

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

TONY O. LAVINE and
GAYLE M. LAVINE,

Plaintiffs,

v.

CITY OF HAYWARD, THOMAS
DUFFEY, JR., JOHN METCALF, MICHAEL
KELSEY, LUCY GUNTHER, and
CHESTER BONCLER, CHESTER, JR.,

Defendants.

ORDER

04-C-201-C

Plaintiff has filed a “supplemental opposition to motion re: site of trial.” It appears that this supplemental opposition crossed in the mail with my order granting defendant’s motion for holding trial in Eau Claire, Wisconsin. I will treat the supplemental opposition as a motion for reconsideration.

Plaintiff Tony Lavine has submitted affidavits attesting to his difficulties in travel as justification for holding the trial of this case in Madison. Although I am sympathetic to his health problems, I am not persuaded that they outweigh the problems that the City

of Hayward would have if most of its city employees had to come to Madison, Wisconsin in order to testify.

Whether plaintiff travels to Eau Claire or to Madison, he will have difficulty. His physician has advised him against flying on commuter planes. Most of the planes that fly into Madison are commuter planes; it is unlikely that they would accommodate plaintiff's need to walk around for half an hour out of every hour in flight. It is probable that he would be better off flying into Minneapolis and then driving from Minneapolis to Eau Claire in short stages. In any event, I am not persuaded that his medical problems outweigh the problems that the City of Hayward would incur if trial were to be held in Madison. Therefore, plaintiff's supplemental opposition, construed as a motion for reconsideration, is DENIED.

Entered this 27th day of August, 2004.

BY THE COURT:

BARBARA B. CRABB
District Judge