

NO 3028

IN THE INTEREST OF	§	IN THE DISTRICT COURT
	§	
BETTY JANE JESSOP,	§	
LUANNE JESSOP,	§	
PATRICK MERRIL JESSOP,	§	
MERRIL ANDREW JESSOP,	§	51ST JUDICIAL DISTRICT
MERRILEE JESSOP,	§	
MERRIL HARRISON JESSOP AND	§	
BRYSON MERRIL JESSOP	§	
	§	
CHILDREN	§	SCHLEICHER COUNTY, TEXAS

MOTION TO FOR PARTIAL CONTINUANCE TO CONDUCT DISCOVERY

Petitioner, by and through counsel Natalie E. Malonis, files this Motion for Partial Continuance to Conduct Discovery, and would show the Court as follows:

1. On May 13, 2009, Petitioner filed a Petition to Establish Child Support and for Retroactive Child Support Pursuant to the Uniform Interstate Family Support Act in the 51st Judicial District Court of Schleicher County, Texas, Respondent's county of residence;;
2. Respondent's answer was due at 10:00 a.m. on June 8, 2009. Respondent filed his Answer and a Special Appearance and Motion to Dismiss after 2:00 P.M. on June 8, 2009;
3. On August 6, 2009, the Court served Petitioner, through counsel, with a Notice of Hearing on Respondent's Special Appearance and Motion to Dismiss set for September 28, 2009. Petitioner did not receive on that date notice of final trial in this case.
4. On September 22, 2009, Petitioner, through counsel, attempted to file a Motion for Temporary Orders and set if for hearing concurrently with Respondent's

Motion to Dismiss on September 28, 2009. While requesting a hearing on the matter, the Court Co-ordinator informed Petitioner's counsel that the Court would not set a hearing on temporary orders because the matter was set for final trial on September 28, 2009. This was the first notice Petitioner received that this case was set for final trial on September 28, 2009.

5. Petitioner has conducted no discovery or made other preparations for final trial of this case because Petitioner had no notice of a trial setting, and Petitioner was awaiting a ruling on Respondent's Motion to Dismiss. Despite the short notice for final trial (less than one week), Petitioner has now prepared four witnesses and obtained some evidence to present in support of her case at trial on September 28, 2009.
6. In preparing for trial over the last three days, it has become clear that Respondent's financial status is extremely complicated, and further discovery will be required in order to present the Court with an accurate picture of the parties' relative access to resources, including access to resources during the period for which Petitioner seeks retroactive child support. Further, information has just become available to Petitioner which indicates that it may be necessary to join third-party respondents in this case to recover potentially fraudulent or improper transfers of assets by Respondent.

The interests of justice and the best interests of the children dictate that Petitioner be afforded an opportunity to fully discover the nature and extent of Respondent's available resources during the relevant time period.

REQUEST FOR RELIEF

Petitioner respectfully requests that the trial set for September 28, 2009, commence for the purpose of taking testimony and considering evidence to the extent Petitioner is prepared to go forward on that date. Petitioner further requests that the trial thereafter be recessed for a time sufficient to allow Petitioner to fully conduct discovery in this case.

Petitioner requests that prior to recessing the proceeding, the Court enter interim orders for temporary child support and attorney's fees until the trial resumes after discovery is completed.

Petitioner prays for general relief.

Respectfully submitted,

THE MALONIS LAW FIRM
Attorneys and Counselors
1173 Bent Oaks Court Suite 200
Denton, Texas 76210
Tel: 940-580-2149
Fax: 972-499-1041

By: _____



Natalie E. Malonis
Attorney for Petitioner

CERTIFICATE OF SERVICE

I certify that on September 25, 2009, I served a true and correct copy of the foregoing Motion on the following:

Ms. Amy Hennington
Via Facsimile: 325-492-8064



Natalie E. Malonis
Attorney for Petitioner