

COMMONWEALTH OF MASSACHUSETTS  
DEPARTMENT OF THE TRIAL COURT

HAMPDEN, SS.

DISTRICT COURT DEPARTMENT  
PALMER DIVISION  
CIVIL ACTION NO. 1143CV293

<b>Brian Johnson,</b>	)	<b>REPLY TO PLAINTIFF'S</b>
Plaintiff	)	<b>OPPOSITION TO</b>
<b>v.</b>	)	<b>DEFENDANT'S</b>
<b>Peter Frei,</b>	)	<b>MOTION FOR LEAVE</b>
Defendant	)	<b>TO REOPEN DISCOVERY</b>

Johnson's counsel's choice of words is misleading;  
Frei has nothing to concede. A correct application of  
the term "concede" would read like:

Johnson concedes that he solicited and accepted taxpayer's funds for his suit against Frei. Johnson also concedes that Frei had no way of knowing about the illegal payments he accepted from the town as it was done in secrecy. Johnson also concedes that he sued Frei to 'deter' and 'discourage' Frei from filing petitions against him (Johnson), and that he revealed this fact under oath to the State Ethics Commission. Johnson concedes that these facts came to light when the State Ethics Commission published its PEL (Public Education Letter) two years after trial.

Johnson seems to argue that Frei's abuse of process counterclaim somehow was not plead detailed enough. Frei leaves it up to this court to judge; for the court's convenience here par. 31 of his, "defendant's substituted answer, affirmative defenses, counterclaims and jury demand:"

31. Fully aware of the above and knowing he had neither suffered nor is able to prove damages, Brian Johnson filed the instant law suit, caused legal process to be served upon Peter Frei for an ulterior or illegitimate purpose, including but not limited to a coercive effort to silence and deter Peter Frei from availing himself of his legal right to seek redress and to hold Brian Johnson accountable for his actions.

In the interest of justice, it is an imperative to allow Frei to do discovery on these issues. Even so Frei is appearing pro se and has no experience, with the facts that came to light in the PEL, combined with facts already on record, Frei will be able to secure a judgment in his favor by filing a summary judgment motion. This will avoid another costly (and awkward pro se) jury trial.

In his opposition, Johnson clearly expresses that he does not like Frei to be allowed to do discovery on these issues which only came to light after trial but in part before judgment issued.\<sup>1</sup>/

**However, Johnson fails to advance any tenable legal argument, any rule, law, or case law, which would support his request to this court to deny Frei's motion.** Furthermore, Johnson failed to rebut any of Frei's arguments he made in his motion. Frei's request is well within M.R.Civ.P. 26(a).

**WHEREFORE,** Frei respectfully prays your honor, to grant his Motion.

Respectfully written and submitted by the defendant,

Peter Frei  
101 Maybrook Road  
Holland, MA 01521  
phone (413) 245 4660  
February 12<sup>th</sup>, 2019,

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Peter Frei

**PS:** Frei inadvertently failed to attach Exhibit 2 to his motion and is attaching it to this document.

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1 The PEL (Public Education Letter issued by the State Ethics Commission) is part of the record on appeal as already outlined in detail in his motion.

**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:

Tani E. Sapirstein,  
Sapirstein & Sapirstein, P.C.  
1331 Main Street, 2<sup>nd</sup> Floor  
Springfield, MA 01103

February 12<sup>th</sup>, 2019,

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Peter Frei