

STATE OF VERMONT
PROFESSIONAL RESPONSIBILITY PROGRAM

In Re: Norman Watts
PRB File Nos. 2019-102 and 2020-011

OPPOSITION TO RESPONDENT’S MOTION TO CONTINUE JUNE 7-9 TRIAL

Navah C. Spero, Esq., Specially Assigned Disciplinary Counsel (“Special Disciplinary Counsel”) in this matter, opposes Respondent Norman Watts’s (“Mr. Watts”), Motion for Continuance of Merits Hearing (“Motion for Continuance”) as follows:

Introduction

The Hearing Panel should deny Respondent’s request to continue the final hearing in this matter because it is untimely, his new counsel has sufficient time to prepare, and it is critical to the public interest and the complaining witnesses that this hearing proceed as scheduled.

This matter is before the Hearing Panel because Attorney Kaveh Shahi filed a limited notice of appearance for the purpose of seeking a continuance and a Motion for Continuance on May 9, 2023. Given Attorney Shahi’s history in this case and representation of Mr. Watts in a related matter, the filing of the notice of appearance was a mere formality. He has known about this case since its inception and the arguments in the Motion for Continuance do not justify the requested delay.

Argument

I. MR. WATTS CHOSE TO RETAIN A LAWYER ON THE EVE OF TRIAL.

This Professional Responsibility matter has been pending for over two years, leaving serious professional misconduct unaddressed. “The Vermont Rules of Professional Conduct serve a twofold purpose: to protect the public from persons unfit to serve as attorneys and to

maintain confidence in our legal institutions by deterring future misconduct.” *In re Wysolmerski*, 2020 VT 54, ¶ 39 (internal quotation and citation omitted). On March 18, 2021, Special Disciplinary Counsel filed a Petition for Misconduct. *Petition for Misconduct*, Mar. 18, 2021.

This matter has been in a trial posture since January 2022, when the parties had completed all necessary pre-hearing filings under the then-operative schedule. A final hearing in this case was delayed for a number of months thereafter while various motions were considered. Then, in July 2022, the Hearing Panel requested and the parties subsequently provided trial availability dates knowing the panel needed three consecutive hearing days. Mr. Watts provided dates in August and October, with the October update indicating he would be available for a final hearing in January 2023. *Notice of Change in Respondent’s Available Dates for a Three-Day Hearing*, Oct. 14, 2022. No hearing was scheduled at that time and the parties provided updated availability on March 3, 2023. *See* W. Chen Scheduling E-mail ([Exhibit 1](#)).

Had Mr. Watts wanted to engage counsel for the final hearing in this matter, the time period in late 2021 was the first appropriate time period to do so. He also could have done so throughout 2022 when he was providing his availability to the Hearing Panel. Retaining counsel during any of these time periods would have allowed for more than enough time to ensure Mr. Watts’ counsel would be fully available and present for his disciplinary hearing.

Most recently, on March 24, 2023, then Panel notified Mr. Watts that the merits hearing will start at 9:30 a.m. on June 7, 2023. As part of that notice, Mr. Watts was advised that he could have an attorney represent him. *See* A.O. 9, Rule 13(D)(4). Indeed, since this disciplinary matter began, Mr. Watts could have hired counsel to assist him at any point.¹ Up until now, Mr.

¹ Perhaps Mr. Watts did not previously do so because he considers this Professional Responsibility matter to be “frivolous.” *See* Excerpts of Watts Discovery Responses in Civil Matter ([Exhibit 3](#)).

Watts has not availed himself of legal representation. His choice to do so at the last minute does not justify a delay where he had the opportunity to do any time in the two years since this matter was filed.

II. ATTORNEY SHAHI HAS SUFFICIENT TIME TO PREPARE AND FURTHER DELAY IS PREJUDICIAL.

Most importantly, a continuance is unnecessary and would unjustly delay this matter for the public and the complaining witnesses. This delay also prejudices Special Disciplinary Counsel and is to the detriment of public welfare and confidence in the judicial system. Attorney Shahi's familiarity with this matter should obviate the need to continue the June 7 trial date.

First, Attorney Shahi should already be familiar with the matter; he is not a stranger to this case. On June 4, 2021 – almost two years ago – Mr. Watts identified Attorney Shahi as an expert witness in this case, and he presumably reviewed the case with Attorney Shahi before doing so. Respondent's Witness List and Persons With Knowledge And/Or Relevant Facts, June 4, 2021, Exhibit 2. More recently, the Hearing Panel can assume that Attorney Shahi re-reviewed the general facts and circumstances of this case before agreeing to enter a limited appearance on behalf of Mr. Watts. The five weeks between Mr. Watts' Notification of Retention of Kaveh S. Shari and the final hearing should be sufficient to review the case.

Of great note, Attorney Shahi already represents Mr. Watts in a civil matter brought by one of the complaining witnesses in this matter, G.A. See Excerpt of Docket Summary for *Alibozek v. Watts*, 22-cv-00493 (Exhibit 4) (noting Attorney Shahi's entry of appearance in that case on April 11, 2022, more than a year ago). Attorney Shahi is therefore very familiar with Mr. Alibozek's (G.A.) allegations.

Second, Attorney Shahi states he will need time to prepare due to the volume of discovery. The volume of discovery in this case is not that significant since Mr. Watts still has not produced his complete files for either complaining witness. Special Disciplinary Counsel has only produced 845 pages of documents. Mr. Watts produced approximately 1,450 pages of material (many of which are irrelevant pleadings) during the pre-petition investigation and has produced no documents during this proceeding that are admissible. Those additional documents that he belatedly produced in March 2022 number in the few dozen, in any event.²

Furthermore, Attorney Shahi would have the benefit of Mr. Watts – presently a licensed attorney who has been representing himself in this matter – to assist in trial preparation. Therefore, this is more akin to a substitution of counsel, as opposed to a new attorney taking on a case without the benefit of prior counsel’s help.

In other words, Attorney Shahi has plenty of time to prepare for a matter with a limited number of documents, where he is already intimately familiar with half of the case, and has more than four weeks to prepare for the rest.

III. ATTORNEY SHAHI’S SCHEDULE IS NOT A TRUE CONFLICT.

Third, Attorney Shahi’s scheduling conflict is not a true conflict because the conflicting matter can easily be covered by another attorney or continued to the following jury draw.

² On the date of this filing, Mr. Watts has directly e-mailed Special Disciplinary Counsel with what appear to be more e-mails in this matter. These are not included in the above paragraph because they have not been processed or reviewed yet. Both Mr. Shahi and Special Disciplinary Counsel will have the same amount of time to review these documents (approximately 4 week) and Mr. Watts cannot submit them into evidence, anyway. *See* Order Regarding Discovery Dispute, Request for Sanctions, Request to Extend Scheduling Order, dated September 28, 2021, pg. 4, ¶1. It must be noted that all of the documents produced today have always been in Mr. Watts’ possession during the pendency of this action.

A date certain trial should trump a jury draw where competing cases are vying for limited trial days. “It is well settled that the granting of a continuance by the trial court is a matter of discretion and that the trial court’s ruling must be upheld unless that discretion is exercised upon grounds clearly untenable or unreasonable.” *Perrott v. Johnson*, 151 Vt. 464, 462 (1989) (internal quotation and citation omitted).

Attorney Shahi represents he has a jury drawing in *Lozefski v. Tri-State Drilling*, Caledonia County, Docket No. 158-12-20 Cacv on June 7, 2023, which presents a one-day conflict where this matter is *already* set for a 3-day trial on June 7 – 9, 2023. Based on the notice, it is highly unlikely that the *Lozeski* matter will even go to trial based on this draw – the Court only has only five available trial days in June (June 26 – 30) and there are three other multiday trial matters scheduled for the same jury draw.³ Motion for Continuance, Exhibit 2.

Presumably, Attorney Shahi was aware of the scheduling conflict before agreeing to represent Mr. Watts. Therefore, a decision must have been made that either one of his partners could attend the jury draw or he could move to continue the jury draw. This matter, however, should not be continued. “[T]he obligation of the trial court [is] to balance the rights of the respective parties.” *Id*, 468. Here, the complaining witnesses have waited more than two years for a hearing in this matter, the facts of which occurred between 2016-early 2019. In addition, the potential sanctions in this case include suspension, and in the meantime the public continues to be exposed to Mr. Watts and he continues to have a busy client roster. It is in the interest is both public welfare and the public’s trust in the judicial system not to delay this matter any

³ There is also a back up, in case the primary four, including *Lozefski*, does not get set in June.

further, where it has already been delayed 18 months from the original trial schedule. For these reasons, the Continuance should be denied.

WHEREFORE, Special Disciplinary Counsel requests that Respondent's Continuance be denied and that this matter remain as scheduled for trial on June 7-9, 2023.

Dated: May 12, 2023

/s/ Navah C. Spero

Navah C. Spero, Esq.
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Attorneys For Specially Assigned
Disciplinary Counsel

Navah C. Spero

From: Wendy W. Chen <wendy@chenkins.com>
Sent: Friday, March 3, 2023 12:29 PM
To: Navah C. Spero; Norman Watts
Cc: Grutchfield, Merrick
Subject: In re Watts (PRB Nos. 2019-102 and 2020-011)

Hello Ms. Spero and Mr. Watts:

The hearing panel is seeking your dates of availability for the merits hearing in the above-referenced matter. The panel is looking for dates between the second half of May through the month of July. Please let me know what dates will work for you and your witnesses. Please also clarify if you still believe three hearing days are needed. It would be helpful to hear back from you by next Wednesday.

Thank you,
Wendy



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RESPONDENT'S WITNESS LIST AND PERSONS WITH KNOWLEDGE AND/OR
RELEVANT FACTS

Respondent submits his list of witnesses and persons with knowledge of relevant facts.

Fact Witnesses

Norman Watts, Esq.
Michelle Kainen, Esq, CPA.
Gary Alibozek
Sharyn Alibozek
Judy Hiramoto

Expert Witness

Kaveh S. Shahi, Esq,

Persons With Knowledge of Relevant Facts

Stephen Bergstein, Esq.
Margaux Reckard
Andrew Maas, Esq.
Jonathan Persky, Esq.

Dated: June 4, 2021

/s/ Norman Watts

Norman E. Watts, Esq., Respondent
Watts Law Firm PC
176 Waterman Hill Road, PO Box 270
Quechee Vt 05059-0270
802-457-1020

EXHIBIT

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STATE OF VERMONT

SUPERIOR COURT
Windsor Unit

CIVIL DIVISION
Docket No. 22-CV-00493

GARY ALIBOZEK,
Plaintiff,

v.

NORMAN E. WATTS and
WATTS LAW FIRM, P.C.,
Defendants.

**DEFENDANTS' RESPONSES TO PLAINTIFF'S
FIRST SET OF INTERROGATORIES AND REQUESTS TO PRODUCE**

NOW COME defendants and respond as follows to Plaintiff's First Set of Interrogatories and Requests to Produce dated September 22, 2022.

1. Please list all the malpractice insurance companies which have covered you in the past 15 years, the dates of their coverage, and whether they were accompanied by reservation of rights letters.

ANSWER: Objection as exceeding scope of Rule 26. Subject to same, Berkley Assurance Company is responding to this suit under a reservation of rights.

2. Please identify each and every case you have litigated against General Electric, in Vermont and elsewhere, in state and federal court, and a) provide the docket number and location of each case, and b) the outcome of each case, specifically indicating if said case was won, lost or settled.

ANSWER: To the extent this information is currently available to me, Michael B. Smith v. General Electric Company, Docket No. 218-4-15 Rdcv; it was dismissed on summary judgment. This information is equally accessible to the plaintiff as the records of suits are public.

3. Please identify by name and docket number each and every malpractice case that has been brought against you in the past 15 years and the outcome of each case.

ANSWER: Objection. The interrogatory exceeds the scope of Rule 26 and does not seek information that is relevant to the claims. Subject to

notified by email by my office. I am not sure why he went to Court on 2/6/19.

79. Why did you send notice of the hearing on February 6 to Sharyn Alibozek but not your client?

ANSWER: Please see my response to interrogatory No. 18.

80. How do you account for the fact that on February 14, the Watts Law Firm informed Plaintiff that the judge, without a hearing, decided against Plaintiff's claims with no forewarning, thus ending his case?

ANSWER: As demonstrated by your question No. 78, Mr. Alibozek was aware of the pending motion for summary judgment. I had discussed the motion for summary judgment before and after it was filed. The Court has the discretion to hold a hearing or rule on the papers. The Court ruled on the papers, granted GE summary judgment, and my office so informed the plaintiff.

81. At what point did you conclude that plaintiff had no case? Please describe the basis for this belief.

ANSWER: 2/14/19 when the Court issued the ruling on summary judgment.

82. Please explain why you chose not to retain Kaveh Shahi as your expert in the PRB case.

ANSWER: I did not retain any expert for the PRB case because it is frivolous.

PLAINTIFF'S FIRST REQUESTS TO PRODUCE

1. Produce all of the relevant documents and a copy of the complete malpractice insurance policy, or policies covering Defendant Watts, including any correspondence which limits coverage, e.g., denial letters or reservation of rights letters.

RESPONSE: The applicable insurance policy was provided to plaintiff's counsel as acknowledged in her 4/21/22 email. Objection to the nonwaiver agreement as it is not specified under Rule 26 insurance discovery.

10. Produce evidence that it was your legal judgment as explained to the PRB that Plaintiff should not pursue Count II and that Mr. Alibozek agreed with your assessment.

RESPONSE: Please refer to answers to Interrogatories 44 and 45.

11. Produce the documents which back up you claim in your email of July 26, 2021 to Attorney Rivkin in which you state, "As the discovery record will demonstrate, Mr. Alibozek lied to me initially and repeatedly concerning the facts related to his claims, to the Vermont Attorney General, under oath in his deposition, and to the VT PRB investigator. All this is a matter of record. You have a dishonest client on your hands."

RESPONSE: All such documents in defendant's custody and/or control have already been produced to plaintiff's counsel.

DATED this 10 day of January, 2023.



NORMAN E. WATTS, Individually and
As duly authorized agent of Watts Law
Firm, P.C.

Subscribed and sworn to before me, this 10 day of January, 2023



Notary Public
My Commission expires 01/31/2023

AS TO OBJECTIONS:



Kaveh S. Shahi, Esq.



Windsor Unit
Case Summary

Case No. 22-CV-00493

Gary Alibozek v. Norman Watts, Esq., et al

§
§

Location: **Windsor Unit**
Filed on: **02/12/2022**

Case Information

File Date 02/14/2022
Filed By Alibozek, Gary
Cause of Action
Claim

Filed Against Watts, Norman E Esq.
Description/Remedy
Action
Norman E Wattts, Esq

Case Type: Tort - Malpractice Other
Case Status: **04/20/2023 Active - Mediation**

File Date 02/14/2022
Filed By Alibozek, Gary
Cause of Action
Claim

Filed Against Watts Law Firm, PC
Description/Remedy
Action
Watts Law Firm, PC

Assignment Information

Current Case Assignment

Case Number 22-CV-00493
Court Windsor Unit
Date Assigned 02/12/2022

Party Information

Lead Attorneys

Plaintiff	Alibozek, Gary	Dennett, Charlotte <i>Retained</i>
Defendant	Watts, Norman E Esq.	Shahi, Kaveh S. <i>Retained</i>
	Watts Law Firm, PC	Shahi, Kaveh S. <i>Retained</i>
		Shahi, Kaveh S. <i>Retained</i>

Causes of Action

02/14/2022 **Cause of Action** Claim (Norman E Wattts, Esq)
Filed By Alibozek, Gary
Filed Against Watts, Norman E Esq.
Action Type Action

02/14/2022 **Cause of Action** Claim (Watts Law Firm, PC)
Filed By Alibozek, Gary
Filed Against Watts Law Firm, PC
Action Type Action

EXHIBIT

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Case Summary

Case No. 22-CV-00493

Recipients: Attorney Dennett, Charlotte

03/25/2022 Stipulation Filed
Filed by: Attorney Dennett, Charlotte

03/28/2022 Return of Service - Complaint
Filed by: Attorney Dennett, Charlotte
Party Served: Defendant Watts, Norman E Esq.

03/29/2022 Sent to Judge (Judicial Officer: Gerety, Robert P., Jr.)

03/30/2022 Sent to Case Parties

03/30/2022 Order (Judicial Officer: Gerety, Robert P., Jr.)

03/30/2022 Notice to Parties
Recipients: Attorney Dennett, Charlotte

03/30/2022 Letter Sent
Sent To: Defendant Watts, Norman E Esq.;
Defendant Watts Law Firm, PC

04/05/2022 Returned Mail
Party: Defendant Watts, Norman E Esq.

04/07/2022 Certificate of Service
Filed by: Attorney Dennett, Charlotte
Party for: Defendant Watts, Norman E Esq.;
Defendant Watts Law Firm, PC

04/08/2022 Returned Mail
Party: Defendant Watts, Norman E Esq.

04/11/2022 Notice of Attorney's Appearance
Filed by: Attorney Shahi, Kaveh S.
Representing: Defendant Watts, Norman E Esq.;
Defendant Watts Law Firm, PC

04/11/2022 Answer
Filed by: Defendant Watts, Norman E Esq.;
Defendant Watts Law Firm, PC

04/11/2022 Certificate of Service
Filed by: Attorney Shahi, Kaveh S.
Party for: Attorney Dennett, Charlotte

04/11/2022 Jury Trial Request - Civil
Filed by: Attorney Shahi, Kaveh S.

04/11/2022 Certificate of Service
Filed by: Attorney Shahi, Kaveh S.
Party for: Attorney Dennett, Charlotte

04/13/2022 Note

04/14/2022 Sent to Case Parties

04/14/2022 Entry Order (Judicial Officer: Gerety, Robert P., Jr.)

04/14/2022 Notice to Parties
Recipients: Attorney Dennett, Charlotte;
Attorney Shahi, Kaveh S.

05/12/2022 Proposed Discovery Stipulation and Order
Filed by: Attorney Shahi, Kaveh S.

05/12/2022 Certificate of Service
Filed by: Attorney Shahi, Kaveh S.
Party for: Attorney Dennett, Charlotte

05/13/2022 Sent to Judge (Judicial Officer: Gerety, Robert P., Jr.)

06/13/2022 Stipulation Filed
Filed by: Attorney Dennett, Charlotte

STATE OF VERMONT
PROFESSIONAL RESPONSIBILITY PROGRAM

In Re: Norman Watts
PRB File Nos. 2019-102 and 2020-011

CERTIFICATE OF SERVICE

I, Navah C. Spero, Esq., certify that, on May 12, 2023, I caused to be served my
Opposition to Respondent's Motion to Continue June 7-9 Trial as follows:

Via E-mail

Kaveh S. Shahi, Esq.
Cleary Shahi & Aicher, P.C.
110 Merchants Row, Suite 3
Rutland, VT 05701
kss@clearyshahi.Com

Dated: Burlington, Vermont
May 12, 2023

/s/ Navah C. Spero

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