

NOTICE: THIS DOCUMENT CONTAINS SENSITIVE DATA

NO. 2012-59856

IN THE INTEREST OF

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IN THE DISTRICT COURT

311th JUDICIAL DISTRICT

CHILDREN

HARRIS COUNTY, TEXAS

OBJECTION TO TEMPORARY HEARING AND MOTION FOR CONTINUANCE

This Motion is brought by Petitioner, **LANCE KIAN GRANMAYEH**, who prays the court continue the hearing presently set for December 28, 2018, and would show in support the following:

I. INTRODUCTION

1. Parties

Petitioner is **LANCE KIAN GRANMAYEH**.

Respondent is **SARAH GRANMAYEH**.

2. Cause of Action

This is a suit for modification of conservatorship.

3. Discovery

Discovery in this suit is governed by a Level 2 discovery control plan.

4. Trial and Temporary Hearing

On November 30, 2018, during an entry hearing, the Court informed the parties of her intent to hold a temporary orders hearing prior to December 31, 2018, and counsel for Petitioner was ordered to provide a December date on which Petitioner's lead counsel did not have another conflict to the Court Coordinator prior to the close of day.

Petitioner's counsel has objected in writing to a temporary hearing taking place and never waived the objection to a temporary hearing. At that time of the November 30th entry hearing, neither party had requested a temporary orders hearing, except as alternative relief, in many months.

Petitioner objects to a temporary orders hearing being held on December 28, 2018 and would more specifically show unto the Court the following in support thereof.

II. OBJECTION TO TEMPORARY ORDERS SETTING

This Court previously set this matter for a two week jury trial to commence under a protective order on November 26, 2018. As a result of this setting and the Court's subsequent decision to hold a temporary orders hearing on that same date in lieu of the jury trial, counsel for Petitioner scheduled all matters on his docket well into December and thus had no date other than December 28, 2018, to offer in compliance with the Court's November 30, 2018 order to provide dates for a December hearing. Providing such dates was in no way a waiver of an objection to a temporary hearing.

Rule 3.7.6 of the Harris County Local Rules requires the consent of all parties and the Court for the setting of an ancillary hearing during the last two weeks of December. Petitioner's designation of December 28, 2018 was not an agreement for this hearing to be held at all in contravention of local rules but simply the only date Petitioner's counsel was not otherwise engaged and an effort to comply with the Court's request to provide a December date to the Court Coordinator by the close of day.

Petitioner has at no time consented to a December 2018 temporary hearing being held in this cause of action, and Petitioner's tendering of a date that was mandated by the Court to occur in December over Petitioner's objections to any temporary hearings being set, was in no way a waiver of the protections afforded to him in the Harris County Local Rule 3.7.6. Petitioner would further show the Court that during the November 30, 2018 entry hearing the Court was clear in that she would hear any motion properly filed and noticed before the end of the year. Respondent's counsel made very specific representations that he had recently filed with the Court, certain requests for temporary relief in a motion that Petitioner's counsel was unaware of at the time and that the Court was unable to locate in its own file. On December 12, 2018, Respondent filed a notice of hearing for a First Amended Motion to Modify Temporary Orders but failed to ever file the motion with the Court. Petitioner specifically objects to any hearing on this motion as it has not been properly filed with the Court and further Petitioner does not consent to this motion being set for hearing during the last two weeks of December 2018.

Petitioner would further show the Court that as of December 17, 2018, the Court Reporter of this Court is unable to provide any transcripts for a minimum of thirty days. Such transcripts are necessary for Petitioner to fully prepare and respond to a motion for temporary orders. To require Petitioner to move forward on a hearing without the ability to procure even a single transcript prior to the December 28th hearing will certainly prejudice his ability to prepare and defend against Respondent's allegations and will impact his overall presentation of evidence to the trier of fact.

III. MOTION FOR CONTINUANCE

Bobby K. Newman, attorney of record for Petitioner, **LANCE KIAN GRANMAYEH**, has a conflicting setting between the temporary orders hearing set in this cause of action and a final trial by arbitration presently set for December 27, 2018 and December 28, 2018 at 9:00 a.m. under Cause No. 2016-61554 and styled "*In the Matter of Marriage of Sharilyn Carroll and Larry Carroll; in the 245th Judicial District Court of Harris County, Texas*" for which he is under an order of protection that is attached hereto as Exhibit "1".

Further, this case has been pending for an extended period of time, there have been many extensive temporary hearings related to conservatorship, rights and duties and possession and access of the children. There has been a full jury trial and a verdict rendered which has been the subject of a motion for new trial that was granted. Since the of the motion for a new trial there has also been extensive multi day hearings on motions. The Court's most recent November 30, 2018 clarification order addressed any confusion related to the parties' rights, duties, possession and support obligations for the children. More importantly, there has been no emergent issue identified by either party in any motion or pleading before the Court that would require an immediate intervention.

LANCE KIAN GRANMAYEH requests the Court sustain Petitioner's objections and pass the December 28, 2018 setting and set this matter for a final trial as soon as practicable and on a date that all parties and counsel are available. In the alternative, Petitioner requests that the Court reset any hearings related to temporary orders in this matter to a date that all parties and counsel are available.

IV. Arguments and Authorities

The Court may grant a motion for continuance if the motion is supported by affidavit and states sufficient cause. *See* **TRCP 251**.

The Court should respect agreements to postpone or continue a case unless the delay would unreasonably interfere with or delay other business of the Court. *See* **TRCP 330(d)**.

The Court's ruling on a motion for continuance is within its discretion. *See* **State v. Wood Oil Distrib.**, 751 S.W.2d 863, 865 (Tex.1988).

This continuance is not sought for delay but so that justice may be done.

VII. Prayer

For the reasons outlined herein above, *Petitioner*, **LANCE KIAN GRANMAYEH** prays the court sustain Petitioner's objections and grant his motion for continuance for the hearing set by this Court for December 28, 2018 in this cause of action.

Respectfully Submitted,
LILLY, NEWMAN, VAN NESS, L.L.P.

By: _____

BOBBY K. NEWMAN
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VERIFICATION

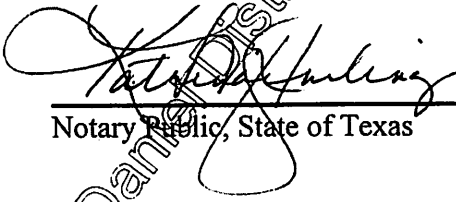
I, Bobby K. Newman, the undersigned attorney of record for Petitioner, LANCE KIAN GRANMAYEH, swear under oath that I have read the foregoing *Motion for Continuance* and the facts stated therein are within my personal knowledge and are true and correct.



BOBBY K. NEWMAN

SIGNED under oath before me on December 20, 2018.





Notary Public, State of Texas

NOTICE OF HEARING


The above motion is set for hearing on _____, at _____, in the 311th Judicial District Court of Harris County, Texas.

Judge or Clerk

CERTIFICATE OF SERVICE

I hereby certify that on **December 20, 2018**, a true and accurate copy of the foregoing document has been delivered to the following attorney of record in accordance with the Texas Rules of Civil Procedure:

VIA E-SERVICE
Jared R. Woodfill
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BOBBY K. NEWMAN