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| DISTRICT COURT, DENVER COUNTY, COLORADO |  |  |
| Court Address: |  |  |
| Denver District Court |  |  |
| 1437 Bannock St., Room 256 |  |  |
| Denver, CO 80202 | DATE | ILED: August 7, 2015 5:18 PM |
|  | FILING | ID: 38093BBC6D78F |
| **In The Matter of:** | CASE | UMBER: 2015CV31709**COURT USE ONLY** |
| **ROBERT ABRAMS,** |  |  |
| **Plaintiff** |  |  |
| **Vs.** |  |  |
| **SHAWN BEESON,** |  |  |
| **Respondent** |  |  |
| Law Office of Michael P. Boyce, PC Michael Boyce3773 Cherry Creek Drive North, Suite 575 Denver, CO 80209Phone Number: 303.565.0360 E-mail: mike@boycelawoffice.comFAX Number: 303.648.4849 Atty. Reg. #: 35729 | Case Number: 15CV31709Division 409 |
| **RESPONDENT’S RESPONSE TO PLAINTIFF’S MOTION TO CONTINUE PERMANENT****PROTECTION ORDER HEARING SET FOR AUGUST 13, 2015** |

SHAWN BEESON, through his attorney, Michael Boyce, of the Law Office of Michael Boyce, P.C., hereby requests this Court deny Plaintiff’s Motion to Continue Permanent Protection Order Hearing Set for August 13, 2015 and states the following:

# INTRODUCTION

1. On May 13, 2015, Respondent Shawn Beeson was assaulted by Plaintiff Robert Abrams. Mr. Beeson called the police on May 13, 2015 after Mr. Abrams fled the scene of the assault. Mr. Abrams was charged with assault in Denver Municipal Court.
2. In response to the charge of assault against Mr. Beeson, Mr. Abrams filed a Verified Complaint and Motion for Civil Protection Order. The Court issued a Temporary Protection Order and set the matter for a Permanent Protection Order hearing on June 1, 2015. The matter was reset for a Permanent Protection Order hearing on July 16, 2015.
3. In the Verified Complaint and Motion for Civil Protection Order, the Plaintiff alleges instances on two specific dates resulting in his request for a Permanent Protection Order. The first instance alleges that between approximately April 1 and April 15, 2015, the Respondent called him a “piece of shit.” The second instance is from May 13, 2015, when the Plaintiff was charged with assaulting the Respondent.
4. On July 16, 2015, the permanent protection order hearing commenced.
5. The hearing on the motion to make the temporary protection order permanent began on July 16, 2015. During the hearing, the Court advised the Plaintiff of his 5th amendment

right against self-incrimination. At that time, the Plaintiff emphatically waived his rights pursuant to the 5th amendment and stated he would testify at the hearing.

# PROTECTION ORDER PROCEDURE REGARDING CONTINUANCES IS GOVERNED BY C.R.S. 13-14-106(B) AND C.R.C.P. RULE 6 IS INAPPLICABLE

1. The simplified civil process for obtaining a permanent protection order are stated in

C.R.S. section 13-14-106:

(b) Notwithstanding the provisions of paragraph (a) of this subsection (1), the judge or magistrate, after examining the record and the evidence, for good cause shown, may continue the temporary protection order and the show cause hearing to a date certain not to exceed one year after the date of the hearing if he or she determines such continuance would be in the best interests of the parties and if both parties are present at the hearing and agree to the continuance. In addition, each party may request one continuance for a period not to exceed fourteen days, which the judge or magistrate, after examining the record and the evidence, may grant upon a finding of good cause. The judge or magistrate shall inform the respondent that a violation of the temporary civil protection order constitutes a criminal offense pursuant to section 18-6-803.5, C.R.S., or constitutes contempt of court and subjects the respondent to such punishment as may be provided by law.

1. Furthermore, C.R.C.P. Rule 81(a) regarding special statutory proceedings states:
	1. [The Colorado Rules of Civil Procedure] do not govern procedure and practice in any special statutory proceeding insofar as they are inconsistent or in conflict with the procedure and practice provided by the applicable statute.
2. Permanent protection order proceedings are special statutory proceedings and the Colorado Rules of Civil Procedure are inapplicable. The simplified civil process for obtaining a protection order addresses when a continuance of permanent protection order is permitted (for good cause) and the length of the continuance (no more than fourteen (14) days).
3. Therefore, Plaintiff’s reliance on C.R.C.P. 6(b) in his request for a continuance is not applicable here. Furthermore, on July 16, 2015, Respondent made a similar argument for a request for a continuance of the hearing due to the unavailability of two material witnesses and was denied due to the same provisions in C.R.S. section 13-14-106(b). At that time, the Plaintiff cited the same section.
4. It is Defendant’s position that C.R.S. section 13-14-106(b) contemplates a continuance of the hearing *prior* to the commencement of the hearing itself. It is implicit in section b that either side can request a continuance of the hearing itself, for good cause shown,

with or without agreement of the parties, prior to the show cause hearing. The hearing in this case has already begun and the Plaintiff can no longer avail himself of this request.

1. Even if the Court found that the Plaintiff could request a continuance of the hearing, it could only be for a maximum of 14 days. The Plaintiff’s request for a continuance is outside of the 14 days permitted by the statute and should be denied.

**PLAINTIFF’S HAS NOT SHOWN GOOD CAUSE FOR A REQUEST OF THE HEARING**

1. Plaintiff is charged with assaulting the Defendant in this case. Plaintiff’s actions resulted in the filing of criminal charges against him.
2. In retaliation, Plaintiff seeks a permanent protection order against Mr. Beeson, the victim in the criminal action.
3. Plaintiff now claims that because he has to choose between testifying in the protection order hearing, which he filed, or remaining silent until after his criminal case has resolved, that he has established good cause for a continuance.
4. It was the Plaintiff’s choice to file a motion for a permanent protection order against Mr. Beeson. The Plaintiff is an attorney representing himself and is familiar with both civil and criminal procedure. The decision as to whether to take the stand in the civil matter and waive his 5th amendment right or not is one the Plaintiff has constructed for himself.
5. The Plaintiff’s self-created decision as to whether to exercise his right not to testify because he is a defendant in a criminal matter does not amount to good cause for a continuance.

# CONCLUSION

1. The Plaintiff has not shown good cause for a continuance of the permanent protection order hearing currently scheduled for August 13, 2015. Even if the Court finds good cause based on the Plaintiff’s self-created reason for the continuance, the C.R.S. 13-14- 106(b) does not permit a continuance past the date requested by the Plaintiff.
2. Mr. Beeson will be prejudiced if the protection order is allowed to continue any longer than necessary. The Plaintiff’s request for a permanent protection order is without merit and the Mr. Beeson seeks to resolve this matter.

WHEREFORE, Shawn Beeson, through counsel, respectfully requests this Honorable Court grant the relief requested in Respondent’s Response to Plaintiff’s Motion to Continue Permanent Protection Order Hearing Set for August 13, 2015. Mr. Beeson further requests a hearing on this matter.

Respectfully submitted this 7th day of August, 2015.

THE LAW OFFICE OF MICHAEL P. BOYCE, PC.

Date: 8/7/2015

 /s/ Michael Boyce #35729

Attorney for Defendant

*(Original signature on file at The Law Office of Michael P. Boyce, P.C.)*

**CERTIFICATE OF SERVICE**

I hereby certify that I have delivered a true and correct copy of the Respondent’s Response to Plaintiff’s Motion to Continue Permanent Protection Order Hearing Set for August 13, 2015 to the following on August 7, 2015:

*Email/Electronic Filing* Abrams & Associates, LLC Robert Abrams

700 17th Street, Suite 650

Denver, CO 80202 Robert@AbramsLaw.net

 /s/ Michael Boyce #35729

*(Original signature on file at The Law Office of Michael P. Boyce, P.C.)*