

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' EX PARTE MOTION FOR SHORT ORDER OF NOTICE
OR IN THE ALTERNATIVE: MOTION TO COMBINE**

NOW COMES THE PLAINTIFFS in the above entitled action and respectfully requests 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.

AS GROUNDS FOR THIS MOTION, please see the Plaintiffs' Memorandum of Law attached and entitled "Memorandum of Law in Support of Motion for Evidentiary Hearing" and "Plaintiffs' Memorandum in Support of Plaintiffs' Motion to Combine Motions, Opposition to, and to Combine With, the Scheduled Hearing of Defendant Sophie J. Torres' Motion to Cease and Desist"

IN SUMMARY THEREOF, 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.

On one thing the Plaintiffs and the Defendant Sophie J. Torres, and her Counsel agree, someone is not telling the truth and as such we strongly argue that the Court should hear sworn testimony and allow evidence that can and will, allow the truth be known to this Honorable Court.

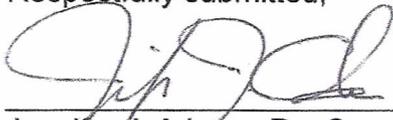
While it is certainly at this Honorable Court's discretion, the Plaintiff Jesse E. Torres III, when represented by Victor Polk, Esq. of Bingham Dana, has had numerous hearings on the specific matter of posting public documents of a court action on the Internet that were decided in his favor, see Palms 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", which is, we argue, a clear Conditions Precedent caused by him and well documented by 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

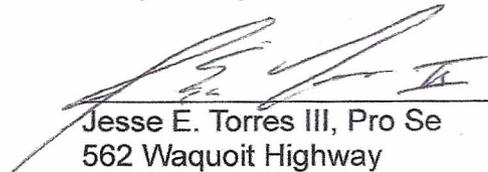
before this Honorable Court in an Evidentiary Hearing where witnesses can testify under oath in this matter, and further to postpone the Defendant's Scheduled hearing in order to allow enough time for witnesses to be found and subpoenaed to testify before this Honorable Court.

Respectfully submitted,



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jadams@jetiii.com

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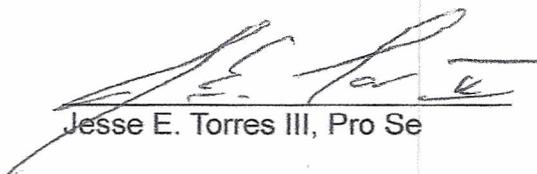


Jesse E. Torres III, Pro Se
562 Waquoit Highway
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jtorres@jetiii.com

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

COMMONWEALTH OF MASSACHUSETTS

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PLAINTIFFS' MEMORANDUM OF LAW IN SUPPORT OF MOTION OF EVIDENTIARY HEARING

The facts of this motion are contained for judicial economy, in the Plaintiffs' Memorandum entitled "Plaintiffs' Memorandum in Support of Plaintiffs' Motion to Combine Motions, Opposition to, and to Combine With, the Scheduled Hearing of Defendant Sophie J. Torres' Motion to Cease and Desist" and which are incorporated herein by reference.

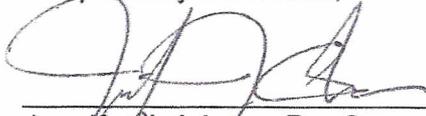
This court should grant an evidentiary hearing on defendant's motion as whether or not a motion raises a substantial issue involves a two-pronged test which considers "the seriousness of the issue itself and the adequacy of the showing that has been made with respect to that issue." Commonwealth v. Goodreau, 442 Mass. 341, 348 (2004). Thereafter, a judge should weigh "whether holding a hearing will add anything to the information that has been presented in the motion and affidavits." Id. citing Commonwealth v. DeVincent, 421 Mass. 64, 68 (1995).

While Plaintiffs have raised a great many meritorious arguments, clearly not every

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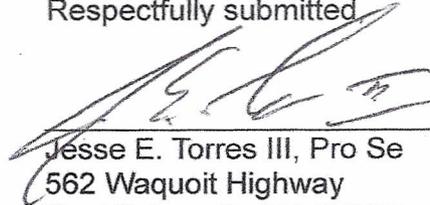
issue merits oral testimony. That said, some issues require testimony which would not only bolster the claims made but add evidence not contained in the affidavits and appendix. See DeVincent, 421 Mass. at 68. At the hearing, Plaintiffs would present several witnesses.

Respectfully submitted,



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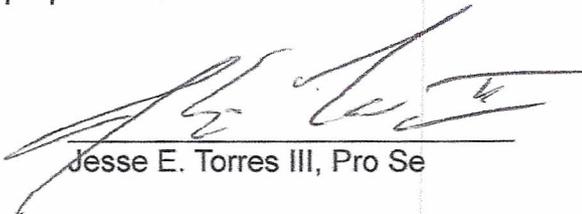


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Civil Docket # BACV2011-00433

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

NOW COMES THE PLAINTIFFS in the above entitled action and respectfully requests this Honorable Court to combine the scheduled hearing of Defendant Sophie J. Torres' Motion for Plaintiffs to Cease and Desist (Restrain) from Posting Information in the Internet scheduled for Tuesday, August 30, 2011 at 2:00 PM with the above-titled Plaintiffs' Motion, if granted, with an Evidentiary Hearing on these matters.

AS GROUNDS FOR THIS MOTION, please see the Plaintiffs' Memorandum of Law attached and entitled "Memorandum of Law in Support of Motion for Evidentiary Hearing" and "Plaintiffs' Memorandum in Support of Plaintiffs' Motion to Combine Motions, Opposition to, and to Combine With, the Scheduled Hearing of Defendant Sophie J. Torres' Motion to Cease and Desist"

IN SUMMARY THEREOF, the Defendant Sophie J. Torres and her Counsel continue their pattern and make unsubstantiated and misleading claims to this Court as if they were

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facts, and does so without any sworn affidavit by either the Defendant or her Counsel.

On one thing the Plaintiffs and the Defendant Sophie J. Torres, and her Counsel agree, someone is not telling the truth and as such we strongly argue that the Court should hear sworn testimony and allow evidence that can and will, allow the truth be known to this Honorable Court.

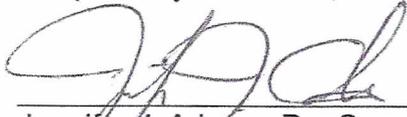
While it is certainly at this Honorable Court's discretion, the Plaintiff Jesse E. Torres III, when represented by Victor Polk, Esq. of Bingham Dana, has had numerous hearings on the specific matter of posting public documents of a court action on the Internet that were decided in his favor, see Palms 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", which is, we argue, a clear Conditions Precedent caused by him and well documented by the Plaintiffs.

WHEREFORE, the Plaintiffs pray that this Honorable Court allow 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

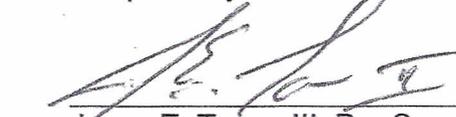
in the Internet” and allow evidence of truth to be brought before this Honorable Court in an Evidentiary Hearing where witnesses can testify under oath in this matter, and further to postpone the Defendant's Scheduled hearing in order to allow enough time for witnesses to be found and subpoenaed to testify before this Honorable Court.

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Dated August 25, 2011

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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

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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 counsel 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 matter.

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-

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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://wikinsanddeyoung.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 (Restraining) 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.

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Civil Docket # BACV2011-00433

**PLAINTIFFS' OPPOSITION TO THE DEFENDANT SOPHIE J. TORRES' MOTION TO
CEASE AND DESIST (RESTRAIN) FROM POSTING INFORMATION IN THE INTERNET**

The Plaintiffs, Jesse E. Torres III and Jennifer J. Adams, in the above-entitled matter, hereby oppose the Defendant Sophie J. Torres' Motion for Plaintiffs to Cease and Desist (Restrain) from Posting Information in the Internet., dated August 19, 2011.

AS GROUNDS FOR THIS OPPOSITION, and in the interest of judicial economy, please see the "Plaintiffs' Memorandum in Support of Plaintiffs' Motion to Combine Motions, Opposition to, and to Combine With, the Scheduled Hearing of Defendant Sophie J. Torres' Motion to Cease and Desist"

IN SUMMARY THEREOF, 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.

On one thing the Plaintiffs and the Defendant Sophie J. Torres, and her Counsel agree, someone is not telling the truth and as such we strongly argue that the Court should

hear sworn testimony and allow evidence that can and will allow the truth be known to this Honorable Court as stated in our associated motions and memorandums requesting said evidentiary hearing that are now filed with this Honorable Court.

While it is certainly at this Honorable Court's discretion, the Plaintiff Jesse E. Torres III when represented by Victor Polk, Esq. 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.

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WHEREFORE, the Plaintiffs pray that this Honorable Court deny the "Defendant Sophie J. Torres' Motion for Plaintiffs to Cease and Desist (Restrain) from Posting Information in the Internet" and further 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

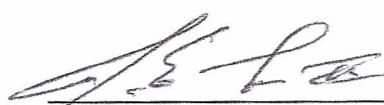
be found and subpoenaed to testify before this Honorable Court.

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August 25, 2011

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' MOTION TO STRIKE ANY AND ALL CLAIMS FROM/TO NEW ENGLAND WATCHDOGS, THE PERSONAL INTERESTS OF ATTORNEY JEREMY CARTER, DEFENDANTS NOT REPRESENTED BY MR. CARTER, ANY REFERENCES TO ANY WARNING TO "DISCONTINUE ALL INTERNET POSTINGS" WITHIN THE "DEFENDANT SOPHIE J. TORRES' MOTION FOR PLAINTIFFS TO CEASE AND DESIST (RESTRAIN) FROM POSTING INFORMATION IN THE INTERNET"

The Plaintiffs move this Honorable Court to strike from the Defendant Sophie J. Torres' Motion for Plaintiffs to Cease and Desist (Restrain) from Posting Information in the Internet, the following statements: a) any action concerning the New England Watchdogs, referred to in said motion as newwatchdogs.com, b) any relief to, or made by, and/or for the benefit of, Attorney Jeremy Carter, c) any references to this Honorable Court's non-existent "warning to discontinue all internet postings", and d) any references to any Defendants in this action not represented by Mr. Carter.

AS GROUNDS THEREOF a) The New England Watchdogs are not a named party in this lawsuit, nor in any other lawsuit before this Court, b) Attorney Jeremy Carter is not a party to this lawsuit or any lawsuit against The New England Watchdogs on which he based his

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claims, c) this Court's own records will show that there was never any warning or order to "discontinue all internet postings", and d) Mr. Carter is on record in this action as the attorney of Defendants Sophie J. Torres and Debtmerica, LLC, and should not be allowed to now name and represent possible future clients he is attempting to solicit.

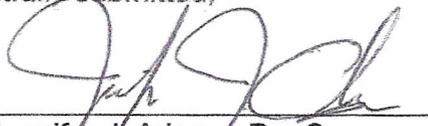
Mr. Carter is attempting to circumvent the judicial process by pleading his own causes in his client's, Defendant Sophie J. Torres', case. If Mr. Carter believes he has a claim against the New England Watchdogs' story about the Falmouth Police Department, then let him bring forth litigation against said party. We aver that Mr. Carter knows that the ultimate defense against libel is the truth, so it is highly unlikely that he has grounds for any such claim, and as such, attempts to "back door and piggy back" a claim against a third party through his client's motion.

Mr. Carter, with unmitigated gall, actually attempts to prejudice this Court by making claim of statements never made by this Court. We assert he believes that, since the hearing was before another judge, and since the Plaintiffs are representing themselves Pro Se, the Court will not bother to look up its own record to uncover the truth.

Mr. Carter, in an apparent attempt to solicit new clients, is asking this Honorable Court to take action for parties he hopes to represent in the future.

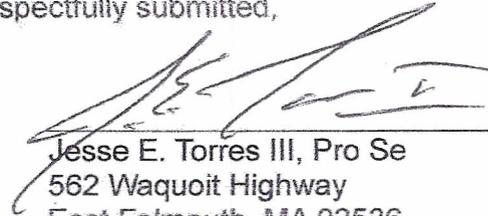
WHEREFORE, the Plaintiffs request that this Honorable Court strike all references and/or claims and/or requests, in the Defendant Sophie J. Torres' above-referenced motion to a) any action concerning the New England Watchdogs, referred to in said motion as newwatchdogs.com, b) any statement for relief to, or made by, and/or for the benefit of, Attorney Jeremy Carter, c) any and all references to this Honorable Court's non-existent "warning to discontinue all internet postings", and d) any references to and/or for, any Defendants in this action not represented by Mr. Carter.

Respectfully submitted,



Jennifer J. Adams, Pro Se
562 Waquoit Highway
East Falmouth, MA 02536
(617) 840-7880
jadams@jetiii.com

Respectfully submitted,

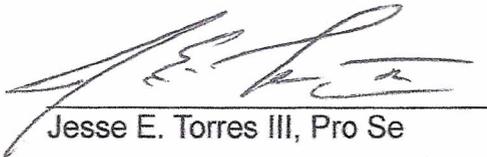


Jesse E. Torres III, Pro Se
562 Waquoit Highway
East Falmouth, MA 02536
(617) 291-0862
jtorres@jetiii.com

Dated August 29, 2011

CERTIFICATE OF SERVICE

I, Jesse E. Torres III, hereby certify that on August 29, 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

Commonwealth of Massachusetts
County of Barnstable
The Superior Court

Civil Docket BACV2011-00433

RE: Torres III et al v Torres et al

TO: Jessie E. Torres III
562 Waquoit Highway
East Falmouth, MA 02536

CLERK'S NOTICE

This is to notify you that in the above referenced case the Court's action on 08/30/2011:

RE: MOTION: by Defendant, Sophie Torres, for Plaintiffs to Cease and Desist (Restrain) from Posting Information in the Internet

is as follows:

Motion (P#9) After hearing, DENIED, although, as discussed on the record, defendants' complaint may invite the further issuance of a protective order; by the Court, Muse, Justice (Nancy N Weir, Assistant Clerk)

Dated at Barnstable, Massachusetts this 31st day of August, 2011.

Scott W. Nickerson,
Clerk of the Courts

BY: Nancy N. Weir,
Assistant Clerk

Telephone: (508) 375-6684

Copies sent 08/31/2011

COMMONWEALTH OF MASSACHUSETTS

BARNSTABLE, ss.

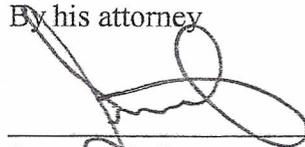
SUPERIOR COURT
NO. BACV2011-00433

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

**DEFENDANT, JESSE E. TORRES IV,
MOTION TO DISMISS FOR FAILURE TO STATE A CLAIM**

NOW COMES THE DEFENDANT, Jesse E. Torres, IV, and hereby moves to dismiss all of the Plaintiffs claims against him contained in their Complaint. In support of this motion, the Defendant attaches the accompanying Memorandum of Law.

Respectfully submitted,
Jesse E. Torres, IV,
By his attorney



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

Dated: September 7, 2011

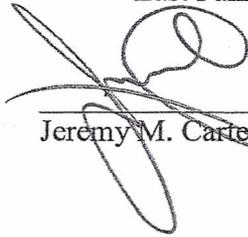
A126

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the Motion to Dismiss for Failure to State a Claim has been sent via first class mail, postage prepaid this 9 day of September, 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.

II. FACTUAL SUMMARY

Plaintiff, Jesse Torres, III is the father of Defendant, Jesse Torres, IV, who is the grandson of Defendant, Sophie Torres. In or about April 2009, the Plaintiffs, who are unmarried, induced the Defendant, Sophie Torres (at that time age approximately eighty-eight (88)), to sign a Will which the Plaintiffs drafted. In addition to the Will, the Plaintiffs had the Defendant, Sophie Torres, sign a document entitled Addendum to the Will of Sophie June Torres, Addendum I, Permanent Transfer of Property Rights and has alleged that this is a contract. This document purports to have the Defendant, Sophie Torres, transfer all of her rights in real property to the Plaintiff, Jesse E. Torres, III¹. The Plaintiffs go on to allege that at some point after this Will and document was signed that the Defendant, Sophie Torres, changed her Will and as a result breached a contract that the Plaintiffs allege existed. The Plaintiffs further state that it was certain actions taken by the Defendant, Jesse E. Torres, IV, that caused his grandmother (Sophie Torres) to change her Will.

III. LEGAL ARGUMENT

The subject matter of the Plaintiffs' Complaint concerns a will that the Plaintiffs drafted and had the Defendant, Sophie Torres, sign on or about April 24, 2009. Disregarding suspected circumstances under which this Will was executed and the motives of these specific Parties, the Plaintiffs required that the Defendant, Sophie Torres, sign a document alleging that it was an Addendum to the Will which ostensibly prohibits her from transferring her real property outside of what is contained within this April 24, 2009 will.

The reality of the cause of action is that Massachusetts case law is clear that an enforceable contract to make a will cannot be litigated for breach of contract until such time for performance has arrived, which is at the time of death. See **Johnson v. Starr**, 321 Mass. 566,

¹ No further action was ever undertaken by any Party to effectuate this transfer.

569 (1947) citing *Daniels v. Newton*, 114 Mass. Vol. 30.

All of the Plaintiffs claims against the Defendant, Jesse E. Torres, IV, stem from this alleged breach of contract. If the Court determines that there is no breach of contract or that the cause of action has not arisen at this time, then the remaining counts against the other Defendants must fail.

Taking into consideration the specific counts against the Defendant, Jesse E. Torres, IV, the Plaintiffs allege in Count V a tortious interference between the Plaintiff, Jesse Torres, III and Defendant, Sophie Torres. Ostensibly, the Plaintiffs represent that since the Defendant, Jesse E. Torres, IV, gave money to his grandmother (Sophie Torres) to help support her, he influenced her in changing her Will. There are no factual statements to reflect this claim thus the allegations do not rise to the level required under this cause of actions. Specifically, the Plaintiffs must assert that the interference by the Defendant, Jesse E. Torres, IV, was unjustified in Plaintiffs existing contractual rights. The Plaintiffs must prove a contract with which the Defendant, Jesse E. Torres, IV, has interfered without justification. Since the Plaintiffs contract is unenforceable until the Defendant, Sophie Torres, dies, interference with such a contract is not actionable.

Count VI is duplicitous with Count V and should be dismissed for that particular reason.

Count VII sets forth a claim that is not recognizable as the captions indicates "malicious intent". The body of the count indicates that Defendant, Jesse E. Torres, IV, undertook "numerous wrongful acts" without specifying what wrongful acts the Defendant, Jesse E. Torres, IV, committed. The statement of a wrongful act does not give rise to a tort enforceable in a lawsuit. In sum, Count VII does not set forth a recognizable cause of action.

Count VIII allegedly states that the Defendant, Jesse E. Torres, IV, acted in concert with others to commit fraud on the Plaintiffs. There are no representations as to what the nature of the

fraud is, or how the Defendant, Jesse E. Torres, IV, committed fraud. In all averments of fraud, the Plaintiff must state with particularity the circumstances constituting fraud. See **Mass. R.Civ.P. 9 (b); Cohen v. Santoianni, 330 Mass. 187 (1953)**.

Count IX and Count X basically allege similar causes of action in that Defendant, Jesse E. Torres, IV, made statements that were false and it harmed the Plaintiffs. There is no allegations contained within the Complaint as to what these statements are and how the Plaintiffs were damaged. There is no indication as to when these statements were made, where or how. In Count IX and X the Plaintiffs basically alleged the same cause of action. More importantly, the subject matter at hand is really an intra-family dispute. The Defendant, Jesse E. Torres, IV, is the grandson of the Defendant, Sophie Torres, and the son of the Plaintiff, Jesse Torres, III. A party cannot be held responsible for a statement or publication tending to disparage private character, if it is called for by the ordinary experience of social duty or is necessary and proper to enable him to protect his own interest or that of another, provided that it is made in good faith and without a willful design to defame. See **Gassett v. Gilbert, 6 Grey 94 (1856)**.

It is surmised, that the Plaintiffs claims goes to the fact that the Defendant, Jesse E. Torres, IV, statements disparaging his father to his grandmother. A family relationship acts as a conditional or qualified privilege.

Count XI sets forth a claim for intentional infliction of emotional distress. The elements of the tort of infliction of emotional distress are: a) an intentional act, b) amounting to extreme and outrageous conduct, c) causing severe emotional distress to another, d) by one not privileged to do so. **Restatement, 2nd Torts**. As to the type of conduct which will give rise to a cause of action the Courts in the Commonwealth have held such conduct must be “beyond all possible bounds of decency” and “utterly intolerable in a civilized community.” See **George v. Jordan**

Marsh, Co., 359 Mass. 244, 245 (1971). There are no allegations made of what type of conduct was committed by the Defendant, Jesse E. Torres, IV, to cause injury to the Plaintiffs. The cause of action for intentional infliction of emotional distress requires that the Defendants actions be without privilege. **Sullivan v. Birmingham**, 11 Mass. App. Ct. 359 (1981). Statements that were made and circumstances rendering them absolutely privileged under the law of defamation cannot form the basis of a claim for intentional infliction of emotional distress, since the privilege which protects one from liability for defamation would be of little value if the individual where subject to liability under a different tort theory. **Correllas v. Viveiros**, 410 Mass. 314 (1991). Since there are no specific statements alleged, it can only be inferred that the Plaintiffs are complaining about the Defendant, Jesse E. Torres, IV, speaking with his grandmother about the Plaintiff, Jesse E. Torres, III. Family communications are privileged and therefore no claim for emotional distress should be allowed.

The Plaintiffs in the within action, have simply set out multiple theories for the same parent cause of action. There is simply no alleged facts to warrant this cause of action, as there has been no outrageous conduct set forth.

Counts XII, XV, XVI, XVII and XVIII allege violations of Federal Law. The Plaintiffs should have filed within the United States District Court. However, if the Court concedes that it has jurisdiction pursuant to the ruling in **Tafflin v. Levitt**, 493 U.S. 455 (1990) then the Defendant, Jesse E. Torres, IV, simply asserts that the claims made under 18 U.S.C. §1962 fail to state a cause of action for which relief can be granted.

Specifically, the RICO Statute (18 U.S.C. §1962) sets forth that "it shall be unlawful for any person who has received any income derived, directly or indirectly, from a pattern of racketeering activity or through collection of an unlawful debt in which such person has

participated within the meaning of **§2, Title U.S. Code**, to use or invest, directly or indirectly any part of such income, or the proceeds of such income, in acquisition of any interest in, or the establishment or operation of, any enterprise which is engaged in or the activities of which affect, interstate or foreign commerce". See **§18 U.S. Code A, §1962**.

In the present case, the Plaintiffs are alleging that the Defendant, Jesse E. Torres, IV, along with the Co-Defendant, Donald Torres, conspired to violate this section. There is no statement or allegations made within the Complaint indicating that Jesse E. Torres, IV, received any "income" directly or indirectly and therefore, this claim must fail. The allegation in the within Complaint is that Defendant, Jesse E. Torres, IV, has used money to influence his grandmother to breach the alleged contract she had with the Plaintiff, Jesse Torres, III.

The Defendant, Jesse E. Torres, IV, asserts that Count XII alleges a violation of **§18 U.S. Code A, §2422** entitled coercion and enticement. A review of that statute (attached hereto as Exhibit A) indicates that it is inapplicable to the within subject matter of this case. That statute talks about coercing an individual to engage in prostitution. Since this statute does not apply, this count must be dismissed.

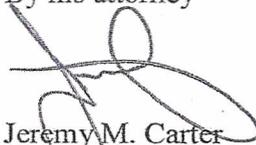
In regards to Count XVII which alleges that the Defendant, Jesse E. Torres, IV, and Co-Defendant, Donald Torres, conspired to violate federal statute listed in the Complaint as **18 U.S. C. 19.373**. Defendant believes that this is not a valid statute as listed, and if in fact, misstated, and the Superior Court had jurisdiction over this matter, it would be duplicitous with Count XI.

Count XIX alleges that the Defendant, Jesse E. Torres, IV, conspired to violate the federal statute listed in the Complaint as **18 U.S.C. 19.373** but does not indicate who he conspired with to commit this violation. Defendant, Jesse E. Torres, IV, asserts that this Honorable Court does not have jurisdiction over Counts XVII and XIX.

IV. CONCLUSION

For the foregoing reasons, Defendant, Jesse E. Torres, IV, respectfully requests that this Honorable Court dismiss all claims against the Defendant, Jesse E. Torres, IV.

Respectfully submitted,
Jesse E. Torres, IV
By his attorney



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

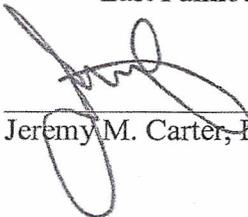
Dated: September 7, 2011

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the Memorandum of Law has been sent via first class mail, postage prepaid this 14 day of September, 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.

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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' RESPONSE AND OPPOSITION TO "DEFENDANT, JESSE E. TORRES IV,
MOTION TO DISMISS FOR FAILURE TO STATE A CLAIM"; REQUEST FOR HEARING**

The Plaintiffs, Jesse E. Torres III and Jennifer J. Adams, in the above-entitled matter, hereby oppose the Defendant Jesse E. Torres IV's Motion to Dismiss for Failure to State a Claim, dated September 7, 2011 with Certificate of Service Dated September 14, 2011, and requests a hearing on this matter.

This opposition is the third such opposition of similar motions to dismiss brought by the Defendants' Counsel to delay answering the Plaintiffs' Production of Documents and Interrogatories served on the Defendants which will clearly further support the Plaintiffs' claims.

In support of this opposition, the Plaintiffs reallege and reassert paragraphs 1 through 134 of their Complaint, which are incorporated herein by reference and all attachments to said complaint as if specifically attached hereto.

I. INTRODUCTION

The Plaintiffs, after receiving no response to the Notices of Default sent to the Defendants, did after over ten years of terror, file the above-captioned lawsuit (Lawsuit) against the four (4) Defendants, who are represented together by three separate law firms in this matter. The lawsuit contains well documented criminal acts in two (2) countries and three states, by the Defendants' criminal organization, or family, to extort funds from, and do harm to the Plaintiff Jesse E. Torres III (Jesse III). Jesse III was in Mexico, as a guest of the Mexican government, who had solicited him to open an office in Mexico for his new corporation, formed to develop the new technology he had created. Prior to the "dot-com bust", it was nearly impossible to hire programmers in the United States and as such it was necessary to look elsewhere. Both Mexican and U.S. Corporations were formed by, or in association with, the then partners of said corporations, Bingham and Dana, who, along with numerous of their attorneys, were the main (other than Jesse III and his Bankers) shareholders in these corporations. Within a year after moving to Mexico, the extortion attempts by the Defendant Donald F. Torres and his deceased son and convicted drug felon, James Kimberly Torres, began. The actions have been well documented by the criminal agencies from two (2) countries and included death threats against the Plaintiffs, which were to be executed by Hells Angles, the known associates of the Defendants.

Even though the Mexican Government issued the equivalent of a warrant in this matter for James Kimberly Torres, the Plaintiffs were advised by officers of the California DEA that they could not protect them in Mexico and that they should return to the United States. The Plaintiffs were forced to abandon their five-hundred-thousand (\$500,000) dollar home and flee Mexico and return to the only home available to them, in the mountains of California. The altitude caused the Heart Failure of Jesse III and it will statistically shorten his life by twenty

(20) or more years, and did cause him to incur approximately eighty-thousand (\$80,000) dollars in medical bills.

The Plaintiffs returned to Massachusetts approximately four years ago to a) be under the care of Jesse III's long time Doctor, b) withdraw the approximately one-hundred-fifty-thousand (\$150,000) dollars in funds left in the care of his father who, at that time, had just passed away, and c) to help his mother, the Defendant Sophie J. Torres (Mrs. Torres) whose properties were in major disrepair after the previous five years, of which her late husband, Jesse E. Torres Jr. (Dad) suffered from Alzheimer's.

When Mrs. Torres was approached by Jesse III to go with him to the Rockland Trust to withdraw the monies that belonged to Jesse III in the amount of one-hundred-fifty-thousand-dollars (\$150,000) more or less, Mrs. Torres stated to her son that she had transferred the money from Rockland Trust to Sovereign Bank and that only "around" thirty-thousand dollars (\$30,000) remained. This was devastating to the Plaintiffs as they now needed this money to live on, and to pay the large hospital bills they had incurred due to the Defendants' direct actions.

This more than one-hundred-twenty-thousand (\$120,000+) dollars used by Mrs. Torres was just a small amount when compared to the hundreds of thousands of dollars loaned to Mrs. Torres and her late husband by Jesse III after their numerous bad business ventures. These bad business ventures included an AMC Dealership with their then partner Kevin Mann, who disappeared without a trace. Shortly after this, Dad had a near-death accident which caused him stay in Falmouth Hospital for three and one half (3 1/2) months, two and a half (2 1/2) months of which were in intensive care. This left him unable to work for many years, and deeply in debt. This debt was paid for the most part, by his son, Jesse III. Jesse III and his mother, Mrs. Torres, did, in 2009, over numerous weeks, discuss the hundreds of

thousands of dollars that had been loaned to her, Dad and their numerous failed businesses, by Jesse III. It was also discussed that Dad had promised that he would repay his son, Jesse III, by selling and/or leaving him his entire estate, an estate that Dad had mainly inherited from his side of the family. These inherited properties were appraised at approximately two-million-dollars (\$2,000,000). Mrs. Torres and her son Jesse III, did agree that the money was owed to Jesse III and that the property in Mrs. Torres' and Dad's existing Will was to go to Jesse III, but that she would like to leave two lots in Florida to her adopted daughter, Mary C. Torres. The goal, at least on the part of Jesse III, was to provide a solution where all parties could benefit from the equity of the real-estate and avoid litigation. However the real estate was in major disrepair with one home literally falling down. Plaintiff Jennifer J. Adams has a masters degree in mechanical engineering and agreed to provide those services in the repair and restoration of the properties as required, as long as the Plaintiffs had a contract on the verbal agreement between Mrs. Torres and her son, Jesse III.

Mrs. Torres asked the Plaintiffs for their help in the financing, maintaining and restoring of the properties. With a copy of Quicken Will Maker, in early April 2009, the papers were generated in the exact way requested by Mrs. Torres, and she was given, as she requested, advanced copies of her Will, Health Care Proxy and Contract transferring all property rights to her son, Jesse III. She was advised to have them reviewed, by her attorney, Katheryn Wilson, and was given significant time to review the documents before their signing on April 24, 2009.

Every chance he gets, the Counsel for the Defendants touts the "*suspect circumstances*" under which these documents were signed. The attached affidavit, Exhibit "II", is from the neighbors of many years of Mrs. Torres and her late husband, Jesse E. Torres Jr. (Dad). The neighbors, retired Falmouth Police Officer Drew Framson and his wife Gail, were there during the entire signing process as witnesses and, contrary to "*suspect*

circumstances”, in their sworn affidavit, they state in part:

“...The documents which we refer to, were Last Will and Testament of Sophie J. Torres, Health Care Proxy of Sophie Torres, and Transfer of Property Rights Document. Present were Sophie J. Torres, her son Jesse Jr. [III] Jennifer Adams and ourselves. We distinctly recall that Jesse Torres Jr [III] took painstaking and methodical care to slowly read each document word for word for Sophie Torres. Sophie Torres was continuously asked by Jesse Torres Jr. [III] if she understood what was being read aloud. We further recall that Sophie Torres was given a copy to read along with. This took place at Sophie Torres kitchen table, and she asked questions and was answered by her son. Sophie neither objected to anything presented to her, and was in fact, jovial, lucid and happy throughout.

...The Notary also signed and placed a seal on the documents. Again, Sophie Torres was in our opinion fully aware what she had signed, quite happy what she had done, and had complete understanding. There is no doubt in our minds that she did this freely.”

While the Torres family home of many generations was under construction, funds were falling short to make the mortgage payments since Mrs. Torres had refused to get a standard mortgage of one-hundred-fifty-thousand-dollars (\$150,000) as she had agreed to, and instead insisted on getting a smaller and much more restrictive construction mortgage of only eighty-seven-thousand-dollars (\$87,000). Jesse III had loaned his son, the Defendant Jesse E. Torres IV (Jesse IV), eleven-thousand-dollars (\$11,000) to start Lending Point Mortgage many years previously. This loan had never been repaid to him, as had been agreed. On May 26, 2011, Jesse III emailed his son, see Exhibit “E”, requesting him to pay the money he owed his father directly to his Grandmother, Sophie J. Torres, to assist her in making mortgage payments. In an email to his father, Defendant Jesse IV, who has since become a millionaire, denied that he owed the money. With this lie along with the past ten (10) years' actions and abuse by Jesse IV, his father, Plaintiff Jesse III did disavow him.

The very next day, Mrs. Torres, who clearly affirmed that she was under the direction of Defendants Donald F. Torres and Jesse IV, did change her Will, and therefore did breach the

contract by and between Jesse III and Mrs. Torres of April 24, 2009. Defendants Mrs Torres, Debtmerica and Jesse IV were all given notice of these breaches and time to cure, which they did not. They have instead, through three (3) law-firms, spent huge amounts of monies for the sole purpose of doing harm to the Plaintiffs by denying them the monies to which they are contractually and ethically entitled. This harm to the Plaintiffs was a promise kept by the Defendant Donald F. Torres, through Jesse IV and Defendant Debtmerica LLC, (Debtmerica), due to the Plaintiffs not submitting to his and his late son's extortion attempts. Further, the Plaintiffs now believe that the Defendants blame the Plaintiffs for the death of Defendant Donald F. Torres' son, James Kimberly Torres, since it was the direct result of the Plaintiffs' reporting him to the authorities.

II. HISTORY AND FACTS

As the Defendants through Counsel have filed three (3) separate Motions to Dismiss, and the facts and history are virtually the same in all three of the Plaintiffs' Response in Oppositions, the Plaintiffs, in the interest of Judicial Economy, and in support of this Response and Opposition, have attached the Common History and Facts of these matters in their sworn Affidavit enclosed herewith.

Of specific note is that the Plaintiffs believe that they should provide such a detailed affidavit since the Defendants, through Counsel, have continually made statements that are not based on any fact and have never been supported by a sworn affidavit as required by M.S.C.R. 9(A) a, 4. Further, the Plaintiffs argue that the Defendants through Counsel have made these statements solely to prejudice this Honorable Court.

REPUDIATION OF DEFENDANTS' "FACTUAL SUMMARY"

As is now expected from the Defendants' Counsel, he once again attempts to include prejudicial and non-factual statements into his pleadings that have no sworn affidavit attached, and as such is ripe for dismissal under M.S.C.R. 9(A) a, 4. His statements are true up to and including his continual reference to the Plaintiffs' being unmarried. He uses the terms "induced" and "suspect circumstances" to state the conditions under which the Defendant Sophie J. Torres signed her Will, yet the facts as stated in the affidavit of her long term neighbors and witnesses to the documents, retired Falmouth Police Officer Drew Framson and his wife Gail, clearly repudiate this claim. While we would like to own the copyright on Intuit's Quicken Will Maker, we don't. It was the Defendant Sophie J. Torres that answered the questions in the Quicken Will Maker "Interview" and who was also left with a copy of the resulting Will, presumably to be reviewed by her attorney Kathryn Wilson. This Will was further reviewed by the parties in detail on August 24, 2009, prior to its signing, and in "*painstaking detail*", as is stated in the before-named witnesses' sworn affidavit.

IV. STANDARDS FOR CONSIDERING A RULE 12(B)(6) MOTION TO DISMISS

The Defendant Jesse E. Torres IV's Motion to Dismiss fails to meet the rigorous standards required by Rule 12(b)(6): "A court may grant the radical relief of dismissal only if the plaintiff can set forth no set of facts which would entitle [them] to relief." Coraccio, 415 Mass. at 147. It is well established that "[t]he rules of pleading in Massachusetts are generous. A cause may not be dismissed for failure to state a claim upon which relief could be granted 'unless it appears beyond doubt that the plaintiff can prove no set of facts in support of his claim which would entitle him to relief.'" Spence v. Boston Edison Company, 390 Mass. 604, 615 (1983) (citations omitted).

These “generous and indulgent criteria” reduce “a plaintiff’s obstacle in surmounting a rule 12(b)(6) motion to dismiss for failure to state a claim to a minimal hurdle,” and mean that a “plaintiff is to be given the benefit of any doubt . . . and must prevail over the motion unless it appears with certainty that he is entitled to no relief under any combination of facts that could be proved in support of his claims.” Brum v. Town of Dartmouth, 44 Mass. App. Ct. 318, 321-22 (1998) (citations omitted, emphasis in original).

The sufficiency of the claims raised in the plaintiff’s complaint is examined by accepting the allegations, and such reasonable inferences as may be drawn therefrom, as true. See Eyal v. Helen Broadcasting Corp., 411 Mass. 426 , 429 (1991)

Further, the Court may also look to materials outside of the pleadings to satisfy itself that it has subject matter jurisdiction without converting the motion for summary judgment. See Flynn v. Ohio Bldg. Restoration, Inc., 260 F. Supp. 2nd 156, 161 (D.D.C. 2003). (This paragraph hereafter referenced as Ohio Bldg. Restoration, Inc.)

The Defendant Jesse E. Torres IV has not come close to meeting this high burden.

ARGUMENT

While the Defendant through Counsel argues that the Contract is the only material matter in the Plaintiffs’ complaint, they attempt to dismiss the numerous counts, which include RICO counts, contained in the Plaintiffs’ Complaint for the acts of the Defendants which caused the loss of their \$500,000 home resulting in the Heart Failure of the Plaintiff which will statistically shorten his life by 20 years. These bad acts included, among many others, extortion and conspiracy claims.

As to the Contract by and between Plaintiff Jesse E. Torres III and Defendant Sophie J.

Torres, dated April 24, 2009, the Defendants through Counsel rely solely and wrongfully on Johnson v. Starr, 321 Mass 566, 569 (1947) citing Daniels v. Newton, 114 Mass. Vol 30, (Count I) as the basis to dismiss all of the Plaintiffs' counts against the Defendant Jesse IV arguing that there has been no breach of contract as Mrs. Torres has not died and therefore the time of performance is not yet arisen.

This is upside down logic as there was no contract in Johnson v. Starr Id., nor one that had specific penalties spelled out in clear and concise language as does the Contract between Mrs. Torres and Jesse III. Nor, in Johnson v. Starr Id., was there a "Permanent and Persistent Transfer of Property Rights" as there is in the Contract between Jesse III and Mrs. Torres. The only matter applicable from Johnson v. Starr Id. was in Count II, not Count I, where the court ruled that the Plaintiff was entitled to payment for the services provided, as are the Plaintiffs in this action for the well over two-thousand of hours of services provided to Mrs. Torres in reliance on the contract.

Realleged and Reinserted Argument

The Plaintiffs have clearly repudiated the Defendant's argument based on Johnson v. Starr, Count I Id. in their Opposition to the Defendant Sophie J. Torres' Motion to Dismiss. The Plaintiffs are herein forced to restate this same argument in this Opposition as the Defendants brought three (3) separate motions to dismiss rather than a single combined motion. In the interest of Judicial Economy, the language that follows is that same argument made by the Plaintiffs in their opposition to the motion to dismiss brought by the Defendant Sophie J. Torres, and as such, it has been inserted using a different typeface to allow His or Her Honor to do as they deem fit, if they have already read these arguments:

The Defendant and Plaintiffs agree that there was a persistent and irrevocable transfer of property rights from the Defendant Sophie J. Torres to her natural son, Plaintiff Jesse E. Torres

III through a contract entitled "PERMANENT TRANSFER OF PROPERTY RIGHTS" (hereafter referenced as "Contract") that was attached to the Will of the Defendant Sophie J. Torres.

The Defendant through Counsel appears to be arguing without basis in fact or law that the *Contract attached to the Will was dependent on the Will, which is simply not factual, nor was it ever the intent of the Contract or the Parties thereof.* It is the original Will that was in fact dependent on the terms and conditions of the Contract, as the Contract transferred permanently and persistently the property rights to properties that were the main assets of the Will.

The Will of the Defendant Sophie J. Torres is simply the trigger whereby the final transfer of the properties would be completed, and full title and deed transferred to the Plaintiff Jesse E. Torres III, upon which conveyance, and only with this conveyance, the amounts owed by the Defendant Sophie J. Torres to her natural son, Plaintiff Jesse Torres III would be considered "paid in full", or if the Will was materially altered, the amounts owed to the Plaintiff Jesse E. Torres III in the agreed to amount of one-million-six-hundred-forty-thousand dollars. (\$1,640,000) would become, and is now, fully due and payable.

The terms and penalties for the Plaintiffs' claimed breach of contract were clearly set forth in the Contract. Further, the Court has historically held that "notice that a party will not perform his contract has the same effect as a breach" See Johnson v. Starr 321 Mass. 570 (1947) in its ruling on Count II. It is without argument by the Defendant Sophie J. Torres through Counsel, that the Defendant Sophie J. Torres did in fact breach her contract with the Plaintiff Jesse E. Torres III, by changing in material part, her Will.

The Plaintiffs set forth that only the trier of fact can determine the specific meaning of "*The Permanent and Persistent Transfer of Property Rights*" which the Plaintiffs aver set up a joint use and tenancy of the properties by both the Plaintiffs and the Defendant Sophie J. Torres. Therefore, if certain actions by the Defendant Sophie J. Torres, whereby the Defendant did threaten the Plaintiffs that if they brought this action, she was going to evict the Plaintiffs from these properties and change the locks on buildings being used exclusively by the Plaintiffs, this would clearly constitute a violation of said joint use and tenancy of the properties by the Defendant Sophie J. Torres. In fact, the Defendant Sophie J. Torres has made good on her threats to the Plaintiffs including but not limited to, serving on the Plaintiffs a Notice to Quit to evict them from properties in which the Plaintiffs have a tenancy interest. In addition, the Defendant Sophie J. Torres has changed the locks on buildings where the Plaintiffs have their personal property stored. The Plaintiffs assert that these acts by the Defendant Sophie J. Torres, constitute specific breaches of contract which can ultimately only be determined by the trier of fact. Therefore the Plaintiffs aver that the Defendant Sophie J. Torres' above-named motion cannot be allowed as there are numerous issues that are not a matter of law but rather a matter of fact at issue and in dispute, and therefore the Defendant's motion is not yet ripe to be

determined by this Court. The Plaintiffs have met the burden to allege facts sufficient "to raise a right to relief above the speculative level on the assumption that all of the allegations in the complaint are true (even if doubtful in fact)." Bell Atlantic Corp.v. Twombly, 127 S. Ct. 1955, 1964-65(2007).

Even if we were to assume that the Plaintiffs' Complaint, in its prayers to the Court specific to the Defendant Sophie J. Torres, "a) adjudicate that the existing Will of the Defendant, dated April 24, 2009, be declared as the only true Will of the Defendant Sophie J. Torres..." could somehow be loosely applied to Johnson v. Starr 321 Mass. 566, 569 (Count I) as the Defendant Sophie J. Torres through Counsel claims, it is of no consequence since the contractual obligation of the Defendant Sophie J. Torres, is in the repayment of the amount agreed, of one-million-six-hundred-forty-thousand dollars (\$1,640,000) now due the Plaintiff Jesse E. Torres III, as is demanded under the Plaintiff's prayers 'b)' through 'e)' for relief from the Defendant Sophie J. Torres.

The amount now due the Plaintiff Jesse E. Torres III is well in excess of the current value of the properties as set forth in the Contract. The Plaintiffs argue that these properties provide the only means whereby the Defendant Sophie J. Torres can pay her contractual obligations to the Plaintiff Jesse E. Torres III. The evidence is weighted so heavily in favor of the Plaintiffs, that the Court, we assert, will most assuredly rule in favor of the Plaintiffs, and will therefore allow the Plaintiffs to file liens against these properties eventually leading to their sale; and said sale will most likely occur before the time of the Defendant Sophie J. Torres' death, and if not, the Defendant's argument would be moot, as the time for performance would have arrived. Therefore the Defendant's through Counsel's argument is of no consequence as there is no additional benefit or loss to the Defendant Sophie J. Torres. See: Walker v. Cronin, Supra at 565 (1871).

The Defendant Sophie J. Torres through Counsel attempts to make, and appears to base as the foundation of their motion, claims and arguments that the permanent transfer of property rights was not registered at the Barnstable County Registry of Deeds. The Defendant's argument is flawed and without judicial merit as, while it is necessary to register and record evidence of ownership of property within Massachusetts, the Plaintiff has not claimed that the property rights as defined in the Contract were a form of specific ownership, nor does the Plaintiffs' Complaint make claims against the properties other than that they were the primary asset securing the monies owed to the Plaintiff and as such were to be maintained. The Plaintiffs' claims against the Defendant Sophie J. Torres are for breach of contract, whereby all monies in the agreed to amount of one-million-six-hundred-forty-thousand dollars. (\$1,640,000) are now due and payable to the Plaintiff Jesse E. Torres III.

There was and is no statutory requirement that the Plaintiff Jesse E. Torres III register these permanent transfer of property rights, to maintain the status of his contract, nor to receive the benefit thereof.

The Defendant's through Counsel's argument is flawed as they rely on Count I in Johnson v. Starr for which the Plaintiffs have made no similar claims. In Johnson v. Starr Count I, the plaintiff made claim against the properties that were not due the plaintiff until the time of the death of the defendant. In the Contract by and between Defendant Sophie J. Torres and her natural son, Plaintiff Jesse E. Torres III, it included, but was not limited to, the permanent transfer of property rights, which included the right to live on, farm, store equipment on, use certain buildings and use for recreation, the properties. These benefits have been enjoyed by the Plaintiffs since the signing of the Contract and were not, and are not, contingent on the death of the Defendant Sophie J. Torres.

In Johnson v. Starr Count II, the Court clearly stated that the defendant's actions of changing the deed to properties promised the plaintiff was a breach of contract and as such all monies owed for services quantum meruit to the plaintiff upon said breach of contract, were owed to the plaintiff.

The Plaintiffs' claim is for breach of contract triggered, among other things, by the specific act of materially changing the Will, specific penalties that all monies owed the Plaintiff Jesse E. Torres III by the Defendant Sophie J. Torres, monies that predate the Will, would and did become fully due and payable. This was defined in the clear and concise language within the Contract :

"If any of these provisions are violated, any monies and interest (at a rate not to exceed that of a normal bank loan during the same time frames and considerations) will become fully due and payable."

Further in Johnson v. Starr 570 (Count II) the Court specifically held that the defendant, by her actions of changing the deed to the properties of that matter, had in fact breached their contract and that the defendant was ordered to pay for all of the services provided by the Plaintiff.

The Plaintiffs are owed monies for their services quantum meruit and the Plaintiff Jesse E. Torres III is owed the agreed amounts that were owed to him at the time the Contract was signed and prior to the execution of the Will of the Defendant Sophie J. Torres.

The Plaintiffs intend to amend, with leave of Court, their complaint specific to the Defendant Sophie J. Torres to include demand for payment for their services quantum meruit, which total several thousand hours of their labors, more or less, and as such the Defendant Sophie J. Torres' above-named motion cannot be considered at this time for dismissal. See Sherman v. Hallauer (1972, CAS Fla) 455 F2d 1236.

The Defendant Sophie J. Torres through Counsel, failed to consider certain language in the Contract and appears therefore unable or unwilling to recognize that had the Plaintiff Jesse E. Torres III, for the sake of argument, legally registered said property rights, this would have considerably affected or, more likely than not, eliminated the ability to finance the properties by the Defendant Sophie J. Torres, which was one of the limited rights allowed her by the Contract.

"This is a binding and durable provision except as follows: a) Sophie J. Torres is free to sell or finance the PROPERTIES while she is living if said sale or financing is required to benefit her happiness, well being or health. b) any proceeds received either directly or indirectly from the sales or financing of these properties not used by SJT will become the property of JET upon upon her death."

The Defendant Sophie J. Torres did in fact, with the assistance of the Plaintiffs, obtain much needed financing and did obtain a Reverse Mortgage on the property known as "Uncle Fred's House" on or about May 13, 2009, and did obtain a construction mortgage on the property known as "Grandma's House" on or about December 13, 2010. The Plaintiffs assert that without this financing the PROPERTIES were in jeopardy of being lost due to the financial obligations of the Defendant Sophie J. Torres, and in the case of "Grandma's House", of literally falling down through disrepair, had said financing not been obtained.

The agreed to goal of the Defendant Sophie J. Torres and her natural son, Jesse E. Torres III (hereafter referred to as "Parties") as to the properties of the Contract, was to restore them, and then to; a) sell them at the highest market value available, or b) use the property in the most expeditious way to generate the greatest financial return for the Parties. If the financing was not obtained, this would have been an unprocurable goal, a goal that both the Plaintiff and the Defendant Sophie J. Torres had wanted. In fact, the Parties had agreed to a division of profits based based on ownership of stock in a new corporation that would in fact have title to the Properties, and did contractually agree in writing, through a letter of intent, to set up the "Torres Farm Trust, Inc." upon completion of the restoration. Said agreement outlined the terms and conditions of ownership as well as specific stock obligations and was signed by the Defendant Sophie J. Torres and her natural son, Plaintiff Jesse E. Torres III on August 06, 2009. See Exhibit "EE" hereto attached. (see: Ohio Bldg. Restoration, Inc. Id.)

The above-referenced action clearly and contractually demonstrates the intentions of the Parties in respect to the Contract, to transfer title prior to the death of the Defendant Sophie J. Torres, and therefore would have made the Will inconsequential. As such, the Defendant Sophie J. Torres' argument based on Johnson v. Starr, Mass. 566, 569 (1947), (hereafter referenced as "Johnson v. Starr Count I") where in that contract the performance under said contract was based on the death of the defendant, has no application to this matter, as the Death of the Defendant Sophie J. Torres was not a consideration of the transfer of the properties to a corporation of which the Plaintiff Jesse E. Torres III would have been the majority shareholder.

Specific claims against the Defendant Jesse E. Torres IV

Count V and VI. The Defendant through Counsel argues that the Defendant Jesse IV "only gave money to his Grandmother to help support her" and that there were no factual statements to reflect the Plaintiffs' claim. Apparently, Counsel for Jesse IV failed to acknowledge the section in the Plaintiffs' Complaint, of which Count V makes specific reference to paragraphs 1 through 134. The fact is, although there are many other bad acts by the Defendant Jesse IV, it was the threat of withholding the support payments that the Plaintiffs claimed in their complaint, that caused the Defendant Mrs. Torres to Breach her contract with her son, and that bad act certainly arises to the level of Tortious and Deliberate Interference. Additionally, the Defendant Jesse IV was sent a Notice to Cease and Desist which also outlined specific bad acts by the Defendant Jesse IV. This case, through its lawful discovery, will uncover many additional facts about the Defendant Jesse IV that have already been related by the Defendant Sophie J. Torres to the Plaintiffs. Facts such as Defendant Jesse IV's statement that he was going to "teach his father a lesson".

Count VII. The Defendant through Counsel argues that the *caption of this count* ("*Malicious Intent*") doesn't say what it clearly states. To begin with, this count, as with all counts in the Plaintiffs' Complaint, reallege and reinsert paragraphs 1 through 134 of the Complaint. The Plaintiffs' Complaint clearly states numerous wrongful acts that harmed the Plaintiffs, including but not limited to, conspiring to cause, and the coercion of, the Defendant Sophie J. Torres, to breach her Contract with the Plaintiffs and therefore deprive them of one-million-six-hundred-forty-thousand-dollars (\$1,640,000) to which they are clearly entitled. The Plaintiffs argue, this is a specific wrongful act and has

caused them harm. The entire case would be viewed by any reasonable person, that it was and is the intent of the Defendant Jesse E. Torres IV to do harm to his father, the Plaintiff Jesse E. Torres III. Why else would he spend what is arguably reaching \$100,000 in legal fees, if not to do harm to the Plaintiffs? Additionally, if the Defendant is arguing the meaning of a "wrongful act", this is an issue of fact that can only be determined by the trier-of-fact and therefore, on its own merit and as a matter of law, the Court should dismiss the Defendant's motion.

Count VIII. Herein the Defendant's Counsel argues that Count VIII is for "*Fraud*", instead of the actual claim of Count VIII which is "*Conspiracy to Commit Fraud*" which has a completely different standard and as such, any reliance on Mass. R.C.P. 9(b); Cohen v. Santoianni, 330 Mass. 187 (1953), is moot. The Plaintiffs argue that the standard that must be applied is that for what was claimed in Count VIII: "*Conspiracy to Commit Fraud*", and as in all suits involving conspiracy, agreement is rarely out in the open, and proof of conscious complicity may depend upon the careful marshaling of circumstantial evidence and the opportunity to cross-examine hostile witnesses and therefore is not proper for a motion to dismiss, See Ferguson v. Omnimedia, Inc., 469 F.2d 194, 198 (1st Cir. 1972) and Hub Assoc. v. Goode, quoting Nat. Bank & Trust Co. of Chicago, 529 1257, 1261 (7th Cir. 1876).

Counts IX, X and XI. Herein, the Defendant's Counsel is apparently claiming "Grandma Grandson Privilege" and that this particular Count, which could cause the Plaintiffs to lose over one-million-four-hundred-ten-thousand-dollars (\$1,640,000), twenty-years of life, \$80,000 in medical bills and a \$500,000 home is a simple "intra-family dispute", as if the Defendant Jesse E. Torres IV's slanderous statements that defamed the character of his father Jesse E. Torres III and the Plaintiff Jennifer J. Adams, were a simple family argument.

such as what to watch on television. Yet the Defendant's Counsel cites no case, nor were the Plaintiffs able to find a case where there is any such "intra-family privilege". The facts are that Defendant Jesse IV's statements made to his grandmother, brother and aunt by adoption, were designed and made solely to attain his goal: that of having his grandmother breach her contract with the Plaintiffs thereby causing them grave harm. As such, Jesse IV's statements are clear and actionable for all of the herein referenced Courts.

Even if we were to assume for the sake of this argument, that there was an "intra-family privilege" between Jesse III, Jesse IV, and his Grandmother Mrs. Torres, the claims in these Courts were made by both of the Plaintiffs. The statement that the Plaintiff Jennifer J. Adams is not married to the Plaintiff Jesse E. Torres III, repeatedly made by Counsel for the Defendants, clearly states the fact that she is not a family member. Therefore, as the Defendant through Counsel has made no claim of separation for each of the Plaintiffs claims, he dismisses any and all of his claims to dismiss Counts IX, X, IX.

Counts IX, X and XI in the Plaintiffs' Complaint make specific reference to realleging and reinserting paragraphs 1 through 134 of said Complaint, which includes numerous references to slanderous statements that defamed the Plaintiffs' character made by the Defendant which could only be determined, by any reasonable person, to have caused them Emotional Distress.

Counts IX and X. The Defendant through Counsel argues that any statements that were made by Jesse IV were made without a willful intent to defame, relying on Gassett v. Gilbert, 6 Grey 94 (1856). Statements such as, "*I'm going to teach him a lesson*", "*it's time he stands on his own two feet like a man*", "*my father is just plain no-good*" are just a few of the many slanderous statements made with malice by the Defendant Jesse IV in order to facilitate his goal of causing harm to his father, the Plaintiff Jesse III and the Plaintiff Jennifer J. Adams.

Counsel for the Defendant relies on Gassett v. Gilbert Id. to argue the fact that Jesse IV was protecting his interest when making these statements, and yet he had no interest in any of the properties of this action.

Count XI. Herein, the Defendant's Counsel appears to be claiming that denying the Plaintiffs their retirement monies owed by the Defendant Sophie J. Torres in the amount of one-million-six-hundred-forty-thousand dollars (\$1,640, 000) and evicting them from the properties for which they have received the permanent and persistent property rights, and to deny them the monies and benefits of the thousands of hours of their services provided to the Defendant Sophie. J. Torres, the loss of the Plaintiffs' home due to death threats, the statistically significant loss of life of twenty (20) years from the Plaintiffs Jesse E. Torres III, nor the loss of the Plaintiffs family home, did not cause the Plaintiffs any "distress". And these are just a few of those actions named in the Plaintiffs' Complaint. There is no privilege when the acts of a party are illegal and/or are solely designed to do harm to another. While we could not find the page quoted by the Defendant's Counsel at the official Massachusetts Cases website, published by the Massachusetts Courts, we believe they are relying on Sullivan v. Birmingham, 11 Mass. Ct. 359 (1981) to claim that the statements by the Defendant Jesse E. Torres IV were privileged. In Sullivan v. Birmingham, Id. the privilege was upheld as the claim was against the statements made in a Complaint in an action before the Court. The Statements made by the Defendant Jesse IV were not made in any pleadings, but rather for the sole purpose of inflicting harm on the Plaintiffs, and as such, their argument based on Sullivan v. Birmingham, Id. is not even loosely applicable, and it should not be considered by this Court.

The Defendant through Counsel then moves on to claim that we have moved on

to a different claim, again based on non-existent privilege, and that in Correllas v. Viveiros, 410 Mass. 314 (1991), where privilege was upheld when the party gave testimony to the Police with his attorney present. As there was no claim in the Defendant through Counsel's argument of any attorney being present during the statements made by the Defendant Jesse E. Torres IV, any and all arguments made based on said case should not be allowed.

Counts XII, XV, XVI, XVII and XVIII. This Court clearly has jurisdiction over the claimed violations of Federal Law pursuant to Tafflin v. Levitt, 493 U.S. 455 (1990).

Counsel once again argues as if these counts did not reallege and reassert paragraphs 1 through 134, 34+ pages of single spaced specific and actionable bad acts by the Defendants.

U.S. Code 1962. Counsel for the Defendant bases his argument on U.S. Code 1962 (a) and fails to recognize the clear language of U.S. Code 1962 (b), (c) and (d) as follows:

- (b) It shall be unlawful for any person through a pattern of racketeering activity or through collection of an unlawful debt to acquire or maintain, directly or indirectly, any interest in or control of any enterprise which is engaged in, or the activities of which affect, interstate or foreign commerce.
- (c) It shall be unlawful for any person employed by or associated with any enterprise engaged in, or the activities of which affect, interstate or foreign commerce, to conduct or participate, directly or indirectly, in the conduct of such enterprise's affairs through a pattern of racketeering activity or collection of unlawful debt.
- (d) It shall be unlawful for any person to conspire to violate any of the provisions of subsection (a), (b), or (c) of this section.

Although unclear, Counsel for the Defendant appears to be arguing that he missed the numerous claims against his client in the Plaintiffs' Complaint including distributing drugs from Mexico throughout the United States, to name just one of the many stated in the Plaintiffs' Complaint.

18 U.S. Code A. 2422. The Plaintiffs do agree that the law stated was not correct but assert that their claims Coercion against the Plaintiff Jesse E. Torres IV are well documented in their complaint and pray the Court will allow them to amend their complaint to contain the proper claim for what was the Coercion of Sophie J. Torres by the Defendants Jesse E. Torres IV, Debtmerica and Donald F. Torres.

18 U.S. Code C. 19.373. The Plaintiffs clearly stated in Count XVII that the Defendant Jesse E. Torres IV did conspire with Donald F. Torres and his deceased son James Kimberly Torres. In Count XIX of the Plaintiffs' Complaint, the Plaintiffs did make an easily correctable error as this Count should have been filed against the Defendants Jesse E. Torres IV and Sophie J. Torres, who was his co-conspirator in this act. We pray the Court will let us amend our Complaint to correct this error.

CLOSING

There are numerous facts in dispute as stated above that will only be clarified during the discovery process or by the adjudication by the trier of fact. It is far too early during this case and its discovery to determine the facts of this case. A Rule 12(b)(6) motion must be based only on an analysis of the facts in the complaint, facts from which the Court must draw all possible inferences favorable to the plaintiffs. See Coraccio, 415 Mass. At 147. Based only on a consideration of those facts and all favorable inferences to be drawn from them, the Plaintiffs have shown that the Defendant Jesse E. Torres IV's Motion to Dismiss should be denied.

Specific notices by the Plaintiffs, which include Production of Documents and Interrogatories, have been served on Defendants Sophie J. Torres, Debtmerica and Jesse IV, and will prove or deny many of their claims against the Defendant Jesse E. Torres IV.

The Plaintiffs Complaint contains numerous claims of conspiracy and as in all suits involving conspiracy, agreement is rarely out in the open, and proof of conscious complicity may depend upon the careful marshaling of circumstantial evidence and the opportunity to cross-examine hostile

witnesses and therefore is not proper for a motion to dismiss, See Ferguson v. Omnimedia, Inc., 469 F.2d 194, 198 (1st Cir. 1972) and Hub Assoc. v. Goode, quoting Nat. Bank & Trust Co. of Chicago, 529 1257, 1261 (7th Cir. 1876).

CONCLUSION

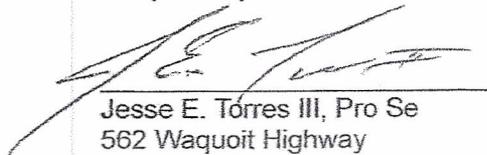
For all of the reasons stated above, this Court should deny the Defendant Jesse E. Torres IV's Motion to Dismiss for Failure to State a Claim. Alternatively, if the Court is inclined to grant Defendant Jesse E. Torres IV's motion on the basis of failure to state a claim, the Plaintiffs then respectfully request leave to amend their claim to plead additional facts and more detailed allegations in support thereof.

Respectfully submitted,



Jennifer J. Adams, Pro Se
562 Waquoit Highway
East Falmouth, MA 02536
(617) 840-7880
jadams@tstfi.com

Respectfully submitted,

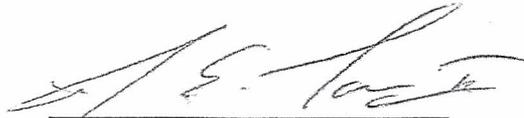


Jesse E. Torres III, Pro Se
562 Waquoit Highway
East Falmouth, MA 02536
(617) 291-0862
jtorres@tstfi.com

Dated September 26, 2011

CERTIFICATE OF SERVICE

I, Jesse E. Torres III, hereby certify that on September 26 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

EXHIBIT "II"

DREW M. FRAMSON
GAIL L. FRAMSON
64 FAIRFIELD STREET
REHOBOTH, MA 02769

AFFIDAVIT

Under the Pains and Penalties of Perjury we do hereby state the following:

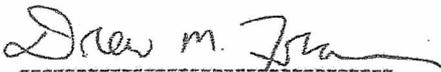
We are husband and wife, and formerly owned and resided at #5 Carriage Shop Road, Waquoit, MA 02536. We lived next to our next door neighbors Jesse and Sophie Torres for over 10 years. We consider the Torres Family to be good friends, and are also very good friends with Jesse Torres Jr. their son and his companion Jennifer Adams. Jesse Torres Sr. passed away in 2007, leaving his widow Sophie Torres living alone.

Upon Jesse Sr, passing away, The Torres's son Jesse Jr aka "Jet" and Jennifer Adams both moved from their Mexico home to live with Sophie Torres. Although elderly, Sophie Torres is extremely vibrant, active and of complete sound mind. This was especially true in April of 2009. On April 24, 2009, we were both asked to come next door, at 562 Waquoit Highway, Waquoit Ma, the Torres household, to witness several legal transactions between Jesse Torres Jr. and his mother Sophie.

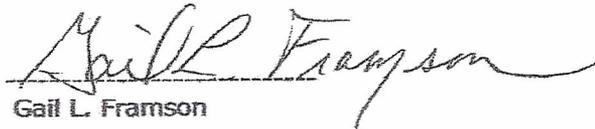
The documents which we refer to, were Last Will and Testament of Sophie Torres, Health Care Proxy of Sophie Torres, and Transfer of Property Rights Document. Present were Sophie Torres, her son Jesse Jr, Jennifer Adams and ourselves. We distinctly recall that Jesse Torres Jr. took painstaking and methodical care to slowly read each document word for word for Sophie Torres. Sophie Torres was continuously asked by Jesse Torres Jr. if she understood what was being read aloud. We further recall that Sophie Torres was given a copy to read along with. This took place at Sophie Torres kitchen table, and she asked questions and was answered by her son. Sophie neither objected to anything presented to her, and was in fact, jovial, lucid and happy throughout.

At the completion of Jesse Torres and Sophie Torres review of the paperwork, we recall all driving together to United Parcel Service Store (UPS) on East Falmouth Highway, Falmouth for Notary Service and signing of the documents. At the UPS Store, a Notary Public was on duty, and in addition to Jesse Torres Jr and Sophie Torres signing, we signed as witness to the transactions. The Notary also signed and placed a seal on the documents. Again, Sophie Torres was in our opinion fully aware what she had signed, quite happy what she had done, and had complete understanding. There is no doubt in our minds that she did this freely.

Signed Under The Pains and Penalties of Perjury, This 19th Day of September 2011



Drew M. Framson



Gail L. Framson

A155

EXHIBIT "II"

Kathleen E. Vieira

Notary

My Commission Expires:

3/16/2012

KATHLEEN E. VIEIRA
NOTARY PUBLIC
Commonwealth of Massachusetts
My Commission Expires March 16, 2012

A156