

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
WESTERN DIVISION**

**STEPHEN MACLIN; RUBEN TOBIN;
DUSTIN ROBINSON; and GERARD
JOHNSON, all individually and on
behalf of others similarly situated**

PLAINTIFFS

v.

No. 4:12-cv-5-DPM

**MONTGOMERY AND SONS
CONSTRUCTION, INC. and JOHN
MONTGOMERY, individually and
as owner/manager of Montgomery
and Sons Construction, Inc.**

DEFENDANTS

ORDER

This afternoon the Court received the attached letter by fax from counsel for Montgomery and Sons Construction, Inc., and John Montgomery. The Court appreciates the status report, but requests that in the future all counsel communicate with the Court only by filings in the docket. The hearing scheduled for tomorrow afternoon will go forward. The Court's recent Orders, *Document Nos. 59 & 64*, were perfectly clear about Mr. Montgomery's obligation to appear at the hearing with his records. If he chooses not to do so, then the Court will consider sanctions, including requiring Montgomery to show cause why he should not be held in contempt. As planned, the Court will also take up the motion to withdraw at the hearing.

So Ordered.


D.P. Marshall Jr.
United States District Judge

12 February 2013

HH

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February 12, 2013

VIA FACSIMILE - (501) 604-5417

Hon. Judge Price Marshall
United States District Court
600 West Capitol, Room B155
Little Rock, AR 72201

RE: Stephen Maclin; Ruben Tobin; Dustin Robinson; and
Gerald Johnson v Montgomery and Sons Construction, Inc.
Case No. 4:12-cv-5-DPM

Dear Judge Marshall:

I am writing concerning the above captioned matter, and the hearing currently set for tomorrow, February 13, 2013, at 1:00pm. Today, I had a meeting planned with my client, John Montgomery and his secretary, Shelly Deardorff. At the meeting, I was informed by Ms. Deardorff that Mr. Montgomery was in Mexico, and would not be returning until late Thursday evening, thus being unavailable for the hearing tomorrow. According to Ms. Deardorff, Mr. Montgomery believed that the hearing was still set for February 20, 2013, despite my notification to the contrary.

I am writing as a courtesy to the Court and Mr. Holleman to avoid any unnecessary expense and waste of the Court's time. I am prepared to appear if the Court desires, along with Ms. Deardorff, but I do not believe that Mr. Holleman or the Court will be able to accomplish what it desired at the hearing without Mr. Montgomery's presence. I apologize for any part my office played in this delay, and once again, renew my request for the Court to allow me to withdraw from this case.

By this letter I am notifying opposing counsel, John Holleman, of my communication with the Court. If the Court should have any questions or wishes to discuss this matter, please do not hesitate to contact my office at any one of the above numbers.

Hon. Judge Price Marshall
February 12, 2013
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Very Truly,

A handwritten signature in black ink, appearing to read 'K. Holmes', written in a cursive style.

Kevin R. Holmes

KRH/mss

cc: John Holleman Fax (501) 975-5043

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FACSIMILE COVER SHEET

DATE: February 12, 2013
TO: Hon. Judge Price Marshall
FROM: Kevin R. Holmes

NUMBER OF PAGES TO FOLLOW: 2

TO FAX NO. (501) 604-5417

FROM FAX NO. (479) 922-2176

IF YOU HAVE QUESTIONS OR PROBLEMS CONCERNING THIS TRANSMISSION,
PLEASE CALL (479) 922-2175.

RE: Stephen Maclin; Ruben Tobin; Dustin Robinson; and Gerald Johnson v Montgomery and
Sons Construction, Inc.
Case No. 4:12-cv-5-DPM

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