

IN THE CHANCERY COURT OF LEFLORE COUNTY, MISSISSIPPI

**LEFLORE COUNTY BOARD OF
SUPERVISORS**

PETITIONER

VS.

CAUSE NO. 23-CV-00090-WJP

**MARCUS BANKS, IN HIS CAPACITY AS
COMMISSIONER OF GREENWOOD
LEFLORE HOSPITAL BOARD OF
COMMISSIONERS AND CITY OF
GREENWOOD**

RESPONDENTS

RESPONDENTS' MOTION FOR CONTINUANCE

Without waiving their Motion for Recusal (Dkt. 11), Respondents Marcus Banks and the City of Greenwood request that the Court continue the hearing set for December 20, 2023, on Petitioner's Emergency Petition for Temporary Preliminary and Permanent Injunction (Petition) (Dkt. 2) as follows:

1. The Petition is set for hearing on December 20, 2023 (Dkt. 4).
2. The grant or denial of a continuance is within the sound discretion of the trial court. *Capocaccia v. Capocaccia*, 2023 WL 6819437 at *9 (Miss. Ct. App. Oct. 17, 2023).
3. This Court should continue the hearing on the Petition for at least 4 reasons.
4. First, Respondents have filed a Motion for Recusal (Dkt. 11). The recusal motion should be decided before anything else. If the Court denies the Motion for Recusal (Dkt. 11), Respondents will seek a stay of this action pending resolution of the recusal issue by the Mississippi Supreme Court.
5. Second, discovery is necessary to decide the merits of Petitioner's request for injunctive relief, particularly on the issue of whether Petitioner is or has allowed members of the Board of the Greenwood Leflore Hospital to serve in a hold over capacity, and whether Petitioner is thus asking this Court to treat similarly situated Board members differently.

6. Third, Respondents intend to file a counterclaim regarding Petitioner's efforts to treat similarly situated Board members differently, but Respondents' time to file a counterclaim does not expire until approximately two weeks after the December 20 hearing date.

7. Fourth, Respondents' counsel has a previously scheduled mediation on December 20, and are unavailable for a hearing in this action on December 20.

8. Under these circumstances, manifest injustice will result if a continuance is not granted, and Defendants will be prejudiced. *See Capocaccia*, 2023 WL 6819437 at *9.

Request for Relief

For these reasons, Respondents' Motion for Continuance should be granted.

Dated: December 15, 2023.

Respectfully submitted,

BY: /s/ James W. Shelson

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CERTIFICATE OF SERVICE

I certify that on December 15, 2023, this document was electronically filed with the Clerk of the Court using the MEC System, which sent notification of such filing to all counsel of record.

/s/ James W. Shelson

JAMES W. SHELSON