

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

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ALEKSANDRA CICHOWSKI and  
CEZARY CICHOWSKI,

ORDER

Plaintiffs,

05-C-262-C

v.

FRED D. HOLLENBECK; TOM CASEY; DEBBIE KING;  
SAUK COUNTY; JUDGES GUY REYNOLDS  
AND EVENSON; DONNA MUELLER;  
CARRIE WASTLICK; PEGGY; GENE WIEGAND;  
BRANT BAILEY; CURAN HOLLENBECK AND ORTON, S.C.;  
WAYNE MAFFEI; JENKS CROSS MERCER and MAFFEI LAW  
FIRM; M&I BANK; DAVE GUTTER; KETTY W. BAUER;  
DEBRA KING; MARK L. KRUEGER; WILLIAM  
GREENHALGH; GREENHALGH and KRUEGER, S.C.;  
THE BANK OF MAUSTON; ROBERT FAIT;  
TOM SCHMIDT; KELLY HONNOLD;  
SCOT SCHMIDT; ADELA LUCARZ; and JOSEPH  
LUCARZ,

Defendants.  
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Plaintiff Aleksandra Cichowski has filed certification that she served the defendants with her "Motion to Extend Time for Delivery of Summons and Complaint for Two Weeks" and "Motion to Dismiss Attorney Krueger's Motion for Imposing Sanctions Dated July 26, 2005." Therefore, I may consider these motions.

In an order entered in this case on June 10, 2005, I gave plaintiffs until July 29, 2005, in which to submit proof that they have served their June 2, 2005 complaint on the defendants. On the day the proof was due, plaintiff Aleksandra Cichowski asked for two more weeks, or until Friday, August 12, 2005, in which to complete service of process on all of the defendants except defendants Adela Lucarz and Joseph Lucarz, whom she asked be dismissed from the action voluntarily. The motion was accompanied by documentation relating to service of process on the “Director of State Courts” and defendants Tom Schmidt, Robert Fait, the law firm of Curran, Hollenbeck & Orton, Debbie Frisch (formerly Debbie King), Bank of Mauston, Fred Hollenbeck, Tom Casey, Kelly Hannold, Wayne Maffei, the law firm of Cross, Jenks, Mercer and Maffei, Sauk County, Brant Bailey, Gene Wiegend, Judge Guy Reynolds, Donna Mueller, Judge Evenson and Mark Krueger. From these submissions, I understand plaintiff Aleksandra Cichowski to be asking for additional time to submit proof of service of plaintiffs’ complaint on defendants Scot Schmidt, Carrie Wastlick, Peggy, M & I Bank, Dave Gitter, Ketty Bauer, Debra King, William Greenhalgh and Greenhalgh and Krueger, S.C.<sup>1</sup>

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<sup>1</sup>In plaintiffs’ original complaint, plaintiffs also named as defendants the Clerk of Court for Sauk County, True Delain and Madison Freelance Reporters. Plaintiffs dropped those defendants in their amended complaint, which the court has accepted as the operative pleading. In this order, I am making it explicit that I have accepted plaintiffs’ voluntary dismissal of these previously named defendants from the lawsuit.

In support of her request, plaintiff Aleksandra Cichowski states that she is having difficulty learning defendant Peggy's full name and that if she cannot learn it promptly, she will ask the sheriff's department to deliver the summons and complaint to her in the office of the clerk of court for Sauk County, while plaintiff points Peggy out to the deputy sheriff. Plaintiff Aleksandra Cichowski states also that she has learned that defendant Carrie Wastlick is out of the office for two months and that a two-week extension of the deadline for serving the complaint will allow her to find Wastlick's home address and serve her there. Finally, plaintiff Aleksandra Cichowski states that she asked the sheriff's department in Milwaukee to serve defendant M & I Bank by delivering a summons and complaint to the president of M & I on July 29, 2005 and that she has "the receipt from the sheriff's department." Plaintiff did not submit a copy of the service receipt with her motion.

Although plaintiff has not yet submitted proof of service of her complaint on the several defendants noted above, the court's record reveals that defendants M & I Bank, Dave Gitter, Ketty (Kelly) Bauer and Debra King filed a motion to dismiss plaintiff's complaint on August 4, 2005, on the ground that complaint fails to state a claim against them upon which relief may be granted. In this motion, defendants Bauer and King expressly reserve the right to challenge the sufficiency of service of process upon them. In addition, defendants William Greenhalgh and Greenhalgh & Krueger, S.C. have filed an answer to plaintiff's complaint, in which they raise an affirmative defense of insufficiency of service of

process. Finally, Scot Schmidt has joined with defendants Hollenbeck, Casey, Debra King (a/k/a Debra Frisch), Curran, Hollenbeck & Orton, S.C., Bank of Mauston, Robert Fait, Tom Schmidt and Kelly Honnold in a motion to dismiss grounded on the defenses of failure to state a claim, issue preclusion, and a Rooker-Feldman bar to suit.

Because it appears that defendants M & I Bank, Dave Gitter and Scot Schmidt have waived any objection they might have had to plaintiffs' service of process on them, I will allow these defendants to remain parties to the lawsuit despite plaintiffs' failure to submit proof that they have served the June 2 complaint on these defendants. Also, because plaintiff Aleksandra Cichowski has explained the difficulties she has had in serving defendants Carrie Wastlick and Peggy, I will grant plaintiffs an extension of one week's time in which to submit proof of service of the June 2, 2005 complaint upon them. The remaining unserved defendants will be dismissed forthwith. They are defendants Ketty (Kelly) Bauer, Debra King, William Greenhalgh and Greenhalgh and Krueger, S.C. In addition, I will accept plaintiffs' request for the voluntary dismissal of defendants Joseph and Adela Lucarz.

Plaintiff Aleksandra Cichowski's motion "to dismiss Attorney Krueger's Motion for Imposing Sanctions Dated July 26, 2005" will be denied as premature. Although it is not clear from the court's record, it appears that defendants Krueger, William Greenhalgh, Greenhalgh and Krueger, S.C., Adela Lucarz and Joseph Lucarz may have given plaintiffs

21-days' notice as described in Fed. R. Civ. P. 11(c)(1)(A) that they intend to seek sanctions against plaintiffs if plaintiffs do not withdraw their claims against them. This notice is not to be filed with or presented to the court unless plaintiffs fail to withdraw their claims. Id. If defendant Krueger files a motion for Rule 11 sanctions at the end of the 21-day period, plaintiffs will be given an opportunity to respond to the motion at that time.

## ORDER

IT IS ORDERED that

1. Plaintiff Aleksandra Cichowski's motion for an enlargement of time in which to submit proof of service of plaintiffs' complaint on the defendants is GRANTED in part and DENIED in part. Plaintiffs may have until August 22, 2005, in which to submit proof of service with respect to defendants Carrie Wastlick and Peggy. The court will not entertain any other requests for an enlargement of time to submit proof of service of their complaint on these defendants unless plaintiffs show cause .

2. Defendants Ketty (Kelly) Bauer, Debra King, William Greenhalgh and Greenhalgh and Krueger, S.C. are DISMISSED from this action for plaintiffs' failure to show that they have served these defendants with their June 2, 2005 complaint.

3. Plaintiffs' request for permission to dismiss voluntarily defendants Joseph and Adela Lucarz is GRANTED.

4. Plaintiffs' decision to exclude former defendants Clerk of Court of Sauk County, Trudi Delain and Madison Freelance Reporters is construed as a notice of voluntary dismissal of these defendants and the notice is accepted. Defendants Clerk of Court of Sauk County, Trudi Delain and Madison Freelance Reporters are DISMISSED from the case.

5. Plaintiff Aleksandra Cichowski's "motion to dismiss Attorney Krueger's Motion for Imposing Sanctions Dated July 26, 2005" is DENIED as premature.

Entered this 15th day of August, 2005.

BY THE COURT:  
/s/  
BARBARA B. CRABB  
District Judge