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 4 LEWIS BRISBOIS BISGAARD & SMITH LLP  
 6385 S. Rainbow Boulevard, Suite 600  
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 TEL.: 702.893.3383  
 6 FAX: 702.893.3789  
 Attorneys for Defendant  
 7 VINCENT TJOTA

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 10 UNITED STATES DISTRICT COURT  
 11 DISTRICT OF NEVADA

12 REBECCA LEMPERLE, individually, 13 Plaintiff, 14 vs. 15 VINCENT TJOTA, individually; DOES I-X, and ROE CORPORATIONS I-X, inclusive, 16 Defendants.	CASE NO.: 2:18-cv-00202-JCM-VCF
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 18 DEFENDANT'S MOTION TO CONTINUE TRIAL  
 19 (SIXTH REQUESTED EXTENSION)

20 COMES NOW, Defendant VINCENT TJOTA ("Defendant"), by and through his  
 21 counsel, Josh Cole Aicklen, Esq. and Stephen L. Titzer, Esq. of LEWIS BRISBOIS  
 22 BISGAARD & SMITH LLP, and moves this Court to continue the jury trial for the  
 23 completion of the Defendant's children's vaccinations before international travel and  
 24 travel related restrictions, pursuant to LR IA 6-1 and FRCP 43.

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LEWIS  
 BRISBOIS  
 BISGAARD  
 & SMITH LLP  
 ATTORNEYS AT LAW

4859-7482-7344.1

1 This Motion is based upon the following Memorandum of Points and Authorities,  
2 the attached exhibits, the affidavit of counsel attached hereto, the papers and pleadings  
3 on file herein and oral argument at the time of the hearing.

4 DATED this 14 day of February, 2023.

5 Respectfully Submitted,

6 LEWIS BRISBOIS BISGAARD & SMITH LLP

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8  
9 By           /s/ Josh Cole Aicklen          

10 JOSH COLE AICKLEN  
11 Nevada Bar No. 007254  
12 STEPHEN L. TITZER  
13 Nevada Bar No. 008289  
14 6385 S. Rainbow Boulevard, Suite 600  
15 Las Vegas, Nevada 89118  
16 Attorneys for Defendant  
17 VINCENT TJOTA  
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AFFIDAVIT OF STEPHEN L. TITZER, ESQ., IN SUPPORT OF DEFENDANT'S  
MOTION TO CONTINUE TRIAL

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STATE OF NEVADA        )  
                                  ) ss.  
COUNTY OF CLARK        )

STEPHEN L. TITZER, being first duly sworn, deposes and says:

1. I am a Partner at LEWIS BRISBOIS BISGAARD & SMITH LLP, and am duly licensed to practice law in the State of Nevada.

2. I am competent to testify to the matters set forth in this Affidavit, and will do so if called upon.

3. I am an attorney representing Defendant Vincent Tjota in the subject lawsuit in the United States District Court of Nevada, Case No. 2:18-cv-00202-JCM-VCF.

4. Defendant resides in Singapore. Defendant contacted Defense counsel to provide the status of his family's travel for the trial. Defendant and Janice Siau, his wife, recently had their second child and they are parents and caregivers. They notified Defense counsel that their child is too young to travel and has not had the required vaccinations. Defendant requests to continue the trial to complete the child's vaccinations that cannot be completed for six (6) months and the need to have the vaccinations completed before they travel to the United States.

5. On February 14, 2023, Defense counsel spoke with Tom Stewart, Esq., the attorney for the Plaintiff, to request that they agree to continue the trial due to the Defendant's need for the children's vaccinations before international travel. Mr. Stewart agreed to discuss with Plaintiff and agreed that Defendant should file the Motion out of caution with trial to begin on March 27, 2023.

6. Defendant filed this Motion out of caution and to update the Court on the status of the Defendant's children's vaccinations.

7. Defendant and his wife cannot complete their children's vaccinations for an estimated six months, for travel to the United States until after September, 2023. Defendant respectfully seeks a continuance of the trial until October, 2023.

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8. This Motion is not filed for any improper purpose or to cause undue delay.

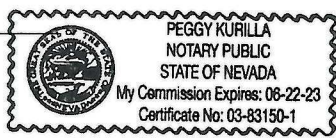
9. Attached hereto as Exhibit A is a true and correct copy of ECF No. 138, Stipulation and Order to Continue Trial (Fifth Request), dated July 8, 2022.

FURTHER YOUR AFFIANT SAYETH NAUGHT.

  
\_\_\_\_\_  
Stephen L. Titzer, Esq.

SWORN AND SUBSCRIBED to before me this 14<sup>th</sup> day of February, 2023.

  
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Notary Public in and for said County and State



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MEMORANDUM OF POINTS AND AUTHORITIES

I.

FACTUAL BACKGROUND

A. Introduction

On Saturday, April 30, 2016, Defendant Vincent Tjota was visiting Las Vegas, Nevada and driving a Budget rental vehicle with Janice Siau, his wife, as a passenger. They live in Singapore. Defendant was driving a white 2016 Ford Mustang GT westbound on Bridger Avenue in Las Vegas, Nevada, while stopped at the intersection of Maryland Parkway. Plaintiff Rebecca Lemperle was driving a red 2015 Kia RIO LX vehicle southbound on Maryland. After stopping and looking both ways, Defendant proceeded to drive through the intersection, which was clear. At that time, Plaintiff drove through the intersection and struck Defendant's Mustang. Plaintiff lived in Sweden.

Defendant disputes liability. Defendant stopped at the intersection and looked both ways before proceeding through the intersection. Defendant did not see the Plaintiff's car and did not have time to avoid the impact. Plaintiff struck the rear panel of Defendant's Mustang. Defendant disclosed the photographs from the scene of the accident that showed the damage to the right rear panel of his Mustang.

Recently Defendant notified his attorney of their newborn child and inquired about the status of his travel from abroad to the United States for the jury trial. Defendant stated that his child cannot receive vaccinations needed for international travel and restrictions for six months. Defendant seeks postponement of the trial to October 2023 due to his children's ages and the need for vaccinations.

A newborn child constitutes a vulnerable age group for travel, especially without that child having immunization shots before travel. The child, currently less than two months old, cannot obtain some shots until they reach a certain age for their safety. Defendant, his wife and child may face safety risks with travel. Defendant estimates they will complete the vaccinations around September 2023.

1           Based on this information, Defendant seeks a continuance of the jury trial and to  
2 have this trial set for October 2023. Defense counsel will update the Court of the status  
3 of the child's shots in six months and any travel restrictions as they get closer to the trial  
4 date and attend a status hearing at the request of the Court.

5           Defense counsel received this update from Defendant who requested the  
6 continuance of the current trial date to allow him to attend trial based on his newborn child  
7 and need for vaccinations to avoid safety issues and restrictions. Defendant and his wife  
8 have a newborn child. Defendant and his family live in Singapore. Defendant and his  
9 wife cannot travel until their child has been vaccinated. They requested more time to  
10 allow for the child's immunizations in Singapore. The lack of immunizations poses a  
11 safety risk to the child and may create work disruptions and childcare arrangements to  
12 consider with significant out of pocket expenses per individual for international travel for  
13 all family members. Defendant anticipates hardship and costs associated with travel with  
14 a newborn child. Defendant will need to take off work so he can travel to the United  
15 States and attend the jury trial. Janice Siau, his wife, cannot travel at this time while  
16 caring for a newborn without placing their health and safety at risk. Defendant does not  
17 know when the child's vaccinations will be completed. Defendant estimates completion in  
18 September 2023 and requests that this Court continue trial to October 2023.

19           Tom Stewart, Esq., counsel for the Plaintiff, has not opposed the continuance but  
20 wanted to review with the Plaintiff and agreed to filing the Motion. Defendant requests  
21 that this Court grant the Motion to allow enough time to complete the children's  
22 vaccinations for the safety concerns and avoid travel restrictions.

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II.

LEGAL ARGUMENT

A. Motions to Continue Trial

Local Rule IA 6-1 (a) provides:

LR IA 6-1. REQUESTS FOR CONTINUANCE, EXTENSION OF TIME, OR ORDER SHORTENING TIME

(a) A motion or stipulation to extend time must state the reasons for the extension requested and must inform the court of all previous extensions of the subject deadline the granted.

See, LR IA 6-1(a).

District courts have the inherent power to control their respective dockets. See, Oliva v. Sullivan, 958 F.2d 272, 273 (9th Cir. 1992); Hamilton Copper & Steel Corp. v. Primary Steel, Inc., 898 F.2d 1428, 1429 (9th Cir. 1990).

The importance of physical presence at trial cannot be overlooked. The Federal Rule of Civil Procedure 43(a) provides in part:

**Rule 43. Taking Testimony**

(a) In Open Court. At trial, the witnesses' testimony must be taken in open court unless a federal statute, the Federal Rules of Evidence, these rules, or others adopted by the Supreme Court provide otherwise. For good cause in compelling circumstances and with appropriate safeguards, the court may permit testimony in open court by contemporaneous transmission from a different location.

See, FRCP 43(a).

The Notes of Advisory Committee on Rules also provided the following with respect to live testimony:

Contemporaneous transmission of testimony from a different location is permitted only on showing good cause in compelling circumstances. The importance of presenting live testimony in court cannot be forgotten. The very ceremony of trial and the presence of the factfinder may exert a powerful force for truth-telling. The opportunity to judge the demeanor of a witness face-to-face is accorded great value in our tradition. Transmission cannot be justified merely by showing that it is

1                   inconvenient for the witness to attend the trial.

2 See, NOTES OF ADVISORY COMMITTEE ON RULES - 1996 AMENDMENT (emphasis added).

3           **B. Good Cause Exists to Continue the Trial Pending the Vaccinations**

4           Defendant is not a United States Citizen and resides in Singapore. Defendant  
5 and his wife desire to physically attend the trial. Unfortunately, Defendant's newborn  
6 child has not yet received all vaccinations. Defendant faces difficulty with travel due to  
7 the young age of their newborn and need for vaccinations before a long international  
8 travel with potential COVID-19 restrictions. Without the child's vaccinations, travel poses  
9 a burden and risk to the health, safety and welfare of the children. Defendant's children  
10 may have difficulty with travel insurance and the costs and risks associated with travel to  
11 the United States if they are not vaccinated and need healthcare abroad.

12           Defendant and his wife are essential to the defense of the case and request in  
13 person testimony, not by Zoom or other technology. They are entitled to their day in  
14 court. Defendant anticipates the travel difficulty and risk will decrease once their child  
15 reaches the proper age to safely obtain the immunizations.

16           The Court may set a hearing before the Pretrial Conference to address these  
17 matters, the work schedules, any ongoing travel restrictions and the distance the  
18 Defendant must travel to attend trial, typically a twenty-plus hour flight. The use of video  
19 technology cannot replace in person appearance of these witnesses.

20           Defendant deserves his day in Court as a party in this legal proceeding. Defense  
21 counsel believes that it would be manifestly unjust if Defendant is not able to be  
22 physically present at trial to testify in front of the jury.

23           Defense counsel has requested that Defendant and his wife are physically present  
24 at the jury trial. Defendant and his wife have a newborn child that requires personal care  
25 and vaccinations before travel. Therefore, Defense counsel respectfully requests that this  
26 Court continue the trial until October 2023.

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III.

CONCLUSION

Defendant requests that this Court grant his Motion and continue the jury trial until October 2023. Due to the children's age and need for vaccinations, and possible international travel restrictions, good cause exists to continue the trial and complete the vaccinations so the children may travel with their parents.

DATED this 14 day of February, 2023.

Respectfully Submitted,

LEWIS BRISBOIS BISGAARD & SMITH LLP

By                   /s/ Josh Cole Aicklen                    
JOSH COLE AICKLEN  
Nevada Bar No. 007254  
STEPHEN L. TITZER  
Nevada Bar No. 008289  
6385 S. Rainbow Boulevard, Suite 600  
Las Vegas, Nevada 89118  
Attorneys for Defendant  
VINCENT TJOTA

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ORDER

IT IS HEREBY ORDERED, ADJUDGED AND DECREED that Defendant's Motion to Continue Trial is GRANTED pursuant to Local Rule 45-2 due to the factual findings of the Defendant's children's need for vaccinations and comply with any international travel restrictions for the health, safety and welfare of their child; and

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the current trial date on March 27, 2023 is VACATED; and

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the new trial date shall be reset to begin October 16, 2023 at 9:00 a.m. Calendar Call shall be reset to October 11, 2023, at 1:30 p.m.

"IT IS SO ORDERED:

  
UNITED STATES DISTRICT JUDGE  
DATED February 15, 2023

Submitted By:

Dated 2/14/23

LEWIS BRISBOIS BISGAARD & SMITH  
LLP

/s/ Josh Cole Aicklen  
Josh Cole Aicklen, Esq.  
Stephen L. Titzer, Esq.  
6385 S. Rainbow Boulevard, Suite 600  
Las Vegas, NV 89118  
Attorneys for Defendant  
VINCENT TJOTA

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CERTIFICATE OF SERVICE

I hereby certify that on this 14 day of February 14, 2023, a true and correct copy of the foregoing DEFENDANT’S MOTION TO CONTINUE TRIAL (SIXTH REQUESTED EXTENSION) was served via electronic service by the U.S. District Court CM/ECF system to the parties with an email-address on record, as follows:

Paul D. Powell, Esq.  
Tom Stewart, Esq.  
THE POWELL LAW FIRM  
8918 Spanish Ridge Avenue, Suite 100  
Las Vegas, NV 89148  
Telephone: 702-728-5500  
Fax: 702-728-5501  
paul@tplf.com  
Attorneys for Plaintiff  
REBECCA LEMPERLE

By   
An Employee of  
LEWIS BRISBOIS BISGAARD & SMITH LLP

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EXHIBITS INDEX  
DEFENDANT'S MOTION TO CONTINUE TRIAL  
(SIXTH REQUESTED EXTENSION)

A.	ECF No. 138, Stipulation and Order Setting Trial

## Exhibit A

ECF No. 138 - Stipulation and  
Order to Continue Trial  
(Fifth Requested Extension)

1 JOSH COLE AICKLEN  
 Nevada Bar No. 007254  
 2 [josh.aicklen@lewisbrisbois.com](mailto:josh.aicklen@lewisbrisbois.com)  
 STEPHEN L. TITZER  
 3 Nevada Bar No. 008289  
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 5 Las Vegas, Nevada 89118  
 TEL.: 702.893.3383  
 6 FAX: 702.893.3789  
 Attorneys for Defendant  
 7 VINCENT TJOTA

8  
 9  
 10 UNITED STATES DISTRICT COURT  
 11 DISTRICT OF NEVADA

12 REBECCA LEMPERLE, individually,	CASE NO.: 2:18-cv-00202-JCM-VCF
13 Plaintiff,	
14 vs.	
15 VINCENT TJOTA, individually; AVIS	
16 RENT A CAR SYSTEMS, LLC, a foreign	
17 limited liability company; PV HOLDING	
18 CORP., a foreign corporation; DOES I-X,	
and ROE CORPORATIONS I-X, inclusive,	
18 Defendants.	

19  
 20 STIPULATION AND ORDER TO CONTINUE TRIAL  
(FIFTH REQUESTED EXTENSION)

21 The parties, by and through their counsel, submit this Stipulation to extend the trial  
 22 date currently set for August 8, 2022. The parties request a trial continuance until sometime  
 23 in March 2023 or April 2023. Plaintiff's counsel represents they have 7-8 trials set for  
 24 August, 2022. Defendant and his wife reside in Singapore and they do not object to the trial  
 25 continuance provided that the trial can be reset to March or April 2023. Defendant and his  
 26 wife are expecting a child and they cannot travel until that time. The parties demonstrated  
 27 good cause to comply with LR IA 6-1 and the Court's Minute Order ECF No. 136, and filed  
 28 the Stipulation in advance of the Master Trial Calendar Scheduling Conference.

Lemperle v. Tjota  
2:18-cv-00202-JCM-VCF

ORDER TO CONTINUE TRIAL

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IT IS HEREBY ORDERED, ADJUDGED AND DECREED that the jury trial currently set on August 8, 2022 is hereby VACATED.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the jury trial shall be reset to begin on March 27, 2023, at 9:00 a.m. Calendar Call shall be reset to March 22, 2023, at 1:30 p.m.

"IT IS SO ORDERED:

James C. Mahan  
UNITED STATES DISTRICT JUDGE  
DATED: July 8, 2022

Approved as to form and content:

Respectfully submitted,

DATED: 7/7/22

DATED: 7/7/22

THE POWELL LAW FIRM

LEWIS BRISBOIS BISGAARD & SMITH  
LLP

By: /s/ Tom Stewart  
PAUL D. POWELL  
Nevada Bar No. 007488  
THOMAS W. STEWART  
Nevada Bar No. 014280  
8918 Spanish Ridge Avenue, #100  
Las Vegas, NV 89148  
Attorneys for Plaintiff  
REBECCA LEMPERLE

By: /s/ Josh Cole Aicklen  
JOSH COLE AICKLEN  
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STEPHEN L. TITZER  
Nevada Bar No. 008289  
6385 South Rainbow Blvd., Suite 600  
Las Vegas, Nevada 89118  
Attorneys for Defendant  
VINCENT TJOTA

**Kurilla, Peggy**

---

**From:** Tom Stewart <TStewart@tplf.com>  
**Sent:** Thursday, July 7, 2022 8:14 AM  
**To:** Titzer, Stephen  
**Cc:** Michelle Temoche; Aicklen, Josh Cole; Kurilla, Peggy  
**Subject:** [EXT] Re: Lemperle v. Tjota [ SAO Continue Trial - Fifth Request ] 2:18-cv-00202-JCM-VCF // 50023-245  
**Attachments:** Logo\_e6253148-26a1-47a9-b861-6ac0ff0bc3c4.png; sao continue trial - fifth request.pdf

You can affix my e signature. Thank you

Tom W. Stewart  
(702) 326-1770  
Sent from my iPhone

On Jul 7, 2022, at 7:42 AM, Titzer, Stephen <Stephen.Titzer@lewisbrisbois.com> wrote:

Counsel,

We attached the SAO to continue trial - can you sign and return to my office before tomorrow.

Regards,

Steve

**Stephen L. Titzer**  
Partner  
Stephen.Titzer@lewisbrisbois.com

T: 702.693.4334 F: 702.893.3789

6385 South Rainbow Blvd., Suite 600, Las Vegas, NV 89118 | LewisBrisbois.com

Representing clients from coast to coast. View our locations nationwide.

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