

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION

UNITED STATES OF AMERICA )  
 )  
 vs. ) No. 08 CR 846  
 ) Judge Joan Humphrey Lefkow  
 JON BURGE ) PARTIALLY REDACTED

**DEFENDANT'S SUPPLEMENT TO  
MOTION TO VACATE TRIAL DATE**

Defendant JON BURGE, by his attorneys, hereby supplements his motion to vacate trial date as follows:

1. On October 20, 2009, Attorney Marc W. Martin telephonically spoke to Dr. John Steel, who confirmed that Mr. Burge is suffering from prostate cancer. Dr. Steel reported that Mr. Burge [REDACTED]. Dr. Steel stated that the decision whether [REDACTED]. (The University of Florida would have provided [REDACTED] [REDACTED]) Dr. Steele explained that the dates on the "Prostate Treatment Time Line" were approximations, subject to change dependent on the case.

2. Following the presentation of the motion to vacate trial date on October 21, 2009, it has been determined that Mr. Burge will be receiving [REDACTED] [REDACTED].

3. On November 3, 2009, we received a "Prostate Patient Checklist" relating to Mr. Burge. Exhibit A. As stated in court, the record contains medical terms. We will explain the record as best we understand it. The boxes that are checked represent completed, or presently scheduled, treatments/procedures. The treatment/times on the

checklist are contingent on successful completion of prior procedures. The unchecked boxes are for treatments that will occur in the future, providing the prior procedures/treatments are successful.

4. In layman's terms, it is our understanding that the record shows the following:

- [REDACTED] that occurred on October 21, 2009.
- [REDACTED].
- [REDACTED] In this case, if prior treatments are successful, that would occur around January 11, 2010.
- [REDACTED] **start date (one week after [REDACTED])** means the date the actual [REDACTED]. In this case, that would be approximately January 18, 2010. (On November 4, 2009, Tampa Bay Radiation Oncology provided a note indicating that Mr. Burge's [REDACTED] would start in "mid January" and last for five weeks. Exhibit B.)
- **Approximate [REDACTED] completion date ([REDACTED] start date + 25)** means approximately 25 business days (5 weeks) of [REDACTED] after the [REDACTED] start date. If prior treatments are successful, [REDACTED] would be completed on or about February 22/23, 2009.
- [REDACTED] **(7-10 days after completion of [REDACTED])** means the prostate is mapped and a volume study is conducted. If prior treatments are successful, that would occur between March 5-8, 2010.
- [REDACTED] **Date Scheduled** refers to a [REDACTED] in which [REDACTED] are [REDACTED]. The [REDACTED]

Prostate Patient Checklist does not provide a date for this procedure. The "Prostate Treatment Time Line" states that this occurs "3 to 7 weeks after [REDACTED]." On November 4, 2009, Tampa Bay Radiation Oncology provided a note indicating that the [REDACTED] would occur four weeks after the completion of [REDACTED] (*i.e.*, approximately March 22/23, 2010.)

- [REDACTED] (2 weeks [REDACTED]) refers to [REDACTED] performed 2 weeks after the [REDACTED]. In this case, that date is approximately April 5, 2010 – again assuming successful prior procedures.

5. In the motion to vacate the trial date, we stated that Mr. Burge "will be receiving some form of [REDACTED] during the month of January 2010." Assuming all goes well, that forecast was correct. However, medically sound treatment of prostate cancer (scoring 8 on the Gleason scale) does not end the day the [REDACTED] stops, as [REDACTED].

6. The information provided in the "Prostate Treatment Time Line" attached as an exhibit to the motion to vacate trial date is consistent with the "Prostate Patient Checklist" explained herein. The time line, which states that "[t]hese dates are approximations," notes that [REDACTED] "2 months and 3 weeks after starting [REDACTED]"; that the [REDACTED] "3 to 7 weeks after [REDACTED]"; and [REDACTED] 2 weeks after [REDACTED].

7. Counsel also need a healthy client who is physically available to them during the month before trial in order to provide effective assistance of counsel.

8. Mr. Burge is not putting anything off, or seeking undue delay. Stalling treatment for cancer flies directly in the face of self-preservation. [REDACTED]

[REDACTED]

9. Based on the foregoing, it would be unreasonable to set an April 2010 trial date. Early April 2010 will be the date Mr. Burge (hopefully) is completing treatment. Accordingly, a trial date should be set no earlier than sometime in May 2010.

Respectfully submitted,

/s/ Marc W. Martin

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**CERTIFICATE OF SERVICE**

I, MARC W. MARTIN, an attorney for Defendant Jon Burge, hereby certify that on this, the 5th day of November, 2009, I filed the above-described partially redacted document on the CM/ECF system of the United States District Court for the Northern District of Illinois, which constitutes service of the same.

/s/ Marc W. Martin

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### Tampa Bay Radiation Oncology

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Board Certified in  
Radiation Oncology

Randy Kaha, MD, FACRO  
Board Certified in  
Radiation Oncology  
& Internal Medicine

Harvey M. Greenberg, MD, MBA  
Board Certified in  
Radiation Oncology, Medical Oncology &  
Internal Medicine

BURGE, JON G

### Prostate Patient Checklist

Urologist: BAKER, MARK D. MD

Date: 10-6-09

Primary: Taylor, Frederick E. MD

Study Patient

XRT + Implant

XRT + Hormones

Cardiac Clearance Required

Check with PCP to see if Cardiac Clearance is needed

Pulmonary Clearance Required

Heart Valve/ Prosthesis (prophylactic antibiotic required)

None Required

Other

No local PCP, refer to \_\_\_\_\_

No local urologist, refer to \_\_\_\_\_

Schedules pt. at hospital

Implant Alone

Implant + Hormone

XRT Alone

Hormone Alone

125

Initial consult date: 10-6-09

Follow up visit one week later: \_\_\_\_\_

Labs required:

CBC with Diff

LFT's

Other: \_\_\_\_\_

X-Rays / Scans

CX-Ray

Bone Scan

CT Pelvis

CT Abdomen

Other: \_\_\_\_\_

REDACTED

Comments / Directives:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

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FOR MARC MARTIN

slow card stock

DEFENDANT'S  
EXHIBIT  
A



Tampa Bay Radiation Oncology

John R. (Jack) Steel, M.D.  
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Randy Kahn, M.D., F.A.C.R.O.  
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Board Certified in Radiation Oncology  
Board Certified in Medical Oncology  
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John M. Koval, M.D.  
Board Certified in Radiation Oncology

To Whom It May Concern:

Mr. Jon Burge is under the care of Dr. John Steel for prostate cancer. The patient has been started on [REDACTED] mid January for five weeks. He will have a four week break and then he will have [REDACTED] This is an outpatient procedure. He will continue [REDACTED]

REDACTED

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