

**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 PERMIT SCHEDULING OF A SPECIAL SET HEARING FOR MORE
THAN 30 MINUTES**

COMES NOW, Defendant, Daniel Cucuiat, by and through his undersigned counsel, respectfully moves this Court to adjourn the Special Set Hearing currently scheduled for February 6, 2025, and to permit scheduling a Special Set Hearing for more than 30 minutes, and in support thereof, states as follows:

1. A 30-minute Special Set Hearing was scheduled for Defendant's Motion to Dismiss by Plaintiff for February 6, 2025, without prior consultation with Defendant's counsel, in violation of the judge's local rules for parties to confer and mutually agree upon dates and times of 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: “Aylen: 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 by Plaintiff to gain a litigation advantage by truncating Defendant’s time for argument; it continues 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 adjourn the February 6, 2025 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 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: January 10, 2025

Respectfully submitted



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CERTIFICATE OF SERVICE

I hereby certify that on January 10, 2025, 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: January 10, 2025


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