

**IN THE FRANKLIN COUNTY COMMON PLEAS COURT**

**Nadezhda Wood,** : **Case No. 2023 CV 004452**  
**Plaintiff,** : **Judge David Young**  
**v.** :  
**KOVALKOV, et al.,** :  
**Defendants.** :

**DEFENDANTS’ OBJECTION TO MAGISTRATE’S ORDER DENYING  
MOTION FOR CONTINUANCE OF EVICTION HEARING**

Now come Defendants, Viacheslav Kovalkov and Larisa Kovalkova, by and through their attorney, and respectfully file their Objection to the Magistrate’s Order Denying their Motion for Continuance of Eviction Hearing.

As set out in the affidavit attached to Defendants’ Motion for Continuance, Defendants purchased airline tickets to Kirkenes, Norway on approximately September 12, 2023. At that time, Plaintiff had not requested an eviction hearing in this matter nor had an eviction hearing been scheduled. Plaintiffs requested the hearing on Sept. 21 and the hearing date was unilaterally assigned on September 26. Defendants are traveling to Norway in order to enter Russia. The goal from there is to enter Ukraine or get to the Ukraine border in order to move family members from Ukraine into Russia. Defendants are leaving October 4 and returning on November 9, 2023.

The Magistrate began his analysis of Defendants’ continuance request by stating, “However, the Defendants where (sic) clearly aware of this litigation and therefore were taking a chance by unilaterally engaging in travel plans.” The implication is that Defendants were to consult with the Court, the Plaintiff, or both prior to engaging in

travel plans. Defendants are unaware of any such requirement and consulting with the Plaintiff about travel plans would have most likely led to a hearing being scheduled as a result.<sup>1</sup>

This case was officially transferred to this Court on June 23, 2023. Defendants waited approximately three months for Plaintiff to schedule an eviction hearing. Plaintiff's counsel threatened to request an expedited eviction hearing on many occasions. During that three month period, Plaintiff's counsel never did request a hearing. The Magistrate's reasoning suggests that Defendants were to put their lives on hold indefinitely. Defendants are unaware of any authority for such a requirement.

Furthermore, Plaintiff's failure to timely request a hearing strongly suggests that time is not of the essence. So it is entirely reasonable to deduce that if Plaintiff was not in a hurry for approximately three months, there is no emergency after three months. In fact, it could be argued that Plaintiff waived the expedited nature of the eviction process by her three month delay.

The Magistrate reasoned that "resetting the hearing will require coordination between lawyers, the clients and the court (sic). There can be no guarantee that the next date that works for all parties will be anytime this year." The Magistrate's reasoning is faulty on several levels.

No coordination between lawyers, the clients and the Court occurred (or was requested) when the original hearing date was set. **This Court unilaterally set the**

---

<sup>1</sup> After Plaintiff admitted to tracking the location of Defendants' vehicle in Plaintiff's Brief in Opposition to Defendants' Motion to Amend Counterclaims, Defendants discovered that Plaintiff (at some point in the past while Plaintiff resided in Dublin, Ohio) had installed parental control software on one of their computers; likely had access to Defendant Kovalkova's emails; and it was perhaps no coincidence that an eviction hearing was requested soon after the airline tickets were purchased.

**original hearing date.**<sup>2</sup> And, if any such coordination did occur, it was without the participation of the Defendants and/or the Defendants' counsel. If no coordination occurred concerning the setting of the original hearing date, why would any such coordination be required to set a second hearing date? Defendants are simply asking that the hearing be postponed until after Nov. 9, 2023 (approximately two weeks after the original hearing date).

The guarantee that the hearing date will be sometime this year would be the Court's ruling that no further continuances will be granted. Defendants are not aware of the Court's schedule and perhaps the Court has no dates available during the months of November and December 2023 but that is unlikely the case.

The Magistrate seemed to conclude that, based on Plaintiff's allegations, Defendants' trip was for leisure as Plaintiff was unaware of any relatives Defendants (and, for that matter, Plaintiff) have in Ukraine. Defendant Kovalkova indicated the following as to those points:

---

<sup>2</sup> Coordination between the Court and the parties would have likely avoided the very problem at issue now.

Andy, remind please to our daughter that she was also born in Ukraine. In the city called the City called Chernovtsy. Her grandparents lived and died and were buried In Ukraine. When Slava was born, his mother refused to take care of him and left him in the village where her family lived in Ukraine. She had four sisters and one of them Shundrinova Aleksandra took care of Slava until he was almost 4 years old. Then his mother returned, and took him to Siberia. We went to Aleksandra 15 years ago and Slava often sent her money. He understood That without her, he would never survive. Now Aleksandra's daughter called to us and asked to help her and her husband in this situation. they never had any kids, they lived alone. Слава Slava had no right to refuse them in help. Concerning our "leisure time " in

Defendants' trip is not for leisure. They did not just go to Norway either, as the Magistrate mistakenly indicated. They flew into Norway in order to enter Russia through Norway by automobile. From Russia, they would go to the Ukraine border or enter Ukraine, as circumstances allowed, to help their niece and niece's husband.

The war in Ukraine also affects the eviction hearing in other ways as Russia has blocked most of the internet to Russian citizens and the Defendants currently have no wi-fi/internet access installed at their original flat in Russia (and are not sure when they will be at that location). Having moved to the United States at the behest of their daughter, the Plaintiff, Defendants discontinued internet access at their Russian flat at the time of

moving. So, while appearance via Zoom may seem like an option, such an option requires internet access and significant hurdles exist to that access. In addition, the Defendants have requested a Russian interpreter for the hearing. Any connectivity issues affecting video/audio quality will also affect the interpreter's ability to do his/her job at the hearing.<sup>3</sup>

Plaintiff will suffer little prejudice if the hearing is postponed. According to the Plaintiff, an alleged, unwritten rental agreement existed between the parties wherein rent would be Defendants' payment of the property taxes (no traditional monthly rental payment was contemplated by Plaintiff). In approximately June/July 2023, Defendants tendered payment of the property taxes to Plaintiff's counsel and did so with no admission to the alleged rental contract. Plaintiff's counsel is holding this payment in his IOLTA account. Plaintiff is not missing out on rent if a two week continuance is permitted.

In general, "equity abhors a forfeiture." This Court, using its jurisdiction to apply notions of fundamental fairness to the issues before it, should not take property away from the Defendants (as this is a question of ownership) unless it is unavoidable. It seems that a two week delay, especially in light of Plaintiff's three month delay, is a small request to make so that Defendants can be physically present at the eviction hearing to adequately present their defense to the Court. For these reasons, Defendants respectfully request that the Court overrule the Magistrate's Order and continue the scheduled hearing until after November 9, 2023.

---

<sup>3</sup> It is Defendants' counsel's understanding that Defendants (when in Russia) are somewhere relatively near Moscow. It should be noted that Moscow is seven hours ahead of Eastern Standard Time for hearing purposes. If the Defendants are further west then the time difference would be greater.

Respectfully submitted,

*/s/ Andrew J. Ruzicho II*

---

ANDREW J. RUZICHO II(0064024)  
118 Graceland Blvd. #307  
Columbus, Ohio 43214  
Telephone: 614/447-2365  
Facsimile: 614/448-9415  
4472365@gmail.com  
Attorney for Defendants

**Certificate of Service**

I hereby certify that the following parties have been provided a copy of the foregoing via the Court's e-filing system on this 17th day of October, 2023:

Michael J. Cassone, Esq.  
Alex Castle, Esq.  
Cassone Law Offices, LLC  
5086 N. High Street  
Columbus, Ohio 43214

*/s/ Andrew J. Ruzicho II*

---

Andrew J. Ruzicho II  
Attorney for Defendants