

IN THE SUPREME COURT OF OHIO

Supreme Court No. 14-1951

STATE OF OHIO, ex rel.
Gabriella Moir FKA Denkwalter
1119 Bristol Lane
Medina, Ohio 44256
Relator

vs.

INSTRUCTIONS FOR SERVICE ON
ORIGINAL ACTION IN PROHIBITION

Mary R. Kovack, Judge
Medina County Domestic Relations Court
99 Public Square, 2nd Floor
Medina, Ohio 44256

And

Medina County Domestic Relations Court
99 Public Square, 2nd Floor
Medina, Ohio 44256

And

Carol J. Deszo, Judge
Summit County Domestic Relations Court
205 S. High Street
Akron, Ohio 44308

And

Stephan J. Collins, Magistrate
Summit County Domestic Relations Court
205 S. High Street
Akron, Ohio 44308

Summit County Domestic Relations Court
205 S. High Street
Akron, Ohio 44308

FILED
NOV 12 2014
CLERK OF COURT
SUPREME COURT OF OHIO

RECEIVED
NOV 12 2014
CLERK OF COURT
SUPREME COURT OF OHIO

Respondents.

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INSTRUCTIONS FOR SERVICE ON COMPLAINT FOR A WRIT OF PROHIBITION

CHERYL A. LUKACS (0058640)
The Lukacs Law Firm LLC
753 Avon Belden Road
Avon Lake, Ohio 44012
Phone: 440.930.2921
Fax: 440.930.2922
Email:
Counsel for Relator, Gabriella Moir

TO THE OHIO SUPREME COURT CLERK OF COURTS:

PLEASE PROVIDE CERTIFIED MAIL, RETURN RECEIPT SERVICE TO ALL RESPONDENTS LISTED IN THE COMPLAINT FOR WRIT OR PROHIBITION AT THE ADDRESSES LISTED IN THE CAPTION ABOVE. PLEASE PREPARE SUMMONS AND RECEIPT REQUESTED IMMEDIATELY UPON RECEIPT



CHERYL A. LUKACS #0058640
The Lukacs Law Firm LLC

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**STATE OF OHIO, ex rel.
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vs.

ORIGINAL ACTION IN PROHIBITION

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205 S. High Street
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**Summit County Domestic Relations Court
205 S. High Street
Akron, Ohio 44308**

Respondents. :

COMPLAINT FOR A WRIT OF PROHIBITION

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753 Avon Belden Road
Avon Lake, Ohio 44012
Phone: 440.930.2921
Fax: 440.930.2922
Email:
Counsel for Relator, Gabriella Moir

COMPLAINT FOR A WRIT OF PROHIBITION

Gabriella Moir, relator, pursuant to Sup. Ct. R X requests this Court issue a writ of prohibition preventing the Respondent Mary R. Kovack, Judge of the Medina County Domestic Relations Court and/or any magistrates she assigns within the Medina County Domestic Relations Court or the Summit County Domestic Relations Court to hear any matters related to the matter of *Denkewalter v. Denkewalter*, Case No. 04 DR 0638 in the Medina Domestic Relations Court. In addition, relator brings this action to prevent Respondent, Stephan J. Collins, Magistrate in Summit County Domestic Relations Court from hearing any matters related to *Denkewalter v. Denkewalter*, Case No. 04 DR 0638 and/or ruling on any motions. Finally, Relator brings this action in prohibition to prevent Carol J. Deszo, Judge in the Summit County Domestic Relations Court from assigning or referring any matters related to *Denkewalter v. Denkewalter*, Case No. 04 DR 0638 to any other jurists but herself.

In support of Relator's requests, she states as follows:

1. Relator, Gabriella Moir is the Plaintiff in the matter of *Denkewalter v. Denkewalter*, Case No. 04 DR 0638.
2. Respondent Mary R. Kovack is the Judge of the Medina County Domestic Relations Court, who recused herself from the case of *Denkewalter v. Denkewalter*, Case No. 04 DR 0638 .

3. Respondent Medina County Domestic Relations Court is a division of the Court of Common Pleas in Medina County, Ohio and is established pursuant to statute.
4. Respondent, Carol J. Deszo is a Judge in the Summit County Domestic Relations Court and assigned by the Chief Justice of the Ohio Supreme Court pursuant to R.C. 1901.141.
5. Respondent Stephan R. Collins is a Magistrate in the Summit County Domestic Relations Court.
6. Respondent Summit County Domestic Relations Court is a division of the Court of Common Pleas in Medina County, Ohio and is established pursuant to statute.
7. On October 23, 2007 Respondent Mary R. Kovack, Judge recused herself from any further proceedings in the case of *Denkewalter v. Denkewalter*, Case No. 04 DR 0638. Please see Exhibit A.
8. On December 6, 2007, the Chief Justice of the Ohio Supreme Court assigned Respondent Carol J. Deszo, judge of Respondent Summit County Domestic Relations Court to *Denkewalter v. Denkewalter*, Case No. 04 DR 0638. The assignment was effective October 15, 2007. Please see Exhibit B.
9. On July 6, 2009, Respondent Mary R. Kovack issued an order assigning

Magistrate Deborah Matz, previously a Magistrate of Respondent Summit County Domestic Relations Court to *Denkewalter v. Denkewalter*, Case No. 04 DR 0638. Magistrate Deborah Matz heard several motions and issued decisions. Please see Exhibit C.

10. On January 16, 2014, Respondent Mary R. Kovack then assigned Respondent Stephan R. Collins to *Denkewalter v. Denkewalter*, Case No. 04 DR 0638. Magistrate Stephan R. Collins heard several motions and issued decisions. Please see Exhibit D.

11. In the pending matter of *Denkewalter v. Denkewalter*, Case No. 04 DR 0638 Relator has raised the issue to Judge Carol J. Deszo that it appears Judge Mary R. Kovack does not have the authority to assign or refer matters to magistrates in the case of *Denkewalter v. Denkewalter*, Case No. 04 DR 0638; that only Judge Deszo has been assigned by the Ohio Supreme Court to preside over matters in *Denkewalter v. Denkewalter*, Case No. 04 DR 0638. All Motions raising the issue have either been dismissed *en masse* or ignored.

12. An appeal is pending in the Ninth District Court of Appeals *Denkewalter v. Denkewalter*, Case No. 04 DR 0638, Appeal Case No. 13CA0082-M. The briefing is completed. The parties are awaiting the scheduling of oral argument. The Ninth District Court of Appeals raised the issue of several jurists signing orders who were not authorized to issue orders given the recusal and re-assignment. The Parties were ordered to brief the matter. The Appellate Court's Decision is pending.

13. On April 16, 2014, the Ninth District Court of Appeals issued a stay of proceedings to the lower Court. Please see Exhibit E.

14. Defendant in *Denkewalter v. Denkewalter*, Case No. 04 DR 0638 filed a subsequent motion which is scheduled before Respondent Stephan J. Collins.

15. Defendant sent a letter and filed a Motion requesting Judge Carol J. Deszo, as the properly assigned judge to *Denkewalter v. Denkewalter*, Case No. 04 DR 0638 hear the matter. The lower court has not responded.

WHEREFORE:

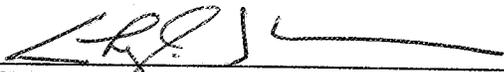
A. Relator prays for a preemptory writ to issue ordering Respondents and each of them to cease efforts assign or refer any jurist other than the Judge assigned by the Chief Justice of the Ohio Supreme Court: namely Judge Carol J. Deszo of the Summit County Domestic Relations Court.

B. In the alternative, Relator prays of an alternative writ directing Respondents, to show why they should be permitted to refer, assign and hear the matter solely assigned to Judge Carol J. Deszo by the Chief Justice of the Ohio Supreme Court.

C. Should this Court grant the alternative writ, Relator requests this Court permit oral argument.

D. Relator prays for recovery of her costs and of reasonable attorney fees.

Respectfully submitted,



CHERYL A. LUKACS #0058640
The Lukacs Law Firm LLC
753 Avon Belden Road
Avon Lake, Ohio 44012
440.930.2921 440.930.2922

Attorneys for Relator, Gabriella Moir

CERTIFICATE OF SERVICE

The within Complaint for Writ of Prohibition has been served by the Clerk of Court pursuant to the Ohio Civil Rules of Procedure and Instructions for Service.

Respectfully submitted,



CHERYL A. LUKACS #0058640
The Lukacs Law Firm LLC
753 Avon Belden Road
Avon Lake, Ohio 44012
440.930.2921 440.930.2922

Attorneys for Plaintiff

Further Affiant sayeth naught.



GABRIELLA MOIR, RELATOR

SWORN TO BEFORE ME and subscribed in my presence this 5th day of
November, 2014.



Notary Public

EXHIBIT A

IN THE COURT OF COMMON PLEAS
DOMESTIC RELATIONS DIVISION
MEDINA COUNTY, OHIO

COMMON PLEAS COURT
2007 OCT 23 PM 3:35

FILED
KATHY FORTNEY
MEDINA COUNTY
CLERK OF COURTS

GABRIELLA M. DENKEWALTER nka MANUEL

Plaintiff

JUDGE MARY R. KOVACK

vs.

CASE NO. 04DR0638

JACK KURT DENKEWALTER

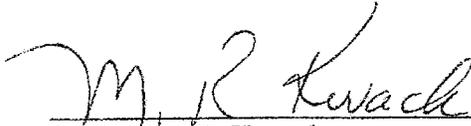
ORDER

Defendant

Due to the fact that Attorney Denkwalter has begun to practice in this Court, to avoid any appearance of impropriety the Court has asked the Supreme Court of Ohio to assign Attorney Denkwalter's personal divorce to a visiting judge. Judge Carol Dezso has agreed to sit by assignment.

The Clerk of Courts shall prepare certified copies of the clerk's file and forward the copies to the Summit County Court Administrator. The Court shall prepare copies of the Court's confidential family Court file and similarly forward them

IT IS SO ORDERED.



Judge Mary R. Kovack

cc: Steve C. Bailey, Esquire
Jack Kurt Denkwalter, Sr., Defendant
Lori Zocolo, Guardian ad Litem
Kenneth R. Teleis, Summit County Domestic Relations Court Administrator

MRK/amh

MEDINA COUNTY COURT OF COMMON PLEAS-STATE OF
OHIO, MEDINA COUNTY S.S. I hereby certify that this is a true
copy of the original on file in said court. Witness my hand and the
seal of said court at Medina, Ohio this 24 day of
April 2014 David B. Wadsworth, Clerk of Courts
By Dee Salomone Deputy

2007

EXHIBIT B

The Supreme Court of Ohio

COMMON PLEAS COURT

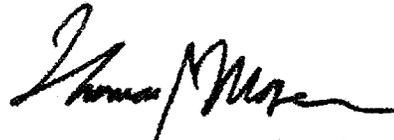
2007 DEC -6 PM 1:31

FILED
KATHY PORTNEY
MEDINA COUNTY
CLERK OF COURTS

Hon. Carol Jean Dezso
Summit County Court of Common Pleas
205 South High Street
Akron, OH 44308

CERTIFICATE OF ASSIGNMENT

The Honorable Carol Jean Dezso a judge of the Summit County Court of Common Pleas, Domestic Relations Division, is assigned effective October 15, 2007 to preside in the Medina County Court of Common Pleas, Domestic Relations Division, to hear case 04 DR 0638, Denkewalter v. Denkewalter and to conclude any proceedings in which she participated.



Thomas J. Moyer
Chief Justice

07JA2531

MEDINA COUNTY COURT OF COMMON PLEAS-STATE OF OHIO, MEDINA COUNTY S.S. I hereby certify that this is a true copy of the original on file in said court. Witness my hand and the seal of said court at Medina, Ohio this 24 day of April 2014
By David B. Wadsworth Deputy Clerk of Courts

EXHIBIT C

COMMON PLEAS COURT
2009 JUL -6 AM 11:23

FILED
KATHY FORTNEY
MEDINA COUNTY
CLERK OF COURTS

**IN THE COURT OF COMMON PLEAS
DOMESTIC RELATIONS DIVISION
MEDINA COUNTY, OHIO**

Gabriella Denkewalter nka Manuel

Case No. 04 DR 0638

Vs.

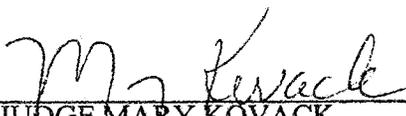
JUDGE CAROL J. DEZSO
Sitting by Assignment

Jack Kurt Denkewalter

ORDER APPOINTING MAGISTRATE

It is hereby Ordered that Deborah S. Matz, Magistrate in the Summit County Domestic Relations Court is appointed as a Magistrate in the Medina County Court of Common Pleas, Domestic Relations Division for the purpose of hearing any matters in the within case.

IT IS SO ORDERED.



JUDGE MARY KOVACK
ADMINISTRATIVE JUDGE

MEDINA COUNTY COURT OF COMMON PLEAS-STATE OF OHIO, MEDINA COUNTY S.S. I hereby certify that this is a true copy of the original on file in said court. Witness my hand and the seal of said court of Medina, Ohio this 28 day of July, 2009.

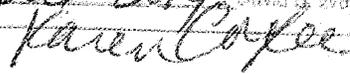
David B. Woodworth, Clerk of Courts

Karen Cooper, Deputy

EXHIBIT D

COMMON PLEAS COURT

2014 JAN 16 PM 2: 26

FILED
DAVID B. WADSWORTH
MEDINA COUNTY
CLERK OF COURTS

**IN THE COURT OF COMMON PLEAS
DOMESTIC RELATIONS DIVISION
MEDINA COUNTY, OHIO**

Gabriella Denkewalter nka Manuel

Case No. 04 DR 0638

Vs.

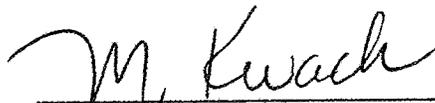
JUDGE CAROL J. DEZSO
Sitting by Assignment

Jack Kurt Denkewalter

ORDER APPOINTING MAGISTRATE

It is hereby Ordered that Stephan Collins, Magistrate in the Summit County Domestic Relations Court is appointed as a Magistrate in the Medina County Court of Common Pleas, Domestic Relations Division for the purpose of hearing any matters in the within case.

IT IS SO ORDERED.



JUDGE MARY KOVACK
ADMINISTRATIVE JUDGE

MEDINA COUNTY COURT OF COMMON PLEAS-STATE OF OHIO, MEDINA COUNTY S.S. I hereby certify that this is a true copy of the original on file in said court. Witness my hand and the seal of said court at Medina, Ohio this 28 day of April 2014
David B. Wadsworth, Clerk of Courts
Karen Coffey Deputy

EXHIBIT E

STATE OF OHIO

) COURT OF APPEALS

IN THE COURT OF APPEALS
NINTH JUDICIAL DISTRICT

)ss:

COUNTY OF MEDINA

) 14 APR 16 AM 10:56

GABRIELLA DENKEWALTER
MOIR

FILED
DAVID B. WADSWORTH
MEDINA COUNTY
CLERK OF COURTS

C.A. No. 13CA0082-M

Appellant

v.

JACK KURT DENKEWALTER

JOURNAL ENTRY

Appellee

Appellant has moved this court to stay the order appealed. Appellee has responded in opposition. Because this court has questioned, by separate order, the validity of various trial court orders issued in the proceedings below, the motion for stay of the trial court's September 24, 2013, order is hereby granted pending further order of this court.



Judge