

COMMONWEALTH OF MASSACHUSETTS

BARNSTABLE, SS.

SUPERIOR COURT

JESSE E. TORRES III

JENNIFER J. ADAMS

Plaintiffs

vs.

SOPHIE J. TORRES

JESSE E. TORRES IV

DEBTMERICA, LLC.

DONALD F. TORRES

Defendants

Civil Docket # BACV2011-00433

**PLAINTIFFS' MEMORANDUM IN SUPPORT OF PLAINTIFFS' MOTION TO COMBINE
MOTIONS, AND OPPOSITION TO, AND TO COMBINE WITH, THE SCHEDULED
HEARING OF DEFENDANT SOPHIE J. TORRES' MOTION TO CEASE AND DESIST**

The Defendant Sophie J. Torres through council has filed a motion with this court entitled Defendant Sophie J. Torres' Motion for Plaintiffs to Cease and Desist (Restrain) from Posting Information in the Internet along with a motion for short order of notice entitled Defendant Sophie J. Torres' Ex Parte Motion for Short Order of Notice.

In the above named motions, the Defendant Sophie J. Torres and her Counsel continue their pattern and make unsubstantiated and misleading claims to this Court as if they were facts, and does so without any sworn affidavit by either the Defendant or her Counsel. The Plaintiffs' do herein set forth the true facts in this mater.

While it is certainly at this Honorable Court's discretion, the Plaintiff Jesse E. Torres III, when represented by Victor Polk of Bingham Dana, has had numerous hearings on the specific matter of posting public documents of a court action on the Internet that were decided in his favor, see Palms Technology vs. Datawatch, Middlesex Superior Court Civil Action #98-

5570 (1998), the Honorable Herman Smith presiding. The Plaintiffs are both humbled and honored to defend the First Amendment of the United States Constitution and the guarantee that our Court's records remain public to all citizens, not just a privileged few.

We aver that the Defendant Sophie J. Torres' Counsel, Jeremy Carter's, continual bad acts in pleading after pleading, have become so egregious, that he, so emboldened, now attempts to substantiate that there are two classes of citizens before the Court, those who can afford counsel, and those who have to defend themselves Pro Se. These bad acts include continually making inappropriate, misleading and unsubstantiated statements to this Court as well as as not providing a timely Notice of Appearance to the Plaintiffs, while at the same time, sending disparaging emails to the Plaintiffs stating that, "if they don't send pleadings directly to him, he would bring us before this very Court".

The Defendant's Counsel must actually believe that, as we are Pro Se, the Court won't look at its own record, and is further so confident in this fact, that he sets forth false claims such as, "after receiving a warning to discontinue all internet publications from this Honorable Court...", as well as claiming that their postings to the Internet are "inappropriate, misleading and untrue". We assert that the record will show a discussion at the end of the hearing with the Honorable Regina Quinlan concerning service to the Defendants in California, where the documents of the above-named action were made available online to the Defendants' California Counsel, Arthur Aaronson. We aver there was no order to "discontinue all internet publications" issued by the Court.

Second, the Defendant Sophie J. Torres' Counsel brings claims apparently based on two separate websites. One contains links to the documents filed in the above-entitled action, the other from a news site that has numerous news stories besides the one he attached to his motion. What Mr. Carter fails to disclose to the Court, is his own website's advertisements of

his political connections. Mr. Carter is very clear in his advertisement at

<http://wilkinsanddeyoung.com/lawyer-jeremy-m-carter.html>:

1. Former Selectman of the Town of Mashpee
2. Former Special Agent for the Federal Bureau of Investigations
3. Former Mashpee Police Officer
4. Currently serves as Town Moderator for Mashpee

Not one of the above advertisements can be taken in any other way than was their intention, which is to set forth that Mr. Carter is well connected politically, and offers his services as a "Lobbyist" to those who can afford it.

Now Mr. Carter comes before this Court and asks that it order that the Plaintiffs take down a news website that published a factual and fair story on cronyism within the Falmouth Police Department, and he does so without even one claim made with specificity. It's clear that he wants this Court to set aside the First Amendment and remove the story simply because he doesn't like the true facts to be made public. We assert that Mr. Carter truly believes there are two classes of citizens now before this Court: he, as a politician and attorney, and us, as the impoverished Pro Se litigants, the conditions for said impoverishment, are the main subject of the above-named action. Any reasonable person could only conclude Mr. Carter's intentions; that advertising his products, his products being his political connections as set forth above, using the Internet should be allowed, while at the same time, a fair and balanced story directly relating his advertised products to the Falmouth Police Department, *using the same Internet*, should not be allowed.

The Plaintiffs' statements in a news story were based on a conversation with Falmouth Police Officer, Cheryl Atherton, whose testimony before this Honorable Court can clarify with specificity, Mr. Carter's statements made to the Falmouth Police Department and the results

thereof.

His second claim contains no specificity, but rather general, wildly argumentative and unsubstantiated claims with no sworn affidavit attached. It is impossible to identify to which particular pleading the Defendant Sophie J. Torres' Counsel is referring, as the Defendant's Motion does not have any attached or named pleading it references. We believe, but can't be sure, that he is claiming as false, statements made in the "Plaintiffs' Response and Opposition to Defendant Sophie J. Torres' Motion to Dismiss for Failure to State a Claim; Request for Hearing".

Within the above-referenced Opposition, the Plaintiffs clearly laid out the financial history by and between the Plaintiff Jesse E. Torres III, the Defendant Sophie J. Torres and her late husband Jesse E. Torres Jr. These statements can all be verified by the testimony of witnesses such as the former Falmouth National Bank's President, Bruce Magilligan, Executive V.P., Paul Newgent, V.P. Retail Lending, Richard Sterdevent, former Falmouth Bank and Trust V.P., Norman Clarkson and former V.P. Of Rockland Trust, Richard Weir.

Now Counsel for the Defendant Sophie J. Torres claims that the age of Defendant Sophie J. Torres has bearing on this case. Yet when it suits him, he denies her age was, or is a factor in his oppositions to the Plaintiffs' Motion for Verified Mental Exam and Plaintiffs' Verified Motion to Restrain Certain Parties from Discussing the Case or the Plaintiffs with the Defendant Sophie J. Torres.

While Counsel argues the effects on the Defendant Sophie J. Torres, it is demonstrable that throughout the short life of this action, the Plaintiffs have gone way beyond what is required, to avoid as much as possible, the negative impact on the Plaintiff Jesse E. Torres III's mother. The Plaintiffs' complaint states in clear and concise language that the Plaintiffs believe that the Defendants Donald F. Torres and Jesse E. Torres IV did coerce, or at

minimum use undue influence to cause the actions of, the Defendant Sophie J. Torres.

The facts and the truth about one's life can certainly cause emotional distress, however, the truth is the truth, and while one can attempt to hide it, or cover it up, it still remains the truth.

The Plaintiffs argue that this case, and the "Shield of the law" now extended by the Internet, is exactly what the framers of our Constitution envisioned to protect the people from bad acts by those that have, or were put into power. The Plaintiffs strongly argue that if it had not been for the specific rights guaranteed by the First Amendment to the United States Constitution, the Plaintiffs, through the direct action of the Defendant Sophie J. Torres and her Counsel, would have been locked out of their storage facilities and thereby been forced to leave the state, as the Falmouth Police would have arrested them for lawfully entering their premises which contain their assets which are used for their living expenses. The Plaintiffs assert that it was only the news interest in this case that persuaded the Falmouth Police Department to get advice, not from the Plaintiffs or Mr. Carter, but from their own legal advisers. We know for a fact, that newatchdogs.com was accessed by the Boston Office of the Massachusetts State Government on August 10, 2011, and once independent advice was received, the Plaintiffs have not been harassed by the Falmouth Police when removing their assets from the premises.

The Defendant Sophie J. Torres' Counsel continues his unfounded assault on the Plaintiffs, as he makes the claim that, "when each Defendant gets Properly Served by the Plaintiffs...". As we have provided him with numerous supporting documents, he should know that there has been a coordinated effort by the Defendants to avoid being served in this matter, and we argue, that this coordinated effort in avoidance has had the full cooperation of the Defendants' attorneys on both coasts. The California Process Server personally related to

the Plaintiff Jesse E. Torres III, and stated on their Certificate of Service, that they made four (4) attempts to serve the Defendant Jesse E. Torres IV. The reasons given for the inability to serve the Defendant Jesse E. Torres IV personally were: he would not come out of his office, he was "in meetings" or he "was out". When after more than three attempts, as allowed by California Law, the Summons and Complaint were left with his secretary, even she was coached and refused to give her name.

The pure arrogance of the Defendant Sophie J. Torres' Counsel bringing such a frivolous motion before this Honorable Court can be demonstrated in the simple language of the news story he wishes to have shut down:

"For all of the Public pleadings and attachments in the case are available at the Barnstable Massachusetts Superior Court, true copies are available at: <http://plaintiff.jetiii.com>."

Is the Defendant Sophie J. Torres' Counsel now claiming that the records of this case should be sealed? Should the numerous news agencies, who are frequent visitors to our websites, no longer have access? The news agencies visiting our websites include the Cape Cod newspapers and radio stations, Boston Globe, Boston Herald, Channels 4, 5, 7 and 25, the New York Times, CBS and FOX national news. While there have been thousands of pages read from the websites, is the Defendant Sophie J. Torres' Counsel now arguing that the aforementioned news agencies and other visitors be denied Internet access or any access whatsoever to public Court documents? The Plaintiffs question, would that not be the actions of a Police State?

After the Honorable Regina Quinlan suggested that we use caution on the publishing of documents on the internet, we did extensive research on the subject beyond the scope of Palms Technology vs. Datawatch, where this issue was already adjudicated in our favor in

1998 by the Middlesex Superior Court. We found the clearest and best example of our right to publish Public Court Documents on the Internet, as was stated by the Massachusetts Supreme Judicial Court's Internet statements. It states on this very subject that the Massachusetts Courts are now themselves, making public and available on the Internet, public court documents. The S.J.C. in summary stated, *While it clearly raises issues of privacy, it is at the very foundation of our judicial system, that our Court System and the cases before them, be public and available to all citizens.* The Internet, we strongly argue, is simply a modern way of providing its citizens easy access to our public court documents as is at the very foundation of our freedoms.

The Plaintiffs have used caution, as suggested by Judge Quinlan, and have provided a website without opinion, and one that simply provides easy access to the public documents in the above-named action, the same documents publicly available in this very Court.

The Plaintiffs have always tried to maintain the status quo in living in harmony with the Defendant Sophie J. Torres. At the same time, every aggressive tactic possible to delay this Honorable Court from hearing pertinent matters raised by the Plaintiffs, has been used by the Defendant Sophie J. Torres and her Counsel. These tactics have ranged from ignoring the "Plaintiffs' Motion to Maintain Status Quo" filed with this Honorable Court, to filing Notices to Quit to evict the Plaintiffs, and a No Trespass Notice in Falmouth District Court, done, apparently to avoid the familiarity this Court has with this case. Additionally, locks were changed on storage facilities containing assets used for living expenses in order to "starve out" the Plaintiffs who are in fact, representing themselves Pro Se. Of note is that the Defendant Sophie J. Torres' Counsel is being paid by millionaire, Defendant Jesse E. Torres IV, now under indictment by the Attorney General of the State of New York. He made his fortune as one of the largest brokers of high risk mortgages in the country. Defendant

Debtmerica, LLC's other founder recently purchased a multi-million dollar home, news of which can also be found on this same Internet.


There is one thing on which the Plaintiffs and the Defendant Sophie J. Torres, and her Counsel agree, and that is that someone is not telling the truth. The Plaintiffs assert that both the facts and the law are clearly on their side, while the Defendant Sophie J. Torres' Counsel have the "table on which to pound". While Defendant's high-priced Counsel pounds on the table to back up his arguments, the Pro Se Plaintiffs back up their arguments by bringing forth official government documents from two countries, receipts and sworn testimony by their affidavits. The Plaintiffs now pray that this Honorable Court will allow testimony on this matter that will show the truth and therefore put a stop to the delay tactics being used by the Defendant Sophie J. Torres' Counsel.

The Defendant Sophie J. Torres and her Counsel have not one shred of evidence nor one sworn affidavit to back up their claims in the motions now before this Court. They set forth to make the Court hostile to the Plaintiffs in an already difficult RICO case, by claiming that the Plaintiffs disobeyed this Court's Order, when no such order exists. They ignore the Plaintiffs' Motion to Maintain Status Quo filed with this Court, and try to shop for venue, and file eviction notices and notice of no trespass with a court not familiar with the circumstances of this case. They use their advertised political clout to deprive the Plaintiffs access to their own assets by changing the locks on their storage areas. They argue the age of the Defendant Sophie J. Torres both as having and not having judicial merit depending on their immediate needs. They have used every tactic possible to delay service to their clients, first by demanding that service be made on the attorneys, and then refusing to accept service, apparently advising even the secretaries of the Defendants to not state their name when they are served. While one could argue that these tactics are legal, we argue they are not ethical


for officers of the Court and it is certainly reprehensible that they now argue that these very tactics were the fault of the Plaintiffs.

WHEREFORE, the Plaintiffs request that this Honorable Court enter a short order of notice on the Plaintiffs' Motion for an Evidentiary Hearing and to Combine Motions, and Scheduled Hearing of "Defendant Sophie J. Torres' Motion for Plaintiffs to Cease and Desist (Restrain) from Posting Information in the Internet" and allow evidence of truth to be brought before this Honorable Court in an Evidentiary Hearing where witnesses can testify under oath in this matter, and further to postpone the Defendant's Scheduled hearing in order to allow enough time for witnesses to be found and subpoenaed to testify before this Honorable Court.

Respectfully submitted,


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Respectfully submitted,


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Dated August 25, 2011

CERTIFICATE OF SERVICE

I, Jesse E. Torres III, hereby certify that on August 25, 2011, I have served the Defendants Sophie J. Torres and Debtmerica, LLC through their attorney of record, and Jesse E. Torres IV, at their address on record with this Court, a true copy of this document by postage prepaid U.S. Mail.


Jesse E. Torres III, Pro Se