

**IN THE SUPREME COURT OF FLORIDA  
TALLAHASSEE, FLORIDA**

TRIAL PRACTICES, INC.,

**CASE NO.: SC17-2058**

Petitioner,

Lower Tribunal No(s).:

vs.

2D13-6051; 2D14-86;

HAHN LOESER & PARKS, LLP, as  
substitute party for Jack J. Antaramian,

292006CA005366A001HC

Respondent

**PETITIONER'S AMENDED<sup>1</sup> RESPONSE IN OPPOSITION TO  
RESPONDENT'S MOTION TO RESCHEDULE ORAL ARGUMENT**

Petitioner, Trial Practices, Inc. ("TPI"), opposes the motion of Respondent Hahn Loeser & Parks, LLP ("Hahn Loeser") to reschedule oral argument set for October 3, 2018, for the following reasons:

**Notices of Unavailability**

1. On June 19, 2018, Hahn Loeser moved the Court to hold an oral argument in this case (SC18-2058) under Rule 9.320, Florida Rules of Appellate Procedure. On July 10, 2018, Petitioner, TPI, followed with its own request for an oral argument .

2. On June 19, 2018, Hahn Loeser also noticed the Second District Court of Appeal (Case Nos. 2D16-5685, 2D17-0961, 2D17-3193, and 2D16-3412) "that

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<sup>1</sup> Amended as to paragraph 10 regarding unavailability.

counsel [Edmond Koester] for Appellee [Hahn Loeser] will be travelling out of state and out of the country, and therefore, is unavailable for oral argument **from September 3, 2018, through September 7, 2018, and from November 16, 2018, through November 28, 2018.**” (Emphasis in the original). See attached Exhibit 1. Accordingly, counsel for Hahn Loeser made himself available in October 2018 for oral argument.

3. On June 18, 2018, Petitioner TPI also noticed the Second District of the unavailability of its counsel (Don Conwell), “**from September 23, 2018 up to and including October 23, 2018.**” (Emphasis in the original). See attached Exhibit 2. Accordingly, due to travel plans, it was not Hahn Loeser ‘s counsel but TPI’s counsel, who was not available throughout October 2018 for oral argument.

### **The October 3, 2018, Oral Argument**

4. On July 19, 2018, this Court entered an order scheduling oral argument in this matter for October 3, 2018.

5. To comply with the Court’s order setting oral argument for October 3, 2018, TPI’s lead counsel (Don Conwell) was compelled to **cancel** his October 2018 prepaid trip to Greece with his wife (Exhibit 2), and, as a result, has incurred thousands of dollars in penalties.

6. TPI cannot afford the bond on the \$2.4 Million Fee Judgment at issue before this Court (Initial Brief at p. 15) which Hahn Loeser has aggressively

executed since 2016. As a result, TPI's shareholders, related entities, and their employees had to endure the business hardship of numerous writs of garnishment, discovery and deposition requests, and the harassment of clients with depositions and motions for proceedings supplementary. Hahn Loeser is also pursuing claims against Harvey Moore and his wife, the shareholders of TPI, based upon the Fee Judgment against TPI. This hardship and the cost of defending against Hahn Loeser's enforcement actions is compounded with every delay in appellate court proceedings.

7. In its Motion to Reschedule Oral Argument at ¶5, Respondent's counsel states that "[i]f the oral argument is not rescheduled from October 3, 2018, it will impose an extreme hardship on Hahn Loeser" and himself.<sup>2</sup> Notwithstanding his notice to the Second District of his unavailability in September and November

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<sup>2</sup> Florida Courts' threshold for "extreme hardship" differs significantly. *Fla. Dep't of Highway Safety & Motor Vehicles v. Hernandez*, 74 So. 3d 1070 (Fla. 2011) ("the loss of a driver's license is most definitely an extreme hardship."), citing *Bell v. Burson*, 402 U.S. 535, 539, 91 S. Ct. 1586, 29 L. Ed. 2d 90 (1971) ("Once licenses are issued ... their continued possession may become essential in the pursuit of a livelihood."); *Anderson Trucking Serv. v. Gibson*, 884 So. 2d 1046 (Fla. 5th DCA 2004) ("Disqualification [of counsel] may impose extreme hardships on the client because this very valuable right is taken away."); *Dade County v. Pepper*, 168 So. 2d 198 (Fla. Dist. Ct. App. 3d DCA 1964) (the court found extreme hardship where owners who had operated a junk yard for many years were forced to move when their location was condemned); *Chandler v. Department of Health and Rehabilitative Services*, 593 So. 2d 1183, 1184 (Fla. 1st DCA 1992) ("Section 409.335(1), Florida Statutes, provides that HRS must recover overpayments of AFDC benefits as long as extreme hardship does not occur.").

2018, Hahn Loeser counsel has failed to inform anyone associated with this matter of his planned October 2018 pleasure trip with friends to Italy. This is a situation (“hardship”) which counsel for Hahn Loeser imposed on his own client. Any such hardship is relatively minor when compared to that hardship which TPI and its shareholders must endure from any delay in an oral argument while Hahn Loeser’s attorneys aggressively prosecute the execution of the Fee Judgment at issue here. TPI vehemently opposes Respondent’s request to delay the oral argument.

8. Moreover, TPI and its lead counsel have addressed the need for its counsel to cancel his October 2018 travel plans, and it would be equitable for Hahn Loeser and its counsel to address its counsel’s European vacation plans to comply with the order scheduling oral argument for October 3, 2018.

9. Alternatively, if the Court's schedule permits an earlier date for oral argument, TPI would gladly attend oral argument on August 28, 29, 30 or 31.

10. TPI’s undersigned counsel is unavailable for the Court’s November and December 2018, oral arguments dates because he is the lead counsel in a federal case that is specially set for a multi-week trial in the United States District Court, Northern District of California.

## CONCLUSION

Petitioner Trial Practices, Inc. respectfully requests the Court to deny Respondent's Motion to Reschedule Oral Argument in this matter, scheduled to occur on October 3, 2018.

Dated: July 23, 2018.

Respectfully Submitted,

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### **CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on this 23rd day of July 2018, a true and correct copy of the above and foregoing has been filed via the Florida Court's E-Filing Portal which will send an Electronic Mail notification of same to the following:

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*/s/ G. Donovan Conwell, Jr.*

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*Counsel for Petitioner*

**IN THE DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA  
SECOND DISTRICT, LAKELAND, FLORIDA**

**Consolidated for Record Purposes Only and Travel Together**

**Case Number: 2D16-5658**

HARVEY MOORE AND ASSOCIATES, INC.	vs.	HAHN LOESER & PARKS, LLP
Appellant		Appellee

**Case Number: 2D17-0961**

TRIAL PRACTICES, INC.	vs.	HAHN LOESER & PARKS, LLP
Appellant		Appellee

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**Consolidated Only to Travel Together**

**Case No. 2D17-3193**

HARVEY MOORE AND ASSOCIATES, INC.	vs.	HAHN LOESER & PARKS, LLP
Appellant		Appellee

**Case No. 2D16-5658**

HARVEY MOORE AND ASSOCIATES, INC.	vs.	HAHN LOESER & PARKS, LLP
Appellant		Appellee

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**Consolidated Only to Travel Together**

**Case No. 2D17-3412**

TRIAL PRACTICES, INC.	vs.	HAHN LOESER & PARKS, LLP
Appellant		Appellee

**Case No. 2D17-0961**

TRIAL PRACTICES, INC.	vs.	HAHN LOESER & PARKS, LLP
Appellant		Appellee

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L.T. Case No. 06-CA-005366

Consolidated with: L.T. Case No. 13-CA-5139 and L.T. Case No. 15-CA-7307

**NOTICE OF UNAVAILABILITY OF APPELLEE'S COUNSEL**  
**(Related to Oral Argument)**



Edmond E. Koester, Esq., counsel for APPELLEE, HAHN LOESER & PARKS LLP, hereby gives notice that counsel for Appellee will be travelling out of state and out of the country, and therefore, is unavailable for oral argument **from September 3, 2018, through September 7, 2018, and from November 16, 2018, through November 28, 2018.**

Counsel for Appellee respectfully requests that oral argument in the above captioned matters not be scheduled to occur during the above referenced time periods.

### **CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on this 19<sup>th</sup> day of June, 2018, I transmitted a true and correct copy of this Notice by electronic mail to:

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**IN THE DISTRICT COURT OF APPEAL  
OF THE STATE OF FLORIDA  
SECOND DISTRICT**

HARVEY MOORE AND ASSOCIATES,  
INC.,

Appellant,  
v.

HAHN LOESER & PARKS, LLP,

Appellee.

TRIAL PRACTICES, INC.

Appellant,  
v.

HAHN LOESER & PARKS, LLP,

Appellee.

Consolidated for Record Purposes  
Only and Travel Together:

**Case No.: 2D16-5658**

Case No.: 2D17-0961

L.T. Case No.: 06-CA-005366

Consolidated with:

L.T. Case No. 13-CA-005139

L.T. Case No. 15-CA-007307

**NOTICE OF UNAVAILABILITY OF APPELLANT'S COUNSEL**

G. Donovan Conwell, Jr., lead counsel for Appellant gives notice to the Court and all parties herein, that he will be out of State and unavailable **from September 23, 2018 up to and including October 23, 2018.**

Counsel respectfully requests that no motions, hearings or any other activity that would require the appearance of undersigned counsel in the above-captioned lawsuit be scheduled during this time period.

Dated: June 18, 2018

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### **CERTIFICATE OF SERVICE**

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