

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA**

**U.S. BANK NATIONAL ASSOCIATION, as  
Trustee for the Benefit of the Holder  
of Comm 2013-CCRE12 Mortgage Trust  
Commercial Mortgage Pass-Through  
Certificates,**

**PLAINTIFF,**

**VS.**

**CIVIL ACTION NO. 1:17-cv-138 (Keeley)**

**MOUNTAIN BLUE HOTEL GROUP, LLC,**

**DEFENDANT.**

**MOTION TO CONTINUE**

Now comes the Defendant, Mountain Blue Hotel Group, LLC, by counsel, Michael J. Del Giudice and Timothy J. LaFon, and moves this Honorable Court to continue the Evidentiary Hearing presently scheduled for August 22, 2017 and the attendant deadline scheduled for August 18, 2017 requiring all Witness Lists, Exhibits, Affidavits and Briefs to be submitted. In support of said Motion, the Defendant states as follows:

1. This matter was just recently filed on August 8, 2017.
2. Included in the filing of the Complaint in this matter were attachments, Plaintiff's Emergency Motion for Appointment of Receiver and Memorandum, all of which consists of hundreds of pages of documents.
4. Counsel for the Defendant was not retained until August 14, 2017.
5. The Defendant would suffer extreme prejudice if it were required to

go forward with such a substantive Evidentiary Hearing with such a short period of time in which to prepare.

6. This is the first time this law firm has represented the Defendant and it will take a considerable amount of time to become acquainted with the business and review the Complaint, attachments, Emergency Motion for Appointment of Receiver and Memorandum.

7. The Plaintiff seeks an emergency appointment of a receiver claiming it would suffer irreparable harm; however, the Plaintiff makes no claim as to mismanagement on the part of the Defendant, nor does it claim a failure of the Defendant to pay the monthly mortgage payment.

8. Upon information and belief, the Plaintiff holds a contract with Wells Fargo to which 99% of the Defendant's monthly income (rents) is collected by the Plaintiff pursuant to its lien flowing from a Deed of Trust.

9. Wells Fargo is an agent of the Plaintiff and it administers these funds according to the Plaintiff's order.

10. As a result thereby, the Plaintiff already controls the bulk of the monthly income of the Defendant through its agent, Wells Fargo.

11. Wells Fargo receives a fee from this income on a regular basis, which is an expense to the Defendant.

12. Given this control of the income by the Plaintiff in the first place, the Plaintiff will suffer no risk or harm by a short continuance of this matter.

**WHEREFORE**, the Defendant moves this Honorable Court to continue the Evidentiary Hearing presently scheduled for August 22, 2017 and the attendant deadline scheduled for August 18, 2017 requiring all Witness Lists, Exhibits, Affidavits and Briefs to be submitted for a period of time up to September 5, 2017. The Defendant requests such other and further relief as this Court deems just.

**MOUNTAIN BLUE HOTEL GROUP, LLC**

**By Counsel,**

**CICCARELLO, DEL GIUDICE & LAFON**

By: /s/Michael J. Del Giudice  
Michael J. Del Giudice (WV #982)  
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Phone: (304) 343-4440  
Attorneys for Defendant

**CERTIFICATE OF SERVICE**

I, Michael J. Del Giudice, do hereby certify that the foregoing **“Motion to Continue”** has been served upon all parties via the Court’s electronic filing system this 15<sup>th</sup> day of August, 2017:

Christopher P. Schueller, Esq.  
Timothy P. Palmer, Esq.  
One Oxford Centre  
301 Grant Street, 20<sup>th</sup> Floor  
Pittsburgh, Pennsylvania 15219  
Attorneys for Plaintiff

**CICCARELLO, DEL GIUDICE & LAFON**

By: /s/Michael J. Del Giudice  
Michael J. Del giudice (WV #982)  
Attorney for Defendant