

COMMONWEALTH OF MASSACHUSETTS
DEPARTMENT OF THE TRIAL COURT

HAMPDEN, SS.

DISTRICT COURT DEPARTMENT
PALMER DIVISION
CIVIL ACTION NO. 1143CV293

Brian Johnson,)
Plaintiff)
)
v.)
)
Peter Frei,)
Defendant)

**DEFENDANT’S EX PARTE EMERGENCY MOTION TO INFORM
THIS HONORABLE COURT OF OPPOSING COUNSEL’S
DEPLORABLE VIOLATION OF HER ATTORNEY’S OATH AND
PROCEDURAL RULES.**

Attorney Tani Sapirstein, in her signed opposition to defendant’s motion to dismiss, deliberately made a false statement to this court designed to trick this Court into denying defendant’s motion to dismiss and thereby prejudice the defendant.

While Sapirstein’s omission of the all important term “aggrieved party,” and its definition as it applies to a civil matter can be explained as “zealous advocacy,” Sapirstein’s claim that a specific statement by the SJC was pertaining to A CIVIL CASE when it was made as part of an opinion in A CRIMINAL CASE is fraud on this court and prejudice to the defendant.

On page three, Sapirstein states:

Contrary to Frei's representation to this Court, the Supreme Judicial Court expressly rejected the requirement of a reasonable expectation of privacy as an element of a civil action claim under G.L. c.272, §99Q. "[W]e would render meaningless the Legislature's careful choice of words if we were to interpret 'secretly' as encompassing only those situations where an individual has a reasonable expectation of privacy." Id at 601, citations omitted.

Sapirstein's claim, "the Supreme Judicial Court expressly rejected the requirement of a reasonable expectation of privacy as an element of a civil action claim under G.L. c.272, §99Q," is a **DELIBERATE FALSEHOOD!**

The statement, "we would render meaningless the Legislature's careful choice of words if we were to interpret 'secretly' as encompassing only those situations where an individual has a reasonable expectation of privacy," was made by the Supreme Judicial Court in a **CRIMINAL CASE AND NOT IN A CIVIL CASE AS SAPIRSTEIN FALSELY CLAIMS!**

The Supreme Judicial Court cited *Commonwealth v. Jackson*, 370 Mass. 502 (1976) on page 601 in *Commonwealth v. Hyde*, 434 Mass. 594, 601 (2001).

Jackson and Hyde (supra), are both criminal cases.

G.L. c.272, s.99Q, which provides a civil remedy to an "aggrieved person," is not even mentioned in *Jackson* (supra).

Sapirstein's statement, if true, would render defendant's argument in his motion to dismiss to be entirely without merit.

Sapirstein's statement is beyond zealous advocacy and intended to harm the orderly administration of justice.

Sapirstein should be aware that there *are* limits to the zealously with which a client's interests may be pursued, primarily because of the lawyer's overriding duty to the courts and the administration of justice. G.L. c. 221, § 38; *see In re Crossen*, 450 Mass. 533 (2008); *In re Neitlich*, 413 Mass. 416, 423 (1992).

Mass. R. Prof. C. 1.3 and 3.3, make it clear that the lawyer's first duty is to the courts, tribunals, and justice system as a whole.

Sapirstein's conduct is also in violation of Mass. R. Civ. P. rule 11(a).

Plaintiff had no opportunity to read Sapirstein's opposition. Sapirstein handed defendant a copy during the motion hearing. Plaintiff has no other way to bring this matter to this Court's attention in a timely fashion.

Respectfully submitted,

Peter Frei
101 Maybrook Road
Holland, MA 01521
Phone: (413) 245 4660

July 21th, 2011

Peter Frei

CERTIFICATE OF SERVICE:

I hereby certify that a true copy of the above document was served upon the following by first class mail, postage prepaid:

Sapirstein & Sapirstein, P.C.
Tani E. Sapirstein,
1350 Main Street, 12th Floor
Springfield, MA 01103

July 21th, 2011

Peter Frei