## COMMONWEALTH OF MASSACHUSETTS

BARNSTABLE, ss.				ERIOR COURT BACV2011-00433
JESSE E. TORRES, III and	)			
JENNIFER J. ADAMS,	)			
Plaintiffs,	)			
	)			
VS	)			
	)			
SOPHIE J. TORRES,	)			
JESSE E. TORRES, IV,	)			
DEBTMERICA, LLC, and	)			
DONALD F.TORRES,	) ,			
Defendants	)			
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## <u>DEFENDANT SOPHIE TORRES'S OPPOSITION TO PLAINTIFFS' VERIFIED</u> <u>MOTION FOR MENTAL EXAMINATION</u>

The Defendant, Sophie J. Torres, hereby opposes the Plaintiffs' Verified Motion for Mental Examination, dated July 26, 2011. In the motion, the Plaintiffs request an order requiring Sophie Torres to submit to a mental evaluation pursuant to Rule 35 of the Massachusetts Rules of Civil Procedure.

As grounds for her opposition, Sophie Torres maintains that she is and at all relative times was of sound mind and capable of making decisions concerning her personal and legal affairs. Under Rule 35, a physical or mental examination may be ordered only upon "good cause shown." The Plaintiffs have failed to establish good cause, alleging only that Sophie Torres has (1) on one occasion parked her car in an erratic manner; (2) attempted to evade the service of process by a Constable; and (3) has been following the instructions of, and otherwise "parroting" Jesse E. Torres, IV, her grandson. These assertions, by themselves, are insufficient to justify a mental examination under the Rule.

As further grounds for her opposition, Sophie Torres has filed a Motion to Dismiss which may be determinative of the Plaintiffs' claims against her. A mental examination should be ordered, if at all, only after the issues raised in her Motion to Dismiss are adjudicated.

Sophie Torres requests a hearing on the Plaintiffs' motion.

Respectfully submitted, Sophie J. Torres, By her attorney

Jeremy M. Carter BBO #542118 Wilkins and DeYoung 270 Winter Street Hyannis, MA 02601 (508) 771-4210

Dated: August 8, 2011

## **CERTIFICATE OF SERVICE**

I hereby certify that the original and one copy of the above Defendant Sophie Torres's Opposition to Plaintiffs' Verified Motion for Mental Examination has been sent via first class mail, postage prepaid this 8th day of August, 2011 to the Plaintiffs:

Jesse E. Torres, III 562 Waquoit Highway East Falmouth, MA 02536 Jennifer J. Adams 562 Waquoit Highway East Falmouth, MA 02536

Jeremy M. Carter, Esq.