

**NOTICE:**

To request limited oral argument on any matter on this calendar, you must call the Court at (916) 874-5487 (Department 47) by 4:00 p.m. the court day before this hearing and advise opposing counsel. If no call is made, the tentative ruling becomes the order of the court. Local Rule 2.02(D).

**Department 47  
Superior Court of California  
720 Ninth Street  
Roland L. Candee, Judge  
S. Jacobs/P. Banks, Clerk  
None, Bailiff**

**Wednesday, April 25, 2007, 9:30 AM**

Item 1    **03AS00061        THE PEOPLE OF THE ST OF CA, ET AL VS. JEROME SPRAGUE**

Nature of Proceeding:    Miscellaneous Motion

Filed By:

Defendant and cross-complainant Jerome H. Sprague, serving as co-counsel for himself along with the Cassina Law Corporation, has filed a motion for sanctions against plaintiff Sacramento Metropolitan Air Quality Management District, counsel Kathy Pittard and witness Darell Singleton. For the reasons set forth below, defendant's motion is DENIED.

Defendant Sprague states that the court granted plaintiff's request to continue trial then set for January 16, 2007 at an ex parte hearing on December 13, 2006 on the ground that one of plaintiff's key witnesses Darell Singleton was unavailable because of his infant daughter's upcoming heart surgery. Defendant declares that he called Mr. Singleton on January 25, 2007 and was advised by Mr. Singleton that he was in his office on Monday January 24 and would be back in the office on Wednesday January 26 and that Tuesday January 25 was his day off. Defendant Sprague further argues that he was not even given notice of the December 13 hearing.

With respect to the allegations of fraud, plaintiff's attorney Kirk Trost offers by way of declaration that in connection with the December 13 request to continue, plaintiff made an offer of proof that it was not certain when during the period of January through May 1, 2007 Mr. Singleton would be unavailable as the date for his daughter's surgery was uncertain. According, to Mr. Trost, it was not asserted that witness Singleton would be unavailable through the entire period. According to the declaration of witness Singleton he was on paid parental leave every day the week of January 22, except Tuesday January 23. Witness Singleton further declares that he has no recollection of receiveing a telephone call on January 25 from Mr. Sprague. Mr. Singleton further indicates that his daughter had surgery on February 28, that she responded favorably to the surgery and she was brought home on March 12. Finally, plaintiff notes that contrary to defendant Sprague's declaration January 24, 2007 was not a Monday, the 25 was not a Tuesday and the 26 was not a Wednesday. January 22, 2007 was a Monday.

The court finds no support for the assertion that plaintiff, its counsel or its witnesses committed fraud in this matter. The ground for continuance was the uncertainty about witness Singleton's availability given his young daughter's upcoming surgery. The fact

that Mr. Singleton may have been at work on various occasions during this period is not inconsistent with the original justification for the continuance.

Moreover with respect to defendant Sprague's claim that he did not receive notice of the December 13 hearing date, the court's record reflect that his attorney Mr. Carello appeared at the December 13th hearing. Accordingly, the defense was represented at the hearing.

For the reasons set forth above, the court is satisfied that there is no basis to award sanctions in this matter.

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Item 2    **07AM00272**    **CHASE BANK USA, N.A. VS. EBRAHIM KHOSROSHAHI**

Nature of Proceeding: Miscellaneous Motion

Filed By:

Fee waiver application. Appearance required.

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