

COMMONWEALTH OF MASSACHUSETTS
TRIAL COURT OF THE COMMONWEALTH

HAMPDEN, ss.

District Court Department
Palmer Division
Civil Action No. 1143CV000293

BRIAN JOHNSON

Plaintiff/Defendant-in-Counterclaim

v.

PETER FREI

Defendant/Plaintiff- in-Counterclaim

NOTICE OF APPEAL

1. Brian Johnson, Plaintiff/Defendant-in-Counterclaim ("Johnson") is the designated party which is filing this appeal.

2. The legal issues presented in this appeal are the insufficiency of evidence, as a matter of law, to support the jury verdict on the claim for violation of the Civil Rights Act. Specifically, there was insufficient evidence to support the essential element that any interference or attempted interference of Defendant/Plaintiff-in-Counterclaim, Peter Frei's ("Frei") constitutional rights was by threats, intimidation or coercion. The jury verdict is contrary to the Supreme Judicial Court decision in *Kennie v. Natural Resource Dept. of Dennis*, 451 Mass. 754, 765 (2008) which noted that "[A] certain amount of verbal 'posturing' and 'huffing and puffing' is 'not uncommon during neighborhood disputes, especially those wending their way through town hall en route to litigation.'" The evidence supported the conclusion that any dispute between Johnson and Frei was just this type of neighborhood dispute between a citizen of the Town of Holland (Frei) and an elected official (Johnson).


3. Johnson appeals the entry of judgment in favor of Frei on the claim for violation of Mass. General Laws c.12, §11I (the "Civil Rights Act") and the denial of Johnson's Motion for Judgment Notwithstanding the Verdict by the Court (Poehler, J.).

4. A copy of the decision on Johnson's Motion for Judgment Notwithstanding the Verdict is attached hereto.

5. The required form for ordering a cassette copy of the electronic recording of the jury trial and the requisite fee are attached hereto.

Respectfully submitted,

The Plaintiff/Defendant-in-Counterclaim,
Brian Johnson,
By His Attorney,



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Dated: January 24, 2014

CERTIFICATE OF SERVICE

I hereby certify that I caused a copy of the foregoing document to be served upon the following by first class mail, postage prepaid, to:

Henry L. Rigali, Esq.
78 Maple Street
Springfield, MA 01105-1813

Dated: January 24, 2014

Tani E. Sapirstein
Tani E. Sapirstein