

**IN THE CIRCUIT COURT OF THE FIFTEENTH JUDICIAL CIRCUIT,
IN AND FOR PALM BEACH COUNTY, FLORIDA**

Daniel J Stermer
Plaintiff,

Case No.: 50-2021-CA-008718-XXXX-MB
CIVIL DIVISION

v.

Peter Beck,
Defendant.

**MOTION TO CANCEL UMC HEARING SCHEDULED FOR DECEMBER 4, 2024, AND
FOR SANCTIONS**

COMES NOW, the Defendant, Peter Beck, by and through undersigned counsel, and respectfully moves this Court to adjourn the UMC hearing currently scheduled for December 4, 2024, and in furtherance thereof states as follows:

1. On October 1, 2024, Defendant Peter Beck (“Beck” or “Defendant”) filed a Motion to Dismiss the Original and Amended Complaints filed by the OFR (the “Enforcement Action”) or the Receiver as a “Supplemental Pleading”.
2. Defendant filed his Motion to Dismiss in the Original case, case number 50-2021-CR-008718-XXXX-MB (“008718”), because that case number appeared on Plaintiff’s Motion for Entry of Clerk’s Default Against Defendant Peter Beck. Counsel for Defendant was also under the belief that in order for Plaintiff to have any basis to proceed with its Amended Complaint, its Claim had to relate back to the Original Complaint.
3. On or about October 21, 2024, Counsel for Defendant propounded a “Stipulation to Set Aside Default Judgment” against Beck to Counsel for Plaintiff, on the good faith belief that through consultation, the Parties had agreed to a stipulation to that affect.
4. Rather than respond to the proposed Stipulation in a timely manner, Plaintiff filed a motion to strike Beck’s Motion to Dismiss in case number 008718 on November 8, 2024.
5. Plaintiff subsequently proffered its own Stipulation to Withdraw the Default Judgment,

which, set conditions for the Stipulation which had not previously been discussed. When Plaintiff's Proposed Stipulation is considered with its Motion to Strike, Defendant's Motion to Dismiss is seemingly negated. Plaintiff's Motion to Strike argues that even if the default were withdrawn, Defendant's Motion to Dismiss would be subject to dismissal as untimely. Whether Plaintiff would have even been able to achieve this outcome is questionable as a matter of law; nevertheless, it demonstrates the bad faith of Plaintiff reneging on the stipulation to which it had previously consented.

6. Plaintiff's Motion to Strike, however, is moot since Florida Rule of Civil Procedure 1.190 (c) provides that in Supplemental Proceedings "the Court must disregard any error or defect in proceedings which does not affect the substantial rights of the parties.
7. The distinction between the "Enforcement Action" and the "Supplement Proceeding" is of no consequence to the substantial rights of the Parties and Plaintiff's Motion to Strike must itself be stricken.
8. Plaintiff set the UMC hearing in the Beck case for December 4, 2024, without the courtesy of vetting the hearing date with Counsel for Defendant. Moreover, while Plaintiff purports to argue a Motion to Strike at a 5-minute UMC hearing, the Order setting the hearing states "the motion to be heard: Motion to Dismiss." The Order issued by the Court references case number "008718". Yet, the Court also issued, on October 2, 2024, an Order for a 30 minute Special Set Hearing on Beck's Motion to Dismiss for January 7, 2025. In that Order the Court referenced Case No. 50-2023-CA-015245-XXXXA-MB. Thus, at Plaintiff's instigation, the Court has set two hearings on two separate dates, in two separate cases on Beck's one Motion to Dismiss. See attached Orders.
9. Counsel for Plaintiff was informed through Defendant's Response to the Motion to Strike filed on November 4, 2024, that Plaintiff's Motion to Strike was rendered moot by Florida Rule of Civil Procedure 1.190 (c). Under the circumstances, Plaintiff's failure to withdraw the motion can be viewed as contrary to Florida Rule of Professional Conduct 4-1.1.
10. Under Florida Rule of Civil Procedure 1.525, continuing to pursue a frivolous motion where the attorney knows the motion is moot as a matter of law is conduct subject to sanction. Arguing a motion without merit or is legally irrelevant is subject to sanction pursuant to Florida Statute 57.105.
11. Unfortunately, this is not an isolated instance, attached hereto are two other motions that

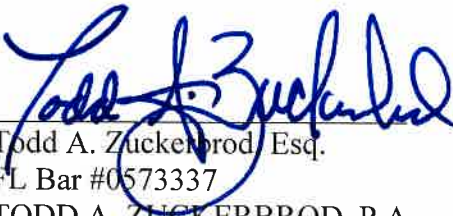
set forth improper conduct.

12. In essence, not only is the manner of setting the UMC to hear a Motion to Strike in bad faith, Plaintiff's failure to withdraw its Motion to Strike and arguing for the negation of the Motion to Dismiss given its notice of Rule 1.190 is also in bad faith. Moreover, Plaintiff's conduct is just a further example of the bad faith, which is described in the Motion to Dismiss.

THEREFORE, Defendant respectfully requests that the presently scheduled UMC Hearing on December 4, 2024, be canceled, that the Motion to Dismiss be deemed as filed in the Supplemental Proceeding, and that Plaintiff be sanctioned in a manner that the Court determines is just and proper.

Dated: November 27, 2024

Respectfully submitted



Todd A. Zuckerbrod, Esq.

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Attorney for Defendant

CERTIFICATE OF SERVICE

I hereby certify that on November 27, 2024 the foregoing was filed using the Florida E-Portal Filing System, which will serve a copy of the foregoing to the Plaintiff electronically upon electronic service.

Dated: November 27, 2024


Todd A. Zuckerrod, Esq.

Brian G. Rich,
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Bernard Charles Carollo Jr.
Gavin C. Gaukroger
Kerry L. Burns
Daniel J. Stermer
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IN THE CIRCUIT COURT OF THE FIFTEENTH JUDICIAL CIRCUIT
IN AND FOR PALM BEACH COUNTY, FLORIDA

CIRCUIT CIVIL DIVISION AE

CASE NO. 50-2021-CA-008718-XXXX-MB

STATE OF FLORIDA OFFICE OF FINANCIAL REGULATION,
Plaintiff/Petitioner

vs.

NATIONAL SENIOR INSURANCE INC DBA SEEMAN HOLTZ,
MARSHAL SEEMAN,
CENTURION INSURANCE SERVICES GROUP LLC,
et al.,
Defendant/Respondents.

ORDER SPECIALLY SETTING REMOTE HEARING

THIS MATTER is specially set for remote hearing before **JUDGE BRADLEY HARPER**. Please pay careful attention to the instructions below:

DATE OF THE HEARING: Wednesday, December 4, 2024

TIME OF THE HEARING: 3:00 PM

TIME RESERVED: 15 minutes

MOTION TO BE HEARD: Motion to Dismiss

EVIDENTIARY: No

**No amended pleadings shall be filed without leave of court.*

THIS MATTER HAS BEEN SPECIALLY SET BY COURT ORDER AND CANNOT BE CANCELED OR RESET EXCEPT BY FURTHER ORDER OF THE COURT.

If the issue is resolved less than twenty-four (24) hours prior to the hearing (excluding weekends), the moving party shall appear before the Court at the scheduled time of hearing with their proposed order.

Both Parties and Counsel shall appear at this hearing by telephone or video for the hearing unless an in-person appearance is requested.

This videoconference appearance is set up through Zoom (<http://www.zoom.us>) utilizing the Judge's Fifteenth Judicial Circuit Court account.

Meeting ID: 941 1043 8096

Password: 208540

If a witness appears via video and presents the Court with a valid photo identification, a notary public is not required to swear in that party. Unless both Parties waive the notary requirement, a party or witness appearing by audio only must have a notary public present with them so that the Court can identify and swear them in.

ELECTRONIC SUBMISSION OF WITNESS LIST

IN THE CIRCUIT COURT OF THE FIFTEENTH JUDICIAL CIRCUIT
IN AND FOR PALM BEACH COUNTY, FLORIDA

CIRCUIT CIVIL DIVISION AE
CASE NO. 50-2023-CA-015245-XXXA-MB

DANIEL J STERMER,
CENTURION INSURANCE SERVICES GROUP LLC,
EMERALD ASSETS 2018 LLC,
et al.,
Plaintiff/Petitioners

vs.

JASON SUSSMAN,
SCOTT GENAD,
DANIEL CUCUIAT,
et al.,
Defendant/Respondents.

ORDER SPECIALLY SETTING REMOTE HEARING

THIS MATTER is specially set for remote hearing before **JUDGE BRADLEY HARPER**. Please pay careful attention to the instructions below:

DATE OF THE HEARING: Tuesday, January 7, 2025

TIME OF THE HEARING: 2:00 PM

TIME RESERVED: 30 minutes

MOTION TO BE HEARD: Motion to Dismiss

EVIDENTIARY: No

**No amended pleadings shall be filed without leave of court.*

THIS MATTER HAS BEEN SPECIALLY SET BY COURT ORDER AND CANNOT BE CANCELED OR RESET EXCEPT BY FURTHER ORDER OF THE COURT.

If the issue is resolved less than twenty-four (24) hours prior to the hearing (excluding weekends), the moving party shall appear before the Court at the scheduled time of hearing with their proposed order.

Both Parties and Counsel shall appear at this hearing by telephone or video for the hearing unless an in-person appearance is requested.

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If a witness appears via video and presents the Court with a valid photo identification, a notary public is not required to swear in that party. Unless both Parties waive the notary

**IN THE CIRCUIT COURT OF THE FIFTEENTH JUDICIAL CIRCUIT,
IN AND FOR PALM BEACH COUNTY, FLORIDA**

Daniel J Stermer
Plaintiff,

Case No.: 50-2021-CA-008718-XXXX-MB
CIVIL DIVISION

v.

Peter Beck,
Defendant.

_____ /

**MOTION TO CONTINUE SPECIAL SET HEARING AND PERMIT A UMC HEARING
FOR THE PURPOSE OF PRESENTING TO COURT ARGUMENT FOR A SPECIAL
SET HEARING MORE THAN 30 MINUTES**

COMES NOW, the Defendant, Peter Beck, by and through undersigned counsel, and respectfully moves this Court to adjourn the Special Set Hearing currently scheduled for January 7, 2025, and in support thereof, states as follows:

1. The Special Set Hearing was scheduled by Counsel for the Plaintiff without prior consultation with opposing counsel, in violation of the judge's local rules for parties to confer and mutually agree upon a date.
2. Counsel for Plaintiff set for January 7, 2025 at 2:00 pm the Special Set Hearing on Defendant's Motion to Dismiss without conferring with Defendant's counsel as to the appropriate amount of time to set aside for the hearing. Nevertheless, counsel for the Plaintiff scheduled the Special Set Hearing for 30 minutes. Defendant maintains that 15 minutes per side is insufficient to present his arguments in a fair, reasonable, and non-prejudicial manner.
3. Plaintiff has also set a UMC hearing for December 4, 2024. Both Court Orders setting these respective hearings identify that the Court will hear a "Motion to Dismiss". There is only one Motion to Dismiss filed by Beck. Yet, the Order setting the December 4, 2024 Hearing references Case No. 50-2021-CA-008718-XXXX-MB and the Hearing Setting the January 7, 2025, references Case No. 50-2023-CA-015245-XXXA-MB. Separately, Beck has filed

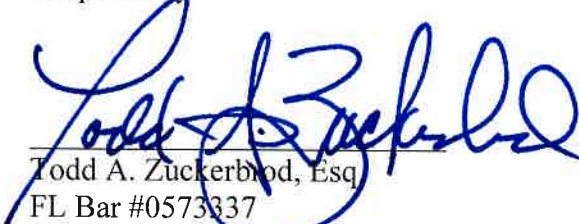
a motion to cancel the UMC Hearing on December 4, 2024 Hearing.

4. As to the Hearing on January 7, 2025, Defendant asserts that additional time is warranted on the grounds that the Motion to Dismiss sets forth twelve (12) independent legal arguments, any one of which would be sufficient to grant Defendant's motion. In addition, each independent ground for dismissal is supported by case law. Therefore, Defendant would have little more than a minute to present each argument and cite case law for each of the respective 12 grounds for dismissal. Such a circumstance would be impractical and result in undue prejudice to Defendant.
5. As argued in its Motion to Dismiss, Plaintiff has litigated in bad faith. The Plaintiff's unilateral scheduling of a thirty (30) minute hearing on January 7, 2025, is in contravention of the judges' own local rules for Special Set Hearings. The 30-minute hearing is not only a thinly veiled attempt by Plaintiff to gain a litigation advantage by truncating Defendant's time for argument; it manifests a pattern of bad faith litigation tactics in this and other cases before this Court.

THEREFORE, Defendant respectfully requests that the Court issue an order to continue the January 7, 2024 hearing date, and permitting Defendant to schedule a UMC hearing in order to schedule a Special Set Hearing for longer than 30 minutes.

Dated: November 27, 2024

Respectfully submitted



Todd A. Zuckerbrod, Esq

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Attorney for Defendant

CERTIFICATE OF SERVICE

I hereby certify that on November 27, 2024 the foregoing was filed using the Florida E-Portal Filing System, which will serve a copy of the foregoing to the Plaintiff electronically upon electronic service.

Dated: November 27, 2024


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**IN THE CIRCUIT COURT OF THE FIFTEENTH JUDICIAL CIRCUIT,
IN AND FOR PALM BEACH COUNTY, FLORIDA**

State of Florida
Office of Financial Regulation,
Plaintiff,

Case No.: **50-2021-CA-008718-XXXX-MB**
CIVIL DIVISION

v.
National Senior Insurance, Inc.
et. al., including Daniel Cucuiat,
Defendants.

**MOTION TO CONTINUE SPECIAL SET HEARING IN FAVOR OF UMC HEARING
FOR THE PURPOSE OF PRESENTING BASIS FOR A SPECIAL SET HEARING
MORE THAN 30 MINUTES**

COMES NOW, the Defendant, Daniel Cucuiat, by and through undersigned counsel, and respectfully moves this Court to adjourn the special set hearing currently scheduled for February 6, 2025, and in support thereof states as follows:

1. This Special Set Hearing was scheduled by Counsel for the Plaintiff without prior consultation with opposing counsel, in violation of the judge's local rules for parties to confer and mutually agree upon a date for such hearing.
2. On November 1, 2024, Counsel for Defendant received an e-mail from Ayleen Blanco of Berger Singerman cc'ed to five Berger Singerman attorneys (attached), which indicated that "the Court has availability for a 15-minute special set on February 6, 2025 at 11:00 am to schedule the hearing on the Motion to Dismiss Plaintiff's Original Complaint and Amended Complaint Against Daniel Cucuiat." The e-mail then requested that the undersigned respond as to his availability (E-mail Attached).

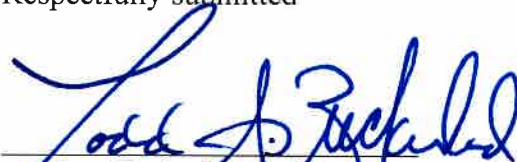
3. Counsel for Defendant responded in a clear and concise manner: “Alyen: I’m available for a 15 minute scheduling hearing on February 6, 2025 at 11:00 am. Todd.”
4. Without any further communication, pleading or motion from Berger Singerman, in connection with the Cucuiat case, the next item received by Defendant in the case was the court order of November 4, 2024, setting the hearing on Defendant’s Motion to Dismiss for 30 minutes on February 6, 2025 at 10:30 am.
5. Counsel for Plaintiff set the special set hearing on Defendant's Motion to Dismiss without conferring with Defendant’s counsel as to the appropriate amount of time to set aside for the hearing. Nevertheless, counsel for the Plaintiff scheduled the special set hearing for 30 minutes. Defendant maintains that 15 minutes per side is insufficient to present his arguments in a fair, reasonable, and non-prejudicial manner.
6. Defendant asserts that additional time is warranted on the grounds that the Motion to Dismiss sets forth twelve (12) independent legal arguments, any one of which would be sufficient to grant Defendant’s motion. In addition, each independent ground for dismissal is supported by case law. Therefore, Defendant would have little more than a minute to present each argument and cite case law for each of the respective 12 grounds for dismissal. Such a circumstance would be impractical and result in undue prejudice to Defendant.
7. As argued in its Motion to Dismiss, Plaintiff has litigated in bad faith. The Plaintiff’s unilateral scheduling of a thirty (30) minute hearing on February 6, 2025, is in contravention of the judges’ own local rules for Special Set Hearings. The 30-minute hearing is not only a thinly veiled attempt to gain a litigation advantage by truncating Defendant’s time for argument; it manifests a pattern of bad faith litigation tactics in this and other cases before this Court.

THEREFORE, Defendant respectfully requests that the Court issue an order to continue the February 6, 2024, hearing date, deem this motion and the Motion to Dismiss to be filed in the

Supplemental Pleading Case No. 50-2023-CA-015245-XXXAMB, as warranted, and to permit Defendant to schedule a UMC hearing in order to establish to the court the need for a longer period of time than 30 minutes for the Special Set Hearing.

Dated: November 27, 2024

Respectfully submitted

A handwritten signature in blue ink, reading "Todd A. Zuckerbrod". The signature is written in a cursive style with a large, looping initial "T".

Todd A. Zuckerbrod, Esq.
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Attorney for Defendant

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Gary A. Woodfield
Victoria R Morris

Todd Zuckerbrod

From: Ayleen Blanco <ablanco@bergersingerman.com>
Sent: Friday, November 1, 2024 4:23 PM
To: Todd Zuckerbrod
Cc: Michael J. Niles; Gavin Gaukroger; Kerry Burns; Brian Rich; William O. Diab
Subject: STATE OF FLORIDA OFFICE OF FINANCIAL REGULATION V NATIONAL SENIOR INSURANCE INC Case Number: 50-2021-CA-008718-XXXX-MB

The Court has availability for a 15-minute special set on February 6, 2025, at 11:00 AM, to schedule the hearing on the Motion to Dismiss Plaintiff's Original Complaint and Amended Complaint Against Daniel Cucuiat. Please let us know right away if that day and time works for you, since the court has limited availability.

 **Ayleen Blanco**
Legal Assistant

 **Berger Singerman** *Florida's Business Law Firm*

 201 East Las Olas Boulevard | Suite 1500 | Fort Lauderdale, FL 33301

 O: (954)525-9900 | D: (954)712-5114

 bergersingerman.com



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