

IN THE _____ COURT OF _____ COUNTY
STATE OF _____

_____)	
)	
)	
Petitioner/Plaintiff,)	
)	
Vs.)	NO. _____
)	
_____)	
Respondent/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 the _____ day of _____, 20____, between the Plaintiffs and _____, an employee of _____. The Plaintiffs filed this lawsuit on or about the _____ day of _____, 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 the _____ day of _____, 20____, _____ underwent scar revision surgery performed by _____. _____'s deposition was taken on the _____

day of _____, 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 the _____ day of _____, 20____. Despite this fact, _____ waited until just three 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 _____ 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 the _____ day of _____, 20____, 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 November trial date. Allowing _____ 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 _____ 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 _____'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, _____ respectfully requests that this Court enter an Order continuing this case from its present trial setting of the _____ day of _____, 20____.

WHEREFORE, PREMISES CONSIDERED, Defendant, _____, requests the Court to grant a continuance of the _____ day of _____, 20____, trial setting in this case.

Respectfully submitted,

Dated: _____

Name: _____

Title: _____

Address: _____

Address: _____

City, State, Zip: _____

Phone: _____

Fax: _____

E-Mail: _____

Attorney No.: _____

CERTIFICATE OF SERVICE

I, _____, do hereby certify that I have this day mailed,
U.S. Mail, postage prepaid, a true and correct copy of the above and foregoing to
_____, at the following address;

THIS the ____ day of _____, 20____.