

GENERAL ORDER NO. 94-29

FILED - CLERK
U.S. DISTRICT COURT

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IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS

BY Barbara S. Shivers

Came on this day for consideration the Motion for Reconsideration of General Order No. 93-19. The court has reviewed both the motion and the substance of General Order 93-19. The court finds that because General Order 93-19 refers and applies only to cases assigned to Chief Judge Robert M. Parker, and because Chief Judge Parker has now been appointed to the United States Court of Appeals for the Fifth Circuit and is no longer a judge of this court, General Order 93-19 no longer affects motions filed by the law firm of Ludlum & Ludlum in this court. Therefore, the motion for reconsideration and rescission of General Order 93-19 is MOOT.

SIGNED this the 11th day of October, 1994.

Richard A. Schell

Richard A. Schell, Chief Judge

GENERAL ORDER NO. 93-19
Tendered for Filing

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**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS**

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U.S. DISTRICT COURT
EASTERN DISTRICT OF TEXAS

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BY DAVID J. MALAND, CLERK
DEPUTY

MOTION FOR RECONSIDERATION OF GENERAL ORDER

COMES NOW, Catherine L. Kyle of the law firm of Ludlum & Ludlum and makes this Motion For Reconsideration of the Court's General Order No. 93-19, entered November 4, 1993, and in support hereof would show the Court as follows:

1. On November 2, 1993, at the management conference in Civil Action No. 9:92CV127, Matthews v. Peterson et al., this Court announced that it would no longer entertain motions for continuances from the law firm of Ludlum & Ludlum, presumably due to miscommunications with the District Court in Dallas County, Texas, concerning Defendant's Motion for Continuance of the Management Conference in Matthews. The Court memorialized its ruling by entering General Order No. 93-19.

2. Based on the information received from the Dallas County court administrator's office the previous week, the undersigned transmitted a Motion for Continuance of the Matthews management conference with this court on October 29, 1993, which was filed of record on November 1, 1993. The Motion for Continuance was unopposed.

3. On November 1, 1993, the undersigned's office conferred with the court administrator for the Sixty-Eighth Judicial District Court of Dallas County, Texas, concerning the trial setting in Cause No. 92-04045-C, Wattley v. Texas Key Program, Inc. That case was set for trial on November 2, 1993, and was fourth on the docket. The court administrator's office informed this office that the Wattley case was set for trial and that it would be necessary

for the undersigned to appear to announce on November 2, 1993, thus creating a conflict with the November 2, 1993, setting for the management conference in Matthews.

4. After receiving misinformation from the court administrator's office in Dallas County, Texas, after filing the Motion for Continuance, after receiving this Court's Order denying the Motion for Continuance and after speaking with this Court's briefing clerk, the undersigned discovered that her appearance was not necessary in Dallas County, thereby enabling her to appear at the management conference set on November 2, 1993.

5. At the management conference, the undersigned affirmed to the Court the foregoing facts and apologized to the Court for the inconvenience and miscommunications. The undersigned acted at all times in good faith and made no misrepresentations to the Court.

6. By General Order Number 93-19, the Court is penalizing the firm of Ludlum & Ludlum for actions taken by an attorney no longer with the firm, Mr. William Krueger, III, for his conduct in Harris, et al v. Angelina County, Texas, et al. The undersigned therefore urges the Court to reconsider General Order No. 93-19, and rather than refusing to entertain any motion for continuance, to instead allow the filing of and to then consider each motion on the merits and circumstances presented therein, if any such motion becomes necessary in the future.

WHEREFORE, PREMISES CONSIDERED, the undersigned, on behalf of the firm of Ludlum & Ludlum, respectfully requests this Court to reconsider General Order No. 93-19 and to rescind the same, and for such other and further relief, at law and in equity to which the Court deems appropriate.

Respectfully submitted,

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By *Catherine L. Kyle*
Catherine L. Kyle
11778600

GENERAL ORDER NO. 93-19

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS**

STATE OF TEXAS §
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COUNTY OF TRAVIS §

AFFIDAVIT OF CATHERINE L. KYLE

Before me, the undersigned authority, on this day personally appeared Catherine L. Kyle, who being duly sworn upon her oath deposed and said the following:

1. "My name is Catherine L. Kyle. I am over 18 years of age, have never been convicted of a crime, and I am fully competent to make this affidavit. I have personal knowledge of the facts stated herein and they are true and correct.

2. "On October 26, 1993, I called the office court administrator for the Sixty-Eighth Judicial District Court in Dallas County, Texas. According to the Dallas County Local Rules, attorneys can determine settings of cases set for the following week at that time. I was informed by the court administrator's office that Wattley v. Texas Key Program, Inc., was set for trial on November 2, 1993, and that the case was fourth on the docket. It therefore appeared highly probable that the case would be tried the following week, and that my presence would be necessary on November 2, 1993, in Dallas County, Texas, to announce for trial. However, settlement negotiations were ongoing between the two parties and I had high hopes that the matter would be resolved so that I could appear before Judge Parker in the above-captioned case on November 2, 1993. By Friday, October 29, 1993, it became apparent that the matter would

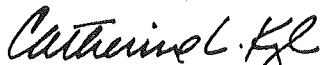
not be resolved by settlement and that it would be necessary for me to appear in Dallas on November 2, 1993. I checked with other members of my firm and their schedules did not allow them to attend the management conference in Lufkin in my stead; therefore, I filed a Motion For Continuance which was unopposed. That motion was filed with the Court on November 1, 1993.

3. I spent the morning of November 1, 1993, meeting with witnesses to prepare their testimony for trial in the Wattley case and was not in the office. When I returned to the office in the early afternoon of November 1, 1993, I was informed by my assistant Belinda Stephens that she had spoken with Judge Parker's chambers and had been informed that the Court was not inclined to grant the continuance. Ms. Stephens then called the court administrator's office to confirm that my appearance was necessary in Dallas County on November 2, 1993. She was informed by the court administrator's office that the case was still on the docket and it would be necessary for me to appear. I then received Judge Parker's Order denying the continuance. Ms. Stephens called Judge Parker's briefing clerk, Leslie, who asked to speak with me. I then spoke with Leslie who informed me that she had spoken with the court administrator who had told her that it would not be necessary for me to be in Dallas on November 2, 1993, and that the Wattley case would not go to trial on that date. *This was the first information that I had from anyone that I would not be required to appear in Dallas on November 2, 1993.* I immediately called the court administrator's office and spoke with Pat Robbins, who confirmed the information I had received from Judge Parker's clerk.

4. I took whatever steps necessary to determine whether my appearance in Dallas County would be necessary on November 2, 1993. I believed that my appearance in Dallas


County was necessary until the late afternoon of November 1, 1993, after Judge Parker had denied the motion for continuance. I filed the Motion for Continuance in good faith and at no time attempted to mislead the Court or to provide the Court with inaccurate information.

FURTHER AFFIANT SAYETH NOT.



CATHERINE L. KYLE

17th SUBSCRIBED AND SWORN TO before me by CATHERINE L. KYLE on this the 17th day of November, 1993, to certify which witness my hand and seal of office.



Notary Public in and for
the State of Texas

My Commission Expires:

January 30, 1997

GENERAL ORDER NO. 93-19

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS**

ORDER

CAME ON this date for consideration the Motion for Reconsideration of General Order No. 93-19, and it appearing to this Court that good cause exist therefor, and that said motion should be GRANTED, it is, therefore,

ORDERED that General Order 93-19 relative to the law firm of Ludlum & Ludlum, Austin, Texas, be, and hereby is, in all things RESCINDED.

DATED, _____.

Honorable Robert M. Parker
Chief Judge

GENERAL ORDER NO. 93-19

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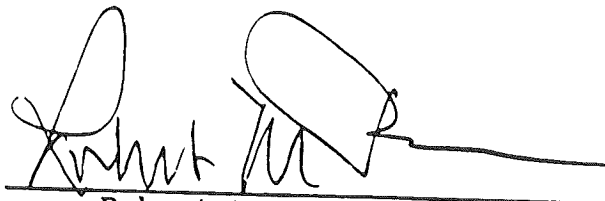
IN THE UNITED STATES DISTRICT COURT
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DAVID J. MALAND, CLERK
David J. Maland

Order Relative to the Texas Law Firm of Ludlum and Ludlum, of Austin, Texas.

In light of this Court's repeated, various-lawyer, experiences with the firm relative to the firm's Motions for Continuances, it is hereby Ordered that the Clerk shall not accept any Motions for Continuances from the law firm of Ludlum and Ludlum, of Austin, Texas, in cases assigned to Chief Judge Robert M. Parker.

So Ordered.
Signed This the 4th Day of November, 1993.



Robert M. Parker
Chief Judge