare the case for trial set at the current date. Additionally, the Plaintiff has
9 retained an organization specializing in internet defamation and First Amendment issues to assist
10 when new counsel is retained, both will need time to confer and prepare. Additionally, discovery
11 remains to be completed in this lawsuit.

12
13 **II. Legal Argument**

14 GOOD CAUSE EXISTS FOR CONTINUANCE IN THAT PLAINTIFF IS SEEKING NEW
15 COUNSEL, AND SUCH NEW COUNSEL WILL BE UNABLE TO ADEQUATELY PREPARE
16 WITHOUT A CONTINUANCE.

17 **A. Good Cause.** A court may grant a continuance before or during trial on an affirmative
18 showing of good cause and each request for a continuance must be considered on its own merits (Cal.
19 Rules of Ct., Rule 3.1332(c)).

20 **B. Significant, Unanticipated Change in Case Status Constitutes Good Cause for**
21 **Continuance.** The circumstances that may indicate good cause for a continuance include a
22 significant, unanticipated change in the status of the case as a result of which the case is not ready for
23 trial (Cal. Rules of Ct., Rule 3.1332(c)(7)). Previous counsel excused themselves due to a lack of
24 experience in online defamation.

25 **C. Continuance Sought as Soon as Reasonably Practical.** A party seeking a continuance of
26 the date set for trial, whether contested or uncontested or stipulated to by the parties, must make the
27 motion or application as soon as reasonably practical once the necessity for the continuance is
28 discovered (Cal. Rules of Ct., Rule 3.1332(b)). The plaintiff is seeking replacement counsel with

1 experience in online defamation. Once retained, it is unlikely that any attorney will have the case
2 prepared in time to answer the opposition.
3

4 **D. Opportunity for Full Presentation.** A continuance should be granted if failure to allow
5 the continuance would probably or possibly prejudice the party seeking the continuance by depriving
6 that party of the opportunity to fully and fairly present his/her/its case (Cadle Co. v. WorldWide
7 Hospitality Furniture (2006) 144 Cal. App. 4th 504, 513–515, 50 Cal. Rptr. 3d 480; In re Dolly A.
8 (1986) 177 Cal. App. 3d 195, 199, 201, 222 Cal. Rptr. 741; Cohen v. Herbert (1960) 186 Cal. App.
9 2d 488, 494, 8 Cal. Rptr. 922).

10 Dated: February 24, 2021

11 By: Michael Postle
12 MICHAEL POSTLE
13 Plaintiff, In Pro Per
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DECLARATION OF MICHAEL POSTLE

I, MICHAEL POSTLE, am the Plaintiff in this matter, and I declare the following in support of my motion for continuance:

The plaintiff was initially represented by counsel, however their lack of experience in online defamation has resulted in their excusing themselves from the case and the Plaintiff interviewing more appropriate counsel. To date, Plaintiff has not retained new counsel and is unable to prepare the case in the time remaining.

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

Dated: February 24, 2021

By: 
MICHAEL POSTLE
Plaintiff, In Pro Per

1 MICHAEL POSTLE
3724 Deer Walk Way
2 Antelope, CA 95843
916-790-4112

3 Plaintiff, In Pro Per

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5 **SUPERIOR COURT OF CALIFORNIA**
6 **COUNTY OF SACRAMENTO**
7

8 MICHAEL POSTLE,
9 Plaintiff,

10 vs.
11 TODD WITTELES,
12 Defendant
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) Case No.: 34-2020-00286265

) [PROPOSED] ORDER CONTINUING
SPECIAL MOTION TO STRIKE

) Date: March 18, 2021

) Time: 1:30 p.m.

) Dept: 53

) Judge:
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The motion of Plaintiff, Michael Postle for an order continuing Defendant's Special Motion to Strike conference came on regularly for hearing by the court on _____. Plaintiff appeared by self-representation; defendant appeared in pro per.

On proof made to the satisfaction of the court that the motion ought to be granted, IT IS ORDERED that the motion be, and hereby is, granted. The existing trial date and mandatory settlement conference date is/are vacated. This case is referred back to the Case Management Program for setting of a trial date.

Dated: _____

Judge of the Superior Court

JACKSON v. COLONIAL ENERGY LLC, et al.
Sacramento County Superior Court
Case No. 34-2018-00230858-CU-PO-GDS

PROOF OF SERVICE BY ELECTRONIC MAIL ONLY

I, LEAH KOLOGY, am employed by the Law Offices of Ted A. Greene, Inc., 1912 F Street, Suite 110, Sacramento, CA 95811. I am over the age of 18 years and am not a party to this action.

My electronic service address is: **lkology@tedgreenelaw.com**

I electronically served today the following document(s) to the following addresses of the interested parties: **NOTICE OF MOTION AND MOTION TO CONTINUE HEARING ON SPECIAL MOTION TO STRIKE; POINT AND AUTHORITIES; DECALRATION OF MICHAEL POSTLE**

Attorneys for Defendant

Veronica Brill

Marc Randazza, Esq.
Randazza Legal Group, PLLC
mrj@randazz.com

Attorneys for Defendant

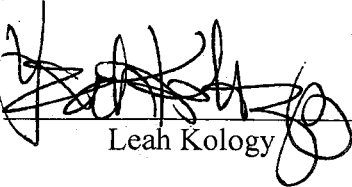
Todd Witteles

Eric Bensamochan, Esq.
The Bensamochan Law Firm, Inc.
eric@eblawfirm.us

SERVICE BY ELECTRONIC TRANSMISSION ONLY: PER CALIFORNIA RULES OF COURT EMERGENCY RULE 12 (b)(2) REGARDING ELECTRONIC SERVICE, service has been performed by e-mailing the document(s) to the person(s) at the email address(es) listed above. During the Coronavirus (Covid-19) pandemic, this office will be working remotely and is therefore using only electronic mail. No electronic message or other indication that the transmission was unsuccessful was received within a reasonable time after the transmission.

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

Dated: February 24, 2021


Leah Kology