

# **Appearing on the Short Docket**

Judge Stephen Yelenosky

345<sup>th</sup> District Court

2010

# SETTING

- Be careful about setting evidentiary hearings on the short docket
- *Never* set an evidentiary hearing on the jury-week-Thursday-30-minute docket or the Friday-morning-15-minute docket

# BEHIND THE SCENES

- **8:40 a.m. and 1:40 p.m.**
- Docket assignments go up
- Judges scan the cases assigned
  - Type
  - Time
  - Skim *announced only*

Main Search Uncontested

Docket Setting: Morning (8:00 AM - 1:29 PM) Date: 10/15/2010 Court: All

Dockets:

Cause #	Plaintiff	Defendant	Court
<b>Central - Short</b>			
D-1-GN-09-0034	JR SCHNEIDER CONSTRUCTION INC	HOUMA DOLLAR PARTNERS LLC	09B
D-1-GN-09-0005	PERSEPOLIS DEVELOPERS LLC	ARAMI MOHAMMAD	09B
D-1-GN-09-000E	WAYNE BARNES COMPANY INC	CRIDER STEVEN D	09B
D-1-GN-10-0024	FELLOWS TROY	MANCHA JESUS	09B
<b>Central - Long/Jury</b>			
<b>CPS</b>			
<b>Family</b>			
<b>Tax</b>			
<b>Protective Orders</b>			
<b>Uncontested</b>			
<b>My Favorites</b>			

Case Information:

Nature	MOTION TO WITHDRAW
File Date	10/7/2009
Announced Time	15 min

- [View Party Information](#)
- [Judge's Notes](#)
- [Add Case To Favorites](#)

Document List:

Filed Date	Category	Description	Additional Info
10/7/2009	PET-PL	ORIGINAL PETITION/APPLICATION	PLAINTIFF'S ORIGINAL PETITION
10/20/2009	SRVPROCESS	EXE SERVICE OF CITATION	CITATION - REEVES DEVELOPMENT LLC
12/7/2009	ANS-RESP	ORIGINAL ANSWER	SPECIAL APPEARANCES, AND SUBJECT THERETO, ORIGINAL ANSWER OF CHARLES REEVES, JR. AND RAY BAGGETT ...
12/7/2009	ANS-RESP	ORIGINAL ANSWER	ORIGINAL ANSWER OF DEFENDANT HOUMA DOLLAR PARTNERS, LLC AND DEFENDANT REEVES DEVELOPMENT, LL...
10/5/2010	MOTION	MTN:SUB & OR WITHDRAW COUNSEL	MOTION TO WITHDRAW AS COUNSEL FOR HOUMA DOLLAR PARTNERS, LLC CHARLES REEVES, JR. and RAY BAGGE...
10/5/2010	NOTICE	NTC:ATTORNEY/COUNSEL	NOTICE OF CHANGE OF ADDRESS AND FIRM
10/5/2010	NOTICE	NTC:HEARING/SETTING	NOTICE OF HEARING

# DISCOVERY

- Provide requests and objections and responses *verbatim* and separate from argument
- Thumbs up or thumbs down; will not rewrite request or objection; no horse-trading

# MSJs, PLEAS

***One*** notebook with yours ***and theirs***:

Motion, Response, Reply, Objections  
separated from *tabbed* exhibits

No more than a few printed cases

# ARGUMENT

- Record for evidence, agreements, admissions
- Know if your judge is the type who will GRANT an MSJ from the bench
- All judges will at times DENY an MSJ from the bench. But be realistic. If it's complicated, it's probably going to be taken under advisement

# **YOUR FIRST WORDS**

**ANSWER THE FOREMOST QUESTION  
ON THE JUDGE'S MIND – WHAT AM I  
DEALING WITH HERE?**



# **WHAT THE JUDGE WANTS TO KNOW FIRST**

- **Type of motion?**
- **Written response?**
- **Number of issues to be decided?**
- **Any issues resolved since motion and response?**
- **Questions of law or existence of any evidence?**
- **Familiar or unfamiliar questions of law?**

# HOW THE JUDGE'S MIND WORKS WHILE YOUR TALKING

Does that matter?

Can the attorneys agree what specific questions I must answer to decide the disagreement?

Are the answers to those questions already known to me by familiarity with particular points of law, or do I need to read cases?

Are the answers to those questions dependent on what is in affidavits?

Oh, I'm going to need to take this under advisement, how should I best approach my reading in chambers?

# PROTOTYPICAL ARGUMENT

- This is a traditional and no-evidence MSJ (a hybrid motion) brought by one of two Defendants against the Plaintiff. It challenges one cause of action. With respect to the contract claim, the traditional motion challenges the element of duty. With respect to that cause of action, the no-evidence motion challenges all elements. The traditional motion challenges the existence of a duty based on undisputed facts. In other words, we have a pure question of law. With respect to the no-evidence motion and the other elements of the contract claim, the question is whether the affidavits of the respondent survive our objections and whether the affidavits, even if our objections are overruled, provide more than a scintilla of evidence of each element challenged. Unless the court wants me to proceed in another manner, I will start by arguing the point of law regarding duty. There are 5 cases cited by the parties. We concede, and I believe opposing counsel agrees, none of them is directly on point. However, we believe that 2 of them provide clear guidance to this court. They are \_\_\_\_\_. ..... [argument]. Turning to the no-evidence motion, ....

# KNOW YOUR JUDGES

- Invest the time in observing each and every judge presiding over the short docket
- The judge may not be the best person to tell you what works with him or her
- Talk to other attorneys about their experiences