

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF MISSISSIPPI**

UNITED STATES OF AMERICA,)	
)	
vs.)	
)	
ROBERT L. MOULTRIE,)	
NIXON E. CAWOOD,)	
CHARLES K. MOREHEAD,)	CRIMINAL NO. 3:08-CR-014
FACILITY HOLDING CORP., d/b/a)	
THE FACILITY GROUP,)	
FACILITY MANAGEMENT GROUP, INC.,)	
FACILITY CONSTRUCTION MANAGEMENT INC.)	
and FACILITY DESIGN GROUP INC.,)	
)	
Defendants.)	

**UNOPPOSED MOTION FOR CONTINUANCE AND
MOTION TO EXTEND PRETRIAL DEADLINES**

COME NOW Defendants, Facility Holding Corporation, d/b/a The Facility Group, Facility Management Group, Inc., Facility Construction Management Inc., and Facility Design Group Inc. (hereafter “The Facility Group”), by and through its counsel and move this Court for a continuance of the trial in this matter which is currently scheduled for May 19, 2008, and for an extension of all the pretrial deadlines in this matter. The Facility Group respectfully requests that trial in this matter be continued until a date no earlier than August 11, 2008. In support of its motion, The Facility Group would show the Court the following:

Richard H. Deane, Jr., Counsel for The Facility Group, is scheduled to try a separate case that has been set for trial on June 17, 2008. That case, *Trellvion Gaines v. The Sherwin-Williams Company*, Civil Action No. 2000-0604 (the “Gaines trial”), is before the Circuit Court of Jefferson County, Mississippi. That matter is a products liability action involving allegations related to the purported ingestion of lead paint, and the case is expected to take three to four

weeks to try. The date for commencement of the Gaines trial was set prior to the indictment and setting of trial in this matter for May 19, 2008. A copy of the Scheduling Order for that case is attached to this Motion as Exhibit 1.

Upon discussion with the Government, it appears that trial in the present case, if it begins on May 19, 2008, will not be completed prior to the scheduled commencement of the first-set Gaines trial. Accordingly, The Facility Group requests that the present case be continued pursuant to Local Rule 16.3 of the Uniform Local Rules of the United States District Courts for the Northern District of Mississippi and the Southern District of Mississippi and the first-setting rule.

Furthermore, The Facility Group requests a continuance in this matter pursuant to the Speedy Trial Amendments Act of 1979, 18 U.S.C. §3161 et seq., and the Order of this Court implementing that Act, Order No. WM75-34 (1980). It is proper for this Court to grant a continuance to serve the ends of justice when failure to grant a continuance would unreasonably deny a defendant continuity of counsel, or would deny counsel for a defendant the reasonable time necessary for effective preparation, taking into account the exercise of due diligence. *See* 18 U.S.C. 3161(h)(8). We anticipate that some of the discovery that will be provided by the Government will involve large amounts of data, which will need to be analyzed and reviewed by defense counsel in order to prepare an adequate defense in this matter. Counsel will also need to retain and work with expert witnesses, who will also need to analyze and review that same discovery to prepare for trial. Additionally, it is expected that there will be a substantial set of motions that will need to be prepared and potentially argued. Preparation of an adequate defense, the exercise of due diligence, and effective preparation for trial in this matter will not be possible immediately preceding or during the first-set Gaines trial. Thus, taking into account the

other matters presently on defense counsel's calendar and the exercise of due diligence on the part of defense counsel to prepare for the trial of both matters, failure to grant a continuance in this matter would deny counsel for The Facility Group adequate and reasonable time necessary for preparation of an adequate defense in this case and continuity of counsel. The Facility Group has not previously asked for any continuance of this matter.

The Facility Group understands its rights under the Speedy Trial Act, 18 U.S.C. § 3161, *et seq.*, and acknowledges that these rights have been fully explained to it by its attorney.

Moreover, The Facility Group asserts that the ends of justice served by granting the requested continuance outweigh the public interest and the interest of The Facility Group in a speedy trial. Consequently, The Facility Group asserts that it is willing to waive and does hereby waive its rights under the Speedy Trial Act and agrees that the time period from the currently scheduled trial date of May 18, 2008, until the next trial date scheduled for this matter should be excluded under the Speedy Trial Act.

Counsel for The Facility Group has discussed this requested continuance with counsel for the Government and counsel for the other defendants in this matter, and is advised that counsel for the Government and other defendants have no objection to this continuance.

Furthermore, it is the understanding of the undersigned that other counsel in this matter also have scheduling conflicts with the May 18, 2008 date set for commencement of trial in this case. These other counsel will make separate filings to inform the Court of additional conflicts.

As this case is expected to involve substantial pre-trial motions practice, and there are outstanding discovery issues, The Facility Group asks that all of the pretrial deadlines in this matter – including the non-dispositive motion deadline, the dispositive motion deadline and the

deadline for filing witness/exhibits lists and jury instructions – be extended for a reasonable period of time from the current deadlines up to a reasonable date prior to the new trial date.

WHEREFORE, for the foregoing reasons, The Facility Group respectfully requests that this matter be continued until the Court's next criminal trial docket, but no earlier than August 11, 2008, and that the pretrial deadlines be extended in this matter for a reasonable period of time from the current deadlines up to a date prior to the new trial date established by the Court.

Dated: April 1, 2008

Respectfully submitted,

The Facility Group
Defendants

By:

/s/ Richard H. Deane, Jr.

Of Counsel:

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CERTIFICATE OF SERVICE

I hereby certify that on this day I have caused a copy of this “Motion for Continuance and Motion to Extend Pretrial Deadlines” to be electronically filed with the Clerk of Court using the CM/ECF system, which will automatically send e-mail notification of such filing to the following CM/ECF participant attorneys of record:

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THIS 1st day of April, 2008.

BY:

/s/Richard H. Deane, Jr.