

IN THE CIRCUIT COURT OF COUNTY, MISSISSIPPI

PLAINTIFFS

VS. CIVIL ACTION NO.

DEFENDANT

DEFENDANT'S MOTION FOR TRIAL CONTINUANCE

COMES NOW DEFENDANT, , by and through his attorneys of record herein, and files this his Motion for Trial Continuance and would show unto the Court the following:

1.

This litigation arises out of an automobile accident which occurred on , 20 , between the Plaintiffs and , an employee of . The Plaintiffs filed this lawsuit on or about , 20 .

2.

Plaintiff, , sustained facial cuts in this accident which resulted in some facial scarring. This is the main aspect of her claim for personal injuries. subsequently sought medical treatment from a plastic surgeon, , who indicated that she could possibly benefit from two separate scar revision surgeries to help blend the facial scarring into the surrounding facial tissues. On , 20 , underwent scar revision surgery performed by . 's deposition was taken on , 20 , and he testified that 's facial scars look worse now than they did before the surgery because of the surgical incisions. also testified that the scars look worse now as a result of the surgery than they will look six months from now. further testified that it would take at least six months for the incisions and scars to heal in order to realize the full effect and benefit of the surgical procedure.

3.

The accident in this case occurred on , 20 . Despite this fact, waited until just months before

the trial to go in for the surgical procedure to her face. This was not an emergency surgery nor was it medically necessary or required. It was purely optional surgery. It is not fair to the Defendant for the Plaintiff to wait until right before trial to elect or choose to have a surgical procedure that makes her injuries look worse than they did before the surgery and worse than they will look after the full effect of the surgery has been realized, especially since it was not medically necessary at the time it was performed and indeed could have been performed after the trial. The Defendant submits that the surgery performed on [redacted] was timed to coincide with the trial date in order to cast her injuries and facial scars in the worst light possible to the jury. The Defendant will clearly be prejudiced if he is required to go to trial on [redacted], 20 [redacted], and the Plaintiff is allowed to mislead the jury into believing that her scars are actually worse than they really are, especially since the scars will look substantially different and much better only months after the [redacted] trial date. Allowing [redacted] to create worse looking injuries by having elective surgery right before trial and then exhibit to the jury injuries which appear worse than they will be after the surgical wounds have healed, will result in a windfall to [redacted] in the form of a higher verdict being rendered than otherwise would have been had the injuries been shown to the jury before the surgery or at least after the surgical wounds have healed.

4.

The Defendant is not attempting to avoid a trial setting. To the contrary, the Defendant simply wants a level playing field with the jury being allowed to consider the true nature of Plaintiff's injuries and not an injury made worse right before trial by elective surgery, not by an action on the part of the Defendant, but by the Plaintiff's own hand and the hand of her surgeon. All parties ought to be concerned that justice and fair play wins out in this case and that the jury places an accurate and fair value on [redacted]'s injuries, if a verdict is appropriate. Plaintiffs will not be prejudiced in any way whatsoever if this trial is continued since a new trial date can be obtained soon after Plaintiff's surgical wounds have healed. Therefore, [redacted] respectfully requests that this Court enter an Order continuing this case from its present trial setting of [redacted], 20 [redacted]. WHEREFORE, PREMISES CONSIDERED, Defendant, [redacted], requests the Court to grant a continuance of the [redacted], 20 [redacted], trial setting in this case.

RESPECTFULLY SUBMITTED, this the [redacted] day of [redacted], 20 [redacted].

OF COUNSEL:

CERTIFICATE OF SERVICE

I, \_\_\_\_\_, do hereby certify that I have this day mailed a true and correct copy of the above and foregoing pleading to the following counsel for Plaintiffs:

ATTORNEY FOR PLAINTIFFS,

THIS the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.