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Fen-phen lawyers jailed after judge pushes back trial

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Three lawyers, including two co-owners of Preakness winner Curlin, accused of bilking their clients in a diet drug settlement were jailed Friday after a federal judge agreed to delay their trial date but revoked their bond.

The attorneys were remanded to custody during a hearing in U.S. District Court in Covington, according to an order filed in the court clerk's office.

Judge William Bertelsman agreed to the lawyers' request to push the trial date back to Jan. 7, 2008. It had been set for Oct. 15.

Shirley Cunningham Jr. and William Gallion, who own 20 percent of Curlin, were jailed, along with another lawyer, Melbourne Mills Jr.

"The court finds that the ends of justice served by continuing the trial date in this case outweigh the best interests of the public and the defendants in a speedy trial," Bertelsman wrote.

Because the defendants could face up to 20 years in prison, there is a "tremendous motive to stonewall," the judge said.

The three were already found in a civil case to have defrauded more than 400 clients in a \$200 million settlement involving the diet drug fen-phen. The judge in that case found that Cunningham, Gallion and Mills paid themselves millions more than what they were owed. The 440 plaintiffs collected about \$74 million of the \$200 million settlement.

In a phone interview, Gallion's attorney, Hale Almand, said, "We're studying the various options available to us." Attorneys for Mills and Cunningham didn't return calls seeking comment.

In the three-page ruling, Bertelsman said incarceration was necessary to prevent the lawyers from fleeing to another country. He said they still haven't accounted for \$46 million they are accused of stealing.

"No one knows where a substantial part of these moneys is," he wrote.

The defense will have until Oct. 5 to file arguments in the rescheduled case, with government responses due Oct. 22.

Cunningham, 52, and Gallion, 56, bought Curlin for \$57,000 as a yearling through their Midnight Cry Stable. They sold controlling interest in the horse in February for a reported \$3.5 million to a group composed of Jess Jackson, founder of Kendall-Jackson wines; Satish Sanan's Padua Stables; and George Bolton, an investment banker.

Gallion and Cunningham retained a minority interest and were in the winner's circle after the 3-year-old won the Preakness on May 19.

Curlin was third in the Kentucky Derby and second in the Belmont Stakes.