

Appendix A
APP-1

**United States Court of Appeals
For the First Circuit**

No. 17-1929

TANYA STEELE,

Plaintiff, Appellant,

v.

JOHN PEDRO, JR., John Pedro Real Estate Associates,

Defendant, Appellee,

US DEPARTMENT OF HOUSING & URBAN DEVELOPMENT; HAPHOUSING,

Defendants.

Before

Torruella, Lynch and Thompson,
Circuit Judges.

JUDGMENT

Entered: November 27, 2018

This court issued an order for plaintiff-appellant Tanya Steele to show cause why appeal 17-1929 should not be dismissed for lack of finality. The appellant has filed a pro se response, which we have considered. The theories of appellate jurisdiction offered by the appellant are unpersuasive, and as such, her interlocutory appeal must be dismissed. See U.S. Fidelity & Guar. Co. v. Arch Ins. Co., 578 F.3d 45, 55 (1st Cir. 2009) (burden of establishing appellate jurisdiction rests with party invoking it).

Dismissed. See Local Rule 27.0(c).

By the Court:

Maria R. Hamilton, Clerk

Appendix A

APP-2

**United States District Court
District of Massachusetts (Springfield)
CIVIL DOCKET FOR CASE #: 3:17-cv-30049-MGM**

Steele v. United States Department of Housing and Urban
Development et al
Assigned to: Judge Mark G. Mastroianni
Case in other court: USCA - First Circuit, 17-01929
Cause: 28:1983 Civil Rights

Date Filed: 04/24/2017
Jury Demand: None
Nature of Suit: 440 Civil Rights: Other
Jurisdiction: U.S. Government
Defendant

Plaintiff

Tanya Steele

represented by **Tanya Steele**
928 Berkshire Avenue
Indian Orchard, MA 01151
(413) 297-9801
PRO SE

V.

Defendant

**United States Department of Housing
and Urban Development**

represented by **Susan M. Poswistilo**
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Defendant

HAPhousingrepresented by **Jonathan J. Kane**

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Defendant**John Pedro, Jr.***John Pedro Real Estate Associates*

Date Filed	#	Docket Text
04/24/2017	<u>1</u>	COMPLAINT against John Pedro, Jr, HAPhousing, United States Department of Housing and Urban Development, filed by Tanya Steele. (Attachments: # <u>1</u> Cover & Category Sheets) (Lindsay, Maurice) (Entered: 04/24/2017)
04/24/2017	<u>2</u>	MOTION for Leave to Proceed in forma pauperis by Tanya Steele. (Lindsay, Maurice) (Entered: 04/24/2017)
04/24/2017	<u>3</u>	NOTICE of Case Assignment. Magistrate Judge Katherine A. Robertson assigned to case. Plaintiff's counsel, or defendant's counsel if this case was initiated by the filing of a Notice of Removal, are directed to the Notice and Procedures regarding Consent to Proceed before the Magistrate Judge which can be downloaded here . These documents will be mailed to counsel not receiving notice electronically. (Lindsay, Maurice) (Lindsay, Maurice). (Entered: 04/24/2017)
04/24/2017	<u>4</u>	General Order 09-1, dated January 6, 2009 regarding the E-Government Act and Personal Identifiers entered. (Lindsay, Maurice) (Entered: 04/24/2017)

05/02/2017	<u>5</u>	Magistrate Judge Katherine A. Robertson: ORDER entered granting <u>2</u> Motion for Leave to Proceed in forma pauperis (PSSA, 5) (Entered: 05/02/2017)
05/30/2017	<u>6</u>	AMENDED COMPLAINT against John Pedro, Jr, HAPhousing, United States Department of Housing and Urban Development, filed by Tanya Steele. (Lindsay, Maurice) (Main Document 6 replaced on 6/16/2017) (Lindsay, Maurice). (Entered: 05/30/2017)
06/06/2017	<u>7</u>	Summons Issued as to HAPhousing, John Pedro, Jr, United States Department of Housing and Urban Development. Counsel receiving this notice electronically should download this summons, complete one for each defendant and serve it in accordance with Fed.R.Civ.P. 4 and LR 4.1. Summons will be mailed to plaintiff(s) not receiving notice electronically for completion of service. (Healy, Bethaney) (Entered: 06/06/2017)
06/30/2017	<u>8</u>	SUMMONS Returned Executed John Pedro, Jr served on 6/26/2017, answer due 7/17/2017. (Lindsay, Maurice) (Additional attachment(s) added on 7/20/2017: # <u>1</u> Exhibits) (Lindsay, Maurice). (Entered: 06/30/2017)
06/30/2017	<u>9</u>	SUMMONS Returned Executed United States Department of Housing and Urban Development served on 6/26/2017, answer due 7/17/2017. (Lindsay, Maurice) (Additional attachment(s) added on 7/20/2017: # <u>1</u> Return Receipt) (Lindsay, Maurice). (Entered: 06/30/2017)
06/30/2017	<u>10</u>	SUMMONS Returned Executed HAPhousing served on 6/26/2017, answer due 7/17/2017. (Lindsay, Maurice) (Additional attachment(s) added on 7/20/2017: # <u>1</u> Return Receipt) (Lindsay, Maurice). (Entered: 06/30/2017)
06/30/2017	<u>11</u>	SUMMONS Returned Executed United States Department of Housing and Urban Development served on 6/26/2017, answer due 7/17/2017. (Lindsay, Maurice) (Additional attachment(s) added on 7/20/2017: # <u>1</u> Return Receipt) (Lindsay, Maurice). (Entered: 06/30/2017)
06/30/2017	<u>12</u>	SUMMONS Returned Executed as to US Attorney by Tanya Steele. (Lindsay, Maurice) (Entered: 06/30/2017)
07/17/2017	<u>13</u>	NOTICE of Appearance by Pascale Desir on behalf of HAPhousing (Lindsay, Maurice) (Entered: 07/17/2017)
07/17/2017	<u>14</u>	ANSWER to <u>6</u> Amended Complaint by HAPhousing.(Lindsay, Maurice) (Entered: 07/17/2017)
07/17/2017	<u>15</u>	MOTION TO DISMISS FOR FAILURE TO STATE A CLAIM by HAPhousing.(Lindsay, Maurice) (Entered: 07/17/2017)
07/31/2017	<u>16</u>	Plaintiff's Opposition re <u>15</u> MOTION TO DISMISS FOR FAILURE TO STATE A CLAIM filed by Tanya Steele. (Lindsay, Maurice) (Entered: 07/31/2017)
08/02/2017	<u>17</u>	Request for notice of default by Tanya Steele. (Lindsay, Maurice) (Entered: 08/02/2017)
08/02/2017	<u>18</u>	NOTICE: Clerk's ENTRY OF DEFAULT as to John Pedro, Jr (Lindsay, Maurice) (Entered: 08/02/2017)

08/02/2017	19	ELECTRONIC NOTICE of Case Reassignment. Judge Mark G. Mastroianni assigned to case. If the trial Judge issues an Order of Reference of any matter in this case to a Magistrate Judge, the matter will be transmitted to Magistrate Judge Katherine A. Robertson. (adminn,) (Entered: 08/02/2017)
08/16/2017	20	Judge Mark G. Mastroianni: ELECTRONIC ORDER entered re 18 Notice of Default. Pursuant to Fed. R. Civ. P. 55(c), the court sue sponte sets aside the entry of default as to John Pedro, Jr. Plaintiff's return of service (Dkt. No. 8) indicates Mr. Pedro was served via certified mail. However, an individual within the United States may not be served through certified mail under applicable federal and state rules. Specifically, Rule 4(e) of the Federal Rules of Civil Procedure provides that "an individual -- other than a minor, an incompetent person, or a person whose waiver has been filed -- may be served in a judicial district of the United States by: (1) following state law for serving a summons in an action brought in courts of general jurisdiction in the state where the district is located or where service is made; or (2) doing any of the following: (A) delivering a copy of the summons and of the complaint to the individual personally; (B) leaving a copy of each at the individual's dwelling or usual place of last abode with someone of suitable age and discretion who resides there; or (C) delivering a copy of each to an agent authorized by appointment or by law to receive service of process." Pursuant to subpart (1), which references state law, the applicable Massachusetts Rule of Civil procedure provides that service shall be made "[u]pon an individual by delivering a copy of the summons and of the complaint to him personally; or by leaving copies thereof at his last and usual place of abode; or by delivering a copy of the summons and of the complaint to an agent authorized by appointment or by statute to receive service of process, provided that any further notice required by such statute be given. If the person authorized to serve process makes return that after diligent search he can find neither the defendant, nor defendant's last and usual abode, nor any agent upon whom service may be made in compliance with this subsection, the court may on application of the plaintiff issue an order of notice in the manner and form prescribed by law." Mass. R. Civ. P. 4(d)(1). Accordingly, "neither Rule 4 [of the Federal Rules] nor its state counterpart provides for service upon individuals by certified or registered mail." Carter v. Spencer, 2016 WL 6905375, at *2 (D. Mass. Nov. 22, 2016). But see Fed. R. Civ. P. 4(i) (permitting service on the Unites States, its agencies, corporations, and officers or employees sued in an official capacity by registered or certified mail). Moreover, service must be made by a "person who is at least 18 years old and not a party" to the action. Fed. R. Civ. P. 4(c)(2); see also Mass. R. Civ. P. 4(c). Because Mr. Pedro was not properly served, Plaintiff was not entitled to an entry of default. See Awadh v. Tournau, 2017 WL 1246326, at *4 (D. Mass. Feb. 17, 2017) ("A Plaintiff, however, is cannot obtain a default entry or judgment when the defendant was not provided with proper service of process."); McLarnon v. Deutsche Bank Nat. Tr. Co., 2014 WL 793570, at *6 (D. Mass. Feb. 25, 2014) ("[S]ufficient service of process is a prerequisite to entry of default."). In view of the complexity of these rules and Plaintiff's attempt to serve Mr. Pedro, however, the court finds good cause to extend the time to complete service of process. Plaintiff shall accomplish service of process, in accordance with Fed. R. Civ. P. 4 and Local Rule 4.1, by October 16, 2017. (Lindsay, Maurice) (Entered: 08/16/2017)

08/24/2017	<u>21</u>	<i>Plaintiff's Opposition to Defendant's Motion to Vacate a Default Judgment</i> by Tanya Steele. (Attachments: # <u>1</u> Exhibit) (Bartlett, Timothy) (Entered: 08/24/2017)
08/25/2017	<u>22</u>	MOTION TO DISMISS FOR FAILURE TO STATE A CLAIM , MOTION to Dismiss for Lack of Jurisdiction (Responses due by 9/8/2017) by United States Department of Housing and Urban Development.(Goodwin, Karen) (Main Document 22 replaced on 8/28/2017 with motion with the correct case number on it.) (Finn, Mary). Modified on 8/28/2017 (Finn, Mary). (Entered: 08/25/2017)
08/25/2017	<u>23</u>	MEMORANDUM in Support re <u>22</u> MOTION TO DISMISS FOR FAILURE TO STATE A CLAIM MOTION to Dismiss for Lack of Jurisdiction filed by United States Department of Housing and Urban Development. (Attachments: # <u>1</u> Affidavit)(Goodwin, Karen) (Main Document 23 replaced on 8/28/2017 with memorandum with the correct case number on it.) (Finn, Mary). Modified on 8/28/2017 (Finn, Mary). (Entered: 08/25/2017)
08/25/2017	<u>24</u>	NOTICE of Appearance by Karen L. Goodwin on behalf of United States Department of Housing and Urban Development (Goodwin, Karen) (Main Document 24 replaced on 8/28/2017) (Lindsay, Maurice). (Entered: 08/25/2017)
08/28/2017	25	Notice of correction to docket made by Court staff. The notice of appearance Dkt. No. 24, was edited because the form was incorrectly filed in it's original interactive format. All fill-able adobe acrobat Interactive forms should be converted to pdf after the form is completed, so that the form can not be modified when it is filed. The unconverted notice of appearance form have been converted and replaced. (Lindsay, Maurice) (Entered: 08/28/2017)
08/28/2017	26	Judge Mark G. Mastroianni: ELECTRONIC ORDER entered. re <u>21</u> Plaintiff's Opposition to Defendant's Motion to Vacate a Default Judgment. Contrary to Plaintiff's apparent understanding, Dkt. No. 20 is an order from the court setting aside the entry of default as to John Pedro Jr. There was no motion filed by a defendant. Nevertheless, the court treats Plaintiff's filing (Dkt. No. <u>21</u>) as a motion for reconsideration of the court's order (Dkt. No. 20) setting aside the entry of default. So construed, the court denies Plaintiff's motion. As the court previously explained, Plaintiff's attempt to serve John Pedro Jr. by certified mail was improper under applicable federal and state rules. Accordingly, [b]ecause Mr. Pedro was not properly served, Plaintiff was not entitled to an entry of default. (Dkt. No. 20.) Plaintiff's reference to Rule 5(b)(2)(C) of the Federal Rules of Civil Procedure does not support her argument because that rule applies to service of pleadings and papers other than the summons and complaint. Rather, Rule 4 of the Federal Rules of Civil Procedure governs service of the summons and complaint. Because Plaintiff has been authorized to proceed in forma pauperis under 28 U.S.C. § 1915 (Dkt. No. <u>5</u>), the court recommends that Plaintiff utilize the United States Marshals Service to complete service of process. See Fed. R. Civ. P. 4(c)(3). If directed by Plaintiff to do so, the United States Marshals Service shall serve the summons and complaint upon the defendants, in the manner directed by Plaintiff, with all costs of service to be advanced by the United States Marshals Service. Plaintiff shall accomplish service of process, in accordance with Fed. R. Civ. P. 4 and Local Rule 4.1, by October 30, 2017. (Lindsay, Maurice) (Entered: 08/28/2017)

08/28/2017	<u>27</u>	Copy re 26 Order, mailed to Tanya Steele on 8/28/17. (Lindsay, Maurice) (Entered: 08/28/2017)
09/08/2017	<u>28</u>	Plaintiff's Opposition to Defendant's <u>22</u> MOTION TO DISMISS FOR FAILURE TO STATE A CLAIM MOTION to Dismiss for Lack of Jurisdiction filed by Tanya Steele. (Attachments: # <u>1</u> Exhibits)(Lindsay, Maurice) (Entered: 09/08/2017)
09/18/2017	<u>29</u>	Letter (non-motion) regarding Consent to Judge Robertson by Tanya Steele. (Lindsay, Maurice) Modified on 9/28/2018 to correct document type (Healy, Bethaney). (Entered: 09/18/2017)
09/18/2017	<u>30</u>	MOTION for Recusal of Judge Mastroianni by Tanya Steele.(Lindsay, Maurice) (Entered: 09/18/2017)
09/18/2017	<u>31</u>	NOTICE OF APPEAL as to 20 Order, 26 Order, by Tanya Steele NOTICE TO COUNSEL: A Transcript Report/Order Form, which can be downloaded from the First Circuit Court of Appeals web site at http://www.ca1.uscourts.gov MUST be completed and submitted to the Court of Appeals. Counsel shall register for a First Circuit CM/ECF Appellate Filer Account at http://pacer.psc.uscourts.gov/cmecf. Counsel shall also review the First Circuit requirements for electronic filing by visiting the CM/ECF Information section at http://www.ca1.uscourts.gov/cmecf. US District Court Clerk to deliver official record to Court of Appeals by 10/10/2017. (Lindsay, Maurice) (Entered: 09/18/2017)
09/19/2017	<u>32</u>	Certified and Transmitted Abbreviated Electronic Record on Appeal to US Court of Appeals re <u>31</u> Notice of Appeal. (Paine, Matthew) (Entered: 09/19/2017)
09/19/2017	<u>33</u>	USCA Case Number 17-1929 for <u>31</u> Notice of Appeal filed by Tanya Steele. (Paine, Matthew) (Entered: 09/19/2017)
09/19/2017	<u>34</u>	Judge Mark G. Mastroianni: ELECTRONIC ORDER entered denying <u>30</u> Motion for Recusal. Plaintiff has provided no legitimate basis for judicial recusal. Although the court is professionally acquainted with Attorney King (who has not filed an appearance in this action), that alone provides no basis for a conflict of interest or the appearance of a conflict, and the court is aware of no other reasons for recusal. To the extent Plaintiff wishes to consent to the jurisdiction of Magistrate Judge Katherine A. Robertson, she is directed to <u>3</u> , the Notice and Procedures regarding Consent to Proceed before the Magistrate Judge. The court leaves it to Judge Robertson to decide whether any such consent by the parties (which must be unanimous) would suffice to transfer jurisdiction to her for all purposes. (Lindsay, Maurice) (Entered: 09/19/2017)
09/19/2017	<u>35</u>	Copy re 34 Order on Motion for Recusal, and <u>3</u> Consent Form mailed to Tanya Steele on 9/19/17. (Lindsay, Maurice) (Entered: 09/19/2017)
09/22/2017	<u>36</u>	NOTICE of Appearance by Jonathan.J. Kane on behalf of HAPhousing (Kane, Jonathan) (Entered: 09/22/2017)
09/22/2017	<u>37</u>	NOTICE of Appearance by Peter Thomas Lane on behalf of HAPhousing (Lane, Peter) (Entered: 09/22/2017)

10/19/2017	<u>38</u>	MOTION for Leave to Appeal in forma pauperis by Tanya Steele.(Lindsay, Maurice) (Entered: 10/19/2017)
10/25/2017	<u>39</u>	Refusal to Consent to Proceed Before a US Magistrate Judge. (Lindsay, Maurice) (Entered: 10/25/2017)
11/07/2017	40	Judge Mark G. Mastroianni: ELECTRONIC ORDER entered denying as moot <u>38</u> Motion for Leave to Appeal in forma pauperis. As the First Circuit noted in ruling on Plaintiffs motion for an extension of time to file appeal in forma pauperis, [u]nder Fed. R. App. P. 24(a)(3), appellant may proceed on appeal in forma pauperis without further authorization because this court granted in forma pauperis status to Plaintiff on May 2, 2017 (Dkt. No. 5.) Accordingly, Plaintiffs request for leave to appeal in forma pauperis is moot. (Lindsay, Maurice) (Entered: 11/07/2017)
11/07/2017	41	Copy re 40 Order on Motion for Leave to Appeal in forma pauperis,, mailed to Tanya Steele on 11/7/17. (Lindsay, Maurice) (Entered: 11/07/2017)
01/25/2018	<u>42</u>	NOTICE of Appearance by Susan M. Poswistilo on behalf of United States Department of Housing and Urban Development (Poswistilo, Susan) (Entered: 01/25/2018)
11/27/2018	<u>43</u>	USCA Judgment as to <u>31</u> Notice of Appeal filed by Tanya Steele. Appeal Dismissed... (Paine, Matthew) (Entered: 11/28/2018)
12/03/2018	44	Judge Mark G. Mastroianni: ELECTRONIC ORDER entered regarding 20 , 26 , and <u>43</u> . As explained in the court's orders at Dkt. Nos. 20 and 26, Plaintiff has not properly served John Pedro, Jr. Plaintiff appealed those orders, and the First Circuit dismissed the appeal for lack of appellate jurisdiction. (Dkt. No. 43.) In light of Plaintiff's appeal, the court will grant one further extension of time to serve Mr. Pedro. Plaintiff must serve Mr. Pedro with process, according to Fed. R. Civ. P. 4 and Local Rule 4.1, by December 31, 2018. As explained in Dkt. No. 26, the court recommends that Plaintiff utilize the United States Marshals Service to complete service of process. See Fed. R. Civ. P. 4(c)(3). If directed by Plaintiff to do so, the United States Marshals Service shall serve the summons and complaint upon Mr. Pedro in the manner directed by Plaintiff, with all costs of service to be advanced by the United States Marshals Service. If Plaintiff fails to serve Mr. Pedro by December 31, 2018, the court will dismiss the claims against him for failure to serve and failure to obey a court order. See Tower Ventures, Inc. v. City of Westfield, 296 F.3d 43 (1st Cir. 2002) ("[D]isobedience of court orders, in and of itself, constitutes extreme misconduct (and, thus, warrants dismissal."); Rosario-Diaz v. Gonzalez, 140 F.3d 312, 315 (1st Cir. 1998) ("[A] litigant who ignores a case-management deadline does so at his peril...."). The clerk is directed to mail a copy of this order to Plaintiff at her last known address. (Lindsay, Maurice) (Entered: 12/03/2018)
12/03/2018	45	Copy re 44 Order, mailed to Tanya Steele on 12/3/18, to her 928 Berkshire Avenue, Indian Orchard, MA 01151 address. (Lindsay, Maurice) (Entered: 12/03/2018)
12/14/2018	<u>46</u>	MOTION to Delay Service of Summons and Complaint to John Pedro Jr. by Tanya Steele. (Figueroa, Tamara) (Entered: 12/14/2018)

12/17/2018	<u>47</u>	Judge Mark G. Mastroianni: ELECTRONIC ORDER entered granting in part <u>46</u> Motion to Delay Service of Summons and Complaint to John Pedro Jr. The court hereby stays its December 3, 2018 order requiring service upon John Pedro Jr. in light of Plaintiff's representation that she is attempting to appeal the First Circuit's Judgment to the United States Supreme Court. Plaintiff, however, must file a status report with this court on or before February 18, 2019, updating the court as to the status of Plaintiff's attempted appeal to the Supreme Court. At that time, the court will reconsider whether to extend or lift this stay of the deadline for Plaintiff to complete service upon Mr. Pedro. (Lindsay, Maurice) (Entered: 12/18/2018)
12/18/2018	<u>48</u>	Copy re 47 Order on Motion for Extension of Time, mailed to Tanya Steele on 12/18/18. (Lindsay, Maurice) (Entered: 12/18/2018)
12/19/2018	<u>49</u>	MANDATE of USCA as to <u>31</u> Notice of Appeal filed by Tanya Steele. Appeal <u>31</u> Terminated (Paine, Matthew) (Entered: 12/20/2018)
01/09/2019	<u>50</u>	Judge Mark G. Mastroianni: ELECTRONIC ORDER entered granting <u>22</u> Motion to Dismiss, filed by United States Department of Housing and Urban Development (HUD). The court agrees with HUD that Plaintiff's claims against it are barred by sovereign immunity. As for Plaintiff's intentional infliction of emotional distress claim, the court lacks subject matter jurisdiction because Plaintiff failed to file an administrative claim, as required by the Federal Tort Claims Act, prior to bringing suit. See Gonzalez v. United States, 284 F.3d 281, 288 (1st Cir. 2002). As for Plaintiff's claim under the Fair Housing Act, that statute does not unambiguously waive the federal government's sovereign immunity for damages claims. See, e.g., Gregory v. South Carolina Dept of Transp., 289 F. Supp. 2d 721, 726 (D. S.C. 2003), affd, 114 F. Appx 87 (4th Cir. 2004). Accordingly, the court also lacks subject matter jurisdiction over Count Two as asserted against HUD. Moreover, contrary to Plaintiffs suggestion, the court may not simply ignore the absence of subject matter jurisdiction "because of the extreme serious issues of this case." (Dkt. No. 28 at 4.) (Lindsay, Maurice) (Entered: 01/09/2019)
01/09/2019	<u>51</u>	Judge Mark G. Mastroianni: ELECTRONIC ORDER entered granting in part and denying in part <u>15</u> Motion to Dismiss, filed by HAPhousing. In Count Two, the foundational federal claim upon which subject matter jurisdiction is based, Plaintiff asserts a Fair Housing Act claim under its anti-harassment provision, 42 U.S.C. § 3617. Plaintiff alleges HAPhousing, as the public housing authority administering Section 8 housing assistance payments, failed to take corrective action against Plaintiff's neighbors (Section 8 recipients) in the face of extraordinary harassment allegedly motivated by Plaintiff's race. Although HAPhousing argues Plaintiff is not protected by 42 U.S.C. § 3617, an implementing regulation explicitly provides that the statute makes it unlawful to "[t]hreaten[], intimidate[e] or interfere[e] with persons in their enjoyment of a dwelling because of the race, color, religion, sex, handicap, familial status, or national origin of such persons, or of visitors or associates of such persons." 24 C.F.R. § 100.400(c)(2). Plaintiff plausibly fits within this protection. Moreover, to the extent HAPhousing argues it has no responsibility over the neighbors' conduct, another implementing regulation provides for direct liability for: "Failing to take prompt action to correct and end a discriminatory housing

		<p>practice by a third-party, where the person knew or should have known of the discriminatory conduct and had the power to correct it." 24 C.F.R. § 100.7(a)(1)(iii). The regulation further explains: "The power to take prompt action to correct and end a discriminatory housing practice by a third-party depends upon the extent of the person's control or any other legal responsibility the person may have with respect to the conduct of such third party." Id. At the motion to dismiss stage, it is simply too early in the litigation to determine whether HAPhousing had the power "to correct and end" the neighbors' harassing conduct. In addition, HAPhousing has not explained why this Fair Housing Act claim must be submitted to MCAD "as a prerequisite to the filing of a judicial action." (Dkt. No. 15 at 1, 6.)</p> <p>As for the intentional infliction of emotional distress claim in Count One, however, the court agrees with HAPhousing that its alleged failure to take corrective action against the neighbors does not constitute "extreme and outrageous" conduct "beyond all possible bounds of decency and utterly intolerable in a civilized society." <i>Tetrault v. Mahoney, Hawkes & Goldings</i>, 681 N.E.2d 1189, 1197 (Mass. 1997). While the neighbors' conduct certainly appears to rise to this level, HAPhousing's does not. Although the court recognizes and appreciates Plaintiff's dissatisfaction with HAPhousing's response to her complaints, that alleged insufficient response cannot plausibly be said to amount to intentional infliction of emotional distress. Accordingly, Count One is dismissed for failure to state a claim upon which relief may be granted, but HAPhousing's motion is denied as to Count Two. (Lindsay, Maurice) (Entered: 01/09/2019)</p>
01/09/2019	52	Copy re 50 Order on Motion to Dismiss for Failure to State a Claim, Order on Motion to Dismiss/Lack of Jurisdiction, 51 Order on Motion to Dismiss for Failure to State a Claim, mailed to Tanya Steele on 1/9/19. (Lindsay, Maurice) (Entered: 01/09/2019)
02/11/2019	<u>53</u>	MOTION for the Status of the U.S. Supreme Court Legal Brief. by Tanya Steele.(Lindsay, Maurice) (Entered: 02/11/2019)
02/12/2019	54	Judge Mark G. Mastroianni: ELECTRONIC ORDER entered granting <u>53</u> Motion for the Status of the U.S. Supreme Court Legal Brief. Plaintiff shall file another status report on or before March 14, 2019, updating the court as to the status of Plaintiff's attempted appeal to the Supreme Court. At that time, the court will reconsider whether to extend or lift the stay of the deadline for Plaintiff to complete service upon Mr. Pedro. (Lindsay, Maurice) (Entered: 02/12/2019)
02/12/2019	55	Set/Reset Deadlines: Next Status Report due by 3/14/2019 (Lindsay, Maurice) (Entered: 02/12/2019)
02/12/2019	56	Copy re 54 Order on Motion for Miscellaneous Relief, mailed to Tanya Steele on 2/12/19. (Lindsay, Maurice) (Entered: 02/12/2019)

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