

the interest of Justice. It did so with the full consideration of facts as contained in the Plaintiffs'

Motion which were as follows:

“Please note that in July 17, 2012 we were forced to leave our home in Massachusetts. The Appellees in this matter were successful in evicting us and thereby making our appearance in this matter as difficult as possible. This is a familiar tactic they often use, as set forth in our Briefs and attachments. We were declared indigent by this Court and the Barnstable Superior Court, and were left homeless as a result of the Appellees' eviction.

We were advised to not state our location as retribution threatened by an Appellee could place us in imminent danger. The reasoning here is clear and is referenced in our brief's attachments from Federal and State Law Agencies from two (2) countries. Notwithstanding, we have been forced to take refuge with various friends and family leading us thousands of miles from Massachusetts, and leaving us without the funds to return to Massachusetts to personally argue before the Appeals Court on the date scheduled hereto.

While we have been working feverishly to complete a new product, as employment for an almost 61 year old Computer Scientist is hard to find in this economy, we are not yet ready to release the product, and do not therefore have the funds to return to Massachusetts and to pay for accommodations during the appeal hearing.

We therefore are hoping to find alternative means to argue our case. We request that we be allowed to argue via Skype Video Conferencing, or in the alternative, via Telephone. Other suggestions would be to ask the Court to appoint Counsel to represent us, or at minimum, to adjourn and delay the oral arguments for six (6) months at which time we would hope that we would have the finances to travel to Massachusetts.

We believe that this is procedural and does not therefore have to be done by Motion. Please advise if we are incorrect, or if you have any other alternatives available in this matter.

Lastly, we ask that it is taken into consideration that it was the direct and deliberate actions of the Appellees that have caused us to not be available to argue this matter, and that they should not profit from their actions.”

Based solely on these facts, the Massachusetts Court of Appeals did allow the oral argument of the Plaintiffs/Appellants Appeal by Telephone. See attached *“Notice of Oral Argument By Telephone”* from the Appellate Court. Also note that the Appellate Court recognized that the threats against the Plaintiffs were real, when they allowed the Plaintiffs/Appellants to not disclose their phone number to the Defendants/Appellees' Counsel, which would have inevitably led to the discovery of the Plaintiffs' address.

It can certainly be argued that the Appeals Court considered that the Plaintiffs were

evicted, in large part, with reliance on this Court's decision, a decision that was overturned by the Massachusetts Court of Appeals.

The facts are, that the Plaintiffs are, and were, declared Indigent by this Court and the Massachusetts Court of Appeals. They do not have the funds to return to Massachusetts from thousands of miles away to attend a scheduled Rule 16 Conference. It is also a fact, that little or no burden would be placed on the Court, or the Defendants, by allowing this motion.

Further, the denial of this motion would be devastating to the Plaintiffs, once again denying them their right to a fair and impartial hearing, one that was specifically upheld by the Appeals Court when it returned this case to the Trial Court. Yet, the allowance of this motion to hear a scheduled Rule 16 Conference by telephone, a conference generally held in chambers, places arguably no burden on anyone, and certainly far less than was entailed by the Massachusetts Court of Appeals, which was held in Open Court with three (3) Justices and their staff via telephone.

The Plaintiffs argue that the denial of this motion would be an act of opportunity by the Trial Court to not follow the ruling and the example set by the Massachusetts Court of Appeals in this matter, and would effectively circumvent their order.

Also of note, also filed this day was the Plaintiffs' Emergency "*Motion To Recuse Judge Christopher J. Muse*". The Plaintiffs' Appeal contained numerous charges of bias against Judge Muse as well as numerous references to his statements in the Transcripts. Further, Judge Muse's actions in this case have been gaining large amounts of readership online, as indicated by the search results displayed when Googling his name. It has also been well published that Plaintiff Torres was reported to have been asked to head a Committee to promote the Election of Judges in Massachusetts. Plaintiff Torres has not agreed to this.

However, it would be hard to believe that Judge Muse has not seen these same stories, and that he could be an impartial jurist in this matter.

Wherefore the Plaintiffs pray that this motion be allowed for all of the facts as set forth herein. Further, it is unarguable that the Plaintiffs are legally Indigent, declared so by this and the Massachusetts Court of Appeals, and clearly they are without the funds to return to Massachusetts to attend the scheduled Rule 16 Conference. The Plaintiffs are already at a disadvantage as they are Pro Se, not by choice, but by economics. To deny them the opportunity to argue their position by telephone would clearly be punitive and would blatantly deny them their rights under the Seventh Amendment of the United States Constitution, Part 1, Article 15 of the Massachusetts Constitution and under the Due Process clauses of the 5th and 14th Amendments to the United States Constitution. Lastly, this would be a direct contradiction to, and fly in the face of, the order and the procedures employed by the Massachusetts Court of Appeals in this matter.

Respectfully submitted,

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