



AlaFile E-Notice

68-CV-2005-000927.00

Judge: DAN C. KING III

To: MARSH DAVID H
gross@mrblaw.com

NOTICE OF ELECTRONIC FILING

IN THE CIRCUIT COURT OF JEFFERSON COUNTY, ALABAMA

MARK TRAYWICK, AS EXECUTOR VS ENERGEN CORPORATION ET AL
68-CV-2005-000927.00

The following matter was FILED on 12/15/2009 1:05:46 PM

D002 ALABAMA GAS CORPORATION

D003 ALAGASCO, INC.

D001 ENERGEN CORPORATION

MOTION TO CONTINUE

[Attorney: TERRY JON BATTON]

Notice Date: 12/15/2009 1:05:46 PM

EARL CARTER
CIRCUIT COURT CLERK
JEFFERSON COUNTY, ALABAMA
1801 3RD AVENUE NORTH
BESSEMER, AL 35020

205-481-4165
earl.carter@alacourt.gov

STATE OF ALABAMA

Unified Judicial System

Revised 3/5/08

Case

ELECTRONICALLY FILED
12/15/2009 1:05 PM
CV-2005-000927.00
CIRCUIT COURT OF
JEFFERSON COUNTY, ALABAMA
EARL CARTER, CLERK

68-JEFFERSON - BESSEMER

 District Court Circuit Court

CV20

MARK TRAYWICK, AS EXECUTOR VS ENERGEN CORPORATION ET AL

CIVIL MOTION COVER SHEET

Name of Filing Party: D003 - ALAGASCO, INC.

Name, Address, and Telephone No. of Attorney or Party. If Not Represented.

JON B. TERRY MR.

1813 3RD AVE. N.
BESSEMER, AL 35020

Attorney Bar No.: TER007

 Oral Arguments Requested**TYPE OF MOTION****Motions Requiring Fee**

- Default Judgment (\$50.00)
Joinder in Other Party's Dispositive Motion (i.e. Summary Judgment, Judgment on the Pleadings, or other Dispositive Motion not pursuant to Rule 12(b)) (\$50.00)
- Judgment on the Pleadings (\$50.00)
- Motion to Dismiss, or in the Alternative Summary Judgment(\$50.00)
Renewed Dispositive Motion(Summary Judgment, Judgment on the Pleadings, or other Dispositive Motion not pursuant to Rule 12(b)) (\$50.00)
- Summary Judgment pursuant to Rule 56(\$50.00)
- Motion to Intervene (\$297.00)
- Other _____
pursuant to Rule _____ (\$50.00)

*Motion fees are enumerated in §12-19-71(a). Fees pursuant to Local Act are not included. Please contact the Clerk of the Court regarding applicable local fees.

 Local Court Costs \$ _____**Motions Not Requiring Fee**

- Add Party
- Amend
- Change of Venue/Transfer
- Compel
- Consolidation
- Continue
- Deposition
- Designate a Mediator
- Judgment as a Matter of Law (during Trial)
- Disburse Funds
- Extension of Time
- In Limine
- Joinder
- More Definite Statement
- Motion to Dismiss pursuant to Rule 12(b)
- New Trial
- Objection of Exemptions Claimed
- Pendente Lite
- Plaintiff's Motion to Dismiss
- Preliminary Injunction
- Protective Order
- Quash
- Release from Stay of Execution
- Sanctions
- Sever
- Special Practice in Alabama
- Stay
- Strike
- Supplement to Pending Motion
- Vacate or Modify
- Withdraw
- Other _____
pursuant to Rule _____ (Subject to Filing Fee)

Check here if you have filed or are filing contemporaneously with this motion an Affidavit of Substantial Hardship or if you are filing on behalf of an agency or department of the State, county, or municipal government. (Pursuant to §6-5-1 Code of Alabama (1975), governmental entities are exempt from prepayment of filing fees)

Date:

12/15/2009 1:05:13 PM

Signature of Attorney or Party:

/s JON B. TERRY MR.

*This Cover Sheet must be completed and submitted to the Clerk of Court upon the filing of any motion. Each motion should contain a separate Cover Sheet.

**Motions titled 'Motion to Dismiss' that are not pursuant to Rule 12(b) and are in fact Motions for Summary Judgments are subject to filing fee.



**IN THE CIRCUIT COURT OF JEFFERSON COUNTY, ALABAMA
BESSEMER DIVISION**

**MARK TRAYWICK, as Executor of the)
Estate of Irene B. Traywick,)**

PLAINTIFFS,)

vs.)

ENERGEN CORPORATION, et al.,)

DEFENDANTS,)

CASE NO: CV 2005-927

MOTION TO CONTINUE

Comes now Jon B. Terry, as one of the attorneys for the Defendants and would move to continue the current trial setting of January 4, 2010 and as grounds therefore would aver as follows:

1. This case was set for trial several months ago before certain monumental events occurred that were beyond the anticipation of the attorneys and the clients.
2. Since the setting of this case, one of the two great college football teams in this State has reached levels on a national scale that have not been enjoyed by any team in this State in 17 years next preceding the date hereof.
3. Currently, one of the two great teams in this State are playing for a national championship and has enjoyed an undefeated season and clinched the SEC Title Game.
4. Most of the attorneys representing all of the named Defendants have tickets and

reservations to be in Pasadena on the 6th day of January, 2010, which date would conflict with the trial date as travel times and schedules for the game overlap the trial as currently set.

5. In fact, the Honorable Jim Lloyd has children that live in the area and is scheduled to be with them in California to celebrate the game and the Tide s success.

6. Attempts to resolve this conflict directly with the Plaintiffs has been unfruitful as the reply has been that they are for the other great team in this State who did not make the playoffs. Unfortunately, that response remains short-sighted as they may one day find themselves in the same position that the Defendant attorneys are in and, unfortunately, the BSC Title Game is no longer scheduled on January 1st, but has been moved to January 7th.

7. In checking with your Honor s Office, it was determined that there are potential quick dates available during March, the only known conflict being that Jim Lloyd has recently been elected President of the Birmingham Bar and must attend a conference on March 10-12. Other than that, the Defendants can be ready to be first out during any available week for trial during the month of February, March, or April and believe that there would be no harm, considering the magnitude of this event and its impact on this State, and the fact such an event only comes infrequently during a person s lifetime and is an achievement of such a magnitude that all involved in this litigation should want everyone to fully participate in this achievement.

8. It is also understood that many of the witness involved are trying to acquire tickets to the game and/or scheduled to be at the game in Pasadena on January 7th and certainly any juror selected to participate will likely be preoccupied and not able to devote their full attention to the case before them during the week of January 4, 2010, and therefore, the parties would be prejudiced by the distraction caused by such a major event of such significant importance to so many people in this State.

9. **ROLL TIDE!!** (although my secretary is for the other great team of this State, she feels that I need to attend this championship game!); and may the Longhorns be defeated.

/s/ Jon B. Terry
JON B. TERRY

OF COUNSEL:
BAINS & TERRY
1813 Third Avenue North
Bessemer, AL 35020
Telephone: (205) 425-1606

CERTIFICATE OF SERVICE

I hereby certify that I have served a copy of the above and foregoing document on

Michael K. Beard, Esquire
MARSH, RICKARD & BRYAN, P.C.
800 Shades Creek Parkway-Suite 600 D
Birmingham, AL 35209

Michael L. Bell, Esquire
Andrew Nix, Esquire
LIGHTFOOT, FRANKLIN & WHITE LLC
The Clark Building
400 North 20th Street
Birmingham, AL 35203

by depositing a copy of the same in the United States Mail, postage prepaid and properly addressed on this the 15th day of December, 2009.

/s/ Jon B. Terry
JON B. TERRY