

COPY

COMMONWEALTH OF MASSACHUSETTS

BARNSTABLE, ss.

SUPERIOR COURT
NO. BACV2011-00433

JESSE E. TORRES, III and)
JENNIFER J. ADAMS,)
Plaintiffs,)
)
vs)
)
SOPHIE J. TORRES,)
JESSE E. TORRES, IV,)
DEBTAMERICA, LLC, and)
DONALD F. TORRES,)
Defendants.)
_____)

**DEFENDANT SOPHIE J. TORRES' OPPOSITION TO PLAINTIFFS'
MOTION FOR RECONSIDERATION**

NOW COMES THE DEFENDANT, Sophie J. Torres, in the above-entitled matter and hereby moves this Honorable Court to uphold its decision to deny Plaintiffs' request for electronic filing.

AS GROUNDS THEREFORE, the sole remaining defendant in this action, Sophie J. Torres, who is an elderly woman of 91 years old, is not a risk to the Plaintiffs' lives nor will the Plaintiffs' adherence to the rules and regulations under the laws of the Commonwealth of Massachusetts and this Honorable Court risk the lives of the Plaintiffs. Plaintiffs continue to claim fear for their lives with respect to James Torres, who is not a party to this matter and is deceased. Further, counsel for Defendant, Sophie J. Torres, are upstanding members of the Massachusetts bar and there is no reason to believe that Plaintiffs' address information would be inappropriately distributed or used for purposes other than service of pleadings and other pertinent documents related to this matter. Plaintiffs' vague reference in their Memorandum to a

“disclosure of information” by the law firm now known as Wilkins, DeYoung & Carter overstates a simple error in forwarding an email to Plaintiff, Jesse E. Torres III regarding a telephone message by an assistant working for the firm, which contained no confidential or privileged information. If this inadvertent error shows this Honorable Court any evidence with respect to the present issue, it is to support the ease with which errors can be made using email and the general unreliability of electronic communications.

Defendant, Sophie J. Torres, respectfully suggests that there is no electronic filing system in place with this Honorable Court; and, therefore, there is no guaranteed method of electronic service. Defendant, Sophie J. Torres, is concerned that documents served electronically may not be received by the appropriate party due to computer spam issues, loss of internet access and other problems beyond the control of the parties hereto. Additionally, uploading documents to a website governed by one of the parties, as suggested by the Plaintiffs, is even less reliable as a means for service of legal documents. Defendant, Sophie J. Torres, asserts that until an electronic filing system is instituted for filing with this Honorable Court and rules and regulations are promulgated regarding the same, waiver of the existing rules and regulations for court submissions in favor of electronic service is inappropriate. Defendant, Sophie J. Torres, further asserts that the Commonwealth of Massachusetts Appeals Court has such a system in place and it has promulgated rules and regulations regarding the same; however, that Honorable Court also requires filings to be mailed to interested parties under its procedural Rule 13 and that Plaintiffs have overstated the electronic filings permitted by that Honorable Court.

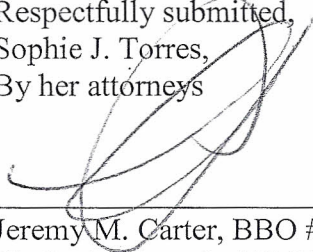
Defendant, Sophie J. Torres, further argues against Plaintiffs’ alternative request for Defendant, Sophie J. Torres, to pay for Plaintiffs’ costs to pursue the present action if their motion for reconsideration of electronic filing is not permitted by this Honorable Court. The burden of

pursuing the present litigation matter should fall upon the Plaintiffs on all matters, inclusive of costs, and to place such a financial burden on an elderly woman of limited financial resources would be overly burdensome, unfair, and against the interests of justice. Defendant, Sophie J. Torres, further states the remaining alternative requests submitted by the Plaintiffs are insupportable and/or would only serve to cause additional expenses to this Honorable Court and the parties hereto.

Lastly, Defendant, Sophie J. Torres, further objects to Plaintiffs' Motion for Reconsideration as the Plaintiffs have not complied with Superior Court Rule 9(A)(b)(2). The Plaintiffs' assert that notice was provided to counsel for Defendant, Sophie J. Torres, on January 16, 2014; however, counsel for Defendant, Sophie J. Torres, did not receive the Plaintiffs' Motion and related support documents until January 24, 2014 (eight (8) days later), leaving insufficient time for a response from the Defendant, Sophie J. Torres, to be provided to Plaintiffs before submission of their filing to this Honorable Court.

WHEREFORE, the Defendant, Sophie J. Torres, respectfully requests that this Honorable Court deny the Plaintiffs' Motion for Reconsideration of [Plaintiffs'] Emergency Motion to Serve the [Defendant] Electronically.

Respectfully submitted,
Sophie J. Torres,
By her attorneys

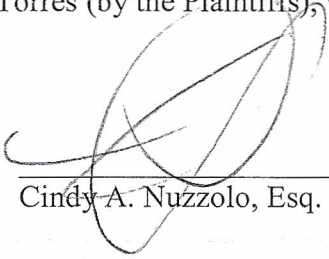


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Dated: January 28, 2014

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of Defendant, Sophie J. Torres' Motion in Opposition to Plaintiffs' Motion for Reconsideration has been sent via first class mail, postage prepaid this 28th day of January, 2014 to the Plaintiffs at the address provided to this Honorable Court and counsel to Defendant, Sophie J. Torres (by the Plaintiffs), which shall not be disclosed pursuant to this Honorable Court's Order.



Cindy A. Nuzzolo, Esq.