

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

William V. Aguiar, III,  
Plaintiff,

v.

Floyd Webb,  
Barron Sheppard,  
Wendy Sheppard,  
Ashida Kim a.k.a. Christopher Hunter a.k.a.  
Bradford Davis a.k.a. Radford Davis,  
Defendants.

Civil Action No. 1:07-cv-11673 MLW

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**DEFENDANT RADFORD DAVIS' MOTION TO CONTINUE HEARING AND  
SCHEDULING CONFERENCE DATE**

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Defendant, Radford Davis, moves this court for an order continuing the motion hearing and scheduling conference, currently scheduled February 1, 2008, until February 15, 2008.

In support of his motion, Defendant Davis states:

This case was filed on September 7, 2007. Since that time, Defendant Davis has represented himself *pro se*. On December 17, 2007 the Court entered notice of a scheduling conference and hearing for January 11, 2008 on Plaintiff's, William V. Aguiar III ("Plaintiff"), Motion for Preliminary Injunction (Docket No. 3), and various other motions by the parties.<sup>1</sup> The scheduling conference and hearing date was set for January 11, 2008. On December 20, 2007 the parties jointly stipulated to continue the scheduling conference and hearing until February 1, 2008 (Docket No. 61) and the court allowed the stipulation on December 31, 2007.

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<sup>1</sup> The motions pending before the court include Barron Sheppard and Wendy Sheppard's Motion to Dismiss for Lack of Jurisdiction and Failure to State a Claim (Docket No. 7), Plaintiff's Motion to Amend Complaint (Docket No. 23), Radford Davis' Motion to Dismiss (Docket No. 25), Radford Davis' Motion to Dismiss (Docket No. 27), Radford Davis' Motion to Dismiss for Lack of Jurisdiction (Docket No. 35), Radford Davis' Motion to Dismiss (Docket No. 37), Plaintiff's Motion to Amend (Docket No. 40), and Plaintiff's Motion to Produce (Docket No. 46).

Also on that day, the court denied Defendant Davis's motion to participate in the February 1, 2008 conference by telephone (Docket No. 52).

Six days ago, on January 3, 2008, Defendant Davis engaged Mark A. Fischer and Amy L. Brosius of the law firm Fish & Richardson, P.C. to represent him in this case. Ms. Brosius filed a notice of appearance in this case today. Mr. Fischer and Ms. Brosius are both scheduled to participate in a conference in Atlanta, Georgia on February 1, 2008. For this reason, Defendant Davis' counsel will be unavailable to represent him at the scheduling conference and motion hearing currently set for February 1, 2008.

The undersigned counsel for Defendant Davis conferred with counsel for each of the other co-defendants in this case and obtained their consent to continue the scheduling conference and hearing until February 15, 2008.

During a telephone call between the undersigned and Plaintiff yesterday, January 8, 2008, the Plaintiff refused to stipulate to a continuance until February 15, 2008. Plaintiff did not cite a conflict with the proposed date of February 15, 2008. Instead, Plaintiff stated that Defendant Davis has been representing himself for months on a *pro se* basis and Plaintiff did not want to agree to a continuance merely because Defendant Davis has now retained counsel.

Defendant Davis will be severely prejudiced if the scheduling conference and hearing take place without his counsel being present. Defendant Davis is subject to Plaintiff's motion for preliminary injunction, which he has opposed (Docket No. 27), and has pending before the court his own motions to dismiss. It is critical that Defendant Davis have the opportunity to defend himself against Plaintiff's allegations and seek just relief from the court. Defendant Davis engaged counsel only six days ago, and it is only due to a scheduling conflict on the part of both of his lawyers that Defendant Davis now seeks this continuance.

For the foregoing reasons, Defendant Radford Davis respectfully requests that the court order that the scheduling conference and motion hearing now scheduled for Friday, February 1, 2008, be rescheduled to Friday, February 15, 2008.

Dated: January 9, 2008

/s/ Amy L. Brosius

Amy L. Brosius (BBO # 656521)  
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Attorneys for Defendant Radford Davis

**CERTIFICATION OF CONSULTATION**

I, Amy L. Brosius, certify that counsel for the Defendant Radford Davis, conferred in good faith with *pro se* Plaintiff William Aguiar regarding this motion in an attempt to resolve or narrow the issues presented by this motion but no agreement was reached.

/s/ Amy L. Brosius

Amy L. Brosius

**CERTIFICATE OF SERVICE**

I hereby certify that this document filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF) and paper copies will be sent to those indicated as non registered participants on this 9th day of January, 2008.

/s/ Amy L. Brosius \_\_\_\_\_  
Amy L. Brosius