

FAR-27616 - Notice: FAR denied
Aug 5 at 1:01 PM

sjccommclerk@sjc.state.ma.us
To: jeanecoulter@yahoo.com
Supreme Judicial Court for the Commonwealth of
Massachusetts

RE: Docket No. FAR-27616

JEAN COULTER
vs.
JAMsan HOTEL MANAGEMENT, INC. & others

Middlesex Superior Court No. 1681CV02632
A.C. No. 2019-P-0951

**NOTICE OF DENIAL OF APPLICATION FOR
FURTHER APPELLATE REVIEW**

Please take note that on August 5, 2020, the
application for further appellate review was denied.

Francis V. Kenneally, Clerk

Dated: August 5, 2020

To: Jean Coulter
Ross A. Kimball, Esquire
Emily Kaminska, Esquire
John Donovan, III, Esquire

1a.

NOTICE : Summary decisions issued by the Appeals Court pursuant to its rule 1:28, as amended by 73 Mass. App. Ct. 1001 (2009), are primarily directed to the parties and, therefore, may not fully address the facts of the case or the panel's decisional rationale. Moreover, such decisions are not circulated to the entire court and, therefore, represent only the views of the panel that decided the case. A summary decision pursuant to rule 1:28 issued after February 25, 2008, may be cited for its persuasive value but, because of the limitations noted above, not as binding precedent. See Chace v. Curran, 71 Mass. App. Ct. 258, 260 n. 4 (2008).

COMMONWEALTH OF MASSACHUSETTS
APPEALS COURT

19-P-951

JEAN COULTER

vs.

JAMsan HOTEL MANAGEMENT, INC .

others .¹

MEMORANDUM AND ORDER PURSUANT TO
RULE 1:28

The plaintiff, Jean Coulter, appearing pro se, brought in the Superior Court against a host of defendants seeking damages for claims including negligence, breach of contract, suit unfair and deceptive business practices, fraud, slander, and constitutional violations.² After hearing on defendants motion

¹ Jamsan Investments LLC; Aryan Hospitality LLC; Rushil Hospitality LLC; Hartwell Hospitality LLC; MEENA Investments LLC, MEERA Hospitality LLC; MEERA LLC, SHIVPAR, Inc.; Ayushi LLC; JHM Fortune LLC; JHM Phase II LLC; RONIT Hospitality II LLC; PAYAL Hotel LLC, JHANVI Hospitality LLC; AMISHA II LLC; JHM_Village LLC; Lexington Mexican Restaurant Group, Inc.; AMISHA LLC; Quality Inn & Suites, Lexington, MA; Travelocity.com; Choice Hotels; Lexington Police Department; Mr. and Mrs. Hitest Patel; Navin Patel; Archit Patel; Ashok Patel; Nikul Patel; Kamlesh Patel; Kamleshkumar Patel; Rajeshkumar Patel; Dilip

Patel; Hitesh Patel; Michael G. Milazzo; and Kenneth J. Biagioni.

2 Coulter's allegations stem from an unsatisfactory stay at the Quality Inn & Suites in Lexington, where she was removed from her room based on extensive use of the hotel's complementary shuttle service.

To dismiss pursuant to Mass. R. Civ. P. 12 (b) (6), 365 Mass. 754 (1974), Coulter's third amended complaint was dismissed without prejudice on the grounds that it failed to state a claim upon which relief plausibly could be granted. That order, however, permitted Coulter to file a further amended complaint within sixty days. Fifty-seven days later, Coulter filed an "Emergency Motion for Extension of Time to File Amended Complaint," and she attached a copy of her fourth amended complaint. A second judge, by margin endorsement on the defendant's opposition to that motion, ruled, "Even as revised, the [fourth amended] complaint fails to state a claim upon which relief can be granted (and certainly not relief of \$25,000 or more). This case is hereby dismissed, with prejudice." Judgment then entered. Within days of judgment entering, Coulter filed motions to amend the findings and for change of venue, which were both denied. Coulter timely appealed.

Discussion. On appeal, Coulter essentially argues that her complaint was erroneously dismissed and she was denied the opportunity to refile her complaint in District Court, assuming that her claims did not meet the statutory minimum for the Superior Court. We are not persuaded.

In her argument on appeal, Coulter overlooks that the second judge was ruling on her motion to

extend the deadline to file an amended complaint, and not on the fourth amended complaint itself. "Case management is committed to the discretion of the ... judge, and we review the decision for an abuse of discretion." 63 Mass. Eagle Fund, Ltd. v. Sarkans, App. Ct. 79, 85 (2005).

Here, there was no abuse of discretion. The reasons for denying Coulter's motion to extend the deadline were well stated. Coulter's third and proposed fourth amended complaints are nearly the same³ and, as properly determined by two separate judges, are equally deficient in their pleadings. lannacchino v. Ford Motor Co., 451 Mass. 623, 636 (2008) (plaintiff must provide " factual 'allegations plausibly suggesting (not merely consistent with)' an entitlement to relief" [citation omitted]) Indeed, Coulter did not follow the first judge's instructions to file an amended complaint within sixty days and, as evidenced by the failures of the proposed

³ Coulter's fourth amended complaint added a discussion of contacts between herself and Travelocity.com.

fourth amended complaint, any further extension would have been futile.

Judgment affirmed.

Orders denying motions to amend the findings and for change of venue affirmed.

By the Court (Vuono, Milkey & Desmond, JJ.⁴)

Clerk

June 12, 2020.

⁴ The panelists are listed in order of seniority.

JUDGMENT	Trial Court of Massachusetts <u>The Superior Court</u>
DOCKET NUMBER	Michael A. Sullivan, Clerk of Court
1681 cv02632	Middlesex County
CASE NAME	COURT NAME & ADDRESS
Jean Coulter	Middlesex County Superior
vs.	Court - Woburn
Jamsan Hotel	200 Trade Center
<u>Management Inc. et al</u>	<u>Woburn, MA 01801</u>

This action came before the Court, Hon.
Thomas P Billings, presiding, and upon
consideration
thereof,

It is ORDERED and ADJUDGED:

Even as revised, the [proposed Fourth Amended]
Complaint fails to state a claim upon which relief can
be granted (and certainly not relief of \$25,000 or
more). This case is hereby dismissed, with prejudice.

DATE JUDGMENT	<u>Clerk of Courts</u>
ENTERED	ASST. CLERK
<u>05/22/2018</u>	

Time Printed 05.22.2018 12:27:51

27
11

COMMONWEALTH OF MASSACHUSETTS

MIDDLESEX, SS.

SUPERIOR COURT
Civil Action No.: 1681CV02632

JEAN COULTER,
Plaintiff,
v.
JAMsan HOTEL MANAGEMENT, INC. et al.,
Defendants



DEFENDANTS' OPPOSITION TO PLAINTIFF'S EMERGENCY MOTION FOR
EXTENSION OF TIME TO FILE AMENDED COMPLAINT

~~Even if revised, the Complaint fails to state a claim upon which relief can be granted (and certainly not relief of \$25,000 or more). The case is hereby dismissed, with prejudice.~~

Now come the Defendants, Jamsan Hotel Management, Inc., Jamsan Investments L.L.C., Aryan Hospitality L.L.C., Rushil Hospitality L.L.C., Hartwell Hospitality L.L.C., Meera Hospitality, L.L.C., Ronit Hospitality II L.L.C., Amisha, L.L.C., Amisha II L.L.C., Hites Patel, Navin Patel, Ashok Patel, Nikul Patel, Kamileah Patel, Dilip Patel and Kenneth J. Biagioli, (referred to hereinafter collectively as "Jamsan Defendants"), and hereby state their opposition to Plaintiff's Motion For Extension of Time to File Amended Complaint. The Jamsan Defendants state that the Emergency Motion filed by the Plaintiff should be denied for the foregoing reasons:

1. On September 13, 2016, the *pro se* Plaintiff commenced this action against the Jamsan Defendants, as well as several other parties. The Plaintiff filed an Amended Complaint on October 16, 2016 and, shortly thereafter, this matter was removed to Federal District Court, which dismissed the claims against several Defendants. This matter was remanded back to this Court on December 20, 2016.

SP2118
1261337.1

**Additional material
from this filing is
available in the
Clerk's Office.**