7/20/2023 11 43 AM Marilyn Burgess - District Clerk Harris County Envelope No. 77714902 CAUSE NO. 2018-58037 By: Brenda Espinoza IN THE DISTRICT COURFled: 7/20/2023 11:43 AM YAHIA ZARIR § Plaintiff. v. DRUSILLA W. BENNETT Defendant/3rd Party Plaintiff OF HARRIS COUNTY, TEXAS § § v. § RUTH M. KENDALL and **KEVIN KENDALL** § § 3rd Party Defendants, § § v. §

RPG INVESTMENTS LLC, Intervenor.

2) 5TH JUDICIAL DISTRICT

## JOINT AGREED MOTION FOR CONTINUANCE

## TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW, Intervenor RPG Investments LLC and Defendants Ruth Kendall and Kevin Kendall and file this Agreed/Joint Motion for Trial Continuance. In support thereof, the Parties would respectfully show as follows:

§

§

#### I.

1. Trial is currently set for the Court's trial docket beginning on **July 31, 2023**.

2. On January 31, 2023, the Court granted an interlocutory summary judgment in favor of Defendant Drusilla Bennett and against RPG on RPG's claim for easement by necessity and on Bennett's suit to quiet title against RPG.

3. The active remaining parties to the above styled and numbered suit are Intervenor RPG Investments LLC and Defendants Ruth and Kevin Kendall.

4. RPG Investments, LLC's counsel has designated the first week of the two-week docket beginning July 31, 2023 as a summer vacation week. *See* attached Exhibit 1. Further, RPG Investments, LLC's counsel Austin R. DuBois's wife is pregnant and, while she was originally due to give birth during the first week of September, her obstetrician has indicated that due to the high risk nature of her

pregnancy, a surgical birth will be necessary some time during the second to third week of August which will prevent RPG's counsel from appearing at trial during the second week of the two week docket.

5. Defendants agree to the continuance sought in this Joint Agreed Motion.

#### II.

6. The Parties respectfully request the Court to continue the trial in this matter for at least 180 days. The continuance of this case will not unreasonably interfere with the other business of the court. *See* Tex. R. Civ. P. 330(d). Moreover, this Motion for Continuance is not sought for the purpose of delay, but so that justice may be done.

### III.

WHEREFORE, PREMISES CONSIDERED, Intervenor RPG Investments LLC and Defendants Ruth Kendall and Kevin Kendall, respectfully request that the Court grant this motion for continuance and continue the current trial setting for at least 180 days and issue a new docket control order. Further, Intervenor RPG Investments LLC and Defendants Ruth Kendall and Kevin Kendall, respectfully request for any such other and further relief, at law or in equity, to which they may be justly entitled.

Respectfully submitted,

/s/ Austin R DuBois Austin R. DuBois, SBN: 24065170

BARRY & SEWART, PLLC 4151 Southwest Freeway, Suite 680 Houston, Texas 77027 Tel. (713) 722-0281 Fax. (713) 722-9786 Email: austin@barryandsewart.com *Attorneys for RPG Investments LLC* 

<u>/s/ Jeffrey Wells Oppel</u> Jeffrey Wells Oppel, SBN: 15291800

OPPEL & GOLDBERG, P.L.L.C 1010 Lamar, Suite 1420 Houston, Texas 77002 Tel: (713) 659-9200 Fax: 713-659-9300 Email: joppel@ogs-law.com Attorney for Ruth M. and Kevin Kendall

# Automated Certificate of eService

This automated certificate of service was created by the efiling system. The filer served this document via email generated by the efiling system on the date and to the persons listed below. The rules governing certificates of service have not changed. Filers must still provide a certificate of service that complies with all applicable rules.

e File on behalf of Austin DuBois Bar No. 24065170 efile@barryandsewart.com Envelope ID: 77714902 Filing Code Description: Motion (No Fee) Filing Description: JOINT AGREED MOTION FOR CONTINUANCE OF TRIAL SETTING Status as of 7/20/2023 11:47 AM CST

Case Contacts

Name	BarNumber	Email	MimestampSubmitted	Status
Jeffrey WellsOppel		joppel@ogs-law.com	7/20/2023 11:43:55 AM	SENT
Traudel Meyer		tmeyer@ogs-law.com	7/20/2023 11:43:55 AM	SENT
Austin R.Dubois		austin@barryandsewart.com	7/20/2023 11:43:55 AM	SENT
Austin DuBois	24065170	austin@barryandsewart.com	7/20/2023 11:43:55 AM	SENT
Dreu Dixson		ddixson@wallaceallen.com	7/20/2023 11:43:55 AM	SENT
Marissa E.Reyna		mreyna@wallaceallen.com	7/20/2023 11:43:55 AM	SENT
Casey T.Wallace		cwallace@wallaceallen.com	7/20/2023 11:43:55 AM	SENT
Service WallaceAllen		service@wallaceallen.com	7/20/2023 11:43:55 AM	SENT