

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA
CIVIL DIVISION

ELENA STURDZA,
Plaintiff,

vs.

Case Number: : **98-CV-02051**
(HHK)

UNITED ARAB EMIRATES Government et al,
Defendants.

RESPONSE TO THE QUESTION WEATHER THIS COURT SHOULD APPOINT A
GUARDIAN AD LITEM

INTRODUCTION

All the facts on record are proofs that Plaintiff Sturdza's Response is true.

All the facts on record are proofs that Mr. Lewin's Allegations are totally false.

BRIEF FACTUAL HISTORY

On July 25, 2001 Plaintiff Sturdza has retained Mr. Lewin on contingency basis.

Mr. Lewin has filed a misleading Brief and an incomplete Appendix and has refused to correct the Brief and to add very important documents to the Appendix.

On August 8, 2001 Defendant Lewin wrote in a letter to Plaintiff Sturdza that she is free to discharge him. She decided to give him more time.

During a period of 10 months Plaintiff Sturdza repeatedly asked Defendant Lewin by telephone and in letters to explain why he refuses to correct the Brief and to add the important Documents to the Appendix.

Plaintiff Sturdza's request to correct the record by herself was rejected by the Court who said that she could speak only through her counsel.

Because she had to correct the record she had no choice but dismiss Defendant Lewin if he did not respond to her request, and on May 23, 2002 Plaintiff Sturdza did fax

him an ultimatum letter demanding answers by the end of the day on May 28, 2002.

On May 28, 2002 instead of answering to Plaintiff Sturdza's letter, Defendant Lewin has filed a *Motion for Appointment of Guardian Ad Litem*.

On June 11, 2002 Plaintiff has dismissed Mr. Lewin and has entered *pro se* representation.

On October 28, 2002 at the Evidentiary Hearing Magistrate Judge Facciola concluded that Sturdza is competent to proceed *Pro Se* and issued a *Report and Recommendation* citing all the applicable laws and recommended not to appoint a Guardian.

The Court declined to adopt Magistrate Judge Facciola's *Report and Recommendation*.

During the following six years, the Court has issued Orders and Memorandum Opinions strikingly biased against Plaintiff Sturdza causing, up to now, a more than six years delay in the return of her original case to trial by jury, and delay in obtaining Discovery.

On September 28, 2005 the Court has granted Mr. Lewin's *Motion for Appointment of Guardian Ad Litem*.

On March 27, 2006 the Court has appointed the Guardian.

On April 10, 2009 the US Court of Appeals vacated all Orders leading to the appointment of the Guardian, stated that while Mr. Lewin has no standing as a fired attorney, he may be allowed to file a brief as Amicus of the Court, said that this Court may appoint a Guardian on its own motion, and stated that the Psychiatric evaluation is not the only requirement for showing the need for a Guardian.

ARGUMENT

I

LEWIN'S FINANCIAL INTEREST SECONDARY TO STURDZA'S

Although Defendant Lewin recognized in his August 8, 2002 letter that Plaintiff Sturdza is free to discharge him, both he and the Court disregarded that statement and ultimately invoked as sole motif for appointing the guardian Defendant Lewin's financial interest which is half of that of Plaintiff Sturdza's and could not prevail over hers.

II

LEWIN HAS NO STANDING

1. Firing of Mr. Lewin Came First

Plaintiff Sturdza decided to fire Mr. Lewin if he refuses again to answer to her questions, and on May 23, 2002 she did fax him an ultimatum letter demanding answers by the end of the day on May 28, 2002. Mr. Lewin failed to answer to any of her questions, therefore he chose to be fired. He filed his *Motion for Appointment of Guardian Ad Litem* after he decided not to answer.

On May 23, 2002 Plaintiff Sturdza decided to fire Mr. Lewin if he failed to answer. He failed to answer, therefore he was fired on May 23, 2002, prior to May 28, 2002 when he filed his *Motion for Appointment of Guardian Ad Litem*.

2. A Defendant Cannot File An Amicus Brief

Mr. Lewin is defendant in three cases in this court: The April 29, '09 Addendum to this case, 98 – 02051, and *Sturdza vs. UAE et all* Case No. 02 - ms - 435, currently on appeal in the US Court of Appeals Case No. 07 - 7034, and *Sturdza vs. UAE et all* Case No. 08 – 01642.

At least until these cases are resolved Mr. Lewin is a Defendant and a Defendant-Appellee, not an Amicus.

III

THIS COURT LACKS REASON TO APPOINT GUARDIAN ON OWN MOTION

1. The Court Cannot Demonstrate Need for Psychiatric Evaluation

1.1 There is no fact or any other proof in the entire record that could point out to the need for a Psychiatric Evaluation.

1.2 Mr. Lewin's false allegations are complete fabrications and cannot be used by the Court. The only explanation of Mr. Lewin's allegations is his mistaken belief that **Dismissing him is a Sign of Mental Incompetence.** Only a deranged client could fire him, was **in Movant's Opinion**

1.3 There are no new facts or proofs that could support the request for Psychiatric Evaluation.

1.4 Any Order for Psychiatric Evaluation would violate Rule 35.

Rule 35. Physical and Mental Examinations

(a) ORDER FOR AN EXAMINATION.

(1) In General. **The court where the action is pending may order a party whose mental or physical condition — including blood group — is in controversy** to submit to a physical or **mental examination** by a suitably licensed or certified examiner. The court has the same authority to order a party to produce for examination a person who is in its custody or under its legal control.

(2) **Motion and Notice; Contents of the Order.** The order: (A) **may be made only on motion for good cause** and on notice to all parties and the person to be examined; and (B) must specify the time, place, manner, conditions, and scope of the examination, as well as the person or persons who will perform it.

As stated above, there is nothing anywhere to support the idea that plaintiff's "mental condition is in controversy", and that the Court may order a Psychiatric Evaluation "for good cause". There is no controversy and no good

cause.

2. The Court Cannot Demonstrate Need for Guardian

2.1 There are no facts or other proofs anywhere that demonstrate the need for a Guardian.

2.2 Not even Mr. Lewin maintains that plaintiff is as incompetent as the laws governing the appointment of a guardian require. Mr. Lewin wants Sturdza to be as incompetent as he needs, no more, no less. Incompetent to discuss her case with him, incompetent enough to be unable to fire him, but competent to win an architectural competition, including verbal presentations in English, over months. In short, Mr. Lewin thinks that anybody who disagrees with him is slightly deranged. This awkward logic lead him for the last seven years to postpone the case, to create a cloud over the professional life of his "client" he is supposedly "helping" only to serve his ego if not his finances.

2.3 When Sturdza fired Mr. Lewin, his egomaniacal reaction that only a deranged client could fire him, determined him to file the *Movant's Motion for Appointment of Guardian Ad Litem*, and persuaded this Court to agree with this astonishing theory.

2.4 As demonstrated in the *Memorandum and MOTION FOR RECONSIDERATION OF THE LAST FOUR COURT ORDERS*, **all Four Court Orders** have been issued **without any support in any law** governing the appointment of a guardian.

3. The Court Cannot Demonstrate Need for Conservator

The precedent Mr. Lewin is relying upon, *In the Matter of S.H.* does not have any similarity. S.H. agreed to a physical and mental examination because it was necessary to establish the extent of his injury and the value of his property. Also, S.H. did not fire his lawyer. In this case, the value of the property can only be determined after a

full Discovery is obtained. None of the Plaintiff's lawyers served discovery requests and the Court used all technicalities at its disposal to prevent Plaintiff Sturdza to obtain any Discovery.

4. The Court Cannot Demonstrate Need for "Surrogate Decision Maker"

The new DC Rule 1.14 of Professional Conduct does not apply here. Mr. Lewin failed to fulfill his contractual obligations and when his client accused him of his failure, instead of correcting his mistakes or stepping aside, he manufactured all his false allegations willfully damaging his client's case and her reputation. She fired him for good cause.

IV

THE SEVEN YEARS DELAY IN GETTING DISCOVERY LEAD TO MORE INFRINGEMENT

While Mr. Lewin was busy manufacturing false allegations, Defendants committed to more Willful Copyright Infringements: the UAE Chancery in Berlin, Germany. and the Chancery of Morocco in Washington DC. While he maintained that he should continue to represent Plaintiff Sturdza, he failed to discover the new infringements, and he failed to take any action against the two new infringements.

V

THE COURT CANNOT FORCE PLAINTIFF TO KEEP COUNSEL WHO WORKED AGAINST HER INTERESTS

Plaintiff Sturdza has demonstrated that Mr. Lewin has filed a misleading Brief, an incomplete Appendix, and has mislead the Court at the Hearing. He refused to correct the record. Anyone has the right to fire such a lawyer.

Please see attached the proofs that a DC License was never required, proofs which should have been included by Mr. Lewin in the Appendix.

The Chanceries of Finland, Italy and Slovakia in DC have been designed by architects

licensed only in their respective countries, who did not have a DC License. The East Building of the National Gallery of Art was designed by IM Pei who did not have a DC License, an Addition to the Corcoran School of Art was designed by Frank Ghery who did not have a DC License, and more recently, this Courthouse Addition was designed by Michel Graves who did not have a DC License either.

VI
EVIDENTIARY HEARING FOUND STURDZA
COMPETENT TO PROSEED PRO SE

On October 28, 2002 at the Evidentiary Hearing Magistrate Judge Facciola concluded that Sturdza is competent to proceed *Pro Se* and issued a *Report and Recommendation* citing all the applicable laws and recommended not to appoint a Guardian Ad Litem.

CONCLUSION

This Court **has deprived** Plaintiff Sturdza of **three basic rights for seven years: the right to correct her court case record, the right to request discovery and the right to dismiss her lawyer for good cause.**

The time has come that this Court acts under the Constitution and the Federal Rules and does not reappoint a *Guardian Ad Litem* or appoint someone similar.

Respectfully submitted,


Elena Sturdza, RA

May 13, 2009

ELENA STURDZA ARCHITECT
6705 Tomlinson Terrace
Cabin John, Maryland 20818
Tel: 301-320 4345

PRO SE

ARCHITECTURAL RECORD

The New Chancery of the Embassy of Italy

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Leo A Daly



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Client
The Republic of Italy

Design Architect
Sartogo Architetti Associati
Via Sardegna 14
00187
Rome, Italy
ph: 011.3906.44.57.144-5
fax: 011.3906.48.44.13

Mr. Piero Sartogo, Ms. Nathalie Grenon,
Ms. Susanna Nobili

Executive Architect
Leo A Daly
1201 Connecticut Avenue, NW, Suite
1000
Washington, DC 20036
ph: 202-861-4600
fax: 202-872-8530
www.leoadaly.com

Principal in charge:
Charles D. Dalluge

Project Manager:
Ellis C. Whitby

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MICHAEL GRAVES & ASSOCIATES

PROFILE DISCIPLINES CONTACT

ARCHITECTURE

alphabetically
chronologically
location
type



The 351,000-square foot Annex to the E. Barrett Prettyman Courthouse contains courtsets and chambersets for the United State Federal District and Appellate Courts, along with extensive ancillary facilities including a food service complex, library, health unit, pressroom, fitness center and credit union. Within sight of the Capitol, the Annex occupies a pivotal point in the city at the junction of Constitution and Pennsylvania Avenues, the intersection of which is marked by a rotunda. The location of the courtrooms in the building is reflected in pavilions along the Third Street façade. A dramatic atrium links the existing and new structures while introducing natural light into the interiors, particularly the courtrooms in the Annex.

Associated Architect: SmithGroup, Inc.

project sheet PDF

DATE: 1996-2005
LOCATION: Washington, D.C.
SIZE: Annex 351,000 sf; Existing 576,500 sf
STUDIO HEAD: Thomas Rowe

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