

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF KANSAS

JAYHAWK CAPITAL	)	
MANAGEMENT, LLC, <i>et al.</i> ,	)	
	)	
<i>Plaintiffs,</i>	)	
	)	
v	)	Case No. 08-2561-EFM
	)	
LSB INDUSTRIES, INC., <i>et al.</i> ,	)	
	)	
<i>Defendants.</i>	)	
_____	)	

**ORDER ON MOTION TO CONTINUE**

“He who is his own lawyer has a fool for a client” is one of every lawyer’s favorite proverbs. Among the several reasons why this is undoubtedly true, is that lawyers are trained to handle disputes skillfully but without the emotional rancor that will mask the actual parties’ reason and good sense.<sup>1</sup> Regrettably, many attorneys lose sight of their role as professionals, and personalize the dispute; converting the parties’ disagreement into a lawyers’ spat. This is unfortunate, and unprofessional, but sadly not uncommon. Before the Court, however, is an uncommon example of this unhappy trend.

This matter is currently set for trial commencing June 14, 2011. Defendants seek a brief continuance, noting that one of their counsel, Bryan Erman, along with his wife, is expecting their first child due on July 3. Given the proposed length of trial and the famous disregard that newborns (especially first-borns) have for such schedules, and given that the trial is scheduled in Kansas City

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<sup>1</sup>“ . . . do as adversaries do in law, strive mightily, but eat and drink as friends.”  
Shakespeare, *The Taming of the Shrew*, Act 1, Scene 2.

while the new Erman's arrival is scheduled in Dallas, Defendants move this Court for a continuance. This in itself would not be remarkable, but in reviewing the motion the Court was more than somewhat surprised to read that "Plaintiffs have refused to agree to continue the trial setting and have indicated that they intend to oppose this Motion."

Well, every party is entitled to file an opposition to a motion, and hoping that perhaps Defendants' had mis-characterized the vigor of Plaintiffs' opposition, we have eagerly awaited Plaintiffs defense of its opposition. The Memorandum in Opposition arrived yesterday, and it was, sadly, as advertised.

First, Plaintiffs make a lengthy and spirited argument about when Defendants should have known this would happen, even citing a pretrial conference occurring in early November as a time when Mr. Erman "most certainly" would have known of the due date of his child, and even more astonishingly arguing that "utilizing simple math, the due date for Mr. Erman's child's birth would have been known on approximately Oct. 3, or shortly thereafter." For reasons of good taste which should be (though, apparently, are not) too obvious to explain, the Court declines to accept Plaintiffs' invitation to speculate on the time of conception of the Ermans' child.

Further, Plaintiffs assert that there are currently five attorneys from two different firms on Defendants' signature block. While the Court might be inclined to agree with Plaintiffs that this seems like a plethora of attorneys, it can't help but note that, entered and active on behalf of Plaintiffs in this case, are also five attorneys, from three different firms; so perhaps Plaintiffs are ill-equipped to argue that Defendants have too many attorneys.

Finally, Plaintiffs argue that surely Mr. Erman will have sufficient time to make it from the Kansas City trial to the Dallas birth, even helpfully pointing out the number of daily, non-stop flights

between the two cities; and in any event complain of the inconvenience of this late requested continuance. Certainly this judge is convinced of the importance of federal court, but he has always tried not to confuse what he does with who he is, nor to distort the priorities of his day job with his life's role. Counsel are encouraged to order their priorities similarly.

Defendants' Motion is **GRANTED**. The Ermans are **CONGRATULATED**.

**IT IS SO ORDERED.**

Dated this 12th day of April, 2011.

A handwritten signature in black ink that reads "Eric F. Melgren". The signature is written in a cursive, flowing style.

ERIC F. MELGREN  
UNITED STATES DISTRICT JUDGE