

ORIGINAL

OPPS  
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CLERK OF THE COURT

DISTRICT COURT

CLARK COUNTY, NEVADA

CANDICE BOCK, )  
)  
Plaintiff, )  
)  
vs. )  
)  
)  
TIMOTHY BOCK, )  
)  
Defendant. )

CASE NO: D-11-451996-d  
DEPT NO: K

DATE OF HEARING: May 15, 2012  
TIME OF HEARING: 9:00 a.m.

**DEFENDANT'S OPPOSITION TO PLAINTIFF'S MOTION TO  
CONTINUE TRIAL; WITHDRAW AS ATTORNEY OF RECORD;  
ATTORNEY'S FEES AND RELATED RELIEF**

Defendant, Timothy Bock, by through his attorney, Kirby R. Wells, Esq., of WELLS & RAWLINGS, submits his opposition to Defendant's motion as fully set forth below.

This Opposition is made and based on all the papers and pleadings on file herein, the Points and Authorities submitted herewith, the affidavit of counsel attached hereto, and any further evidence and argument as may be adduced at the hearing of this matter.

DATED this 10 day of May, 2012.

WELLS & RAWLINGS

KIRBY R. WELLS, ESQ.  
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6900 Westcliff Drive, Suite 710  
Las Vegas, Nevada 89145  
Attorney for Defendant

WELLS & RAWLINGS

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## I.

## THE ISSUES RAISED BY CANDICE ARE ALL TRIAL ISSUES

First and foremost it should be noted that Candice's counsel's motion comes slightly more than one month prior to the two day trial set for June 6<sup>th</sup> and 7<sup>th</sup>. In fact, when the motion is heard, on an order shortening time, the trial will only be three weeks away. That is justification enough for denying Defendant's motion.

Of the reasons set forth by the Candice for a trial continuance, one major issue, child custody, has now been resolved and is off the table. Attached hereto is a proposed joint physical custody schedule prepared by the Defendant and submitted during her deposition on May 4, 2012. The parties have agreed to joint legal and physical custody with an equal timeshare. The schedule calls for each party having custody two days during the week and then alternating three day weekends. Therefore, there is no necessity to spend time and money on having Dr. Lenkeit conduct an evaluation.

The only other issues left to determine at trial are alimony and division of assets and debts. There are practically no assets to be divided and the couple is engulfed in a mountain of debt. In fact the only assets are some household furniture and furnishings and the Defendant's business, which he owned prior to the marriage. With regard the latter asset, Tim has agreed to provide an evaluation from a company that specializes in valuing his type of business, which is basically a portfolio management business, which Tim now runs out of his house.

Needless to say, Candice has no interest in his business unless she can prove (1) that the business has a value in excess of what it was when they were married ten years ago; and (2) that any increase in value is due to Tim's labor skill and effort during the marriage, which was not compensated adequately to the community.



1 As the proof will show at the time of trial, not only has Tim taken as much money as possible  
2 out of his business to support the couples' lavish lifestyle, he has had to go deeply into debt to a  
3 client and the Internal Revenue Service to make ends meet.<sup>1</sup>

## 4 II.

### 5 CANDICE'S ATTORNEY'S MOTION TO WITHDRAW

6 This is indeed a remarkable motion by Candice's counsel. She is basically attempting to  
7 blackmail this Court into granting all of the relief she wants, including more money, or she will leave  
8 Candice high and dry. The undersigned has to frankly admit that in his over 30 years of practicing  
9 divorce law, he has never seen this tactic. The court should not buckle under to Candice's counsel's  
10 threats. She has already received a total of \$19,500.00 in fees and claims to be presently owed  
11 \$22,000.00. This totals \$41,500.00 in fees and she has taken exactly one deposition.<sup>2</sup> To put it  
12 bluntly, the motion is not about Candice's interests, its about her counsel's desire to wring as much  
13 money out of this case as she can before leaving.

14 This couple is up to their necks in debt, and can no longer afford Candice's counsel's fees.  
15 She should be allowed to withdraw so that some rational step forward toward settlement can be  
16 taken.

17 \* \* \* \* \*

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21 \* \* \* \* \*

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23  
24 <sup>1</sup> Tim presently is indebted to a client J. Bingham for a total of \$695,000.00, represented by two  
25 notes that Tim has signed. The couple are also indebted to the Internal Revenue Service for past years  
26 underpayment of taxes and an anticipated \$65,000.00 tax shortfall for 2011, which comes to a grand total  
27 of \$390,000.00 in IRS debt.

28 <sup>2</sup> A review of Candice's counsel's billing statements reveal that a vast majority of the attorney's  
fees incurred were wasted on motions that were unnecessary and generating correspondence to  
apparently document the file and justify the billings.

### III. CONCLUSION

Candice's counsel neglects to advise this Court in her motion that there is a settlement conference with a senior judge scheduled for May 18, 2012. Since all financial information has been exchanged and both parties have been deposed, there is no reason that this case can't settle prior to trial. If it doesn't settle, then it will take less than a day's trial time to resolve the only real issue, alimony. This is ten year marriage and Candice is not entitled to lifestyle alimony. She is entitled to alimony based upon her reasonable needs for a specific period time and Tim's ability to pay. Given the fact that Tim is facing paying over \$1,000,000.00 in community debt, it is difficult to see where the money can come from since Tim acknowledges that he will be paying full bore child support and hopes to be able to pay for private school tuition for the parties' son, [REDACTED]

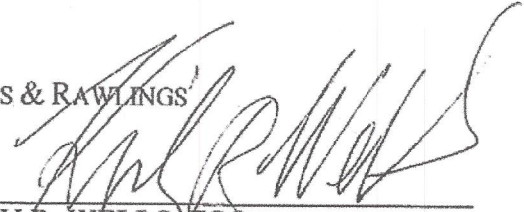
At her deposition taken on May 4, 2012, Candice testified that she basically has no present plans for employment, even though she worked outside of the home up until approximately a year and a half ago. She evidentially believes that Tim is obligated to support for the rest of her life, which is quite obviously not true, and hasn't taken any steps to test the job market, retrain, or even look for new career opportunities. Candice needs to wake up.

Her attorney's motion to withdraw should be granted and the balance of the motion should be denied and the trial date maintained. There is no money to further litigate this case.

Regardless of what community property component there might be to Tim's business, that amount is totally subsumed by the mountain of community debt that Tim is going to be forced to pay since Candice apparently doesn't think that she ever has to work again.

DATED this 10 day of May, 2012.

WELLS & RAWLINGS

  
KIRBY R. WELLS, ESQ.  
Nevada Bar No. 001666  
6900 Westcliff Drive, Suite 710  
Las Vegas, Nevada 89145  
Attorney for Defendant

AFFIDAVIT OF KIRBY R. WELLS, ESQ.

STATE OF NEVADA )  
COUNTY OF CLARK ) ss:

KIRBY R. WELLS, ESQ., first being duly sworn, deposes and says:

1. I am an attorney, licensed to practice law in the State of Nevada, and represent the Defendant, Timothy Bock, in this matter;

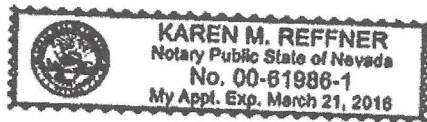
2. I have read the foregoing DEFENDANT'S OPPOSITION TO PLAINTIFF'S MOTION TO CONTINUE TRIAL; WITHDRAW AS ATTORNEY OF RECORD; ATTORNEY'S FEES AND RELATED RELIEF. I am competent to testify to truth of the matters stated therein, and as to the matters stated made upon information and belief, I believe them to be true.

3. Based upon the foregoing, Candice's attorney's motion to withdraw should be granted and the balance of the motion should be denied and the trial date maintained.

KIRBY R. WELLS, ESQ.

SUBSCRIBED and SWORN to before me  
this 10<sup>th</sup> day of May, 2011.


NOTARY PUBLIC in and for said County and State





## RECEIPT OF COPY

RECEIPT OF A COPY of the foregoing DEFENDANT'S OPPOSITION TO PLAINTIFF'S  
MOTION TO CONTINUE TRIAL; WITHDRAW AS ATTORNEY OF RECORD; ATTORNEY'S FEES AND  
RELATED RELIEF is hereby acknowledged this 10<sup>th</sup> day of May, 2012.

 #10464 for

Emily McFarling Benson, Esq.  
Law Office of McFarling Benson  
2800 West Sahara Avenue, Suite 6G  
Las Vegas, Nevada 89102

Attorney for Plaintiff

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