

IN THE CIRCUIT COURT OF THE SIXTH JUDICIAL  
CIRCUIT OF FLORIDA, IN AND FOR PINELLAS COUNTY

STATE OF FLORIDA,

Plaintiff,

vs.

Case No.: 2023-02935-CF

TOMASZ KOSOWSKI,

Defendant.

\_\_\_\_\_/

VIRTUAL DEPOSITION OF MARC OTTO

DATE TAKEN: AUGUST 1, 2024

TIME: 1:33 p.m. - 1:58 p.m.

Examination of the witness taken virtually before:

Tammy Kelley

Verbatim Court Reporting, Inc.  
728 S. New York Avenue, Lakeland, FL 33815 863-500-3603

APPEARANCES

Counsel for the Plaintiff:

NATHAN VONDERHEIDE, Esquire  
ALEXANDRA SPADARO, Esquire  
Office of State Attorney  
Post Office Box 17500  
Clearwater, Florida 33762-0500

Counsel for the Defendant:

WILLENGY W. RAMOS WICKS, Esquire  
BJORN BRUNVAND, Esquire  
Brunvand & Wise, P.A.  
615 Turner Street  
Clearwater, Florida 33756

I N D E X

AUGUST 1, 2024

WITNESS

Called by the Defendant:

MARC OTTO

DIRECT EXAMINATION BY MS. RAMOS WICKS..... 4

CERTIFICATE OF OATH..... 20

CERTIFICATE OF REPORTER..... 21

1 THE COURT REPORTER: Would you raise your  
2 right hand, please. Do you swear or affirm the  
3 testimony you shall give in this cause shall be  
4 the truth, the whole truth, and nothing but the  
5 truth?

6 THE WITNESS: Yes.

7 MARC OTTO, called as a witness by the  
8 Defendant, having been virtually duly sworn,  
9 testified as follows telephonically:

10 DIRECT EXAMINATION

11 BY MS. RAMOS WICKS:

12 Q All right, Mr. Otto, before we get started I  
13 just wanted to give you a heads up that we have been  
14 recording these depositions. Do you consent to being  
15 recorded both on audio and video?

16 THE COURT REPORTER: Did you respond? I'm  
17 sorry, it didn't come through. We cannot hear  
18 you.

19 A I said yes.

20 Q Okay. All right, so I'm going to hit record.  
21 So that way you're not thrown off like what's going on,  
22 okay. So I'm going to hit record and then we're going  
23 to go and get started.

24 All right. So, Mr. Otto, my name is Willengy  
25 Ramos Wicks. We just talked on the phone. And I work

1 for Brunvand Wise, P.A. I'm an associate attorney. My  
2 boss is Bjorn Brunvand. He is the lead attorney on the  
3 case. And us two along with a couple of others, we  
4 represent Tomasz Kosowski in this case. So we're  
5 defense attorneys.

6 Along with myself is also Nathan Vonderheide  
7 who's present on this virtual forum this afternoon.  
8 And he's the lead attorney on the case on behalf of the  
9 State of Florida. Okay?

10 A Okay.

11 Q In addition to us two attorneys is also our  
12 lovely court reporter, Tammy Kelley. So you know who  
13 everybody is on this virtual forum. Okay?

14 A Okay.

15 Q All right. So it looks like your mike might  
16 not necessarily be picking you up. So if you can move  
17 closer or, like, maybe move your computer down, that  
18 would be great.

19 A Let me see if I can bring it closer to me.  
20 Okay.

21 Q That's great. I can hear you loud and clear.

22 MS. RAMOS WICKS: Can you hear him, Tammy?

23 Perfect.

24 Q All right. So the reason why we're here  
25 today, Mr. Otto, and I appreciate you, you know, making

1 the necessary arrangements to be here today, is because  
2 you're listed as a witness by the State of Florida,  
3 right.

4 So Mr. Vonderheide listed you as a witness in  
5 this case. And so that means that you saw something,  
6 heard something, or know something that is relevant to  
7 the case and you could potentially testify about what  
8 you saw, what you heard, what you know at trial if this  
9 case were to proceed to jury trial. Okay? Are you  
10 with me so far?

11 All right. And so as a witness in the case,  
12 us defense attorneys, you know, we have the opportunity  
13 to take your deposition. And so that's what we're here  
14 to do today.

15 So a deposition is a sworn proceeding and  
16 that's why you were placed under oath just before we  
17 went on the record and started recording.

18 And there's going to be a record of this  
19 proceeding that's being created too. Not just on Zoom,  
20 but then Ms. Kelley is actually creating a record by  
21 typing away everything I say as the court reporter.

22 A Okay.

23 Q And so as part of a deposition it's basically  
24 a question-answer session. I try to keep it very  
25 conversational.

1           And you can answer the questions however you  
2   want. I am not here to put you on the spot. I am not  
3   here to embarrass you. I'm not here to, you know,  
4   cause you additional stress or inconvenience. I'm just  
5   here to find out what you know about, what you saw,  
6   what you heard that you could testify to in preparation  
7   for a trial. Okay?

8           THE COURT REPORTER: The audio still is not  
9   coming over, although I can read --

10   Q    Can you speak up a little bit maybe.

11   A    Yes.

12   Q    Okay, all right. I don't know why it's not  
13   picking you up, so.

14           THE COURT REPORTER: Maybe -- I was wondering  
15   on the microphone is it set to -- what is it  
16   called where it is noise sensitive. I forget  
17   what's it called.

18           MS. RAMOS WICKS: Oh, the noise reduction  
19   thing?

20           I mean I can hear him now.

21           THE COURT REPORTER: Right, right.

22           THE WITNESS: I have no --

23           THE COURT REPORTER: See, it's going in and  
24   out.

25           THE WITNESS: I don't know like -- I've never

1           used -- I've never been on Zoom before either. So  
2           I'm a rookie at this.

3           I don't know where the microphone  
4           adjustment --

5           MS. RAMOS WICKS: It's working pretty well  
6           now. But he could call in on the phone number as  
7           well with his cell phone and have that just, like,  
8           on speaker next to him maybe. That might help.  
9           And then nothing would drop out.

10          MR. VONDERHEIDE: Yeah, that's true.

11          MS. RAMOS WICKS: Okay, if you'd like to call  
12          in. I believe that it's on the deposition notice,  
13          like the call number, but let me make sure.

14          Yeah, it has a number. I can give you the  
15          number --

16          MR. VONDERHEIDE: I just put the number in  
17          the group chat too.

18          MS. RAMOS WICKS: Oh, okay, perfect. Thank  
19          you.

20          (Discussion off the record.)

21          Q     Okay. So where I left off, Mr. Otto -- can  
22          you hear me?

23          A     Yeah, I can hear you.

24          Q     Perfect. So where I left off --

25          A     Is it maybe because my phone's closer to the



1 computer?

2 THE COURT REPORTER: Okay. We also do not  
3 need him by the Zoom format, just on the phone.

4 MS. RAMOS WICKS: Yeah, I think we can turn  
5 that off.

6 (Discussion off the record.)

7 Q Okay. So as I was saying just a moment ago,  
8 you know, we were talking about, like, depositions,  
9 right, like what a deposition is and why you're here.

10 So I was going -- leading into that. I  
11 wanted to, you know, tell you, right, you can answer  
12 the questions however you want to answer them. But  
13 since we're on this virtual forum today, I just want to  
14 keep -- you know, you to keep certain, like, guidelines  
15 in mind to make sure that your answers are super clear  
16 for the record. Okay?

17 A Okay.

18 Q Okay. So the first one is, you know, if you  
19 do answer a question, like I ask one, you know a  
20 question, and you answer it, just please make sure that  
21 you answer out loud.

22 Because any nonverbal behavior -- I mean I  
23 know I can see you on the camera, but Ms. Kelley may  
24 not be able to pick that up if it's like a nod or a  
25 shake or, you know, you're moving your arm or something

1 to demonstrate. So just make sure the answers are out  
2 loud. Okay?

3 A Okay.

4 Q Okay. And then the second thing I would ask  
5 you to do is, you know, there may be a point in the  
6 deposition where we have a yes or no answer. In our  
7 normal everybody speech patterns we might say um-hum or  
8 hm-hmm. But Ms. Kelley may not be able to distinguish  
9 if that's a yes or no to make that super clear for the  
10 record. Okay?

11 A Okay.

12 Q Okay. So with those things in mind, I'm  
13 gonna ask you to state your name and spell your last  
14 name for the record, please.

15 A Okay. Marc Otto. O-t-t-o, last name.

16 Q All right. And, Mr. Otto, you know, what  
17 city and state do you live in?

18 A Parkland, Florida.

19 Q How long have you lived in Parkland, Florida?

20 A Since 2009.

21 Q Okay. Are you employed?

22 A I'm self-employed.

23 Q All right. So are you a business owner?

24 A Yes.

25 Q All right. And what kind of business is it?

1           A     It's a swimming pool business.

2           Q     Okay. How long have you been the owner of a  
3 swimming pool business?

4           A     Since 2005.

5           Q     Okay. And is that local, like, to Parkland?

6           A     Yes.

7           Q     Okay.

8           A     And all Broward County, um-hum.

9           Q     Excellent. So, Mr. Otto, I want to talk to  
10 you about a transaction for the sale of a vehicle that  
11 occurred sometime in 2022. Do you recall that?

12          A     Yeah.

13          Q     Okay. Can you tell me about that. Like,  
14 where did you list, you know, did anybody reach out to  
15 you, what kind of car was it.

16          A     Yes, I listed it on Autotrader and I only  
17 received one call. They listed it wrong because of the  
18 model that it is.

19                So that's how -- that's what I did. I was  
20 going to trade it in, but it was too big of a loss  
21 to trade it in.

22          Q     Okay. And so what kind of car are we talking  
23 about?

24          A     It's a 2016 Toyota Tundra TRD Pro.

25          Q     And so when you had initially listed it on

1 Autotrader you said that there was -- like, the wrong  
2 model was listed?

3 A Yeah. They listed it, listed it as SR5. So  
4 I didn't really get calls on it like I thought I was  
5 going to.

6 Q Okay. So at some point did you get a call  
7 regarding this vehicle?

8 A Yes.

9 Q All right. And who called you?

10 A His name was -- introduced himself as Tom.

11 Q Okay.

12 A He's the only one that called.

13 Q And what did Tom say to you about purchasing  
14 the car?

15 A He just asked questions on the type of  
16 vehicle it was and, you know, the miles and, you know,  
17 service records and everything.

18 Q Okay. And so do you recall when this phone  
19 call came in from this gentleman named Tom?

20 A I believe it was the Sunday two weeks prior  
21 to him taking delivery. I think it was on the 11th,  
22 11th or 12th of December 2022.

23 Q Okay. And so did you-all arrange, make  
24 arrangements, you know, related to the sale of the  
25 truck?

1           A     Yes. He wanted to come see it. So we set  
2 up -- you know, like through texts and all that. He  
3 set up this -- I believe it was like a Tuesday, that  
4 Tuesday. Which would have been the 13th I guess.

5           Q     Okay.

6           A     You know, he drove, he drove to my house to  
7 look at the truck.

8           Q     And what happened when, you know, Tom came to  
9 look at the truck? Did he make an offer?

10          A     Yeah. He test drove it with me first and  
11 looked it over and then made me an offer. Which, you  
12 know, I didn't accept at the time. I thought it was  
13 too low.

14                So he had -- you know, we parted ways. He  
15 left. And then he contacted me actually a week  
16 later and wanted to know if I, you know, would still  
17 consider his offer. So I just -- I asked him, you  
18 know, told him I wanted -- the price that I wanted  
19 and he accepted.

20          Q     Okay. And so what was the amount that  
21 ultimately you both arrived at for the purchase of the  
22 truck?

23          A     32,000.

24          Q     Now, once that amount -- you know, that  
25 agreement was reached, you know, what happened next?

1 What was the next step as far as the sale of the truck  
2 is concerned?

3 A So he wanted to basically pay it all up  
4 front, like with a bank transfer. And I said, no, I  
5 said, just give me a deposit and then, you know, when  
6 you want to -- because I didn't really -- I didn't feel  
7 comfortable taking all that money up front. So I just  
8 said give me a deposit and then, you know, we can  
9 settle up after that.

10 So he asked me how much. I told him about  
11 7,000. So he went ahead and did a bank transfer.

12 Q Okay. And so were there additional bank  
13 transfers in addition to the initial \$7,000-bank  
14 transfer?

15 A Yes. Yeah. He did four transfers. It was  
16 like a 7,000, 9,000, 9,000 and 7,000 at the end.

17 Q Understood. So once those four transfers  
18 occurred, did there come a time when Tom, you know,  
19 came to pick up the car?

20 A Yes. After the last transfer he, he came.  
21 It was actually the day after Christmas. So  
22 December 26th, picked it up. He said that he was gonna  
23 take a bus, bus to the airport, Fort Lauderdale  
24 Airport, and then Uber to my house. Which he did.

25 Q So he did arrive at your residence?

1           A     Yes.

2           Q     Okay. And when Tom arrived at your  
3 residence, did he -- what did he tell you, if anything,  
4 about his intentions to register the truck?

5           A     He did not say.

6           Q     Did he provide --

7           A     You know, he filled the title out. I  
8 remember that. I did ask him -- I wanted to do an  
9 invoice. But he said he didn't need an invoice, the  
10 title was good enough.

11          Q     Okay. Did Tom provide a certificate of  
12 insurance?

13          A     No.

14          Q     Did Tom come with a tag?

15          A     Yes.

16          Q     Okay. And what kind of tag was it? What  
17 state was it from?

18          A     I didn't even see the tag. I never saw it.  
19 He came into my house and, you know, we -- he signed  
20 the title and everybody in the house. And then, you  
21 know, we went out in the garage and then he basically  
22 took the truck. The truck wasn't backed in, so I  
23 didn't even pay attention. Because he basically left  
24 and I went into the house. So I didn't actually see  
25 him put a tag on.

1 Q Okay. And did you have any, like, follow-up  
2 contact with Tom after the sale of this truck, after he  
3 left with the truck?

4 A No. No, I never heard from him again.

5 Q Okay. Did you have an opportunity to speak  
6 with law enforcement about the sale of this particular  
7 truck?

8 A Yes. Yes, they contacted me last March. I  
9 was actually in New York at my brother-in-law's  
10 funeral. So that's when I got contacted.

11 Q Okay. And in connection with your contact  
12 with law enforcement, do you recall if you provided a  
13 written statement as well about the sale of the truck?

14 A Yes.

15 Q Okay. So I'm gonna do something that's  
16 called share screen. Because I'm gonna show you what  
17 we have, okay, as far as a statement.

18 A Okay.

19 Q Just let me know when you actually see it.

20 A Yep, I see it.

21 Q Okay. So for context for the record, I'm  
22 showing Mr. Otto what is -- appears to be a Largo  
23 Police Department statement form written in blue ink  
24 handwriting which states the name Marc Otto on it.

25 Is that your name, sir?



1 A Yes.

2 Q All right. And there's a home address on  
3 there as well. Does that appear to be your home  
4 address? I mean it's a little bit faded, right?

5 A Yeah, yeah. That's it, yes.

6 Q Okay. And there's a case number. For the  
7 record, 23002583. It's page one of one.

8 Does this appear to be the statement that you  
9 provided to law enforcement on March 25th of 2023?

10 A Yes.

11 Q Okay. And this statement was in your  
12 handwriting?

13 A Yes.

14 Q And your signature is right here on the  
15 bottom next to the, you know, block that says  
16 significant of person making statement?

17 A Yes.

18 Q Okay. All right, I'm going to stop share.

19 MS. RAMOS WICKS: I don't have any further  
20 questions. I'll check in with Mr. Brunvand to see  
21 if he has any questions.

22 MR. BRUNVAND: I do not have any questions.  
23 Thank you.

24 MS. RAMOS WICKS: All right. And,  
25 Mr. Vonderheide, do you have any questions?

1           MR. VONDERHEIDE: I do not have any  
2 questions. Thank you for your time today,  
3 Mr. Otto.

4           THE WITNESS: Okay, thank you. You're  
5 welcome.

6           MS. RAMOS WICKS: All right. So I'm going to  
7 stop recording.

8           All right. Mr. Otto, you do have an  
9 opportunity to take a sneak peek at your  
10 deposition. What that essentially means is that  
11 you have the right to read a copy of your  
12 deposition to see if there's, like, any  
13 inaccuracies in the transcription.

14           Ultimately it's not gonna change the  
15 deposition itself. But, like, if any errors or  
16 mistakes that you note will be placed on an errata  
17 sheet and that will be made part of the  
18 deposition.

19           So you have the right to read or you can  
20 choose to waive a reading of your deposition. Let  
21 me be clear that if you waive a reading of your  
22 deposition that doesn't mean you're never going to  
23 see a copy of this deposition. I'm sure  
24 Mr. Vonderheide will be providing a copy in  
25 preparation for your trial testimony.

1           So would you like to read or waive?

2           THE WITNESS: I don't know. I've never done  
3 this before. I have no clue.

4           MS. RAMOS WICKS: Mr. Vonderheide.

5           THE WITNESS: I mean I don't know how to  
6 answer that one.

7           MR. VONDERHEIDE: Mr. Otto, I'll give you a  
8 copy before you testify so you can look at it.  
9 And I promise you that if there are any changes  
10 that need to be done we can work that out.

11          THE WITNESS: Okay.

12          MR. VONDERHEIDE: So you don't have to do it  
13 as a homework assignment.

14          THE WITNESS: Okay. All right, I appreciate  
15 it.

16          (The deposition was concluded at 1:58 p.m.)

17

18

19

20

21

22

23

24

25

CERTIFICATE OF OATH

STATE OF FLORIDA     )  
COUNTY OF POLK       )

I, the undersigned authority, certify that  
MARC OTTO, virtually appeared before me and was duly  
sworn.

WITNESS my hand and official seal this 17th  
day of December 2024.

TAMMY KELLEY  
NOTARY PUBLIC - STATE OF FLORIDA  
MY COMMISSION NO. HH 216644  
EXPIRES: 02/07/26



## REPORTER'S DEPOSITION CERTIFICATE

STATE OF FLORIDA )

COUNTY OF POLK )

I, TAMMY KELLEY, certify that I was authorized to and did stenographically report the virtual deposition of MARC OTTO, that a view of the transcript was not requested and that the transcript is a true and complete record of my stenographic notes.

I further certify that I am not a relative, employee, attorney or counsel of any of the parties, nor am I a relative or employee of any of the parties, nor am I a relative of any of the parties' attorney or counsel connected with the action, nor am I financially interested in the action.

DATED this 17th day of December 2024.



TAMMY KELLEY