

**ORIGINAL**

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COURT OF CLAIMS  
OF OHIO

IN THE COURT OF CLAIMS OF OHIO

2015 MAR -5 PM 3: 22

TRANSAMERICA BUILDING COMPANY, INC.,	:	
	:	Case No. 2013-00349
Plaintiff,	:	Judge McGrath
v.	:	Referee Wampler
	:	
OHIO SCHOOL FACILITIES COMMISSION, nka Ohio Facilities Construction Commission,	:	
Defendant.	:	

**PLAINTIFF TRANSAMERICA BUILDING COMPANY, INC.'S  
MEMORANDUM IN OPPOSITION TO THIRD-PARTY MOTIONS FOR A  
CONTINUANCE**

Exactly what TransAmerica warned of has come to pass. The third- and fourth-party defendants—who were added to these proceedings after much procrastination by the OSFC, and solely for the OSFC’s benefit so that it could pass along its likely losses in this case—have now asserted their predictable requests for a continuance and additional discovery which put TransAmerica at risk of another continuance of the trial date, and innumerable additional duplicative depositions. This prejudice to TransAmerica—which it did nothing to create—and clear error can still be avoided if the court simply grants TransAmerica’s Renewed Motion as required by Civ.R. 14(A). Once this is done, the third- and fourth-party defendants can have their continuance, and the case by the OSFC against its agents can proceed at its own pace without prejudice against TransAmerica, who had nothing to do with hiring or administrating them.

SHP is correct to point out that a continuance in this case would “be the sole result of the Ohio School Facilities Commission’s delay in bringing these known third-parties into the case,” almost two years after the this litigation first began in June of 2013. (See SHP’s Motion for

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Continuance of Trial Date, pg. 2). And while “any prejudice to [the OSFC] by a continuance of the trial is at best self-inflicted,” (See SHP’s Motion for Continuance, pg. 2), the substantial prejudice a continuance would cause to TransAmerica is not self-inflicted in the slightest.

Indeed, TransAmerica is the *only party* who stands to be prejudiced by a possible continuance, and that prejudice will be significant. TransAmerica would be forced to wait even longer for its recovery against the OSFC, when TransAmerica has already endured millions of dollars of damages for years. Allowing the OSFC to delay this case another half a year (or more) solely through its own procrastination and mismanagement would be a gross miscarriage of justice. That result should not be tolerated by the Court.

Therefore, TransAmerica respectfully requests that the Court avoid that prejudice to TransAmerica by ordering a separate trial to address the OSFC’s third-party claims pursuant to the clear and unambiguous mandate of Civ.R. 14(A), thereby preserving the current trial date.

Respectfully submitted,



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**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing PLAINTIFF TRANSAMERICA BUILDING COMPANY, INC.'S MEMORANDUM IN OPPOSITION TO THIRD-PARTY MOTIONS FOR A CONTINUANCE was sent via e-mail and by regular U.S. mail, postage prepaid, this 5<sup>th</sup> day of March, 2015 to:

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