

The Supreme Court of Ohio

CASE ANNOUNCEMENTS

April 16, 2021

[Cite as *04/16/2021 Case Announcements*, 2021-Ohio-1203.]

APPEALS NOT ACCEPTED FOR REVIEW

2021-0015. St. Vincent Charity v. Paluscsak.

Cuyahoga App. No. 109960.

Donnelly, J., concurs, with an opinion joined by Brunner, J.

DONNELLY, J., concurring.

{¶ 1} Appellant, Michael Paluscsak, seeks this court’s review of an interlocutory order issued by the Cuyahoga County Court of Common Pleas on September 14, 2020, compelling Paluscsak to appear for an in-person deposition, just as COVID-19 transmission rates were beginning their ascent to a devastating peak in the winter of 2020-2021. The case appears to currently be centered on alleged violations of the federal Fair Debt Collections Practices Act, 15 U.S.C. 1692 et seq., and the Ohio Consumer Sales Practices Act, R.C. 1345.01 et seq., and it does not appear to be time sensitive. Paluscsak had asked to attend the deposition virtually, asserting that an in-person deposition would endanger his health and the health of his wife, who he asserts is “at high risk of Covid-19 complications.” The Eighth District Court of Appeals, stating that routine orders regarding discovery matters are not final, appealable orders, dismissed the appeal without considering the merits of Paluscsak’s arguments.

{¶ 2} Trial-court orders do not normally put parties and their household members at risk of serious illness or death, but we are living in a perilous time. The hardships and risks involved in an in-person deposition during a pandemic are obvious. *Rouviere v. Depuy Orthopaedics, Inc.*, 471 F.Supp.3d 571, 574-575 (S.D.N.Y.2020); *Faford v. Grand Trunk W. RR. Co.*, 335 F.R.D. 503,

505 (E.D.Mich.2020) (“[I]t is quite clear that in-person depositions can impose an unreasonable burden on witnesses, parties, and lawyers during this pandemic”). That being said, such extraordinary circumstances generally do not provide a good platform to address broadly applied legal standards, and so I concur in the court’s decision not to accept Paluscsak’s appeal.

{¶ 3} I want to stress, though, that people should not have to choose between putting their lives on the line and losing their chance to petition the court for redress of their grievances. Over the past year, Chief Justice O’Connor has repeatedly stressed to all the courts of Ohio that they must avoid in-person proceedings if at all possible. Courts have risen to the occasion, mainly through the extensive use of technology, and we must all continue to heed the chief justice’s exhortation to conduct matters remotely, absent exceptional circumstances. In these extraordinary times, it is incumbent upon members of the judiciary and all officers of the court to ensure the safety of litigants and all those who interact with the court system.

BRUNNER, J., concurs in the foregoing opinion.
