



In the  
Indiana Supreme Court

Delmas SEXTON, II	)	Supreme Court No. 38S00-0712-SJ-623
Plaintiff	)	
	)	
vs.	)	Case No. 38D01-0306-PL-9
	)	
Jane Ann RUNYON	)	in the Jay Superior Court
Defendant	)	

ORDER REMANDING JURISDICTION TO TRIAL COURT

Comes now the Clerk of the Jay Superior Court, and pursuant to Ind. Trial Rule 53.1, certifies this matter here for the appointment of a special judge.

And this Court, being duly advised, now finds that jurisdiction of this matter should be remanded to the Jay Superior Court and Special Judge Robert L. Barnet, Jr. The Chronological Case Summary reveals that the motion in question in this case was pending prior to Judge Barnett's appointment as special judge. In addition, the motion was pending for a significant period of time prior to plaintiff's praecipe for withdrawal of the submission. Only after plaintiff was unsuccessful in otherwise obtaining a new judge did he file his praecipe. Under this set of circumstances, we find that plaintiff waived his right to relief under Ind. Trial Rule 53.1, which is intended to provide timely rulings on pending motions. Plaintiff's delay in seeking withdrawal of the submission is not consistent with the intent of the rule.

IT IS, THEREFORE, ORDERED that jurisdiction of this matter is remanded to the Jay Superior Court and Special Judge Barnet.

The Clerk of this Court is directed to forward notice of this Order to the Hon. Robert L. Barnet, Jr., Delaware Circuit Court #3, 100 West Washington Street, Muncie, IN 47305-2869, and to the Clerk of the Jay Superior Court.

The Clerk of the Jay Superior Court is directed to forward notice of this Order to all parties of record in the case below.

DONE at Indianapolis, Indiana, this 31<sup>st</sup> day of January, 2008.

*Randall T. Shepard*  
Randall T. Shepard  
Chief Justice of Indiana