

UNITED STATES DISTRICT COURT
DISTRICT OF CONNECTICUT

TOMASA PIZARRO and
JORGE PIZARRO

CASE NO: 3:06-cv-00450 (MRK)

vs.

JUSTIN KASPERZYK, WILLIAM WHITE,
PAUL BICKI, MARK CALAFIORE,
DEAN RUNLETT and CRAIG GUGLIELMO

APRIL 9, 2007

MOTION IN LIMINE RE: PROPOSED INQUIRY OF JUSTIN KASPERZYK AT HEARING IN
FURTHERANCE OF PLAINTIFFS' APPLICATION FOR PREJUDGMENT REMEDY

The defendant, Justin Kasperzyk, through undersigned counsel hereby respectfully moves for an order from the Court directing that, for purposes of any inquiry of such defendant, at any hearing to be held in furtherance of the plaintiffs' Application for Prejudgment Remedy, such inquiry be limited to facts directly relating to the incident, as alleged in the plaintiffs' Civil Complaint. The defendant Kasperzyk further respectfully requests that this Court enter an order prohibiting all counsel from directing any questions to the defendant Kasperzyk, not immediately relating to the incident described in the plaintiffs' Complaint.

Upon information and belief, a subpoena was served upon the defendant Justin Kasperzyk, on Saturday, April 7, 2007, commanding him to appear in U.S. District Court, in New Haven, before the Honorable Mark Kravitz, on April 11, 2007, at 2:00 p.m. Upon further information and belief, that subpoena was issued by or on behalf of counsel for the plaintiffs.

A hearing, in furtherance of the plaintiffs' Application for Prejudgment Remedy, against the defendant Justin Kasperzyk, is scheduled to be held on April 11, 2007, before this Court. The purpose of that hearing, ostensibly, is to determine whether probable cause exists that a judgment will enter in favor of one or both of the plaintiffs in the above-entitled civil action, so as to permit this Court to determine if an attachment of the defendant Kasperzyk's real property, should be ordered. The burden is upon the plaintiff to establish that such probable cause exists.

Upon further information and belief, the defendant Justin Kasperzyk has recently been or, will be, charged with one or more Federal criminal offenses, not related to any of the incidents complained of by the plaintiff in this pending civil action. The instant civil action arises out of an incident which is alleged to have occurred on April 17, 2004, as more specifically described in the plaintiffs' Complaint. By this Motion, the defendant Kasperzyk respectfully requests that this Court enter an order prohibiting counsel from inquiring as to any matters not immediately relating to the allegations as set forth in this civil action.

The Federal Rules of Evidence govern the admissibility of evidence and hence, any inquiry designed to elicit such testimony. Evidence which is not relevant is not admissible. **(Rule 402, Federal Rules of Evidence)**. Moreover, even relevant evidence may be excluded under certain circumstances. Relevant evidence may be excluded if its probative value is substantially outweighed by the danger of unfair prejudice, confusion of issues or, misleading the jury or, by considerations of undue delay, waste of time, or needless presentation of cumulative evidence. **(Rule 403, Federal Rules of Evidence)**.

The plaintiffs have appended to their Application for Prejudgment Remedy, labeled Exhibit C, an unsigned Affidavit from James F. McGoey, a special agent with the Federal Bureau of Investigation, that purports to delineate the circumstances upon which criminal charges have been or, may be, brought against Justin Kasperzyk. A review of that Affidavit makes clear that the facts alleged therein bear no relevance to any of the allegations in the plaintiffs' Complaint. As there is no evidence that the defendant Kasperzyk has been convicted of the criminal offenses with which he has been charged or, may be charged, any of the activities attributed to the defendant, as set forth in Mr. McGoey's Affidavit or, otherwise, would be inadmissible under **Rules 608 and 609** of the **Federal Rules of Evidence**.

The aforementioned reference to the pending criminal charges against the defendant Kasperzyk, is for purposes of illustration, only. By this motion, the defendant Kasperzyk seeks to limit the scope of inquiry to any matters not specifically relating to the facts which give rise to the incident of April 17, 2004 and, thereby specifically requests that this Court enter the following order:

1. That any inquiry of the defendant Justin Kasperzyk upon a hearing to be held in furtherance of the plaintiffs' Application for Prejudgment Remedy, be limited to the facts and circumstances surrounding the allegations in the instant civil action;

2. That all counsel shall be precluded from directing any inquiry to the defendant Kasperzyk that relates in any way to the events allegedly supporting the criminal charges pending against him;

3. That all counsel shall be precluded from directing any inquiry to the defendant Kasperzyk about any information or documentation contained within any files maintained by the City of New Haven, pertaining to the defendant Justin Kaspercyk, other than those specifically relating to the incident of April 17, 2004.

