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APPENDIX A

COMMONWEALTH OF MASSACHUSETTS
APPEALS COURT

[Docket No. 2025 -P-0719]

[Filed: MAY 18, 2026]

LARRY INOA,	)
	)
Petitioner,	)
	)
v.	)
	)
PAMELA CASEY O'BRIEN, et al.,	)
	)
Respondents.	)
	)
	)

MEMORANDUM AND ORDER PURSUANT TO RULE 23.0

By the Court (Massing,
Ditkoff & Hand, JJ.2),

The plaintiff appeals from orders of a single justice of this court denying (1) his motion to docket his appeal in this case late and (2) his motion to reconsider that denial.

App. 3

NOTICE: Summary decisions issued by the Appeals Court pursuant to M.A.C. Rule 23.0, as appearing in 97 Mass. App. Ct. 1017 (2020) (formerly known as 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 23.0 or 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

25-P-719

LARRY INOA

vs.

PAMELA CASEY O'BRIEN & others.[1]

MEMORANDUM AND ORDER PURSUANT TO RULE 23.0

The plaintiff appeals from orders of a single justice of this court denying (1) his motion to docket his appeal in this case late and (2) his motion to reconsider that denial. Because we discern neither an abuse of discretion nor other error in the challenged rulings, we affirm.

Background. The appellant filed the underlying complaint in the Superior Court in 2021. In January 2022, after a hearing, a judge of the Superior Court allowed the defendants'

[1] Vinela Marmolejos, Christopher C. Harding, Theresa A. Bisenius, Mary Mcduald, Dina Carter, Geoffrey E. Snyder, Michelle A. Cristelb, and Randy J. Kaplan. As is our custom, we spell the defendants' names as they are set forth on the complaint.

motions to dismiss the plaintiff's claims against them. The plaintiff filed a notice of appeal from the judgment of dismissal and, on June 7, 2022, the Superior Court clerk sent notice of the assembly of the record to the parties and to the clerk of this court. The plaintiff failed to docket his appeal within the fourteen-day time limit established by Mass. R. A. P. 10 (a) (1), as appearing in 481 Mass. 1618 (2019) (rule 10 [a] [1]).

In July 2022, this court sent notice of the plaintiff's failure to docket the appeal; the notice informed the parties that "[i]f an appellant wishes to pursue the appeal, the party must file a motion to the single justice for leave to docket the appeal late." The plaintiff did not file such a motion until nearly three years later, on May 6, 2025. Presented with the motion, the single justice found that the plaintiff had "failed to establish excusable neglect and at least one meritorious appellate issue," and denied the motion. The plaintiff moved for reconsideration, but the single justice denied the motion based on his conclusion that the plaintiff "failed to establish excusable neglect." This appeal followed.

Discussion. Where an appellant fails to docket a civil appeal in the time permitted under rule 10 (a) (1), the appellant must, as a threshold matter, demonstrate that the delay was caused by excusable neglect. See Howard v. Boston

Water & Sewer Comm'n, 96 Mass. App. Ct. 119, 122 (2019). "[E]xcusable neglect refers to circumstances that are unique or extraordinary, not to any garden-variety oversight" (quotations omitted). Id. at 123, quoting Shaev v. Alvord, 66 Mass. App. Ct. 910, 911 (2006). We review the action of the single justice on an appellant's motion to docket an appeal late for abuse of discretion. See Tisei v. Building Inspector of Marlborough, 3 Mass. App. Ct. 377, 378 (1975).

Here, the plaintiff argued that his delay amounted to excusable neglect for two reasons -- first, because he was self-represented at the time the deadline to enter the appeal passed and, second, because he experienced "personal and legal hardship arising from ongoing proceedings with the Massachusetts Department of Revenue (DOR) and the Child Support Enforcement Division.' We discern no abuse of discretion in the single justice's determination that neither of these explanations demonstrated that the plaintiff's delay was the result of excusable neglect.

As to the first point, the plaintiff represented himself from the inception of the underlying lawsuit, including when he filed his notice of appeal. "Although some leniency is appropriate in determining whether pro se litigants have complied with rules of procedure, the rules nevertheless bind pro se litigants as all other litigants." Brown v. Chicopee

Fire Fighters Ass'n, Local 1710, IAFF, 408 Mass. 1003, 1004 n.4 (1990). Where "[t]he appellate rules 'put the responsibility for expediting the appeal squarely on the appellant,'" Neuwirth v. Neuwirth, 85 Mass. App. Ct. 248, 256-257 (2014), quoting Mailer v. Mailer, 387 Mass. 401, 407 (1982), the single justice acted within his discretion in rejecting the plaintiff's argument.

We reach a similar conclusion as to the plaintiff's second argument. Although the plaintiff's motion outlined his challenges to child support orders entered by the Probate and Family Court and to the lawfulness of certain defendants' efforts to enforce those orders, nothing in the plaintiff's affidavit or other supporting materials detailed any resulting "hardship" or explained how it prevented him from docketing his appeal for nearly three years. We are not persuaded that the record before the single justice compelled the conclusion that the plaintiff's ongoing dispute about his child support payments created "unique or extraordinary" circumstances, Howard, 96 Mass. App. Ct. at 123, quoting Shaev, 66 Mass. App. Ct. at 911, and we therefore conclude that the single justice acted within his discretion when he rejected this argument. See Lawrence Sav. Bank v. Garabedian, 49 Mass. App. Ct. 157, 161 (2000) (excusable neglect "is meant to take care of emergency situations only" [citation omitted]). Where the single justice

properly concluded that the plaintiff failed to show excusable neglect on any of the theories raised in his motion to docket the appeal late, we affirm the order denying that motion. Having done so, we also affirm the order denying the plaintiff's motion to reconsider. The plaintiff's remaining requests for relief are not before us, and we do not consider them.

Single justice order dated May 9, 2025, denying motion to docket appeal late, affirmed.

Single justice order dated May 28, 2025, denying motion to reconsider, affirmed.

By the Court (Massing, Ditkoff & Hand, JJ.[2]),

Paul Lutkus

Clerk

Entered: May 18, 2026.

[2] The panelists are listed in order of seniority.

App. 8

Commonwealth of Massachusetts

Appeals Court for the Commonwealth

At Boston

In the case no. 25-P-719

LARRY INOA

vs.

PAMELA CASEY O'BRIEN & others.

Pending in the Appeals Court

Ordered, that the following entry be made on the docket:

Single justice order dated May 9, 2025, denying motion to docket appeal late, affirmed.

Single justice order dated May 28, 2025, denying motion to reconsider, affirmed.

By the Court,

Paul Sutton, Clerk

Date May 18, 2026.

APPENDIX B

COMMONWEALTH OF MASSACHUSETTS
SUPREME JUDICIAL COURT

Docket No. _FAR-30961

[Filed: JULY 31, 2026]

LARRY INOA,	)
	)
Petitioner,	)
	)
v.	)
	)
PAMELA CASEY O'BRIEN, et al.,	)
	)
Respondents.	)
	)
	)

NOTICE OF DENIAL OF APPLICATION FOR FURTHER APPELLATE REVIEW

The Clerk's Office

Please take note that on July 31, 2026, the application for further appellate review was denied.

App. 10

Gmail

FAR-30961 - Notice: FAR denied

SJC Full Court Clerk <SJCCommClerk@sjc.state.ma.us> Fri, Jul 31, 2026 at 10:00 AM
To: Mikelarythe1@gmail.com

Supreme Judicial Court for the Commonwealth of Massachusetts

Telephone

RE: Docket No. FAR-30961

LARRY INOA
v
PAMELA CASEY O'BRIEN & others

Appeals Court No. 2025-J-0325; 2184CV00771
A.C. No. 2025-P-0719

NOTICE OF DENIAL OF APPLICATION FOR FURTHER APPELLATE REVIEW

Please take note that on July 31, 2026, the application for further appellate review was denied.

Very truly yours,
The Clerk's Office

Dated: July 31, 2026

To: Larry Inoa
Larry Inoa
Angelica L. Duron, Esquire
Carlos Eduardo Cousins, Esquire
Vinela Marmolejos

SJC Full Court Clerk <SJCCommClerk@sjc.state.ma.us> Fri, Jul 31, 2026 at 10:00 AM
To: Mikelarythe1@gmail.com

Supreme Judicial Court for the Commonwealth of Massachusetts

Telephone

RE: Docket No. FAR-30961

LARRY INOA

App. 11

V
PAMELA CASEY O'BRIEN & others

Appeals Court No. 2025-J-0325; 2184CV00771
A.C. No. 2025-P-0719

NOTICE OF DENIAL OF APPLICATION FOR FURTHER APPELLATE REVIEW

Please take note that on July 31, 2026, the application for further appellate review was denied.

Very truly yours,
The Clerk's Office

Dated: July 31, 2026

To: Larry Inoa
Larry Inoa
Angelica L. Duron, Esquire
Carlos Eduardo Cousins, Esquire
Vinela Marmolejos

APPENDIX C

COMMONWEALTH OF MASSACHUSETTS
APPEALS COURT

Docket No. 2025-J-0325

[Filed: May 9, 2025]

LARRY INOA,	)
	)
Petitioner,	)
	)
v.	)
	)
PAMELA CASEY O'BRIEN, et al.,	)
	)
Respondents.	)
	)
	)

NOTICE OF DOCKET ENTRY

Rubin, J.

Order (RE#1): After review, I find that the plaintiff has failed to establish excusable neglect and at least one meritorious appellate issue. Accordingly, the motion is denied. (Rubin, J.). "Notice/Attest.

App. 13

Gmail

2025-J-0325 - Notice of Docket Entry

Appeals Court Clerk's Office <AppealsCtClerk@appct.state.ma.us> Fri, May 9, 2025 at 9:31 AM
To: Mikelarythe1@gmail.com

-COMMONWEALTH OF MASSACHUSETTS

APPEALS COURT CLERK'S OFFICE

May 9, 2025

RE: No. 2025-J-0325
Lower Ct. No.: 2184CV00771

LARRY INOA
vs.
PAMELA CASE O'BRIEN & others

NOTICE OF DOCKET ENTRY

Please take note that on May 9, 2025, the following entry was made on the docket of the above-referenced case:

Order (RE#1): After review, I find that the plaintiff has failed to establish excusable neglect and at least one meritorious appellate issue. Accordingly, the motion is denied. (Rubin, J.). *Notice/Attest.

REGISTRATION FOR ELECTRONIC FILING. Every attorney with an appeal pending in the Appeals Court must have an account with eFileMA.com. Registration with eFileMA.com constitutes consent to receive electronic notification from the Appeals Court and e-service of documents. Self-represented litigants are encouraged, but not required, to register for electronic filing.

ELECTRONIC FILING. Attorneys must e-file all non-impounded documents. Impounded documents and submissions by self-represented litigants may be e-filed. No paper original or copy of any e-filed document is required. Additional information is located on our Electronic Filing page: http://www.mass.gov/courts/court-info/appealscourt/efiling-appeals-faq-gen.html

FILING OF CONFIDENTIAL OR IMPOUNDED INFORMATION. Any document containing confidential or impounded material must be filed in compliance with Mass. R. App. P. 16(d), 16(m), 18(a)(1)(A)(iv), 18(d), and 21.
Very truly yours,

The Clerk's Office

Dated: May 9, 2025

To: LarryInoaAngelicaL.Duron,EsquireVinelaMarmolejosSuffolkSuperiorCourtDept.

If you have any questions, or wish to communicate with the Clerk's Office about this case, please contact the Clerk's Office at 617-921-4443. Thank you.

App. 14

mikelarythe1@gmail.com <mikelarythe1@gmail.com> Sat, May 10, 2025 at 1:44 PM
To: staples@printme.com

Sent from my iPhone

Begin forwarded message:

From: AppealsCtClerk@appct.state.ma.us
Date: May 9, 2025 at 9:32:26 AM EDT
To: mikelarythe1@gmail.com
Subject: 2025-J-0325 - Notice of Docket Entry

-COMMONWEALTH OF MASSACHUSETTS

---

mikelarythe1@gmail.com <mikelarythe1@gmail.com> Sat, May 10, 2025 at 1:44 PM
To: staples@printme.com

Sent from my iPhone

Begin forwarded message:

From: mikelarythe1@gmail.com
Date: May 10, 2025 at 1:44:26 PM EDT
To: staples@printme.com
Subject: Fwd: 2025-J-0325 - Notice of Docket Entry

APPENDIX D

COMMONWEALTH OF MASSACHUSETTS
APPEALS COURT

Docket No. 2025-J-0325

[Filed: May 28, 2025]

LARRY INOA,	)
	)
Petitioner,	)
	)
v.	)
	)
PAMELA CASEY O'BRIEN, et al.,	)
	)
Respondents.	)
	)
	)

NOTICE OF DOCKET ENTRY

Rubin, J.

ORDER (RE#5): Having reviewed the motion for reconsideration, I conclude that plaintiff has failed to establish excusable neglect. Therefore, after reconsideration, the motion is denied and my 5/9/25 order shall stand. (Rubin, J.) *Notice/Attest

Gmail

2025-J-0325 - Notice of Docket Entry

Appeals Court Clerk's Office <AppealsCtClerk@appct.state.ma.us> Wed, May 28, 2025 at 1:00 PM
To: Mikelarythe1@gmail.com

-COMMONWEALTH OF MASSACHUSETTS

APPEALS COURT CLERK'S OFFICE

May 28, 2025

RE: No. 2025-J-0325
Lower Ct. No.: 2184CV00771

LARRY INOA
vs.
PAMELA CASE O'BRIEN & others

NOTICE OF DOCKET ENTRY

Please take note that on May 28, 2025, the following entry was made on the docket of the above-referenced case:

ORDER (RE#5): Having reviewed the motion for reconsideration, I conclude that plaintiff has failed to establish excusable neglect. Therefore, after reconsideration, the motion is denied and my 5/9/25 order shall stand. (Rubin, J.)
*Notice/Attest

REGISTRATION FOR ELECTRONIC FILING. Every attorney with an appeal pending in the Appeals Court must have an account with eFileMA.com. Registration with eFileMA.com constitutes consent to receive electronic notification from the Appeals Court and e-service of documents. Self-represented litigants are encouraged, but not required, to register for electronic filing.

ELECTRONIC FILING. Attorneys must e-file all non-impounded documents. Impounded documents and submissions by self-represented litigants may be e-filed. No paper original or copy of any e-filed document is required. Additional information is located on our Electronic Filing page: http://www.mass.gov/courts/court-info/appealscourt/efiling-appeals-faq-gen.html

FILING OF CONFIDENTIAL OR IMPOUNDED INFORMATION. Any document containing confidential or impounded material must be filed in compliance with Mass. R. App. P. 16(d), 16(m), 18(a)(1)(A)(iv), 18(d), and 21.
Very truly yours,

The Clerk's Office

Dated: May 28, 2025

To: LarryInoaAngelicaL.Duron,EsquireVinelaMarmolejosSuffolkSuperiorCourtDept.

If you have any questions, or wish to communicate with the Clerk's Office about this case, please contact the Clerk's Office at 617-921-4443. Thank you.

App. 17

mikelarythe1@gmail.com <mikelarythe1@gmail.com> Mon, Jun 2, 2025 at 9:45 AM
To: staples@printme.com

Sent from my iPhone

Begin forwarded message:

From: AppealsCtClerk@appct.state.ma.us
Date: May 28, 2025 at 1:01:07 PM EDT
To: mikelarythe1@gmail.com
Subject: 2025-J-0325 - Notice of Docket Entry

-COMMONWEALTH OF MASSACHUSETTS

APPENDIX E

Trial Court of Massachusetts
The Superior Court

Docket No. 2184CV00771

[Filed: January 28, 2022]

LARRY INOA,	)
	)
Petitioner,	)
	)
v.	)
	)
PAMELA CASEY O'BRIEN, et al.,	)
	)
Respondents.	)
	)
	)

JUDGMENT

Christine M. Roach

It is ORDERED and ADJUDGED:

that after hearing and all parties present and arguing, the state Defendant's motion to dismiss and Ms. Marmalejo's Motion to Dismiss was allowed by the Court, Roach, J., (see papers#36& 3) on 1/28/2022. Accordingly, plaintiff's complaint is DISMISSED with prejudice.

NOTIFY 49

JUDGMENT

Trial Court of Massachusetts
The Superior Court

Michael Joseph Donovan, Clerk of Court

DOCKET NUMBER
2184CV00771

CASE NAME
Larry Inoa
vs.
Pamela Casey O"Brien et al

COURT NAME & ADDRESS
Suffolk County Superior Court - Civil
Suffolk County Courthouse, 12th Floor
Three Pemberton Square
Boston, MA 02108

This action came before the Court, Christine M Roach, presiding, and upon consideration thereof,

It is ORDERED and ADJUDGED:

that after hearing and all parties present and arguing, the state Defendant's motion to dismiss and Ms. Marmalejo's Motion to Dismiss was allowed by the Court, Roach, J., (see papers#36& 3) on 1/28/2022. Accordingly, plaintiff's complaint is DISMISSED with prejudice.

NOTICE
SENT
1-31-22
LI
FW
MOAG

JUDGMENT ENTERED ON DOCKET Jan 31 2022
PURSUANT TO THE PROVISIONS OF RULE 58 OF THE MASS. R. CIV. P. 77(d) AS FOLLOWS

DATE JUDGMENT ENTERED	CLERK OF COURTS/ ASST. CLERK
01/28/2022	X

Date/Time Printed 01-28-2022 12:36:06

SCV131 05/2018

APPENDIX F

Trial Court of Massachusetts
The Superior Court

Docket No. 21-0077B

[Filed: April 2, 2021]

LARRY INOA,	)
	)
Petitioner,	)
	)
v.	)
	)
PAMELA CASEY O'BRIEN, et al.,	)
	)
Respondents.	)
	)
	)

CIVIL ACTION COVER SHEET

2

CIVIL ACTION COVER SHEET	DOCKET NUMBER 21-00771B	Trial Court of Massachusetts The Superior Court

PLAINTIFF(S): Larry Inoa
ADDRESS: 28 Lowell st Lynn MA 01905

ATTORNEY:
ADDRESS:
BBO:

COUNTY: Superior Court Civil Action

DEFENDANT(S): Pamela Casey O'Brien, Vinela Manrriquez, Christopher C Harding, Theresa A Bisenius, Mary Hydrick, Dina Carter, Geoffrey E Snyder, Michelle A. Christello
ADDRESS: 36 Federal st Salem, MA 01970; 31 sherman st, MA 01841, 100 cambridg st Boston, MA 02114, PO Box 55149 Boston, MA. 02205-5149 100 Trade Center, St. 760 Woburn MA 1801

TYPE OF ACTION AND TRACK DESIGNATION (see reverse side)

CODE NO.	TYPE OF ACTION (specify)	TRACK	HAS A JURY CLAIM BEEN MADE?
E 02	Appeal for Administrative Agency	x	☒ YES ☐ NO

If "Other" please describe: E 44 Civil Rights Act. G.L. c. 12 § 11H A

Is there a claim under G.L. c. 93A? Administrative Action ☒ YES ☐ NO

Is this a class action under Mass. R. Civ. P. 23? ☒ YES ☐ NO

STATEMENT OF DAMAGES PURSUANT TO G.L. c. 212, § 3A

The following is a full, itemized and detailed statement of the facts on which the undersigned plaintiff or plaintiff's counsel relies to determine money damages. For this form, disregard double or treble damage claims; indicate single damages only.

TORT CLAIMS
(attach additional sheets as necessary)

A. Documented medical expenses to date:
1. Total hospital expenses
2. Total doctor expenses
3. Total chiropractic expenses
4. Total physical therapy expenses
5. Total other expenses (describe below)

Subtotal (A):

B. Documented lost wages and compensation to date
C. Documented property damages to date
D. Reasonably anticipated future medical and hospital expenses
E. Reasonably anticipated lost wages
F. Other documented items of damages (describe below)

Will

G. Briefly describe plaintiff's injury, including the nature and extent of injury:

TOTAL (A-F): $ will Amend

2021 APR -2 P 4:06 SUFFOLK SUPERIOR COURT CIVIL CLERK'S OFFICE MICHAEL JOSEPH DONOVAN CLERK / MAGISTRATE

CONTRACT CLAIMS
(attach additional sheets as necessary)

☒ This action includes a claim involving collection of a debt incurred pursuant to a revolving credit agreement. Mass. R. Civ. P. 8.1(a).

Provide a detailed description of claim(s):
Depth was created by salem Family and probation and know being enforced by Massachusetts Department of Revenue Child support Enforcement Division Thats separation of power

TOTAL: $ 40.404.51

Signature of Attorney/ Unrepresented Plaintiff: X

Date: 4/1/21

RELATED ACTIONS: Please provide the case number, case name, and county of any related actions pending in the Superior Court.

Pin: 00.2770.1566 1711382, 1711383

CERTIFICATION PURSUANT TO SJC RULE 1:18

I hereby certify that I have complied with requirements of Rule 5 of the Supreme Judicial Court Uniform Rules on Dispute Resolution (SJC Rule 1:18) requiring that I provide my clients with information about court-connected dispute resolution services and discuss with them the advantages and disadvantages of the various methods of dispute resolution.

Signature of Attorney of Record: X

Date: 4/1/21

CIVIL ACTION COVER SHEET INSTRUCTIONS
SELECT CATEGORY THAT BEST DESCRIBES YOUR CASE

AC Actions Involving the State/Municipality *

AA1 Contract Action Involving Commonwealth, Municipality, MBTA, etc. (A)
AB1 Tortious Action Involving Commonwealth, Municipality, MBTA, etc. (A)
AC1 Real Property Action Involving Commonwealth, Municipality, MBTA etc. (A)
AD1 Equity Action Involving Commonwealth, Municipality, MBTA, etc. (A)
AE1 Administrative Action Involving Commonwealth, Municipality, MBTA, etc. (A)

CN Contract/Business Cases

A01 Services, Labor, and Materials (F)
A02 Goods Sold and Delivered (F)
A03 Commercial Paper (F)
A04 Employment Contract (F)
A05 Consumer Revolving Credit - M.R.C.P. 8.1 (F)
A06 Insurance Contract (F)
A08 Sale or Lease of Real Estate (F)
A12 Construction Dispute (A)
A14 Interpleader (F)
BA1 Governance, Conduct, Internal Affairs of Entities (A)
BA3 Liability of Shareholders, Directors, Officers, Partners, etc. (A)
BB1 Shareholder Derivative (A)
BB2 Securities Transactions (A)
BC1 Mergers, Consolidations, Sales of Assets, Issuance of Debt, Equity, etc. (A)
BD1 Intellectual Property (A)
BD2 Proprietary Information or Trade Secrets (A)
BG1 Financial Institutions/Funds (A)
BH1 Violation of Antitrust or Trade Regulation Laws (A)
A99 Other Contract/Business Action - Specify (F)

* Choose this case type if ANY party is the Commonwealth, a municipality, the MBTA, or any other governmental entity UNLESS your case is a case type listed under Administrative Civil Actions (AA).

† Choose this case type if ANY party is an incarcerated party, UNLESS your case is a case type listed under Administrative Civil Actions (AA) or is a Prisoner Habeas Corpus case (E97).

ER Equitable Remedies

D01 Specific Performance of a Contract (A)
D02 Reach and Apply (F)
D03 Injunction (F)
D04 Reform/ Cancel Instrument (F)
D05 Equitable Replevin (F)
D06 Contribution or Indemnification (F)
D07 Imposition of a Trust (A)
D08 Minority Shareholder's Suit (A)
D09 Interference in Contractual Relationship (F)
D10 Accounting (A)
D11 Enforcement of Restrictive Covenant (F)
D12 Dissolution of a Partnership (F)
D13 Declaratory Judgment, G.L. c.231A (A)
D14 Dissolution of a Corporation (F)
D99 Other Equity Action (F)

PA Civil Actions Involving Incarcerated Party †

PA1 Contract Action Involving an Incarcerated Party (A)
PB1 Tortious Action Involving an Incarcerated Party (A)
PC1 Real Property Action Involving an Incarcerated Party (F)
PD1 Equity Action Involving an Incarcerated Party (F)
PE1 Administrative Action Involving an Incarcerated Party (F)

TR Torts

B03 Motor Vehicle Negligence - Personal Injury/Property Damage (F)
B04 Other Negligence - Personal Injury/Property Damage (F)
B05 Products Liability (A)
B06 Malpractice - Medical (A)
B07 Malpractice - Other (A)
B08 Wrongful Death - Non-medical (A)
B15 Defamation (A)
B19 Asbestos (F)
B20 Personal Injury - Slip & Fall (F)
B21 Environmental (F)
B22 Employment Discrimination (A)
B91 Fraud, Business Torts, etc. (F)
B99 Other Tortious Action

RP Summary Process (Real Property)

S01 Summary Process - Residential (X)
S02 Summary Process - Commercial/ Non-residential (F)

RP Real Property

C01 Land Taking (F)
C02 Zoning Appeal, G.L. c. 40A (F)
C03 Dispute Concerning Title (F)
C04 Foreclosure of a Mortgage (X)
C05 Condominium Lien & Charges (X)
C99 Other Real Property Action (F)

MC Miscellaneous Civil Actions

E18 Foreign Discovery Proceeding (X)
E97 Prisoner Habeas Corpus (X)
E22 Lottery Assignment, G.L. c. 10 §28 (X)

AB Abuse/Harassment Prevention

E15 Abuse Prevention Petition, G.L. c. 209A (X)
E21 Protection from Harassment, G.L. c. 258E (X)

AA Administrative Civil Actions

E02 Appeal from Administrative Agency, G.L. c. 30A (X)
E03 Certiorari Action, G.L. c.249 §4 (X)
E05 Confirmation of Arbitration Awards (X)
E06 Mass Antitrust Act, G.L. c. 93 §8 (A)
E07 Mass Antitrust Act, G.L. c. 93 §8 (X)
E08 Appointment of a Receiver (X)
E09 Construction Surety Bond, G.L. c. 149 §§29, 29A (A)
E10 Summary Process Appeal (X)
E11 Worker's Compensation (X)
E16 Auto Surcharge Appeal (X)
E17 Civil Rights Act, G.L. c.12 §11H (A)
E24 Appeal from District Court Commitment, G.L. c.123 §9(b) (X)
E25 Pleural Registry (Asbestos cases) (F)
E35 Forfeiture, G.L. c.94C §47 (F)
E99 Other Administrative Action (X)
Z01 Medical Malpractice - Tribunal only, G.L. c. 231 §60B (F)
Z02 Appeal Bond Denial (X)

SO Sex Offender Review

E12 SDP Commitment, G.L. c. 123A §12 (X)
E14 SDP Petition, G.L. c. 123A §9(b) (X)

RC Restricted Civil Actions

E19 Sex Offender Registry, G.L. c.6 §178M (X)
E27 Minor Seeking Consent, G.L. c.112 §12S (X)

TRANSFER YOUR SELECTION TO THE FACE SHEET

EXAMPLE:

CODE NO.	TYPE OF ACTION (specify)	TRACK	HAS A JURY CLAIM BEEN MADE?
B03	Motor Vehicle Negligence-Personal Injury	F	☒ YES ☐ NO

STATEMENT OF DAMAGES PURSUANT TO G.L. c. 212, § 3A

DUTY OF THE PLAINTIFF - The plaintiff shall set forth, on the face of the civil action cover sheet (or attach additional sheets as necessary), a statement specifying the facts on which the plaintiff relies to determine money damages. A copy of such civil action cover sheet, including the statement as to the damages, shall be served with the complaint. **A clerk-magistrate shall not accept for filing a complaint, except as otherwise provided by law, unless it is accompanied by such a statement signed by the attorney or self-represented litigant.**

DUTY OF THE DEFENDANT - If the defendant believes that the statement of damages filed by the plaintiff is inadequate, the defendant may file with his/her answer a statement specifying the potential damages which may result if the plaintiff prevails.

A CIVIL COVER SHEET MUST BE FILED WITH EACH COMPLAINT.
FAILURE TO COMPLETE THIS COVER SHEET THOROUGHLY AND ACCURATELY MAY RESULT IN DISMISSAL OF THIS ACTION.

APPENDIX G

Trial Court of Massachusetts
The Superior Court

Docket No. 21-0077B

[Filed: April 2, 2021]

LARRY INOA,	)
	)
Petitioner,	)
	)
v.	)
	)
PAMELA CASEY O'BRIEN, et al.,	)
	)
Respondents.	)
	)
	)

COMPLAINT FOR JUDICIAL REVIEW
(Administrative Agency Proceedings)

In connection with appeal of court, Larry Inea filed an appeal with.

App. 24

1

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, SS

SUPERIOR COURT
Civil Action No. 21-00771E

COMPLAINT FOR JUDICIAL REVIEW
(Administrative Agency Proceedings)

SUFFOLK SUPERIOR COURT
CIVIL CLERK'S OFFICE
2021 APR -2 P 3:06
MICHAEL JOSEPH DONOVAN
CLERK / MAGISTRATE

Larry Inoa
Plaintiff

Vs.

Pamela Casey O'Brien, Vineka Harmolejos, Chistoper C. Harding, Theresa A. Bisenios Mary Mcduald, Dina Carter, Geofrey E. Snyder, Michelle A. Cristelb

Defendant

In connection with appeal of court, Larry Inoa filed an appeal with the office address John Adam Courthouse, One Pemberton Square Room 1200 Boston, MA. 02108 case number 19CV469

1. This is a complaint seeking judicial review pursuant to G.L.c. 30A. Sec. 14, G.L.c. 249. Sec. 4, or similar statute.

2. Plaintiff Larry Inoa is a resident of the Commonwealth of Massachusetts and lives at 28 Lowell st Lynn, MA. 01905

3. Defendant agency Massachusetts Department of Revenue Salem Family child support Enforcement Division and Probation (Agency) has its principal office at 100 Cambridg st Boston, MA 02114 PO Box 55149 Boston, MA. 02205-5141

4. Plaintiff is aggrieved by a decision of defendant agency denying plaintiff's appeal of Was never provided Consitutional Safeguard of Equal Rights, Due Process Deprivation of Rights. Under color of Law, individual who is not a Judge of the court, contractor working under Title IV-D, 45 C.F.R 302 34 31 U.F.C 6305 is creating agreements.

Plaintiff's appeal is based on an assertion that the defendant agency's findings was (fill in appropriate lines below, including the facts to support your conclusion):

A. Not supported by substantial evidence because Working between Executive Branch and Judicial Branch power. That is a violation of separation of power.

B. Contrary to Law because one the U

C. In excess of authority because of allegations, violation 18 U.S. code § 287 False, fictitious, or fraudulent ~~claims~~ claims

D. Based on unlawful procedure because Plasing, making arrears ~~claims~~ for incarceration.

E. In violation of Constitutional Standards because stated in Fifth Amendment, not be deprived of life, liberty or property, without Due process of Law. Massachusetts Article 10: but no part of the property of any individual can, with justice, be taken from him or appled to police uses

F. Arbitrary and capricious because willfully enforcing, under color of Law to proform services under Title IV-D, 42 Social Security act.

WHEREFORE, Plaintiff requests the following relief:
Rewrite with Children's, Time lost with Children's, Release, Retun. Reverse Tax Refund, fix adjust accounts with IRS, fix adjust accounts with Social Security, Return stimulas Cheks. Return all court costs and fees

NAME Larry Inoa

ADDRESS 28 Lowell st
Lynn MA 01905

Signed under the penalties of perjury

Date 4/1/21

TELEPHONE 786-448-4209

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2184CV00771B

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, SS

SUPERIOR COURT
Civil Action

SUFFOLK SUPERIOR COURT
CIVIL CLERK'S OFFICE
2021 APR -21 P 2:06
MICHAEL JOSEPH DONOVAN
CLERK / MAGISTRATE

COMPLAINT FOR JUDICIAL REVIEW
(Administrative Agency Proceedings)

Larry Inoa

Vs.

Pamela Casey O'Brien, Vinela Marmolejos, Christopher C. Harding, Theresa A. Bisenius, Mary Mcduald, Dina Carter, Geoffrey E. Snyder, Michelle A.Cristelb, Randy J Kaplan

Requesting for emergency Hearing for, Civil Motion 9A., pursuant to Chapter 30A., Call to action Judicial Review. Larry Inoa has been receiving letters from the Massachusetts Department of Revenue Child Support Enforcement Division, Case number Pin: 00.2770.1566. Writing on 02/09/2021 about 'Failure to pay Child Support' the amount of 40.404.51 with stipulation saying 'can result in suspension of Drivers, business, professional,trade licenses and registration of any motor vehicles registered in your name'. Soon after two days another letter came from the same department. Indicating that the 'License should not be suspended' Then about one month later on 03/13/2021. They sent a 'Final Determination of Delinquency' that they will be taking action. About a depth that has been created by Mary McDuald from Salem Family and Probation case number 17W1382, 17W1383 followed with other administrators working under Title IV-D Agency. Larry Inoa always responded with replies with a third party

Constable from Lynn MA. to provide proper delivery. On the case, requesting clarity of the contract allegations made of the depth. Filed an appeal with Boston court of appeal, case number 2018 J 0608, 2019 J 0373 on violations of Due Process of rights, Lack of Equal Justice and failures in Safeguarding individuals Consitutional Rights. Never protecting Child or Parental Rights. The Title IV-D Administrator Agents are Depriving all Larry Inoa, Inherent Rights. Breach of Contract, The Supreme Court of the United States gave rule; that "42 U.S.C.A § 609 (a)(8) (Nov. 1996 Supp.) does not give rise to individual rights; it was not intended to benefit individual children and custodial parents," Want to protect Larry Inoa and Children Rights, Filed a 42 U.S. Code §1983 Civil Action Lawsuit for Deprivation of Rights Under Color of Law. At Salem Federal Courthouse then got transferred to Lawrence Federal Courthouse case number 19CV469 Section (D). Larry Inoa will File the following Documents.

Complaint For Judicial Review

Civil Action Cover Sheet

Letters from the Massachusetts Department of Revenue Child support Enforcement Division

Affidavit

Violation Warning Denial Rights Under Color of Law

Civil Rights Violations, Instruction 6.620

Respond Letter to all Parties

4/1/21

Larry Inoa
28 Lowell st
Lynn MA. 01905

App. 28

Massachusetts Department of Revenue
Child Support Enforcement Division

Geoffrey E. Snyder, Commissioner
Michele A. Cristello, Deputy Commissioner

LARRY MATTHEW INOA
28 LOWELL ST APT 2
LYNN, MA 01905

02/09/2021
SSN: xxx-xx-5920
PIN: 00.2770.1566

Dear LARRY MATTHEW INOA,

The Child Support Enforcement Division of the Massachusetts Department of Revenue (DOR) has reviewed the documentation you provided to us and determined that it sufficiently substantiates that your license should not be suspended. Therefore, we will not take any action against your license at this time.

If you have any questions related to this matter, please contact DOR at **(800)332-2733**.

Thank you.

Sincerely,

Massachusetts Department of Revenue
Child Support Enforcement Division

App. 29

Massachusetts Department of Revenue
Child Support Enforcement Division

Geoffrey E. Snyder, Commissioner
Michele A. Cristello, Deputy Commissioner

LARRY MATTHEW INOA
28 LOWELL ST APT 2
LYNN, MA 01905

02/09/2021

PIN: 00.2770.1566

FAILURE TO PAY YOUR CHILD SUPPORT MAY RESULT IN SUSPENSION OF YOUR DRIVER'S, BUSINESS, PROFESSIONAL, AND TRADE LICENSES.

Dear LARRY MATTHEW INOA,

According to the records of the Child Support Enforcement Division of the Massachusetts Department of Revenue (DOR), your total unpaid child support balance *as of the end of last month* is $40,404.51 which includes interest and penalties. We have not received consistent child support payments from you or your employer. As you know, you are required to comply with your court order for child support and make timely and consistent payments as well as make payments toward your past-due support debt. Your failure to pay your child support may result in suspension of your driver's, business, professional, trade licenses and registration of any motor vehicles registered in your name. In addition, DOR may release your name, the licenses suspended, and the amount of your child support debt to the public.

DOR will not seek to have your licenses suspended, if you take one of the following steps:

1. Pay $40,404.51 in full and make consistent payments according to the terms in your court order;
2. Pay your current child support obligation in full and an additional 25 percent towards your past-due support balance on a consistent and timely basis; or
3. Contact DOR at (800) 332-2733 to make a payment agreement.

If you owe child support on more than one case, you must pay the current support due on all your cases in full and an additional 25 percent towards the past-due support balance for each obligation.

If you pay the past due child support balance in full, DOR can waive any interest and penalties that are owed to the Commonwealth. DOR will not waive any interest that you owe to the custodial parent. If you would like to arrange to make full payment of the past-due support balance in a lump sum and have DOR waive the interest and penalties owed to the Commonwealth, please call (800) 332-2733. Thank you.

Sincerely,

Massachusetts Department of Revenue
Child Support Enforcement Division

If you dispute DOR's action to suspend your license:

Within 30 days of the date of this notice, you may request an administrative hearing to show cause for your failure to comply with the child support order. You are eligible for a hearing only if you can provide documents to establish one of the following, which are the only defenses recognized by the law (G.L. c. 119A, §16):

* **You are not the individual owing the arrearage.** When claiming that you are not the individual owing the arrearage, please provide 2 forms of identification (e.g., a copy of your birth certificate, Social Security card, driver's license); at least one form of identification must be issued by a governmental entity (e.g., driver's license and passport).

* **No child support arrearage exists.** Documentation necessary to establish that no arrearage exists includes a court order establishing the arrears balance at zero, copies of direct payments or canceled checks, or an affidavit from your employer verifying that payments were remitted on your behalf.

* **You are complying with the terms of the child support order.** If you have been complying with the terms of your child support order, please provide copies of canceled checks, pay stubs, an affidavit from your employer verifying that they have remitted payments on your behalf, affidavit from custodial parent verifying that you made payments, or other proof of payment.

Additionally, you must call us if:

* you have custody of the children for whom you were ordered to pay support;
* you currently receive public assistance; or
* you currently receive Supplemental Security Income (SSI) and have no other source of income.

If you are incarcerated, you must provide us with the information requested below and return a copy of this letter to: DOR/CSE, License Suspension Unit, P.O. Box 9561, 100 Cambridge St., Boston, MA 02114-9561. Once we verify the information you provide, we will delay suspending your license for up to one year or your release date, whichever is earlier. You will be required to resubmit this form each year you remain incarcerated.

Inmate Name

Inmate # Inmate Social Security Number

Name of Correctional Facility

Address of Correctional Facility

Estimated Release Date

Do not contact the Registry of Motor Vehicles or the licensing board responsible for issuing your professional license. DOR alone is responsible for the determination to suspend your license for failure to pay child support.

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Massachusetts Department of Revenue
Child Support Enforcement Division

Geoffrey E. Snyder, Commissioner
Michele A. Cristello, Deputy Commissioner

03/13/2021

LARRY MATTHEW INOA
28 LOWELL ST APT 2
LYNN, MA 01905

PIN: 00.2770.1566

FINAL DETERMINATION OF DELINQUENCY

Dear LARRY MATTHEW INOA,

Previously, the Child Support Enforcement Division of the Department of Revenue (DOR) notified you that one or more of your licenses may be suspended or revoked because you have failed to make consistent and timely payments toward your court-ordered child support obligation and you currently owe past-due support. Since that time, you have failed to make child support payments or you requested an administrative hearing, but failed to provide documentation to establish that you are not the individual owing the arrearage, that no child support arrearage exists, or that you are complying with the terms of your child support order, which are the only defenses recognized by the law.

As a result, this notice is DOR's **Final Determination of Delinquency**. We will notify the appropriate licensing authorities to suspend any licenses you may have. If your license has already been suspended by the licensing authority as a result of an action by DOR or for any other reason, your license will not be reinstated until you pay your past-due child support in full, or enter into and comply with a payment agreement.

Do not contact the Registry of Motor Vehicles or the licensing board that issued your professional license. DOR alone is responsible for the determination to suspend your license for failure to pay child support.

If you wish to contest this action, you must file a complaint for judicial review in the court that entered your child support order within 45 days of the date that the licensing authority notifies you of the suspension of your license. If you wish to make arrangements to pay your past-due child support in full or enter into a payment plan, please contact DOR at **(800)332-2733**.

Sincerely,
Massachusetts Department of Revenue
Child Support Enforcement Division

App. 32

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, ss.

SUPREME JUDICIAL COURT

SUFFOLK SUPERIOR COURT
CIVIL CLERK'S OFFICE
2021 APR -2 P 2:06
MICHAEL JOSEPH DONOVAN
CLERK / MAGISTRATE

Larry Inoa V.

Vinela Marmolejos, Christopher C. Harding, Geoffrey E Snyder

Michel A. Cristello, Pamela Casey O'Brien

Mary McDuanld, Dina Carter, Theresa A. Bisenius, Randy J. Kaplan

Affidavit

Call to action judicial review

42 U.S. code § 1983 civil action for deprivation of rights

Today beyond a shadow of a doubt that a judge can't be sued, but a contractor can. Because when a Judge is acting under it's consitutional duties.

Error: Was told by Federal court that they had immunity- Vinela Marmolejos "Mother of the Children", Christopher C. Harding "Department of Revenue Ma.", Pamela Casey O'Brien " Essex county registry of probation MA." Mary Mcduald "probation officer MA." Dina Carter "Child Support Enforcement Specialist Ma." Randy J. Kaplan "Salem Ma. Family and Probation, Justice, Probate and Family Court" Clerks of court and the sheriff of the bail.

Had entered with Salem Ma. family and probation how was the arrears created asking and filing for equal Justice and getting deprived of my parental rights for a contract to better the agency and enrich. Error on Due process, not providing the video, audio, writing contract or verbal, of terms and conditions that are

protected Constiution. "In United States Constitutional law, a **Due Process** Clause is found in both the Fifth and Fourteenth Amendments to the United States Constitution, which prohibits arbitrary deprivation of life, liberty, or property by the government except as authorized by law.[1][2][3]"

Larry Inoa always provided information to move forward with Salem MA. Family and probation, Woburn MA. Department of revenue, and as well in their office at Salem Ma. Family and Probation, where Larry Inoa was always misled by information, or manipulated by the clerk of Woburn MA, Salem Mass department of revenue. Salem MA. Family and Probation. Making the situation worse to move forward and getting back Larry Inoa parental Rights that were violated. Making Larry Inoa an absent Parent to his children so he can't protect, provide and keep safe from any harm.

Due process 45 C.F.R. 303.101 (c) (2)

Changed name without consent from parent to non custodial parent.

18 U.S. Code § 242, Deprivation of rights under color of law. Section 242 of Title 18 makes it a crime for a person acting **under color** of any law to willfully deprive a person of a right or privilege protected by the Constitution or laws of the **United States**

In the Social Security Compilation, of The Social Social Security Laws Sec. 403. [42 U.S. C. 603] (a) Grants- (bb) programs or activities are voluntary

U.S. Department of Justice Civil Rights Division Office for access to Justice P.1 " held by the Department of Justice ("The Department" is committed to assisting State and local Courts in their effort to ensure equal justice and due process for all those who come before them.

" Courts must not employ bail or bond practices that cause indigent defendants to remain incarcerated solely because they can't afford to pay for their release".

"As the department of Justice set forth in detail in a Federal Court brief, and as Courts have long recognized, any bail practices that result in incarceration based on poverty violate the Fourteenth Amendment P.7

The Supreme Court Of The United States Jenifer Troxel, Et Uir, Petitiones V. Tommie Granville. Announced "in Washington Supreme Court Which held that § 26.10.160(3) unconstitutionally interferes with the fundamental rights of parents to rear their Children. Mary Mcduald "Probation Officer Agent", Randy J. Kaplan "Judge Agent" Pamela Casey O'Brien "Essex Court Register of Probate Agent" In Salem Ma. Family and Probation. Dina Carter "Woburn Ma. Child Support Enforcement Specialist Agent" Field in person and by mail to her

Woburn MA. Office error on, why not to hold tax refund and offsetting account with I.R.S. as well with Social security. Christopher C Harding "Department Of Revenue Commissioner Agent" Oversees the Title IV-D program. Vinela Marmolejos ``Mother of the Children" Creating false allegations to run away with the children and alienated father from Children also dividing Children From father Also, in the Court of Appeals view that limitation on non parental visitation action was consistent with parents fundamental liberty interest in the care, custody, and management of their children.

Violation in the Federal Constitution, The Fourteenth Amendment provides that no State shall deprive any person life, Liberty, or property without Due Process Of Law.

The agents Mary Mcduald from Salem Ma. Family and Probation clerk of Title IV-D started creating allegations for Title IV-D to alianated and divide fathers from children. In the Supreme Court of the United States held "268 U.S. 510, 534-535(1925), we again held that the "Liberty of parents and guardians" includes the right to direct the upbringing and education of Children under their control.

Sue the Contractor 42 U.S. Code § 1983.Civil action for deprivation of rights

Explained in the Section 8- Child Support Enforcement Program

The Federal regulations also contain additional requirements related to the expedited process. Proceedings conducted pursuant to either the expedited Judicial or expedited administrative process must be presided over by an individual who is not a Judge of the Court.

Redundancy- Duplication of components or circuits to provide survival of the total system in case of failure of single components.

Orders established by expedited process must have the same force and effect under State Law as orders established by full Judicial process, although either process may provide that a Judge first ratifies the order. "Judge, Randy J. Kaplan", "Probation Officer, Mary Mcduald" A Judge or Probation Officer does not sign a Child Support Order. The Contractors create one, but not a Judge working with 45 C.F.R § 75.2 IV-D contractors.

Between the Executive branch and Judicial, that is a violation of separation of power.

Larry Inoa has sent in many times asking for contract information with Salem Ma. Family and Probation, Child Support Office Department Of Revenue MA. and Woburn MA. Sending letters through a third party Constable to deliver the letters for explanation on how Larry Inoa parental rights are getting violated. Creating criminal contempt on the depth created by Title IV-D Agency. To deprive and not provide Equal Justice or protect and safeguard individuals rights. Appealed the order on lack of Due Process, Equal Justice, violation on constitution "Amendment V" 18 U.S. Code § 241, Conspiracy against rights. Creating contracts of equity, when Larry Inoa always mailed in certified letters as well sent documents with a Lynn Constable asking under the " Federal Consumers care act" for a copy of how the depth was created. Breach of contract, not replien in a timely manner delaying the paperwork process to be

sent to the courts of Appeal, so the defendant "Larry Inoa" can't file proper paperwork.

Fraud to the inducement.

If they are working in a capacity as a contractor they are administrators for the agency for 45 C.F.R § 75.2 IV-D contractors, not for the court.

"The court shall certify that all court hearings are conducted in compliance with Title IV-D of the Social Security Act, Pub. L. No. 93-647, 88 stat. 2351 (1975), 42 U.S.C. 651 (8/22/1996) as amended up until the effective date of this role."

Larry Inoa got misleading and misguided information that the Salem Family and Probation, Woburn Department of Revenue, Child Support Enforcement Agency was an Equal Justice in and out of Court. 18 U.S. code § 241, conspiracy against rights, 18 U.S. code § 242 Deprivation of rights under color of law. Title IV-D

was never enacted into positive Law Title. Which makes it commercial, makes it contractual, They don't conduct court hearings. The Agents are infocing "Under Color of Law". Comercial containing requirements for a contract.

As explained U.S. Supreme Court Pennhurst State Sch. & Hosp. V. Haldeman, 451 U.S. 1 (1981) No. 79-1404 [such an agreement is in the nature of a contract]" id., at 17: The state promises to provide certain services to provide individuals, in exchange for which the Federal Government promises to give the State funds.

The Child Support Enforcement Agency, "Agents" Pamila Casey O'Brien, Mary Mcduald, Randy J. Kaplan Dina Carter, Christopher C. Harding and all others working under the Title IV-D Department of Human Services, Department of Revenue, the Attorney General it is not a State Agency It's a single and separate

entity that's operating in the state under a contract with the Federal Government.

The Federal (OCS) oversee the national Child Support Program. The Federal

Government (OSC) supervises the State.

It is Contractual.

A= Federal Government

B= IV-D Agency Operating in the State

C= Vinela Marmolejos

In contract Law, when such an arrangement is made (A= promises to pay B=

money in exchange for which B= promises to provide services to C=) the person

who receives the benefits of the exchange of promises between the two others it

is called a third-party beneficiary 1w. Story, A Treatise on the Law of contracts

549;550 (4th ed. 1856) LINDA J. BLESSING, DIRECTOR, ARIZONA

DEPARTMENT OF ECONOMIC SECURITY, PETITIONER *v.* CATHY FREE STONE, etc., et al.

From the contract 45 C.F.R § 75.2 contractor means an entity that receives a contract as defined in contract.

"Contract" refers to a private or governmental entity with whom the Child Support Enforcement Agency enters into an IV-D contract. The contract entered is not governmental, it is Child Support Enforcement Agency "IV-D", single and separate. Creating contracts IV-D with Governmental entities" includes the following entities in the same county as the Child Support Enforcement Agency.

A Court;

A prosecutor or other Law enforcement official;

A Sheriff;

A clerk of Court;

A recorder's office;

A Treasurer's office;

Or any other public or Governmental Agency or Official are contractors if they are performing services for IV-D.

From Blacks Law Dictionary

The following terms and definitions apply to this rule and it's supplemental rules:

Contractor, This term is strictly applicable to any person who enters into a contract (kent V. Railroad Co., 12 N.Y. 628 is commonly reserved to designate one who, for a fixed price, undertakes to procure the performance of works on large scale, or the furnishing of goods in large quantities, whether for the public

or a company or individual. (McCarthy V. Second Parish, 71 ME. 318,36 AM. Rep. 320. P 397

Federal Code of regulations 45 C.F.R. § 75.2 contractor means an entity that receives a contract as defined in contract.

45 C.F.R § 302.32 "IV-D contract" means a mutually binding legal relationship obligating a private governmental entity to provide IV-D services in a IV-D case return for payment by Child Support Enforcement Agency. Taking bribes. Manipulated, misled, presberd, and threatened to make Larry Inoa believed he was going to court for his children. All cases created were administrator agents creating contracts. Single and separate has nothing to do with the court, nothing to do with Law, nothing to do with the constitution and it as well has nothing to do with Judicial activities. As prescribed by the Law. They are administrator

duty, that they are performing for a private corporation Child Support Enforcement Agency.

As shown on the Section-8 Child Support Enforcement Program "Contract" Private entity means a company, organization, or individual that does not meet the definition of governmental entity.

Along with In the Federal Rule P.8-5 The federal statute requires the national Child Support program to be administered by a separate organizational unit under the control of a person."clerks"

The Child Support Enforcement Agency was not entered into a Governmental entity, It is single and separate. The Government won't go into contract with itself. It goes into contract with 42 U.F.C. 654.3 single and separate unit.

Operating within the state. The Child Support Enforcement Agency is under the

Social Security umbrella corporation, employer to agency contractor who works on fixed rate contract.

Void Orders, that's a contractor working under a private corporation operating within the State.

42U.F.C 653(A) the secretary shall establish, with the department of Health and Human Services a separate organization unit, under the direction of a designee of the secretary who, shall report directly to secretary and who shall. The Federal Office of Child Support is a separate unit apart by itself, but when it moves into the State it becomes a single and separate unit, allone and by itself. It's not connected to anything.

Randy J. Kaplan with other administrators, clerks working under Title IV-D Agency signed default orders for a depth that was created by Mary Mcduald in

Salem MA. family and Probation. To Deprive all Inherent rights. They will make Larry Inoa sign papers without fair Due Process of Law, to create contracts obligations. Led to getting incarcerated by the sheriff of the court where they never provided Larry Inoa with his Miranda Rights. "Error"

Fifth Amendment Miranda Rights

Miranda rights are rooted in the Fifth Amendment's protection against self-incrimination

When signing the default order, it was under contractual order.

Contract Obligation, The obligation which arises from a contract agreement

P.397

45 C.F.R. § 302.34 "IV-D contract" means a mutually binding, legal relationship obligating a private or governmental entity to prove IV-D services in a IV-D case

or perform other administrative duties of the Child Support Enforcement Agency that pertain to IV-D case return for payment by the Child Support Enforcement Agency.

Warrants, seizure State and Federal income tax withholding, licence Suspension.

IV-D services that are made under IV-D obligation, that is not a Judicial obligation or duty.

Independent Capacity for the contractor:

The contractor and it's agents, employees and subcontractors will act in performance of this IV-D Contract in an independent capacity (and not as officers or employees or agents of the state or the Child Support Enforcement Agency. "Inhuman" It does not say the State Child support Enforcement Agency. It's working as an independent capacity, and not of the State. If the

judge was performing under Judictional functions under the Constitution they will have Immunity. But not in Title IV-D they are not Judges. Independent Capacity and not as officers or employees or agents of the state or Child Support Enforcement Agency. All by themselves as Independent contractors. They don't get Immunity.

Kink Laws

Immunity for Judges does not extend to acts which are clearly outside their Jurisdiction Bavers V. Heisel, CA. N.J. 1966, 361 F.2d 581 Cert.den.87 S. CT. 1367, 386 U.S. 1021, 18 L. ED. 2d 457 (see also Muller V. wachtel D.C. N.Y. 1972, 345 F. Supp. 160; Rhodes V. Houston, D.C. Nebr. 1962, 202 F. Supp 624 affimed 309 F. 2d 959, Cert den 83st 724, 372 U.S. 909, 9 L. ED 719, Cert. Den

83 S. CT. 1282, 383 U.S. 971, 16 L. ED. 2nd 311, Motion denied 285 F. Supp. 546).

They don't get Immunity when they are performing contractual obligation for a non governmental entity for a private entity.

When acting to enforce a statute and it's subsequent amendment to the present date, the Judge of the municipal court is acting as an administrative officer and not in a Judicial capacity; Courts in administering or enforcing statutes do not act Judicially, but merely ministerially "Thompson V. Smith, 154 SE 583.

A Judge ceases to sit as a Judicial officer because the government principle of administrative Law provides that courts are prohibited from substituting their evidence, testimony, record, arguments, and rationale for that of the agency.

Additionally, courts are prohibited from substituting their Judgement for that of

the agency. Courts in administrative issues are prohibited from ever listening to or hearing arguments, presentation, or rationale. " Asis V. U.S., 568 F2d 284.

The Title IV-D Agency, the single and separate unit operating in the State.

"Courts in administration issues are prohibited from ever listening to or hearing arguments, presentation or rationale.

A clerk of the court working under Title IV-D does not have Immunity.

45 C.F.R. contractors do not have Immunity.

Contractor impersonating a Judge and also impersonating a public officer is a crime 18 U.S. Code § 287, False, fictitious or fraudulent claims under a IV-D contract to generate clients.

Types of IV-D contracts.

The types of IV-D contracts the Child Support Enforcement Agency may elect to enter into include but are not limited to:

(1) A contract with a prosecutor in the same county as the Child Support Enforcement Agency or a private attorney to provide legal services.

(2) A contract with the prosecutor in the same county as the Child Support Enforcement Agency to Provide service of process, including warrants for arrest.

(3) A IV-D contract with the sheriff in the same county as the Child Support Enforcement Agency to provide services of process, including warrants for arrest. Everytime one or more of the different agencies get paid for providing IV-D services, That benefits their Title IV-D contract.18 U.S. Code § 286, Conspiracy to defraud the U.S. Government

(4) A IV-D contract with a private entity to provide service of process, excluding warrants for arrest.

(5) A IV-D contract with a court or a clerk of court in the same county as the Child Support Enforcement Agency to provide the duties of a clerk of court that are initiated by the Child Support Enforcement Agency initiating actions for a private corporation under a contractual obligation. "No Immunity"

(6) A IV-D contract with a court in the same county as the Child Support Enforcement Agency to provide magistrate services. The Child Support Enforcement Agency may elect to purchase:

(7) A IV-D contract with a court in the same county as the Child Support Enforcement Agency for probation officer services to provide enforcement

duties that target only individual placed on the probation for non-payment of

Child Support when the enforcement duties of the probation officer are:

The Court shall certify that all court hearings are conducted in compliance with

Title IV-D of the Social Security Act, Pub. L. No. 93-647, 88 stat. 2351 (1975),

42 U.S.C. 651 (8/22/1996), as amended up until the effective date of this rule,

and the rules in division 5101:12 of the administrative code.

SJC says man wrongfully jailed in child support case

"Was denied virtually all of his due process rights by both the judge and

the Department of Revenue during the 2018 hearing that ended with him".

being sent to jail. Non Positive Law, title 42, there acting under color of Law

Filing for Judicial Review

Filing for 42 U.S. code § 1983 civil action for deprivation of rights

The judge Randy J Kaplan in Salem MA. Family and Probation treated Larry Inoa like if is a delinquent only because Larry Inoa is a minority race. In the beginning when Vinela Marmolejos ran away with my Children Larry Inoa asked the court for equal Justice to see My Children, to support my Children, but the mother of the Children is looking to harm my life and to send Larry Inoa to Jail. I Larry Inoa remember that Randy J. Kaplan asked Vinela Marmolejos what she wanted, and her answer was. "Vinela Marmolejos I want him to go to jail". Then Larry Inoa was incarcerated soon after. Never read Miranda Rights. After that larry Inoa is having problems concentrating on doing my work because it harms my life for treating Larry Inoa like a delinquent. Mentaly, I'm feeling bad, because Larry Inoa can't see my Children. How Salem Family and probation treated me, it gave me physical mental trauma, how an agency can deprive a

human for the past five years. Having lost time with my Children and the upbringing care.

3/31/21

Larry Inoa

28 lowell st

Lynn MA. 01905

CIVIL RIGHTS VIOLATIONS

The defendant is charged with having violated the Massachusetts Civil Rights Act, which is found as section 37 of chapter 265 of our General Laws. It provides that:

> **"No person . . . shall**
>
> **by force or threat of force,**
>
> **willfully injure, intimidate or interfere with,**
>
> ***or* attempt to injure, intimidate or interfere with,**
>
> ***or* oppress or threaten**
>
> **any other person**
>
> **in the free exercise or enjoyment of any right or privilege**
>
> **secured to him [or her]**
>
> **by the constitution or laws of the commonwealth *or* by the constitution or laws of the United States."**

In order to prove the defendant guilty of this offense, the Commonwealth must prove four things beyond a reasonable doubt:

First: **That** Larry Inca **[alleged victim] was exercising a right or privilege protected by the Constitution or laws of the Commonwealth of**

Massachusetts or of the United States;

Second: **That the defendant either injured, intimidated, interfered with, oppressed or threatened the exercise or enjoyment of that legally protected right by** Massachusetts Department of Revenue child support Enforcement Division Salem MA. Family and probation **[alleged victim], or attempted to do so;**

Third: **That the defendant did so by using force or by threatening to use force; and**

Fourth: **That the defendant did so wilfully.**

The foregoing instruction, and the notes below, are based upon a model instruction developed by the Department of the Attorney General. See also A. Sager, "Rights Protected by the Massachusetts Civil Rights Act Against Interference on Account of Race or Color," 17 Suffolk U. L. Rev. 53 (1983); Sherman & Goldman, "The Development of the Massachusetts Civil Rights Act," 29 Boston Bar. J. 10 (No. 4 Sept./Oct. 1985).

General Laws c. 265, § 37 offers a scope of protection that is similar in many respects to 42 U.S.C. § 242 (the Federal criminal statute governing civil rights violations), and to 42 U.S.C. § 1983 (the Federal civil statute governing civil rights violations). General Laws c. 265, § 37 differs from both Federal statutes in two significant ways: (1) It applies whether or not a defendant was acting under color of law, and therefore encompasses not only private rights secured against the government but also relations between private parties. *O'Connell v. Chasdi*, 400 Mass. 686, 692, 511 N.E.2d 349, 352 (1987); *Bell v. Mazza*, 394 Mass. 176, 182, 474 N.E.2d 1111, 1115 (1985) (statutory phrase "whether or not acting under color of law" is superfluous); *Batchelder v. Allied Stores Corp.*, 393 Mass. 819, 822-823, 473 N.E.2d 1128, 1131 (1985); *United States Jaycees v. Massachusetts Comm'n Against Discrimination*, 391 Mass. 594, 609 n.9, 463 N.E.2d 1151, 1160 n.9 (1984). (2) It requires proof of force or threat of force, and is limited to certain specific prohibited acts (e.g., "injure," "intimidate," etc.). *Commonwealth v. Stephens*, 25 Mass. App. Ct. 117, 122 n.5, 515 N.E.2d 606, 609 n.5 (1987). In addition, the Massachusetts statute, unlike 42 U.S.C. § 1983, requires that the violation have been "willful," *Redgrave v. Boston Symphony Orchestra, Inc.*, 399 Mass. 93, 99-100, 502 N.E.2d 1375, 1379, *S.C.*, 831 F.2d 339 (1st Cir. 1987), 855 F.2d 888 (1st Cir. 1988) (en banc).

The Massachusetts Civil Rights Act (St. 1979, c. 801) also contains civil provisions, which are codified at G.L. c. 12, §§ 11H-11*I*.

SUPPLEMENTAL INSTRUCTIONS

1. *"Exercise or enjoyment" of rights.* **A person is exercising or enjoying a right or privilege secured by the Constitution or laws of the Commonwealth or of the United States whenever that person's behavior or interest is protected by any provision of the Massachusetts or the Federal Constitution, or any Federal or state statute. I instruct you that** Fifth, Fourteenth Amendment *[constitutional or statutory provision]* **guarantees to** *[specify persons protected]* **the right to** *[specify right]*. **Such a person exercises or enjoys that legal right whether or not he knows that the law guarantees him that right.**

Bell, supra ("secured" means "created by, arising under or dependent upon" rather than "fully protected"; right can be "secured" against private party although Constitution or statute only prohibits governmental interference).

See G.L. c. 233, §§ 70 (judicial notice of Federal law) and 75 (proof of Massachusetts and Federal statutes by printed copy).

2. *"Injure, intimidate or interfere with . . . or oppress or threaten".* **To injure, intimidate, interfere with, oppress or threaten another person in the free exercise or enjoyment of a right or privilege means in general to impede or prevent the full and free benefit of that right. The alleged victim need not be completely prevented from**

exercising the right, just hampered in exercising it. To "intimidate" means to put in fear. To "interfere" means to hinder or meddle in the affairs of another. To "oppress" means to use authority or power abusively or excessively. To "threaten" means to express an intention to harm another's person or property. This element is satisfied if it is proven beyond a reasonable doubt that the defendant negatively affected the alleged victim's rights in any one of these ways.

Delaney v. Chief of Police of Wareham, 27 Mass. App. Ct. 398, 409, 539 N.E.2d 65, 72 (1989) ("threat" is "acts or language by which another is placed in fear of injury or damage").

18 U S Code § 287, False, Fictious or Fraudulent claims

3. *"Attempt to injure, intimidate or interfere with."* **To prove that the defendant attempted to injure, intimidate or interfere with another person's rights, the Commonwealth must prove two things: that the defendant took a step toward interfering with the alleged victim's rights, and that he (she) did so with the specific intention of interfering with those rights. Neither intent alone nor making preparations is enough by itself to constitute an attempt. You must also find that the defendant took an overt act designed to interfere with the alleged victim's right and came**

reasonably close to doing so.

See Instruction 4.120 (Attempt).

Commonwealth v. Ware, 375 Mass. 118, 120, 375 N.E.2d 1183, 1184 (1978); *Commonwealth v. Gosselin*, 365 Mass. 116, 121, 309 N.E.2d 884, 888 (1974); *Commonwealth v. Peaslee*, 177 Mass. 267, 271-274, 69 N.E. 55, 56 (1901); *Commonwealth v. Burns*, 8 Mass. App. Ct. 194, 196, 392 N.E.2d 865, 867-868 (1979).

4. *"Force."* **"Force" means physical force, directed either against a person or against property. But the amount of physical force used does not matter. Even a minimal amount of force is sufficient.**

Commonwealth v. Richards, 363 Mass. 299, 302, 293 N.E.2d 854, 857 (1973) (force against person); *Commonwealth v. Jones*, 362 Mass. 83, 87-90, 283 N.E.2d 840, 843 (1972) (even swift purse snatching involves use of "force").

5. *"Threat of force."* **A threat of force is an expression of an intention to use force which is communicated to the person threatened. It must also seem to any reasonable person standing in the place of the threatened person that the person making the threat actually had the ability to carry it out.**

Commonwealth v. Chalifoux, 362 Mass. 811, 816, 291 N.E.2d 635, 638 (1973) (definition of threat); *Commonwealth v. Corcoran*, 252 Mass. 465, 483-484, 148 N.E. 123, 127 (1925) (apprehension to be determined objectively).

6. *"Wilfully."* **The defendant's act must have been done wilfully. The defendant's act was wilful if it was done either with the specific purpose of interfering with the alleged victim's enjoyment of the interests protected by the right to** civil Right *[specify right]*, **or it was done because the alleged victim had exercised that right.**

It is *not* necessary for the Commonwealth to prove that the defendant knew that he (she) was violating the law, or that he (she) knew that the right to Due Process, The Fifth Amendment *[specify right]* **is specifically protected by the Constitution or laws of Massachusetts or the United States. The Commonwealth is only required to prove that the defendant acted with the particular purpose of interfering with the alleged victim's enjoyment of the interests that are protected by that right. If he (she) did so, then he (she) acted wilfully.**

See Instruction 3.120 (Intent).

This is a specific intent crime, which involves two determinations:

"The first is a purely legal determination. Is the . . . right at issue clearly delineated and plainly applicable under the circumstances of the case? If the trial judge concludes that it is, then the jury must make the second, factual, determination. Did the defendant commit the act in question with the particular purpose of depriving the victim of his enjoyment of the interests protected by that . . . right?

Larry Inoa 4/1/21
28 Lowell st
Lynn MA 01905

Def.

Vinela Marmolejos, Mother of the Children.

Christopher C. Harding, DOR commissioner, MA.

Pamela Casey O'Brien, Essex County Register of Probation, Salem MA.

Theresa A. Bisenius, Justice, Probation and Family courts, Salem MA.

Mary Mcduald, Probation, Officer, Salem MA.

Dina Carter, Child support Enforcement Specialist, Woburn MA.

Geoffrey E. Snyder, DOR Commissioner, MA.

Michelle A. Cristelb, Deputy Commissioner, MA.

Randy J. Kaplan, Justice, Probation and Family courts Salem MA.

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Larry Inoa
28 Lowell st
[Date]
Lynn Ma. 01905

SUFFOLK SUPERIOR COURT
CIVIL CLERK'S OFFICE
2021 APR -2 P 2:06
MICHAEL JOSEPH DONOVAN
CLERK / MAGISTRATE

VS.

Vinela Marmolejos,
Christopher C. Harding
DOR, Child Support
Enforcement, Title
IV-D Agency
Case# 17W1382,17W1383
PIN:00.2770.1566

Dear : Whomever This May Concern

I am responding to your contact about a debt you are trying to collect. You contacted me by ***mail***, on [***December 28 2018***] and identified the debt as $35,272.51. Please supply the information below so that I can be fully informed:

Why you think I owe the debt and to whom I owe it, including:

- The name and address of the creditor to whom the debt is currently owed, the account number used by that creditor, and the amount owed.
- If this debt started with a different creditor, provide the name and address of the original creditor, the account number used by that creditor, and the amount owed to that creditor at the time it was transferred. When you identify the original creditor, please provide any other

name by which I might know them, if that is different from the official name. In addition, tell me when the current creditor obtained the debt and who the current creditor obtained it from.

- Provide verification and documentation that there is a valid basis for claiming that I am required to pay the debt to the current creditor. For example, can you provide a copy of the written agreement that created my original requirement to pay?
- If you are asking that I pay a debt that somebody else is or was required to pay, identify that person. Provide verification and documentation about why this is a debt that I am required to pay.

The amount and age of the debt, including:

- A copy of the last billing statement sent to me by the original creditor.

- State the amount of the debt when you obtained it, and when that was.

  - If there have been any additional interest, fees or charges added since the last billing statement from the original creditor, provide an itemization showing the dates and amount of each added amount. In addition, explain how the added interest, fees or other charges are expressly authorized by the agreement creating the debt or are permitted by law.

  - If there have been any payments or other reductions since the last billing statement from the original creditor, provide an itemization showing the dates and amount of each of them.

- If there have been any other changes or adjustments since the last billing statement from the original creditor, please provide full verification and documentation of the amount you are trying to collect. Explain how that amount was calculated. In addition, explain how the other changes or adjustments are expressly authorized by the agreement creating the debt or permitted by law.

- Tell me when the creditor claims this debt became due and when it became delinquent.

- Identify the date of the last payment made on this account.

- Have you made a determination that this debt is within the statute of limitations applicable to it? Tell me when you think the statute of limitations expires for this debt, and how you determined that.

Details about your authority to collect this debt.

- I would like more information about your firm before I discuss the debt with you. Does your firm have a debt collection license from my state? If not, say why not. If so, provide the date of the license, the name on the license, the license number, and the name, address and telephone number of the state agency issuing the license.

- If you are contacting me from a place outside my state, does your firm have a debt collection license from that place? If so, provide the date of the license, the name on the license, the license number, and the name, address and telephone number of the state agency issuing the license.

I have asked for this information because I have some questions. I need to hear from you to make an informed decision about your claim that I owe this money. I am open to communicating with you for this purpose. In order to make sure that I am not put at any disadvantage, in the meantime please treat this debt as being in dispute and under discussion between us.

In addition to providing the information requested above, please let me know whether you are prepared to accept less than the balance you are claiming is owed. If so, please tell me in writing your offer with the amount you will accept to fully resolve the account.

Thank you for your cooperation.

Sincerely,

Larry Inoa SS#›

Form **COL**

Violation Warning
Denial of Rights Under Color of Law

▶ Violation Warning—18 U.S.C. §242; 18 U.S.C. §245; 42 U.S.C. §1983

Name and address of Citizen	Name and address of Notice Recipient
Lamy Inca 28 Lowell st Lynn, MA. 01905	Christoper C. Harding 20 Cambridge st Boston, MA 02114 Massachusetts Department of Revenue Child Support Enforcement, Commissioner PO Box 55149-Boston MA 0225-5149

Citizen's statement:
Every person is entitled to an opportunity to be heard before an impartial court of Law.

I certify that the forgoing information stated here is true and correct.
Citizen's signature

▶ [signature] | **Date** ▶ 4/1/21

Legal Notice and Warning

Federal law provides that it is a crime to violate the Rights of a citizen under the color-of-law. You can be arrested for this crime and you can also be held personally liable for civil damages.

Attempting to cause a person to do something by telling that person that such action is required by law, when it is not required by law, may be a felony.

18 USC §242 provides that whoever, under color of any law, statute, ordinance, regulation, or custom, willfully subjects any person in any State, Territory, Commonwealth, Possession, or District to the deprivation of any rights, privileges, or immunities secured or protected by the Constitution or laws of the United States ... shall be fined under this title or imprisoned not more than one year, or both.
18 USC §245 provided that Whoever, whether or not acting under color of law, intimidates or interferes with any person from participating in or enjoying any benefit, service, privilege, program, facility, or activity provided or administered by the United States; [or] applying for or enjoying employment, or any perquisite thereof, by any agency of the United States; shall be fined under this title, or imprisoned not more than one year, or both.
42 USC §1983 provides that every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia, subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress.

Warning, you may be in violation of Federal Law and persisting with your demand may lead to your arrest and/or civil damages! Also understand that the law provides that you can be held personally responsible and liable, as well as your company or agency.

You are advised to cease and desist with your demand and to seek *personal* legal counsel if you do not understand the law.

Notice of Service:

I, _____ certify that I personally delivered this notice to above named recipient and address on _____ at _____.

Public Domain—Privacy Form COL(01)

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Form **COL**

Violation Warning
Denial of Rights Under Color of Law

▶ Violation Warning—18 U.S.C. §242; 18 U.S.C. §245; 42 U.S.C. §1983

Name and address of Citizen	Name and address of Notice Recipient
Larry Inoa 28 Lowell st Lynn MA 01905	Pamela Casey O'Brien, Register of Probate 36 Federal st Salem, MA 01970

Citizen's statement:
Every person is entitled to an opportunity to be heard before an impartial court of law

I certify that the forgoing information stated here is true and correct.
Citizen's signature

▶ [signature] | **Date** ▶ 4/1/21

Legal Notice and Warning

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Form **COL**

Violation Warning
Denial of Rights Under Color of Law

▶ Violation Warning—18 U.S.C. §242; 18 U.S.C. §245; 42 U.S.C. §1983

Name and address of Citizen	Name and address of Notice Recipient
Larry Inoa 28 Lowell St Lynn MA. 01905	Theresa A. Bisenius, Justic, Probation and Family courts Salem MA. 36 Fedeal st Salem MA 01970

Citizen's statement:
Every person is entitled to an opportunity to be heard before an impartial Court of Law.

I certify that the forgoing information stated here is true and correct.
Citizen's signature

▶ Larry Inoa | **Date** ▶ 4/1/21

Legal Notice and Warning

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You are advised to cease and desist with your demand and to seek *personal* legal counsel if you do not understand the law.

Notice of Service:

I, _____ certify that I personally delivered this notice to above named recipient and address on _____ at _____.

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Form **COL**

Violation Warning
Denial of Rights Under Color of Law

▶ Violation Warning—18 U.S.C. §242; 18 U.S.C. §245; 42 U.S.C. §1983

Name and address of Citizen	Name and address of Notice Recipient
Larry Inoa 28 Lowell st Lynn MA. 01905	Mary McDvald, Probation, officer Salem MA. 36 Federal st Salem MA 01970

Citizen's statement:
Every person is entitled to an opportunity to be heard before an impartial court of Law

I certify that the forgoing information stated here is true and correct.
Citizen's signature

▶ _____ | **Date** ▶ 4/1/21

Legal Notice and Warning

Federal law provides that it is a crime to violate the Rights of a citizen under the color-of-law. You can be arrested for this crime and you can also be held personally liable for civil damages.

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Warning, you may be in violation of Federal Law and persisting with your demand may lead to your arrest and/or civil damages! Also understand that the law provides that you can be held personally responsible and liable, as well as your company or agency.

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Notice of Service:

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Public Domain—Privacy Form COL(01)

Form **COL**

Violation Warning
Denial of Rights Under Color of Law

▶ Violation Warning—18 U.S.C. §242; 18 U.S.C. §245; 42 U.S.C. §1983

Name and address of Citizen	Name and address of Notice Recipient
Larry Inoa 28 Lowell st Lynn MA 01905	Dina Carter, Child Support Enforcement specialist 100 Trade center S. 760 woburn MA 01801

Citizen's statement:

Every person is entitled to an opportunity to be heard before an impartial Court of Law.

I certify that the forgoing information stated here is true and correct.

Citizen's signature

▶ [signature] | **Date** ▶ 4/1/21

Legal Notice and Warning

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Form **COL**

Violation Warning
Denial of Rights Under Color of Law

▶ Violation Warning—18 U.S.C. §242; 18 U.S.C. §245; 42 U.S.C. §1983

Name and address of Citizen	Name and address of Notice Recipient
Larry Inea 28 Lowell st Lynn MA 01905	Geoffrey E Snyder, Massachusetts Department of Revenue Child Support Enforcement Division 100 Cambridge st Boston, MA 02114 PO Box 55149 Boston MA 02205-5149

Citizen's statement:
Every person is entitled to an opportunity to be heard before an impartial Court of Law.

I certify that the forgoing information stated here is true and correct.
Citizen's signature

▶ _____ | **Date** ▶ 4/1/21

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18 USC §242 provides that whoever, under color of any law, statute, ordinance, regulation, or custom, willfully subjects any person in any State, Territory, Commonwealth, Possession, or District to the deprivation of any rights, privileges, or immunities secured or protected by the Constitution or laws of the United States ... shall be fined under this title or imprisoned not more than one year, or both.
18 USC §245 provided that Whoever, whether or not acting under color of law, intimidates or interferes with any person from participating in or enjoying any benefit, service, privilege, program, facility, or activity provided or administered by the United States; [or] applying for or enjoying employment, or any perquisite thereof, by any agency of the United States; shall be fined under this title, or imprisoned not more than one year, or both.
42 USC §1983 provides that every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia, subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress.

Warning, you may be in violation of Federal Law and persisting with your demand may lead to your arrest and/or civil damages! Also understand that the law provides that you can be held personally responsible and liable, as well as your company or agency.

You are advised to cease and desist with your demand and to seek *personal* legal counsel if you do not understand the law.

Notice of Service:

I, _____ certify that I personally delivered this notice to above named recipient and address on _____ at _____.

Public Domain—Privacy Form COL(01)

Form **COL**

Violation Warning
Denial of Rights Under Color of Law

▶ Violation Warning—18 U.S.C. §242; 18 U.S.C. §245; 42 U.S.C. §1983

Name and address of Citizen	Name and address of Notice Recipient
Larry Frea 28 Lowell st Lynn MA 01905	Michelle A Cristelb Deputy Commissioner 100 Cambridge st Massachusetts Boston MA 02114 PO Box 55147 Boston MA 02205-5149

Citizen's statement:
Every person is entitled to an opportunity to be heard before an impartial Court of Law.

I certify that the forgoing information stated here is true and correct.
Citizen's signature

▶ [signature] | **Date** ▶ 4/1/21

Legal Notice and Warning

Federal law provides that it is a crime to violate the Rights of a citizen under the color-of-law. You can be arrested for this crime and you can also be held personally liable for civil damages.

Attempting to cause a person to do something by telling that person that such action is required by law, when it is not required by law, may be a felony.

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Form **COL**

Violation Warning
Denial of Rights Under Color of Law

▶ Violation Warning—18 U.S.C. §242; 18 U.S.C. §245; 42 U.S.C. §1983

Name and address of Citizen
Larry Inca
28 Lowell st
Lynn MA 01905

Name and address of Notice Recipient
Randy J. Kaplan Justice, Probation and Family Court Salem MA.
36 Federal st
Salem MA. 01905

Citizen's statement:
Every person is entitled to an opportunity to be heard before an impartial Court of Law.

I certify that the forgoing information stated here is true and correct.
Citizen's signature

▶ Larry Inca | **Date** ▶ 4/1/21

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You are advised to cease and desist with your demand and to seek *personal* legal counsel if you do not understand the law.

Notice of Service:

I, _____ certify that I personally delivered this notice to above named recipient and address on _____ at _____.

APPENDIX H

COMMONWEALTH OF MASSACHUSETTS
SUFFOLK, SUPERIOR COURT

Docket No. 2184CV00771

[Filed: January 27, 2022]

LARRY INOA,	)
	)
Petitioner,	)
	)
v.	)
	)
PAMELA CASEY O'BRIEN, et al.,	)
	)
Respondents.	)
	)
	)

TELECONFERENCED RULE 12 HEARING
BEFORE THE

HONORABLE CHRISTINE M. ROACH

Proceedings recorded by electronic sound recording; transcript produced by an Approved Court Transcriber.

Volume: I
Pages: 1-15
Exhibits: 0

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, ss

SUPERIOR COURT DEPARTMENT
OF THE TRIAL COURT

LARRY INOA,

Plaintiff,

V.

PAMELA CASEY O'BRIEN et al,

Defendant.

Docket No. 2184CV00771

TELECONFERENCED RULE 12 HEARING
BEFORE THE HONORABLE CHRISTINE M. ROACH

APPEARANCES:

For the Plaintiff:
Larry Inoa, *pro se*
28 Lowell Street
Lynn, MA 01905

For the Defendants:
Massachusetts Office of the Attorney General
One Ashburton Place
Boston, MA 02108
By: Angelica L. Duron, assistant Attorney General

Vinela Marmolejos, *pro se*
31 Sherman Street
Lawrence, MA 01841

Boston, Massachusetts
Courtroom 306
January 27, 2022

Proceedings recorded by electronic sound recording, transcript produced by an Approved Court Transcriber.

Judy Bond, CERT
Approved Court Transcriber
judy@bondcourtreporting.com

(Case called.)

(2:01 p.m.)

THE CLERK: The matter before the Court is Larry Iona vs. Pamela Casey O'Brien et al, 2021 Civil Action 771. The matter's on for a Rule 12 hearing.

Counsel and the other party, please identify yourselves for the Court and the record.

MS. DURON: Hi. Good afternoon, Your Honor. My name is Angelica Duron. I represent the state defendants in this matter.

THE COURT: Good afternoon.

MS. MARMOLEJOS: Good afternoon, Your Honor. My name is Vinela Marmolejos, and I am the mother of the children, and I'm *pro se*.

THE COURT: Yes. Good afternoon, ma'am. I recognize your name.

MR. IONA: Good afternoon. My name is Larry Iona, and I am the plaintiff.

THE COURT: Good afternoon, sir.

And who else do we have with us? Ms. Kaplan?

AAG: Good afternoon, Your Honor. I'm Assistant Attorney General Elizabeth Kaplan. I'm observing the hearing today.

THE COURT: Thank you very much.

Good afternoon to everyone and welcome.

This is Judge Roach speaking to you from Courtroom 306 in

the Suffolk Superior Court. We are here on the State defendant's motion to dismiss, which I have read, and I have also read an opposition from Mr. Iona.

So let me hear first very briefly from counsel for the defendants explaining in brief and general terms the basis for the motion, please.

MS. DURON: Yes, Your Honor. We seek to have you dismiss the case for three reasons. First, the Court lacks subject matter jurisdiction. The plaintiff's complaint is a little bit difficult to parse, but it appears that he's seeking relief from Probate & Family Court orders specifically related to child support.

Essentially, those orders have to be appealed through the Appeals Court and not the Superior Court, and if he's seeking to appeal the Department of Revenue's enforcement of those orders, then he needs to seek that in the Probate & Family Court, as well.

Secondly, he names as defendant a couple of judges as well as some court officials. All of those defendants are protected either by judicial immunity or quasi judicial immunity, as they were acting in their official judicial capacities.

And third, Mr. Iona has not complied with Rule 8 civil procedure and Rule 12(b)(6).

THE COURT: Because?

MS. DURON: Because his statements in his complaint don't quite set out what the - how he's entitled to relief, and it's not sufficient to alert the defendant what exactly he's seeking and what -- specifically what entitles him to relief.

THE COURT: Thank you, Counsel.

MS. DURON: Thank you.

THE COURT: Mr. Iona, do you understand those allegations by the defendants, sir?

MR. IONA: Yes, I do understand them allegations, but at the same time them allegations were done by administrative officers, and I want to clarify if that was done in an individual capacity for child support enforcement --

THE COURT: Well, let's slow down for a minute, sir.

We're talking about a long list of state defendants, all of whom have brought this motion, and some of them are in different roles.

MR. IONA: Correct. And I have replied --

THE COURT: I'm sorry?

MR. IONA: Yes. I have replied (indiscernible - distortion at 2:05:22) defendant, and I have never received any compliance back from them. I am seeking that they are working in their

They don't have immunity if they're working in their individual capacity.

THE COURT: And which defendants are you saying are

working in their individual capacity, sir?

MR. IONA: I'm speaking about the defendants that are working for Department of Revenue under the child enforcement.

THE COURT: Uh-huh.

MR. IONA: And under Human Services other title for D, and I am seeking what is their lack of jurisdiction under Rule).

THE COURT: What do you mean by that, sir?

MR. IONA: Under 12(b)(2) as well -- as well, factual challenges to subject matter jurisdiction. The plaintiff bears the burden of addressing facts on which personal jurisdiction may be found. (indiscernible distortion at 2:06:40) vs. Mukland (phonetic) --

And I have provided these papers in as exhibits.

THE COURT: Uh-huh. So sir, can you explain to me what relief your complaint is asking the Court for?

MR. IONA: I am asking relief for the injury that they have caused me within the time period that they have started the child support enforcement in 2018 and deprived me of my rights under color of law.

THE COURT: Okay. So understand, sir, that it was the Probate & Family Court that issued the support order; correct?

MR. IONA: Correct. And I am filing it in a state for deprivation of rights under 42 U.S. code 1983.

THE COURT: Okay. So let's slow down. Sir, let's slow

down for one minute. Okay?

What's important for you to understand is you're challenging a Probate & Family Court order, and there's only one --

MR. IONA: Correct.

THE COURT: There's only one way to do that, sir, and that's to appeal to the Court of Appeals.

A Superior Court judge

Any of the Superior Court judges cannot have any impact on a Probate & Family Court order, sir.

That's what the defendant's mean by not having jurisdiction, because there's nothing that the Superior Court can do for you about a family and probate court order.

MR. IONA: Well, if it was done by administrative officers working in their individual capacity or a similar separate organization not considered a government agency and as a Dunne and Bradstreet account as a company business collection company, and they're charging me and depriving me or threatening me that they will suspend my license.

THE COURT: Uh-huh.

MR. IONA: They're sending me threatening letters, and on top of that one letter that they had sent to me replying back that they have reviewed some of my documents, and that they're not going to take action. And then after that they still send letters threatening me that they're going to take action on

suspending my license or now taking a lien under my name that they shouldn't have never done in the first place without probable cause.

THE COURT: Okay, sir. So you're talking now about the Department of Revenue; right?

MR. IONA: Correct.

THE COURT: You're not talking about the Court anymore. You're talking about the Department of Revenue.

MR. IONA: Well, it

THE COURT: What the defendants -- what the defendants --

Excuse me, sir. Excuse me, sir. Let me finish, please.

What the defendants are saying to you about anything --

Any problems you have with the Department of Revenue in the way they are trying to enforce the Probate & Family Court order is that you have go to the Probate & Family Court about that. The Superior Court can't do anything about the way the Department of Revenue is trying to enforce the Probate & Family Court order. That's the law.

MR. IONA: Well, when I first filed it, I filed under Civil Rights Action BLC 12, Subsection 11(h)(a).

THE COURT: Uh-huh. I understand that, sir, but it doesn't work that way. That law does not give the Superior Court the opportunity to review something the Department of Revenue is doing.

MR. IONA: So how am I supposed to protect my rights that

they are still trying to enforce, something that they have no jurisdiction over?

THE COURT: You're supposed to go back to the Probate & Family Court, sir.

MR. IONA: Every time I went back to the family and probate all they would do is enforce. It was nothing about trying to protect my rights or help me.

THE COURT: Well, then the other thing, as we said before, is if you have a problem with the way the Probate & Family Court is ruling on anything that you file there, then you have to appeal that to the Massachusetts Appeals Court. Understood?

MR. IONA: And failure to --

No, I do not understand.

THE COURT: Let me ask a different question.

Ms. Marmolejos, you filed a motion to dismiss quite some ago in this case; did you not?

MS. MARMOLEJOS: Yes, I did.

THE COURT: And Mr. Iona, you filed, I believe, an opposition to that motion.

MR. IONA: Correct, I have, and I still haven't received any reply back.

THE COURT: Meaning, you haven't had a ruling

You mean you haven't had a ruling from the Court; right?

MR. IONA: Correct.

THE COURT: I understand that, and I'm going to try to solve that problem, sir.

So why don't you just tell me very briefly while we're all here what your opposition is to Ms. Marmolejos's motion.

MR. IONA: Motion to dismiss for the defendant/agent Vinela Marmolejos and respectfully demand this Court to follow rule of evidence 12, 201E and (indiscernible - distortion at 2:12:19) and also be heard respectfully.

The alleged ground for the motion to dismiss under 12(b)(6) are based on presumption, assumption, are not based on civil equity.

And as stated before, statement of defendant/agent Vinela Marmolejos are not sufficient for a motion to dismiss.

Pursuant to your rule of civil procedure, the authorized representative of the plaintiff moves this Court to deny the (indiscernible - distortion at 2:13:02) motion to dismiss from the defendant/agent, Vinela Marmolejos, and respectfully deny this Court to follow rule of evidence 201E and allow this man, Larry Iona, defendant, to be heard.

Respectfully, the alleged grounds for the motion to dismiss under 12(b)(6) are based on presumption, assumption, are not based in civil equity.

And as stated before, statement of defendant/agent Vinela Marmolejos are not sufficient for a motion to dismiss.

All assumptions of defendant/agent Vinela Marmolejos must

be dismissed for a lack of standing.

THE COURT: Excuse me, sir. Can I ask you --

I'm sorry to interrupt you again, but I need to ask you an important question. Can you explain to me --

MR. IONA: Correct.

THE COURT: Can you explain to me, sir, why you sued Ms. Marmolejos in this case?

What's your claim against her here?

MR. IONA: For running away with the children and lying to the courts and providing misleading information when she first filed for child support, and that must be fraud against Welfare and fraud to inducement.

THE COURT: Okay. Mr. Iona, I have to explain again to you, sir, that as a matter of law, those issues that you just described to me belong in the Probate & Family Court. The Superior Court has no jurisdiction, no power over those child custody or support claims, sir.

MR. IONA: Okay.

MS. DURON: Your Honor, can I speak?

THE COURT: Hold on. Not yet. I'm listening to Mr. Iona.

Go ahead. What did you want to say, sir?

MR. IONA: Can you repeat the question one more time?

THE COURT: What I'm going to repeat to you is that you just told me the claims you have in this case against Ms.

Marmolejos cannot be brought in this Court. Those claims about custody of children or child support for children all belong in the Probate & Family Court, and the Superior Court cannot do anything about those claims.

MR. IONA: Okay. I do understand that is separate, and that was through Vinela Marmolejos and child support.

But I now am speaking about the enforcement in the action that the administrative officers had created

THE COURT: No, no, no. Not against --

MR. IONA: - when they were working -

THE COURT: Not against --

No, no, no. She has nothing to do with what the Department of Revenue's doing, so we have to separate those two things out.

MR. IONA: Yeah, yeah, so I do understand that. So that is separate. Okay.

THE COURT: Okay.

MR. IONA: Yes, I do understand that.

THE COURT: All right. So now --

Excuse me.

Now, it's the defendant's turn to be heard, sir.

Ms. Marmolejos, what did you want to tell me, ma'am?

MS. MARMOLEJOS: Your Honor, I just wanted to say that, you know, what you said. These issues have already been resolved in the probate court, so I don't even --

App. 105

Defendant's

Vinela Marmolejos, Mother of the Children.
31 Sherman st. Lawrence MA. 01841

Christopher C. Harding, DOR commissioner, MA.
100 Cambridge st, Boston, MA 02114

Pamela Casey O'Brien, Essex County Register of Probation, Salem MA.
36 Federal st, Salem, MA, 01970

Theresa A. Bisenius, Justice, Probation and Family courts, Salem MA.
36 Federal st, Salem, MA, 01970

Mary Mcdonough, Probation, Officer, Salem MA.
36 Federal st, Salem, MA, 01970

Dina Carter, Child support Enforcement Specialist, Woburn MA.
100 Trade Center, 100 Sylvan Rd suite 760, Woburn, MA. 01801

Geoffrey E. Snyder, DOR Commissioner, MA.
100 Cambridge st, Boston, MA 02114

Michele A. Cristello, Deputy Commissioner, MA.
100 Cambridge st, Boston, MA 02114

Randy J. Kaplan, Justice, Probation and Family courts Salem MA.
36 Federal st, Salem, MA, 01970

App. 106

RECEIVED
MAY 06 2025
APPEALS COURT

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK SUPERIOR COURT

Docket No. 2184CV00771

LARRY M. INOA

v.

PAMELA CASEY O'BRIEN, et al.

NOTICE OF APPEAL

Motions for leave to file a notice of appeal late, motions to docket the appeal late, and procedural motions to assist the appellate process

Pursuant to G. L. c. 231, § 118 (first paragraph) and Mass. R.A.P. 12(a), the Plaintiff, Larry M. Inoa, hereby gives notice of his appeal from the judgment entered against him on January 27, 2022, in the Suffolk Superior Court.

This appeal arises, in part, from errors originating in the Essex Probate and Family Court under the direction of Judge Randy J. Kaplan, which were later relied upon or incorporated into the judgment of the Superior Court.

This notice is accompanied by motions for:

Leave to file a late notice of appeal,

Leave to docket the appeal late, and

Such other procedural relief may assist the appellate process.

Larry M. Inoa asserts that the judgment entered in the Superior Court is reviewable on appeal and that the legal and procedural issues implicated cannot be properly resolved within that court.

Respectfully submitted,

Larry M. Inoa Larry Matthew Inoa

28 Lowell St

Lynn, MA. 01905

786 - 448 - 4209

Mikelarythe1@gmail.com

Date; 05-06-2025

App. 108

51

COMMONWEALTH OF MASSACHUSETTS

APPEALS COURT

NOTICE OF FAILURE TO ENTER APPEAL TIMELY
PURSUANT TO MASS.R.A.P. 10(a)(1)

Trial Court
or Agency: Suffolk Superior Court

Case Name: Larry Inoa vs. Pamela Casey O'Brien et al

Trial Court or Agency Docket Number: 2184CV0771

RECEIVED
JUL 8 2022
SUPERIOR COURT-CIVIL
MICHAEL JOSEPH DONOVAN
CLERK/MAGISTRATE

NOTICE

On June 7, 2022, the Suffolk Superior Court transmitted a notice of assembly to the Appeals Court in the above-referenced case, pursuant to Mass.R.A.P. 9(e). The Appeals Court received the notice on June 7, 2022.

Pursuant to Rule 10(a)(1) of the Massachusetts Rules of Appellate Procedure, each appellant has 14 days from receipt of the notice of assembly to docket the appeal in the Appeals Court by paying the required entry fee or moving for waiver of the fee on grounds of indigency.

As of today's date, July 8, 2022, no appellant has entered the appeal pursuant to Mass.R.A.P. 10(a)(1). This notice is sent for informational purposes only and does not constitute a dismissal of the appeal. If an appellant or cross-appellant in this matter wishes to pursue the appeal, the party must file a motion to the single justice for leave to docket the appeal late. Otherwise, an appellee may file a motion to dismiss the appeal in the trial court. See Mass.R.A.P. 10(c).

A copy of this notice is sent this date to the active counsel and self-represented parties identified on the above notice of assembly. For information about the filing of a motion to docket the appeal late, see https://www.mass.gov/service-details/single-justice-practice.

Sincerely,

The Appeals Court Clerk's Office

cc:
Larry Inoa
Angelica Duron, Esq.
Suffolk Superior Civil

Larry Inoa
Larry Matthew Inoa
05-06-2025

From: Christine M Hayes christine.hayes@jud.state.ma.us
Subject: FW: Scanned from Lex 3250-sufs31p181
Date: Apr 3, 2025 at 9:33:14 AM
To: mikelarythe1@gmail.com

Good Morning,
I have attached the Appeals Court Order that we just spoke about.
Thank you
Christine

Christine M. Hayes, Assistant Clerk Magistrate
Suffolk Superior Court, Civil Division
3 Pemberton Square
Courtroom 306 "B" Session
Boston, MA 02108
Direct: 617-788-8141
christine.hayes@jud.state.ma.us

-----Original Message-----
From: sufs31p181
Sent: Thursday, April 3, 2025 9:27 AM
To: Christine M Hayes <christine.hayes@jud.state.ma.us>
Subject: Scanned from Lex 3250-sufs31p181

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This document was scanned from Lexmark MFP --CR 306 Suf SC -civil

Larry Matthew Iroci
05-06-2025

51

COMMONWEALTH OF MASSACHUSETTS

APPEALS COURT

Defendant's

Vinela Mammolejos, Mother of the Children.
31 Sherman st. Lawrence MA. 01841

Christopher C. Harding, DOR commissioner, MA.
100 Cambridge st, Boston, MA 02114

Pamela Casey O'Brien, Essex County Register of Probation, Salem MA.
36 Federal st, Salem, MA, 01970

Theresa A. Bisenius, Justice, Probation and Family courts, Salem MA.
36 Federal st, Salem, MA, 01970

Mary Mcdonough, Probation, Officer, Salem MA.
36 Federal st, Salem, MA, 01970

Dina Carter, Child support Enforcement Specialist, Woburn MA.
100 Trade Center, 100 Sylvan Rd suite 760, Woburn, MA. 01801

Geoffrey E. Snyder, DOR Commissioner, MA.
100 Cambridge st, Boston, MA 02114

Michele A. Cristello, Deputy Commissioner, MA.
100 Cambridge st, Boston, MA 02114

Randy J. Kaplan, Justice, Probation and Family courts Salem MA.
36 Federal st, Salem, MA, 01970

App. 111

RECEIVED
MAY 06 2025
APPEALS COURT

MASSACHUSETTS APPEALS COURT

John Adams Courthouse

One Pemberton Square, Suite 1200

Boston, MA 02108

(617) 725-8106

http://www.mass.gov/courts/appealscourt/

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK SUPERIOR COURT

Docket No. 2184CV00771

LARRY M. INOA

v.

PAMELA CASEY O'BRIEN, et al.

AFFIDAVIT OF LARRY MATTHEW INOA IN SUPPORT OF MOTION TO DOCKET LATE APPEAL

(Pursuant to Mass. R. A. P. 10(a)(3))

1. Larry Mathew Inoa, the defendant/appellant in the above-captioned matter, appeals the judgment entered by the Suffolk Superior Court on January 27, 2022

2. Larry Matthew Inoa, respectfully requests that the Court permit the late docketing of my appeal. At the time the appeal deadline passed, I was unable to meet the procedural requirements due to a lack of effective legal representation and limited communication with counsel, as well as personal and legal hardship arising from ongoing proceedings

with the Massachusetts Department of Revenue (DOR) and the Child Support Enforcement Division.

3. I was not properly informed of critical developments in my case, and I experienced a failure of due process, including inadequate notice and limited access to the courts to assert my rights. These barriers, compounded by financial hardship and administrative obstacles, prevented me from timely docketing the appeal, despite my intent to challenge legal errors that directly impact my constitutional and statutory rights.

4. Once I became aware of my right to appeal and the steps required, I acted promptly and in good faith to remedy the delay. I respectfully request the Court to exercise its discretion under Rule 10(a)(3) and allow this late docketing in the interest of justice and fairness.

5. Could not ensure the timely docketing of my appeal as required by Rule 10(a)(1) of the Massachusetts Rules of Appellate Procedure.

6. Respectfully request that this Honorable Court permit the late docketing of my appeal under Rule 10(a)(3). I submit this request in good faith and not for purposes of delay.

7. Larry Matthew Inoa is indigent and unable to afford the associated filing fee. I have completed and attached an Affidavit of Indigency pursuant to G.L. c. 261, §§ 27A–27G.

8. To the best of my knowledge, no motion to dismiss the appeal under Rule 10(c) is pending in the trial court.

6. I respectfully request that this Court allow my motion to docket the appeal late and permit my appeal to proceed in the interest of justice.

Signed under the pains and penalties of perjury this 05 day of 06, 2025.

Signature: _____

Larry Matthew Inoa Larry Matthew Inoa

Attachments:

Motion to Docket Appeal Late (Rule 10(a)(3))

Affidavit of Indigency

Copy of Notice of Appeal

Supporting Documentation

Respectfully submitted,

Larry M. Inoa

28 Lowell St

Lynn, MA. 01905

786 - 448 - 4209

Mikelarythe1@gmail.com

Date; 05-06-2025

RECEIVED
MAY 06 2025
APPEALS COURT

LARRY MATTHEW INOA

Vs.

1. Michele Cristello, in her official capacity as an agent of Massachusetts Child Support Enforcement Corporation (ID No. 043223915)

2. Massachusetts Department of Revenue (DOR)

3. Geoffrey E. Snyder, Commissioner, Massachusetts DOR

4. Norwood Business Center Corporation

5. Any and All Unknown Parties Involved in the Creation of International Trust Agreements Affecting Plaintiff

RULE 17: Parties Plaintiff and Defendant: Capacity

DEMAND TO STOP ALL ENFORCEMENTS FROM THE MASSACHUSETTS DEPARTMENT OF REVENUE CHILD SUPPORT SERVICES DIVISION, Still sending letters See attached 5

Pursuant to applicable laws governing judicial cooperation, including the principles of comity and any relevant statutes or treaties, I respectfully submit this Letter Rogatory requesting judicial assistance from [LARRY MATTHEW INOA of the Foreign Court] in obtaining evidence and testimony for a pending matter before [SALEM FAMILY AND PROBATION————] in [Jurisdiction].

I. Requesting Court Information:

• Court Name: [Requesting Court's Name]

• Court Address: [Requesting Court's Address]

• Presiding Judge: [Judge's Name]

• Case Number: [Case Number]

II. Requested Court Information:

• Court Name: [Foreign Bank Name]

• Court Address: [Foreign Address]

• Presiding Judge: [Judge's Name]

III. Purpose of the Request: ——

The Massachusetts Uniform Trust Code (MUTC) was enacted in 2012, codified as Chapter 203E of the Massachusetts General Laws, and it provides a comprehensive framework for trust administration, with provisions that give trustees flexibility and reduce the need for court intervention while clarifying beneficiary rights.

What is a trust?

Trust, n. 1. The right, enforceable solely in equity, to the beneficial enjoyment of property to which another person holds the legal title; a property interest held by one person (the trustee creator) at the request of another (the settlor Enforcement,) for the benefit of a third party (the beneficiary LARRY-MATTHEW: INOA, BENEFICIARY). For a trust to be valid, it must involve specific property, Reflect the settlor's intent, and be created for a lawful purpose. 2. A *fiduciary*

Section 3-307: (a)(1) Notice of Breach of Fiduciary Duty

"Fiduciary" means an agent, trustee, partner, corporate officer director, or other representative owing a fiduciary duty concerning an instrument.

Massachusetts, fiduciary trust violations, where a trustee fails to act in the best interests of beneficiaries, can involve mismanagement, self-dealing, failure to disclose information, or misappropriation of funds, potentially leading to legal action by the beneficiaries.

Relationship regarding property and subjecting the person with title to the property to equitable duties to deal with it for another's benefit; the confidence placed in a trustee, together with the trustee's obligations toward the property wage garnishment and the beneficiary. MA trust arises as a result of a manifestation of an intention to create it.

Duties of the trustee

Fiduciary Duty

• Good faith

• Trust

- Confidence
- Candor
- Honesty
- Loyalty

The requesting court is handling a case involving a secured transaction under Article 9 of the Uniform Commercial Code (UCC) and potential violations under Massachusetts General Laws Chapter 93A, governing unfair and deceptive trade practices. Judicial assistance is needed to obtain [specific evidence, testimony, or service of legal documents] 42 U.S.C. Section 1983, a federal civil rights law from an individual or entity within the jurisdiction of the requested court.

2. Article 9 (UCC § 9-104) Control of Deposit Account The requested assistance is necessary to ensure due process and fairness in resolving the legal matter, which concerns Larry Matthew Inoa's benefit SECTION 9-104: CONTROL OF DEPOSIT ACCOUNT

(a) Requirements for Control.

A secured party is deemed to have control of a deposit account if:

1. The secured party is the bank maintaining the deposit account;

2. The debtor, secured party, and bank have executed an authenticated record agreeing that the bank will follow the secured party's instructions for the disposition of funds in the deposit account without further consent from the debtor; or

3. The secured party becomes the bank's customer with respect to the deposit account.

(b) Debtor's Right to Direct Disposition.

A secured party that satisfies subsection (a) is considered to have control—even if the debtor retains the right to direct the disposition of funds from the deposit account.

Trust

I don't even know why Mr. Iona added me as a defendant for this when Mr. Iona owes $47,000 in child support, and I have sole legal custody and sole physical custody of the children.

So I'm just kind of confused as to, you know, why he decided to bring this to Superior Court.

THE COURT: Well, because he's unhappy with what happened in family and probate court. That's why.

MS. MARMOLEJOS: Okay. So he's also upset at the enforcement part

THE COURT: Uh-huh.

MS. MARMOLEJOS: so

THE COURT: Right. But I understand you're telling me that -

You're saying that has nothing to do with you.

MS. MARMOLEJOS: Right. And he

Well, he has not supported our children in years

THE COURT: But, ma'am

MS. MARMOLEJOS: so I'm just kind of confused as to why he

THE COURT: Excuse me, ma'am.

MS. MARMOLEJOS: he's suing me.

THE COURT: Excuse me, ma'am. I'm going to tell you the same thing I just told Mr. Iona.

Nothing about child support is before this Court, so I'm

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not going to listen to anything more about child support or custody.

MS. MARMOLEJOS: Okay.

THE COURT: All right? Appreciate what you're telling me that the Probate & Family Court already addressed these issues, and that there was an appeal, it was denied. That's all in your motion to dismiss which I'm going to take care of going forward.

But I don't want to hear the two of you arguing about the children, because that's not something that happens in Superior Court.

Does anyone else have anything to add about the pending motions?

MS. DURON: No, Your Honor.

THE COURT: Mr. Iona, did you say you had something else to add, sir?

MR. IONA: Yes. I wanted to address when the first complaint that I had, I had outlined exactly in specific detail to the best of my ability as a *pro se* about the -- in my affidavit of each defendant, each counsel and each commissioner, how they acted, and never replied back.

THE COURT: Well, Mr. Iona, see, they don't have to reply back, number one.

Number two, I respect what you wrote. I read it before. I'm going to read it again before I rule on these motions, sir.

But what you need to understand is what I've said now twice, and I'm not going to say it --

This is the last time I'm going to say it.

Issues of child support, what that number is supposed to be, how it's going to be enforced or not going to be enforced all belongs in the Probate & Family Court. None of it belongs in a Superior Court.

I'm taking these motions -- both sets of motions to dismiss and the oppositions that Mr. Iona has submitted under advisement, and there will be a ruling in these motions shortly but not today.

Thank you very much.

MS. DURON: Thank you, Your Honor.

THE CLERK: Thank you. Thank you to the other parties.

THE COURT: Court's in recess on this case.

(Hearing adjourned at 2:19 p.m.)

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Michael B DiLoreto

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2. Email:	mikelarythe1@gmail.com
3. Phone Number:	(786) 448-4209
4. Mailing Address:	28 LOWELL ST LYNN, MA 01905-2812
5. Court Location:	Suffolk County Superior Court - Civil
6. Court Department:	Superior Court

7. Case Name:	Larry Inoa vs. Pamela O"Brien et al
8. Docket Number:	2184CV00771B
9. Courtroom Number:	Civil B / BOS-3rd FL, CR 304 (SC)
10. Judge Name:	Christine M Roach
Date::	01/27/2022
Start Time::	02:00 PM
End Time::	03:00 PM
Date: - (2):	
Start Time: - (2):	
End Time: - (2):	
Date: - (3) :	
Start Time: - (3):	
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APPENDIX I

MASSACHUSETTS APPEALS COURT

Docket No. 2184CV00771

[Filed: May 6, 2025]

LARRY INOA,	)
	)
Petitioner,	)
	)
v.	)
	)
PAMELA CASEY O'BRIEN, et al.,	)
	)
Respondents.	)
	)
	)

NOTICE OF APPEAL

Motions for leave to file a notice of appeal late, motions to docket the appeal late, and procedural motions to assist the appellate process Pursuant to G. L. c. 231, § 118 (first paragraph) and Mass. R.A.P. 12(a), the Plaintiff, Larry M. Inoa, hereby gives notice of his appeal from the judgment entered against him on January 27, 2022, in the Suffolk Superior Court.

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MASSACHUSETTS APPEALS COURT

John Adams Courthouse
One Pemberton Square, Suite 1200
Boston, MA 02108
(617) 725-8106
http://www.mass.gov/courts/appealscourt/

RECEIVED
MAY 06 2025
APPEALS COURT

Docket Number 2184CV00771

Larry Matthew Inoa
Appellant(s)

v.

Pamela Casey O'Brien, et. al..
Appellee(s)

CERTIFICATE OF SERVICE

Pursuant to Mass.R.A.P. 13(d), I hereby certify, under the penalties of perjury, that on this date of 05-06-2025 I have made service of a copy of the following document(s):

- Motion for leave to file a notice of appeal late, motion to docket the appeal late and Procedural motion to assist the appellate process
- Affidavit of Larry Matthew Inoa In Support of Motion to Docket Late appeal

upon the attorney of record for each party, or if the party has no attorney then I made service directly to the self-represented party, by

(●) hand delivery ( ) first class mail

to the following person(s) and address(es). *Attach a separate page if more space is necessary.*

Defendant's, Provided attached separate paper.
- Vinela Marmolejos - 31 Sherman st. Lawrence MA. 01841
- Christopher C. Harding, DOR Commissioner, MA 100 Cambridge st Boston MA 02114
- Pamela Casey O'Brien, Essex County Register of Probation Salem 36 Federal st 01970
- Theresa A. Bisenius, Justice, Probation and Family Court 36 federal st Salem MA. 01970

see, Attach-ed page

Signature

Larry Matthew Inoa
Printed Name and BBO# (if applicable)

786-448-4209
Telephone

28 Lowell st Lynn MA 01905
Address

(Definition per BLACK'S LAW DICTIONARY WITH PRONUNCIATIONS, SIXTH EDITION, Centennial Edition (1891–1991))

A trust is a legal arrangement created by a grantor whereby property is transferred to a trustee who holds legal title and is obligated to manage the trust's corpus and income exclusively for the benefit of designated beneficiaries in accordance with a valid trust instrument and applicable state law. In this fiduciary relationship, the trustee administers the property for the benefit of the cestui que trust, ensuring prudent management and maximum economic benefit for all beneficiaries. Trusts can take various forms, including but not limited to:

- Charitable trust
- Claflin trust
- Common-law trust
- Complex trust
- Constructive trust
- Declaration (Declaration of trust)
- Deed (Deed of trust)
- Executory trust
- Generation-skipping trust
- Governmental trust
- Grantor trust
- Illusory trust
- Indestructible trust
- Investment trust
- Involuntary trust
- Land trust
- Life insurance trust
- Life interest
- Nominal trust

- Nominee trust
- Oral trust
- Pension trust
- Precatory trust
- Purchase money resulting in trust
- Reciprocal trust
- Resulting trust
- Revocable trust
- Spendthrift trust
- Unitrust
- Voting trust

Breach of Trust

A breach of trust occurs when a trustee acts contrary to the terms of the trust, exceeds their authority, or fails to perform any duty required by the trust instrument—resulting in harm to the trust. This includes the wrongful misappropriation of funds or property lawfully entrusted to the trustee in a fiduciary capacity. Every violation of the trustee's equitable duties—whether committed willfully, fraudulently, negligently, or through oversight—constitutes a breach of trust. Such breaches encompass any act or omission in administering the trust, including failures in exercising care, diligence, and good faith, and any violation of the trustee's duty to the beneficiary.

(Bruun v. Hanson, C.C.A. Idaho, 103 F.2d 685, 699)

Administration

Administration is defined as the management or conduct of an office or employment; it encompasses the performance of the executive duties of an institution, business, or similar entity. In public law, the administration of government refers to the practical management and direction of an executive department or the public machinery and functions, including the operations of various organs or agencies. The term "administration" is also conventionally applied to the collective body of public functionaries responsible for managing the executive branch.

(Greene v. Wheeler, C.C.A. Wis., 29 F.2d 468, 469)

Administrative Acts

Administrative acts are those actions necessary to implement and carry out the legislative policies and purposes declared by a legislative body or as devolved upon an administrative agency by the organic law of its existence. These acts are essential for the effective operation of governmental functions and for administering public programs.

(Ex parte McDonough, 27 Cal.App.2d 155, 80 P.2d 485, 487)

Administrative Adjudication

Administrative adjudication is the process by which an administrative agency issues an order. Such an order may take an affirmative, negative, injunctive, or declaratory form and serve as the agency's mechanism for resolving disputes or enforcing compliance with statutory and regulatory requirements.

Administrative Procedure Act, 5 U.S.C.A. § 551

Administrative Agency

An administrative agency is a governmental body charged with administering and implementing specific legislation. These agencies enforce regulatory statutes, conduct investigations, and issue orders within their areas of expertise. Examples include workers' compensation commissions, the Federal Trade Commission, and other similar bodies.

(Hastings Mfg. Co. v. Federal Trade Commission)

Massachusetts Consumer Protection Act and Related Criminal Statutes

Massachusetts Consumer Protection Act:

The Massachusetts Consumer Protection Act does not define specific business actions as violations; rather, it deems any "unfair or deceptive practices" to be illegal. Each case is judged on its own merits, but examples of practices that may fall under Chapter 93A include acts that mislead consumers or distort market fairness.

Criminal Statutes – Chapter 266, Section 37E:

Under Chapter 266, Section 37E, USE OF PERSONAL IDENTIFICATION OF ANOTHER; .

IDENTITY FRAUD; PENALTY; RESTITUTION

William J. Davis
BENCH AND
BAR OF THE
COMMONWEALTH
OF MASSACHUSETTS
Vol. 1 of 2

An act was passed June 20, 1701-2, providing that attorneys. practicing in the courts shall be under oath administered by the clerk in open court as follows

HISTORY OF THE BENCH AND BAR.

"You shall do no falsehood, nor consent to any to be done in the court, and if you know of any to be done you shall give knowledge thereof to the justices of the court, or some of them, that it may be re-formed. You shall not wittingly and willingly promote, sue or procure to be suid any false or unlawful suit, nor give aid or consent to the same. lou shall delay no man for lacre or malice, but you shall use yourself in the office of an attorney within the court to the best of your learning and discretion, and with all good fidelity as well to the courts as to your clients." The same act provided that the fee to be allowed for an attorney in the Superior Court of Judicature should be twelve shillings, and in the Inferior Court of Common Pleas ten shillings.

• "Harass" is defined as willfully and maliciously engaging in an act directed at a specific person(s) that seriously alarms or annoys them, causing substantial emotional distress to a reasonable person.

• "Personal identifying information" refers to any name or number that, alone or in combination with other data, can be used to assume an individual's identity. This includes a person's name, address, telephone number, driver's license number, social security number, etc.

Conflict of Interest and Victim Designation under Article 9 UCC

Following Article 9 of the Uniform Commercial Code (UCC), which governs secured transactions and assignments, any misuse or fraudulent assignment of contractual rights constitutes a violation of established commercial legal principles. In this context, a "victim" is defined as any person or entity that has suffered a financial loss as a direct result of the commission or

attempted commission of a violation of these provisions. This includes any person who has provided money, credit, goods, services, or anything of value and subsequently incurred a financial loss.

LARRY-MATTHEW: INOA is hereby designated as the beneficiary victim in this matter, having suffered direct harm and financial loss due to a conflict of interest and fraudulent actions by state officials. Specifically, it is alleged that the Massachusetts Department of Revenue Child Support Services Division—under Commissioner Geoffrey E. Snyder and Deputy Commissioner Michele A. Cristello—and the Salem Family and Probate offices issued an order that unlawfully placed Larry-MATTHEW: INOA's name and Social Security Number into default. This action, which is claimed to be in violation of Article 9 UCC rules and other statutory protections, amounts to a breach of trust and a breach of the peace executed with fraudulent intent, akin to larceny after trust.

Furthermore, under criminal statutes, any individual who, with intent to defraud, poses as another without that person's express authorization and uses their personal identifying information to obtain or attempt to obtain money, credit, goods, services, identification, or to harass another is guilty of identity fraud. Such conduct is punishable by a fine not exceeding $5,000, imprisonment in a house of correction for up to two and one-half years, or both.

I request that any other service that you perform for the undersigned in this matter be approved by the undersigned before such performance is undertaken.

Legal and Constitutional Violations:

One LARRY-MATTHEW: INOA, asserts my rights as the rightful beneficiary and demands that all enforcement actions be halted until all issues regarding this matter are fully resolved. Any presumed obligations or assignments made without my explicit, voluntary, and informed consent are null and void.

The U.S. Department of Justice, as outlined in the April 20, 2023, letter from the Office of the Associate Attorney General, emphasizes that state and local agencies must assess fines and fees in a manner that is constitutional and non-discriminatory. This includes adherence to the following constitutional principles:

- Eighth Amendment: Prohibits fines and fees that are grossly disproportionate to the offense.
- Fourteenth Amendment:
- Prohibits incarceration for nonpayment without an ability-to-pay determination.
- Requires alternatives before incarcerating those unable to pay.
- Prohibits conflicts of interest and conditions judicial access on fee payment.

• Mandates due process protections, including access to counsel and proper notice.

• Prohibits discriminatory enforcement against protected classes.

• Title VI of the Civil Rights Act: Requires recipients of federal funding, including courts, to refrain from discriminatory practices in the imposition or collection of fines and fees.

Furthermore, under the Massachusetts Consumer Protection Act and UCC Article 9, any improper enforcement actions—including the treatment of child support obligations as contractual debts—must be deemed unlawful and unenforceable.

Demand for Immediate Action:

I demand the immediate suspension of all enforcement actions, garnishments, and financial penalties related to this matter until all legal and constitutional violations are fully resolved. Failure to address these issues will result in further legal action and official complaints to the U.S. Department of Justice, Civil Rights Division, and other oversight agencies.

Massachusetts Department of Revenue (DOR)

Overview:

The Massachusetts Department of Revenue (DOR) is a cabinet-level agency that administers the state's tax laws, child support enforcement, and municipal finance regulations. Under the leadership of the State Commissioner of Revenue—and in collaboration with the Secretary of Administration and Finance as well as the legislative branch—the DOR implements policy and oversees tax revenue analysis, audits, and dispute resolutions. A taxpayer advocate is also employed to assist in resolving issues before they become problematic. With an annual budget of about $120 million, the DOR collects approximately $11 million in taxes each year.

Address:

100 Cambridge St

Boston, MA 02114-2582

United States

Organizational Note:

Under UCC Article 9, which governs secured transactions, any attempt by a government entity to assert a financial interest in an individual's property—whether through wage garnishment, tax

intercepts, or liens—must comply with commercial law principles. Massachusetts General Laws, Chapter 106, Article 9, codifies these provisions, requiring that a security interest be properly perfected and enforced through judicial or commercial means rather than through administrative proceedings that lack due process protections.

Pursuant to 45 CFR 302.12, Title IV-D child support enforcement programs must function as a single and separate organizational unit within the executive branch. This structure effectively creates an administrative tribunal that lacks full judicial authority, often referred to as a "kangaroo court." Such quasi-judicial bodies predetermine outcomes, depriving individuals of the fundamental due process protections guaranteed under the Massachusetts Declaration of Rights and the U.S. Constitution. These proceedings often mirror debt collection actions, where the state acts as a third-party collector rather than an impartial adjudicator.

Unlawful Enforcement Actions Against Larry Matthew Inoa

In Massachusetts, the Department of Revenue (DOR) Child Support Enforcement Division administers the IV-D program pursuant to 42 U.S.C. § 654(3). However, Michele, Deputy Commissioner of the Child Support Services Administration, is engaging in unlawful enforcement actions against Larry Matthew Inoa by creating and enforcing a contract without a valid voluntary agreement. This action directly violates the principles of contract law under UCC Article 9, which requires mutual consent for an enforceable obligation.

By initiating enforcement proceedings without a valid voluntary agreement, Michele and the Massachusetts DOR are engaging in a debt collection process without proper legal standing, effectively treating Larry Matthew Inoa as a debtor in a commercial transaction rather than as an individual entitled to due process. Such enforcement actions constitute harm, as they involve improper liens, wage garnishments, and potential property seizures without proper judicial oversight.

Enforcement (OCSE) under 31 U.S.C. § 6305. This structure prioritizes federal funding incentives over judicial impartiality, reducing courts to mere enforcers of executive agency mandates.

Under 45 CFR 302.34, the Massachusetts DOR subcontracts enforcement duties to county agencies, making them federal contractors subject to 45 CFR 303.107, which mandates performance-based enforcement rather than case-by-case adjudication. These contractual obligations further undermine the judicial process, as enforcement agencies act not as neutral arbitrators, but as debt collectors motivated by federal financial incentives.

Attorneys as Foreign Agents Under FARA

Under the Foreign Agents Registration Act (FARA), attorneys working under the American Bar Association (ABA)—an international, unincorporated entity—may be classified as foreign agents. Since the Massachusetts Bar Association (MBA) is a subsidiary of the ABA, attorneys enforcing IV-D contracts may not be acting as state representatives, but rather as private agents

executing federal contractual obligations. This raises serious concerns regarding the impartiality and legality of their enforcement actions, especially when no valid voluntary agreement exists.

Government as a Legal Fiction and Its Implications

The Supreme Court of the United States (SCOTUS) in Penhallow v. Doane's Administrators (3 U.S. 54; 1 L.Ed. 57; 3 Dall. 54) (1795) established that governments are artificial persons, existing solely as legal fictions. As a result, government entities can only interact with other artificial entities, such as corporations or legal persons created by statute. This precedent raises critical questions about the legitimacy of child support enforcement actions, as they rely on administrative adjudication of obligations outside traditional judicial processes.

Furthermore, in Blessing v. Freestone, 520 U.S. 329 (1997), the Supreme Court ruled that Title IV-D does not create an individual right enforceable under 42 U.S.C. § 1983, confirming that the federal child support enforcement program is primarily a contractual arrangement rather than a constitutionally protected process. In Massachusetts, this supports the argument that IV-D enforcement is commercial in nature rather than purely judicial.

Conclusion

Under UCC Article 9, child support enforcement actions should be analyzed as secured transactions in which the state asserts a financial interest in a debtor's assets. The Massachusetts Department of Revenue's Child Support Enforcement Division, under Deputy Commissioner Michele, is unlawfully enforcing contracts without valid voluntary agreements, causing harm to Larry Matthew Inoa. This constitutes a violation of contract law, due process, and constitutional protections.

The Massachusetts Constitution, the U.S. Constitution, and established Supreme Court precedent suggest that administrative enforcement mechanisms lacking proper judicial oversight may be unlawful. A full legal review of Massachusetts' IV-D enforcement actions is necessary to ensure compliance with due process, contract law, and the principles of judicial fairness.

Contractual Nature of Title IV-D in Massachusetts

Title IV-D operates under a contractual framework, whereby the federal government contracts with individual states, and states then enter into agreements with local agencies. In Massachusetts, the DOR functions as an enforcement arm of the federal Office of Child Support

Revised DOJ Letter Excerpt (April 20, 2023)

Dear Colleague,

The U.S. Department of Justice is resolutely committed to working in partnership with state and local courts as well as juvenile justice agencies to ensure that the assessment of fines and fees is both constitutional and non-discriminatory. In response to persistent calls from court leaders, administrators, lawmakers, and advocates for clearer guidance, this letter provides updated instructions regarding the legal obligations related to fines and fees.

This communication revises and updates a similar letter issued in March 2016—focused on the imposition and enforcement of fines and fees on adults in the criminal justice system—and a January 2017 advisory that detailed the constitutional and statutory responsibilities for imposing fines on youth involved in juvenile or criminal proceedings. It addresses common practices in court-imposed fines and fees that have the potential to violate constitutional standards.

I request that any additional services performed on behalf of the undersigned in this matter be pre-approved by the undersigned before execution.

With the sincerest appreciation,

Larry-MATTHEW: INOA, BENEFICIARY

Offender and Agent for Defendant

IV. Legal Basis for the Request: UCC Article 9 and Massachusetts General Laws Chapter 93A

1. Short Title (UCC § 9)

This article may be cited as Uniform Commercial Code—Secured Transactions. The provisions herein govern the creation, perfection, priority, and enforcement of security interests in personal property and fixtures.

The person or entity that manages or controls the trust is called the Trustee. Salem Family and Probation- Massachusetts department of revenue child support division.

Dated: 03-24-2025

Respectfully submitted,

LARRY,MATTHEW, INOA

28 Lowell st

Lynn MA 01905

786-448-4209

Larry, Matthew, Inoa

05-06-2025

The Commonwealth of Massachusetts

On this 24th day of March 20 25

Before me, the undersigned Notary Public, personally appeared

Larry Inoa

proved to me through satisfactory evidence of identification, which was/were [illegible] to be the person whose name is signed on the preceding or attached document, and acknowledged to me that he signed it voluntarily for its stated purpose.

Notary Public

My Commission Expires:

MARY L. GOKAS
Notary Public, Commonwealth of Massachusetts
My Commission Expires December 22, 2028

COMMONWEALTH OF MASSACHUSETTS

APPEALS COURT

NOTICE OF FAILURE TO ENTER APPEAL TIMELY PURSUANT TO MASS.R.A.P. 10(a)(1)

Trial Court or Agency: Suffolk Superior Court

Case Name: Larry inoa vs. Pamela Casey O'Brien et al

Trial Court or Agency Docket Number: 2184CV0771

NOTICE

On June 7, 2022. the Suffolk Superior Court transmitted a notice of assembly to the Appeals Court in the above-referenced case, pursuant to Mass.R.A.P. 9(e). The Appeals Court received the notice on June 7, 2022.

Pursuant to Rule 10(a)(1) of the Massachusetts Rules of Appellate Procedure, each appellant has 14 days from receipt of the notice of assembly to docket the appeal in the Appeals Court by paying the required entry fee or moving for waiver of the fee on grounds of indigency.

As of today's date, July 8, 2022, no appellant has entered the appeal pursuant to Mass.R.A.P. 10(a)(1). This notice is sent for informational purposes only and does not constitute a dismissal of the appeal. If an appellant or cross-appellant in this matter wishes to pursue the appeal, the party must file a motion to the single justice for leave to docket the appeal late. Otherwise, an appellee may file a motion to dismiss the appeal in the trial court. See Mass.R.A.P. 10(c).

A copy of this notice is sent this date to the active counsel and self-represented parties identified on the above notice of assembly. For information about the filing of a motion to docket the appeal late, see https://www.mass.gov/service-details/single-justice-practice.

Sincerely,

The Appeals Court Clerk's Office

cc:

Larry Inoa
Angelica Duron, Esq.
Suffolk Superior Civil

APPENDIX J

COMMONWEALTH OF MASSACHUSETTS
STATEMENT OF THE CASE
APPELLATE COURT ENTRY STATEMENT

Docket No. 2184CV00771

[Filed: June 7, 2022]

LARRY INOA,	)
	)
Petitioner,	)
	)
v.	)
	)
PAMELA CASEY O'BRIEN, et al.,	)
	)
Respondents.	)
	)
	)

NOTICE OF ASSEMBLY OF RECORD

Nature of the case (Select the most appropriate description): E02: APPEAL FROM ADMINISTRATIVE AGENCY GL 30A

emailed to the Appeals Ct. 6/7/22 (CD)

COMMONWEALTH OF MASSACHUSETTS
STATEMENT OF THE CASE
APPELLATE COURT ENTRY STATEMENT

Court Department: SUFFOLK SUPERIOR CIVIL COURT

Trial Court Docket No(s): 2184CV00771

Case Name: Larry Inoa vs. Pamela Casey O"Brien et al

APPEARANCES

Attorney Name for each Plaintiff/Petitioner and Either BBO Number OR Address and Telephone Number	Attorney Name for each Defendant/Respondent and Either BBO Number OR Address and Telephone Number
LARRY INOA, PRO SE 28 LOWELL STREET LYNN, MA 01905 786-448-4209	ANGELICA L DURON, ESQUIRE, BBO#705315

Nature of the case (Select the most appropriate description): E02: APPEAL FROM ADMINISTRATIVE AGENCY GLc 30A

Date Petition, Complaint or Indictment Entered in Trial Court: Apr 2, 2021

Is the Case or Any Information Impounded? No

If yes, attach a copy of the order of impoundment or provide the citation to the statute or rule pursuant to which the documents were impounded, and specify each impounded document (enter information then "tab" out to view). See S.J.C. Rule 1:15, § 2(a)

N/A

Date When Notice of Appeal Filed: Mar 3, 2022

Appeal By (specify each party listed in notice of appeal): PLAINTIFF LARRY INOA

Identify the order or judgment being appealed (enter information then "tab" out to view):

SEE ATTACHED APPEAL

Date Transcripts Ordered: Apr 13, 2022 Number of Transcript Volumes: 1

Enclosing CD(s) with PDF(s) of the Transcript: ○ Yes ◉ No

Dates of Transcribed Proceedings: 1/27/22

In Criminal Cases, has a Stay of Execution of Sentence Been Granted? ○ Yes ○ No

Date Notice of Assembly Issued: Jun 7, 2022

~~Clerk, Clerk Magistrate, Register, or Recorder~~ Assistant Clerk

To be filled in by the appellate court:

Date Entered in S.J.C. or Appeals Court: S.J.C. or Appeals Court Docket Number:

NOTICE OF ASSEMBLY OF RECORD	DOCKET NUMBER 2184CV00771	Trial Court of Massachusetts The Superior Court
CASE NAME: Larry Inoa vs. Pamela Casey O"Brien et al		Michael Joseph Donovan, Clerk of Court
TO:		COURT NAME & ADDRESS Suffolk County Superior Court - Civil Suffolk County Courthouse, 12th Floor Three Pemberton Square Boston, MA 02108

The record of the above-entitled case has been assembled, under Mass. R. A. P. 9(a).

Accompanying this notice are the following, as required by Mass. R. A. P. 9(e)(2):

*A completed appellate court entry statement

*A copy of the notice of assembly issued to the parties

*A copy of the notice(s) of appeal

*One copy of the docket entries (uncertified)

*A list of all exhibits

*If any material was impounded in the lower court, written notification specifying the material that was impounded below and either a copy of the impoundment order (if one issued) or reference to the authority for the impoundment

*If this is a direct appeal concerning a criminal case, any electronically-formatted transcript, if necessary to the appeal

☐ This is an appeal concerning a criminal case where:

*The crime(s) involved were something **other than** murder in the first degree, **and**

*The direct appeal has already been decided, **and**

*This appeal is from the denial of a motion for post-conviction relief.

Accordingly, the following accompanies this notice, under Mass. R. A. P. 9(d)(3):

☐ Transcripts of the lower-court proceedings, **or**

☐ A copy of the certification that the appellant filed in the lower court attesting that copies of the transcripts are already available in the appellate court.

DATE	CLERK/ASSISTANT CLERK	CLERK/ASSISTANT CLERK
06/07/2022	Christine M Hayes	X

Date/Time Printed: 06-07-2022 11:15:35

Commonwealth of Massachusetts

SUFFOLK, ss.

SUPERIOR COURT DEPARTMENT
OF THE TRIAL COURT
CIVIL ACTION
No. 2184CV00771B

Larry Inoa, Plaintiff

V.

Pamela Casey O'Brien, Vinela Marmolejos
Christopher C. Harding, Theresa A. Bisenius,
Mary Mcdonough, Randy J. Kaplan, Dina Carter,
Geoffrey E. Snyder, Michele A. Cristello, Defendants

NOTICE OF APPEAL
(PURSUANT TO MASS. R.A.P. 3(a))

Notice is hereby given pursuant to Mass. R.A.P. 3(a) that the *plaintiff, Larry Inoa,

In the above actions hereby appeal(s) to the *Appeals Court - Supreme Judicial Court - from the *judgment - from the order, Pursuant to Chapter 30a call to action to action for Judicial Review of an administrative Officer's, Agency decision, Salem Family and probate court, Massachusetts Department of Revenue/ Child Support enforcement, Motion to Dismiss: lack of Jurisdictions, "The right of due process has been well protected throughout history." (Exhibit 192) (see in lower courts), Rule 12 (b)(2) Lack of Jurisdiction over Person Exhibit 241 (see in lower courts). Aswell in Title 42-The public Health and Welfare (111) "Terms of an oral or written personal responsibility contract entered into amount the noncustodial parent, Exhibit 191 (see lower court files). Pursuant to Title 42 U.S.C. 130(10)(d)

and the Fifth,Fourteenth Amendment/ Statutory Laws, "Nothing in this chapter shall be construed as authorizing and Federal official, agent, or representative in carrying out any of the provisions of this chapter to take charge of any child over the objection of either of parents of such child, or of the person standing. Violation (Exhibit (A) (see Lower Court Papers)

Judicial review of lower courts materials, an Administrative officers Review

Filed Civil Action, at the superior court, E02, Appeal for Administrative Agency E17 Civil Rights Act. G.L.C. 12&11 H A, Administrative Action. For a depth of money that was created. (See cover sheet Doc.21-00771B, Exhibit 407). Judgment entered on "plaintiff complaint is dismissed with prejudice. Allowing the dismissal of the Defendant's (see all files with lower court's) under "(General Law-Part (111), Title IV, chapter 258, Section 3", The Superior court shall have Jurisdictions of all civil action brought against a public employer). (Exhibit 408)

Judicial Review of orders entered by the court Salem Family and Probate and the administrative law judge, offices, agents working under Title IV-D program. Larry Inoa opposition filed with the lower courts to Vinela Mormolejos, A separate opposition to Angelica L. Duron, Assistant Attorney General. Provide proper to both dismiss complaints with the opposition and questions. (See lower court files)

Filing a copy of the Civil Action Complaint, call to Action 42 U.S. Code 1983 Civil Action for Deprivation of Rights. To the Massachusetts Executive office of Health and Human Services. "That oversees the programs and services offered by the state. Including transportation. And to investigate pursuit to General Law - Part (111) Title IV Chapter 258. Section 4 (Exhibit 405-406).

Larry Inoa has been receiving letters from the Massachusetts Department of Revenue/ Child Support enforcement. Case number P:00.2770.1566. Another letter 2/09/201 about "Failure to pay child support" The amount of $40,404.51 with stipulations say "can result in suspension of Drivers business, professional, trade licenses and registration of any motor vehicles registered in your name." Soon after two days, another letter came from the department. Indicating that the "license should not be suspended." Then about one month later on 03/13/2021, Massachusetts Department of Revenue/Child Support Enforcement, they sent a

"Final determination of Delinquency" That they will be taking action. About a depth of money that has been
created by Salem Family and Probate, the Administration Officer, court "mediator is a facilitator who has no power to render a resolution to the conflict." The contractors never protected Larry Inoa "equal Justice and due process." Massachusetts Department of Revenue/Child Support Enforcement, "error" when the order was created about termination of parental rights it's essentially the fundamental nature, a trial there's, evidence there, are witnesses that have to examine and cross-examine, there may be as the court said sophisticated expert testimony. So the experts have to be fair. Error, Deprivation of parental status. Request, demand proof of domestic violence, A full report and evidence, seeking equal justice under Law. Civil and Human Rights to raise my Larry Inoa children. 42 U.S.C 658, Title IV-D section 458 Social Security Act. Incentive, Larry Inoa fundamental Right has been violated every hearing Salem Family and Probate. Denied me my parental Rights with no cause or proof. Biest beharre, from the beginning treating me like a criminal. Then how is this in the best interest of my children? Exhibit (A)

Mary McDonough is the Administrative officer probation, In the creation of the contact, case Number 17w1382, 17w1383 04/09/18 with Randy J. Kaplan as the Judge. Both employees of Salem Family and probate the State of Massachusetts. From the beginning whenever Larry Inoa signed a temporary agreement, it was because Larry Inoa was under cohort and duress, misleading representations because they were treating me Larry Inoa that I would be punished by law. Therefore consent and free will is an essential element of a valid contract. I didn't sign those papers by free will and consent. 15 U.S. Code 1692e. False or misleading representations "A debt collector may not use any false, deceptive, or misleading representation or means in connections with the collection of any dept. Exhibit 215 (see lower courts papers).
45C.F.R. 302.39 "IV-D Contract means a mutually binding legal relationship obligating a private, "third party risk compliance Public sector dun and Bradstreet, home >Business>Health care>child services> United States of America> Massachusetts>Salem. (See Exhibit 156-10-166) (Judicial Review). A governmental entity to provide IV-D Services in a Title IV-D case or perform other administrative duties of the (Child Support Enforcement Agency) that pertain to a IV-D case in return for payment by the (Child Support Enforcement Agency). Administrative duties: they're performing policies for a private corporation. 42 U.S.C. 654 (3) single and separate units operating in the state.

Void orders, Larry Inoa wants to terminate orders reverse (IRS) tax refund, stimulus check, correct Passport information all action from Massachusetts Department of Revenue/ Child Support enforcement, Immunity of Government Officers Sued as Individuals for official Acts. (See paper Exhibit 214)

45 C.F.R. 75.2 commercial organization (Child Support Enforcement Agency) Plus "Contract" means a legal instrument by which a Mon-Federal entity purchases property or services needed to carry out the project or program under a Federal Award (State of Massachusetts) "Cooperation agreement, Salem Family and Probate, Massachusetts Department of Revenue, "equals" State and private city, contractual obligation. "The contractual obligation. "The obligation which arises from a contract or agreement. "Independent capacity for the contracts": "The contractor and its agents, employees, and subcontractors will act in performance of this IV-D contract in an independent capacity, and not as officers or employees or agents of the state or the Child Support Enforcement Agency." Immunity for Judges does not extend to act which are clearly outside of their Jurisdictions (see affidavit in complaint with lower court) (SJC) reported (Salem Family and Probate, Denied virtually all of his due process rights by both the Judge and MA Department of Revenue, during all 2018 hearings. Have provided each defendant with the complaint, civil Rights violations instruction 6.620 Exhibit 142-147 (see lower court papers) with violation warning denial of rights under color of Law violation warning -18 U.S.C. 242; 18 U.S.C 245; 42 U.SC 1983 Exhibit 148-155 (see lower courts papers)

15 U.S. Code 3 - Trust in Territories or District of Columbia illegal; combination of felony

(A) every contract, combination in form of trust or others, or conspiracy, in restraint of trade or commerce in any territory of the United States of the District of Columbia, or in restraint of trade or commerce between any such Territory and another or between any such Territory or Territories and any state or states or the District of Columbia, or with foreign nations, or between the District of Columbia and any State of States or foreign nations, is declared illegal Exhibit 167 (see lower courts papers)

Passport

Never received any clear notice by mail, phone call, of the "unfair" and deceptive Acts and policy practices to stop passport hold "services because the Department of Health and Human Services (HHS) certified that you owe child support." Exhibit 415,

General Law - Part 1, Title XV, Chapter 108(b), Section 3: Knowledge and notice; definition
(b) Delivers through the mail, or by other means of communication, a written statement of the fact to such person or to a proper person at his place of business or residence.

Larry Inoa seeks Damages, Administrative review, Judicial Review. 12 U.S. Code 1692d (3)- Harassment or abuse
(3) The publication of a list of consumers who allegedly refuse to pay debts, except to a consumer reporting agency or to persons meeting the requirements of Section 1681 a 9 (f) or 1681 b (3) of this title. Exhibit 219 (see lower courts papers)

42 U.S. Code § 1983 Civil Action For Deprivation Of Rights

The Massachusetts Department of Revenue has sent a letter indicating that the Child Support Enforcement has provided the registry of motor vehicle (RMV) with information that requires this agency to notify you that effective 10 days from the day of this letter, Exhibit 400 I Larry Inoa disagree don't want your services, don't want your business. Erred, violations on safeguard parental Rights, for lack of equal Justice and due process, as well in the U.S. Department of Justice Civil Rights Division letter to colleagues. Assert Law (5) "courts must not use arrest warrants or license suspension as a means of coercing the payment of court dept when individuals have not been afforded constitutionally adequate procedural protections; Respectfully Demand Administrative Review, Judicial Review of Massachusetts Department of Revenue/ Child Support enforcement, Salem Family and Probate (see Exhibit 421)

Seeking damages for Larry Inoa, Children physical and mental suffering and loss of Job earnings past the last 5 years, under MA General Laws S.C. 226 37E (a) (d) victim," any person who has suffered financial loss to any entity that provided money, credit, goods, services, or anything of value and has suffered financial loss as a direct result of the commission or attempted commission of a violation of this section. (d) A person found guilty of violating any provision if this section shall, in addition to any other punishment, be ordered to make restitution for financial loss sustained by the victim as a result of such violations. Exhibit 256 (see lower court papers) Judicial Review.

Procedural Due Process Civil,

SECTION 1. All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

Larry Inoa seeking damages and justice for the administrative officers under the Title-IV-D program to the State.

"The burden of Proof rests on he who affirms not he who denies."

Call to action Judicial Review 42 U.S. code 1983 Civil Action for Deprivation of rights under color of law.

The lawsuit is filed against the defendant's Pamela Casey O'Brien, Christopher Harding, Teresa Bisenius, Mary Mcdonough, Dina Carter, Geoffrey Snyder, Michele Cristello, and Randy J. Kaplan Administration Officers, under Title IV-D Health and Human services/ Child Support, Massachusetts Department of Revenue/ Child Support Enforcement, Erred, violation, to do with excessive force batteries, threatened, malicious protection, held in content by Salem Family and probate, Massachusetts Department of Revenue /Child Support Enforcement. Do to action of false arrest for a contract the Administrative officers practices and policies, orders. That to this day making father absent often grows up with a huge void in my life and my children's lives. Imagine how they feel as if something is missing, especially when they see other children playing with their father. Damages on

negligent hiring, failure to train, failure to supervise and these principals are going to be grounds for a lawsuit on neglect of separating father from children. Respectfully demand training records, personal records, discipline records of the Administrative officers involved.

Larry Inoa seeking damages: 18 U.S. Code 241- Conspiracy against rights, "They shall be fined under this title or in-prisoned not more than ten years, or both; are in death results from the acts committed in violation of this section or if such acts include kidnapping or an attempt to kidnap, aggravated sexual abuse or an attempt to commit aggravated sexual abuse, or an attempt to kill, they shall be fined under this title or in-prisoned for any term of years or for life, or both, or may be sentenced to death. Exhibit 2011 (see lower courts papers)

Judicial review

Angelica L. Duran, Attorney of the Defendants, Massachusetts Department of Revenue /Child Support Enforcement is not compliant to letters sent in with complaints and of Discovery Noncompliance, (Exhibit 422-426) Massachusetts Department of Revenue /Child Support Enforcement, Geoffrey E. Snyder Commissioner. Michele A. Cristello-Deputy Commissioner (Exhibit 277-280). Never received any replies back to the Questions sent in to the Defendants. Only Implication on policy, orders Respectfully Demand Judicial review of lower courts materials, an Administrative officers Review, Investigation on all material entered in Salem Family and Probate, Massachusetts Department of Revenue / Child Support Enforcement that is being with-held willfully. "To willfully withhold information or deliberately give the wrong information is a crime and is punishable by law,
General Law - Part (111), Title IV, Chapter 258, Section 2 "Public employers shall be liable for injury or loss of property or personal injury or death caused by the negligence or wrongful act, or if, in the opinion of the public attorney, representation of the public employee, under this paragraph would result in a conflict of interest, Exhibit 445-448

Constitutional Law
"A governing principle of our constitutional democracy is that (All) the officers of the government form the highest to the lowest, Ave creatures of the Law are bound to obey it." "No man in this country is so high that he/she is able the Law, No offices of the law may set that law at defiance with impunity.

- Butz vs. Economou, 438 U.S. 478, 506 (1978)
- United States US Lee 106 U.S., at 220 (1882)

"System-wide and department-wide problems".

Invidious Gender Discrimination
"Invidious gender discrimination is needed for conspiracy action under the first clause of 42 U.S.C. Section (1985) (3) approximately 85% to 90% custody decisions are sole maternal custody. This is Gender Bias in Practice. Such discrimination is not legal or in the best interest of children. A child has an equal right to be raised by the Father, and must be awarded to Father if he is the better parent, or Mother is not interested." Stanley V. Illinois, 405 U.S. 645 (1972)

Lack of Jurisdiction.

Federal Rights
"Parental rights are fundamental rights protected under federal/ constitutional Law, the USSC plurality decision in Troxel V. Granville, 530 U.S. 57 (2000) evinces that all nine justices agree that parental Rights are fundamental rights.

Monell V. Department of Social Services, 436 U.S. 658 (1978), is an opinion given by the United States Supreme Court in which the Court Overruled Monroe V, Pape in holding that a local government is a "person" subject to suit under Section 1983 of Title 42 of the United States Code: Civil action for deprivation of rights. Additionally, the court held that 1983 claims against municipal entities must be based on implementation of a policy or custom. Exhibit 450-456

"Relief"

Larry Inoa is seeking the court shall award damages in a sum of money as the court determined will fairly and reasonably compensate the plaintiff based upon the sufficiency of the plaintiff proof past the last 5 years, as well the compensation may be provided for such damages as lost wages, physical and mental problems, traumatized caused by the Systems- Atic Deprivation of Rights, pain and suffering that inevitably arise from fear lack of privacy, loss of freedom, separation from my children, 13, 8 y.o. humiliation from Salem Family and Probate, Massachusetts Department of Revenue /Child Support Enforcement

working under Title IV-D. Interference with person relationship and damages to reputation treating Larry Inoa like a criminal, Entered in the action on March 02 , 2022

Dated at Boston, Massachusetts, this 2 day of March 2022

For Appellant(s)

Address: Larry Inoa
28 Lowell st
Lynn MA. 01905
Tel. No.: (786) 448-4209

03-3-22

Vinela Marmolejos
31 Sherman street
Lawrence. MA. 01841

Angelica L. Duron
Assistant Attorney General
1 Ashburton Place, 20th Floor,
Boston, MA. 02108

APPENDIX K

COMMONWEALTH OF MASSACHUSETTS
APPEALS COURT

Docket No. 2184CV00771

[Filed: June 8, 2022]

LARRY INOA,	)
	)
Petitioner,	)
	)
v.	)
	)
PAMELA CASEY O'BRIEN, et al.,	)
	)
Respondents.	)
	)
	)

NOTICE OF FAILURE TO ENTER APPEAL TIMELY PURSUANT TO MASS.R.A.P. 10(a)(1)

The Appeals Court Clerk's Office

As of today's date, July 8, 2022, no appellant has entered the appeal pursuant to Mass.R.A.P. 10(a)(1). This notice is sent for informational purposes only and does not constitute a dismissal of the appeal.

App. 141

51

COMMONWEALTH OF MASSACHUSETTS

APPEALS COURT

NOTICE OF FAILURE TO ENTER APPEAL TIMELY
PURSUANT TO MASS.R.A.P. 10(a)(1)

Trial Court
or Agency: Suffolk Superior Court

Case Name: Larry Inoa vs. Pamela Casey O'Brien et al

Trial Court or Agency Docket Number: 2184CV0771

RECEIVED
JUL 8 2022
SUPERIOR COURT-CIVIL
MICHAEL JOSEPH DONOVAN
CLERK/MAGISTRATE

NOTICE

On June 7, 2022, the Suffolk Superior Court transmitted a notice of assembly to the Appeals Court in the above-referenced case, pursuant to Mass.R.A.P. 9(e). The Appeals Court received the notice on June 7, 2022.

Pursuant to Rule 10(a)(1) of the Massachusetts Rules of Appellate Procedure, each appellant has 14 days from receipt of the notice of assembly to docket the appeal in the Appeals Court by paying the required entry fee or moving for waiver of the fee on grounds of indigency.

As of today's date, July 8, 2022, no appellant has entered the appeal pursuant to Mass.R.A.P. 10(a)(1). This notice is sent for informational purposes only and does not constitute a dismissal of the appeal. If an appellant or cross-appellant in this matter wishes to pursue the appeal, the party must file a motion to the single justice for leave to docket the appeal late. Otherwise, an appellee may file a motion to dismiss the appeal in the trial court. See Mass.R.A.P. 10(c).

A copy of this notice is sent this date to the active counsel and self-represented parties identified on the above notice of assembly. For information about the filing of a motion to docket the appeal late, see https://www.mass.gov/service-details/single-justice-practice.

Sincerely,

The Appeals Court Clerk's Office

cc:
Larry Inoa
Angelica Duron, Esq.
Suffolk Superior Civil

Larry Inoa
Larry Matthew Inoa
05-06-2025

APPENDIX L

COMMONWEALTH OF MASSACHUSETTS
APPEALS COURT

Docket No. 2025-J-0325

[Filed: May 19, 2025]

LARRY INOA,	)
	)
Petitioner,	)
	)
v.	)
	)
PAMELA CASEY O'BRIEN, et al.,	)
	)
Respondents.	)
	)
	)

MOTION FOR RECONSIDERATION PURSUANT TO MASS. R.A.P. 27

NOW COMES the Appellant, Larry Matthew Inoa, pro se, and respectfully requests that this Honorable Court reconsider and/or modify its decision dated May 9, 2025, pursuant to Mass. R.A.P. 27, for the following reasons:

App. 143

COMMONWEALTH OF MASSACHUSETTS

MASSACHUSETTS APPEALS COURT

RE: No. 2025-J-0325

Lower Ct. No.: 2184CV00771

Salem family and Probate: ES17W1383, ES17W1382

Larry M. Inoa

vs.

PAMELA CASE O'BRIEN & others

MOTION FOR RECONSIDERATION PURSUANT TO MASS. R.A.P. 27

NOW COMES the Appellant, Larry Matthew Inoa, pro se, and respectfully requests that this Honorable Court reconsider and/or modify its decision dated May 9, 2025, pursuant to Mass. R.A.P. 27, for the following reasons:

1. INTRODUCTION AND OVERVIEW This case arises from Salem Family and Probation, and is enforced by the Massachusetts Department of Revenue Child Support Enforcement Division (DOR-CSE)'s implementation of enforcement actions against the Appellant without judicial authorization, proper service of notice, or the due process of law. The Appellant has long

asserted that he neither requested Title IV-D services nor was he informed of his legal rights or obligations under any enforceable child support order duly entered by a court of competent jurisdiction.

These administrative enforcement actions—including wage garnishments, bank levies, credit reporting, and federal tax intercepts—were taken without due process, judicial oversight, or compliance with the requirements of G.L. c. 119A, § 12. In doing so, DOR-CSE violated not only statutory law but also the Appellant's fundamental constitutional rights under the Massachusetts Declaration of Rights, Article 12, and the United States Constitution.

The facts and law outlined below demonstrate a pattern of procedural violations, regulatory overreach, and administrative misconduct that calls for judicial review, reversal of enforcement, and full restoration of the Appellant's parental and property rights.

II. BACKGROUND

I, Larry M. Inoa, respectfully submit this statement to address multiple serious concerns surrounding the handling of my child support case by the Massachusetts Department of Revenue (DOR) under Title IV-D. I believe the enforcement actions taken against me have violated my fundamental rights, following 45 CFR Section 303.101(c)(2) deprived me of due process, and introduced possible administrative and financial misconduct.

The support obligation at issue was created without my informed consent, and I was denied a fair opportunity to challenge or correct the underlying information. No hearing was offered in which I could present evidence, and no proper notice was issued before enforcement actions began.

This lack of procedural integrity raises major concerns under the Fourteenth Amendment and applicable Massachusetts administrative law.

In addition to due process concerns, I believe the financial data and records used by DOR may contain errors or unauthorized actions, possibly falling under the scope of a billing error as defined in 12 CFR § 1026.13 of the Truth in Lending Act (Regulation Z). Mishandling such an issue may also violate 209 CMR 32.13, under Massachusetts consumer credit regulations. While the DOR is not the primary agency for enforcing these provisions, such matters may be appropriately referred to the Consumer Financial Protection Bureau (CFPB) or the Massachusetts Attorney General's Office for further review under state and federal consumer protection laws.

The effects of these actions have been far-reaching, harming my credit, my reputation, my parental rights, and my financial stability. What began as an administrative process has grown into a broader constitutional concern, including potential online fraud and identity-based violations conducted without my knowledge or consent.

In accordance with M.G.L. c. 12, § 11H, I formally assert that the continued enforcement of this order by state agencies, absent due process and objective legality, constitutes interference with the exercise and enjoyment of my rights under both the U.S. and Massachusetts Constitutions. The law is clear: no law enforcement or government officer is immune from civil liability when their actions, under color of law, violate a person's civil rights, especially when such actions are knowingly unlawful or not objectively reasonable. Furthermore, if such conduct leads to or contributes to decertification under Chapter 6E, section 10, it eliminates immunity from civil consequences.

Therefore, I respectfully request that all agency enforcement actions be halted immediately pending a thorough judicial review of the administrative errors and due process violations in this case. I also request that the court take judicial notice of the violations outlined herein and provide equitable relief to correct the record and restore my rights.

Appellant was subjected to enforcement by DOR-CSE without ever receiving notice of the underlying complaint or an opportunity to participate in a hearing. The documents presented (Exhibits A–P) confirm that:

No judicially issued or validated child support order exists in the record.

No formal complaint by the named obligee, Vinela Marmolejos, was ever served.

Enforcement documents and orders were often created and executed on the same day (Exhibits N–P).

The administrative process relied on automated, cloud-based platforms with no guarantees of receipt or participation (Exhibit L).

Multiple notices contain coercive language demanding "cooperation," threatening loss of benefits, in the absence of lawful authority (Exhibit K).

No acknowledgment of Appellant's disability status or financial hardship was made before garnishment or credit reporting (Exhibit H).

III. VIOLATIONS OF STATE AND FEDERAL LAW

A. Lack of Notice and Hearing

Under G.L. c. 119A, § 12, no enforcement action may proceed without formal notice and the opportunity to be heard. DOR-CSE's failure to serve a complaint or establish that service occurred before executing orders violates this statute and the procedural mandates of G.L. c. 30A, which governs administrative due process.

The Massachusetts Constitution, Article XII, guarantees that "no subject shall be held to answer for any crime or offense... or be deprived of his property... but by the judgment of his peers, or the law of the land." Enforcement in the absence of a judicial proceeding falls afoul of this foundational guarantee.

B. Title IV-D Misapplication

DOR-CSE acted under the presumption that Appellant was enrolled in Title IV-D services. However, under 45 C.F.R. § 302.33, application and consent are required prerequisites. Enforcement in the absence of enrollment constitutes an ultra vires act beyond the scope of agency authority.

Further, 42 U.S.C. § 654(4) mandates that states must have a plan to provide services only to eligible and consenting individuals. The assumption of jurisdiction over a non-participating individual contradicts this directive.

IV. CONSTITUTIONAL INJURIES AND CIVIL RIGHTS VIOLATIONS

DOR-CSE's actions give rise to multiple constitutional violations:

Fourth Amendment: Unauthorized seizure of wages and personal financial data without probable cause or judicial warrant violates the Appellant's right to be secure in his "papers and effects."

Fifth and Fourteenth Amendments: Property was taken without due process or just compensation, triggering constitutional injury actionable under 42 U.S.C. § 1983.

Article X and Article XII of the Massachusetts Declaration of Rights: Property was taken without legal judgment or the Appellant's consent.

V. COMPARATIVE CASE LAW

In Department of Revenue v. Grullon, 485 Mass. 129 (2020), the Supreme Judicial Court found that DOR violated procedural due process by failing to:

Provide actual notice to the obligor.

Hold a proper hearing to assess arrears.

Consider the individual's ability to pay.

In the present case, similar and arguably more egregious procedural lapses occurred. No judicial hearing, no opportunity to rebut, and no underlying order were ever presented. With respect, this Court is duty-bound to prevent administrative agencies from circumventing the judicial process.

VI. FIDUCIARY AND EQUITABLE FAILURES

A fiduciary duty exists when one entity, such as DOR, administers property (child support funds) on behalf of another. Under the Massachusetts Uniform Trust Code, fiduciaries must:

1. Act in good faith;
2. Provide accurate and timely accounting;
3. Not misappropriate or misdirect funds.

In this case, DOR-CSE garnished income and redirected payments without judicial approval or legal standing, violating these duties. Such action constitutes constructive fraud and possibly criminal conversion under M.G.L. c. 266, § 30.

VII. ADMINISTRATIVE MALPRACTICE AND MISREPRESENTATION

Appellant Larry M. Inoa affirms errors, that no formal complaint was ever filed by DOR-CSE or the named, Vinela Marmolejos, accompanied by exhibits or affidavits. No judicially signed support order was presented or adjudicated before the enforcement measures were taken. These administrative actions, absent a lawful judicial basis, are void and constitutionally invalid. The lack of a proper complaint and the issuance of orders on the same day, March 17, 2025, see letter attached, sent out without legal process, deprives this Court of an enforceable judgment to review. However, under Marbury v. Madison, 5 U.S. (1 Cranch) 137 (1803), the U.S. Supreme Court held: "It is emphatically the province and duty of the judicial department to say what the law is." This doctrine of judicial review obligates the Massachusetts Appeals Court to examine whether DOR-CSE acted ultra vires (beyond its lawful authority) and in violation of constitutional safeguards. Where an agency exercises power without a legal foundation, this Court retains jurisdiction to declare such acts void and provide redress to the injured party. IX. BAD FAITH ENFORCEMENT RELIEF UNDER G.L. c. 231, § 6F. Massachusetts G.L. c. 231, § 6F provides that a prevailing party may recover attorney's fees and costs when a proceeding is brought or defended in bad faith or without any reasonable basis in

fact or law. Reverse judgment order created on or about February 13, 2025, signed by the Massachusetts DOR-CSE- deputy commissioner.

The Department's use of cloud-based technology, failure to confirm receipt of notices, and reliance on system-generated enforcement decisions represent a breach of standard administrative practice. In accordance with 12 CFR § 1026.13 and 209 CMR 32.13, administrative actors handling sensitive financial data must ensure verifiable accuracy and consent, neither of which occurred here.

The misrepresentation of arrears in credit reports, threats of benefit loss without legal foundation, and the denial of Appellant's disability accommodations collectively constitute deceptive practices under M.G.L. c. 93A, § 2.

VIII. SYSTEMIC ABUSE AND REQUEST FOR JUDICIAL OVERSIGHT

The record of the support obligation at issue was created without my informed consent, and I was denied a fair opportunity to challenge or correct the underlying information. No hearing was offered in which I could present evidence, and no proper notice was issued before enforcement actions began. This lack of procedural integrity raises major concerns under the Fourteenth Amendment and applicable Massachusetts administrative law. In addition to due process concerns, I believe the financial data and records used by DOR may contain errors or unauthorized actions, possibly falling under the scope of a billing error as defined in 12 CFR § 1026.13 of the Truth in Lending Act (Regulation Z). Mishandling such an issue may also violate 209 CMR 32.13, under Massachusetts consumer credit regulations. While the DOR is not the primary agency for enforcing these provisions, such matters may be appropriately referred to the Consumer Financial Protection Bureau (CFPB) or the Massachusetts Attorney General's Office

for further review under state and federal consumer protection laws, that enforcement orders were issued the same day as case conference notices without complaints, affidavits, or exhibits attached (Exhibits E–M). This is not only procedurally defective but reveals a pattern of misconduct under the color of state law.

According to 42 U.S.C. § 1983, any state actor who deprives a person of rights, privileges, or immunities secured by the Constitution shall be liable to the injured party. Sovereign immunity is not a defense when constitutional rights are knowingly and unlawfully violated.

IX. EXHIBIT SUPPORT SUMMARY

Key documents support the Appellant's position:

Exhibits A–D: Show no judicial order existed before garnishment.

Exhibits E–G: Confirm lack of complaint or underlying support action.

Exhibits H–J: Demonstrate financial and reputational harm.

Exhibits K–P: Document coercion, procedural missteps, and improper "service."

PRAYER FOR RELIEF

WHEREFORE, Larry M. Inoa, the Appellant, respectfully requests that this Honorable Court:

1. Reconsider and/or modify its decision of May 9, 2025;
2. Declare that the enforcement orders issued by DOR-CSE were void for lack of notice, hearing, and judicial authority;
3. Stay all DOR-CSE collection and enforcement efforts;

4. Order a full evidentiary, discovery hearing to determine the legality of the DOR-CSE's actions;
5. Direct DOR-CSE to produce all Title IV-D enrollment records, service logs, and cloud system audits;
6. Restore Appellant's Larry M. Inoa, parental rights and financial standing through declaratory relief, Reunification with children, and time lost.
7. Grant such other and further relief as equity and justice may require.

Respectfully submitted,



Larry Matthew Inoa

28 Lowell St

Lynn, MA 01905

(786) 448 - 4209

Pro Se Appellant

Dated: May 19, 2025,

APPENDIX M

COMMONWEALTH OF MASSACHUSETTS
Supreme Judicial Court

Docket No. FAR-30961

[Filed: June 10, 2026]

LARRY INOA,	)
	)
Petitioner,	)
	)
v.	)
	)
PAMELA CASEY O'BRIEN, et al.,	)
	)
Respondents.	)
	)
	)

NOTICE OF ENTRY OF APPLICATION FOR FURTHER APPELLATE REVIEW

The Clerk's Office

On June 10, 2026, an application for further appellate review was filed. A response may be filed by June 24, 2026.

App. 154

Gmail

FAR-30961 - Notice of Entry: FAR

SJC Full Court Clerk <SJCCommClerk@sjc.state.ma.us> Wed, Jun 10, 2026 at 4:10 PM
To: Mikelarythe1@gmail.com

Supreme Judicial Court for the Commonwealth of Massachusetts

RE: No.FAR-30961

LARRY INOA
v
PAMELA CASEY O'BRIEN & others

Appeals Court No. 2025-J-0325; 2184CV00771
Appeals Court No. 2025-P-0719

NOTICE OF ENTRY OF APPLICATION FOR FURTHER APPELLATE REVIEW

On June 10, 2026, an application for further appellate review was filed. A response may be filed by June 24, 2026.

Very truly yours,
The Clerk's Office

Dated: June 10, 2026

To:
Larry Inoa
Angelica L. Duron, Esquire
Carlos Eduardo Cousins, Esquire
Vinela Marmolejos

App. 155

The Massachusetts Supreme Judicial Court

COMMONWEALTH OF MASSACHUSETTS

Docket Number: FAR-30961

Larry Inoa, Appellant

Vs.

PAMELA CASE O'BRIEN & others, Appellee

Appeal Full Panel: 2025-P-0719
On Appeal From Single Justice No. 2025-J-0325
Lower Ct SUPERIOR: No. 2184CV00771
Essex County Probate and Family Court: No. ES17W1382WD
No. WS17W1383WD

APPLICATION FOR FURTHER APPELLATE REVIEW RULE 27.1

QUESTIONS PRESENTED FOR FURTHER APPELLATE REVIEW

1. Whether the Due Process protections guaranteed by the Fourteenth Amendment to the United States Constitution,

Article XII of the Massachusetts Declaration of Rights, Turner v. Rogers, 564 U.S. 431 (2011), and Department of Revenue v. Grullon, 485 Mass. 129 (2020), require Massachusetts courts to meaningfully consider documented administrative, financial, and procedural hardships before permanently extinguishing a self-represented litigant's right to appellate review.

2. Whether the Appeals Court erred in affirming the denial of relief under Mass. R. A. P. 2 and Mass. R. A. P. 14(b) where the record contained evidence of continuing child-support enforcement proceedings, employment loss, notice deficiencies, multiple court proceedings, and related hardships that substantially impaired the petitioner's ability to perfect an appeal.

3. Whether strict enforcement of appellate deadlines, without consideration of alleged violations of the Fourth, Fifth, Eighth, Tenth, and Fourteenth Amendments to the United States Constitution and Articles I, X, XI, XII, and XXX of the Massachusetts Declaration of Rights, creates a manifest injustice warranting relief under Mass. R. A. P. 2.

4. Whether this Court should provide guidance concerning the application of the "excusable neglect" standard to

self-represented litigants facing ongoing governmental enforcement actions and substantial barriers to access to justice.

MEMORANDUM OF LAW IN SUPPORT OF APPLICATION FOR DIRECT APPELLATE REVIEW

I, Larry Matthew Inoa, commenced this civil action in the Essex County Superior Court in 2021, Docket No. 2184CV00771. (App. 15-23.) The complaint challenged actions taken by various public officials and private parties arising from child-support enforcement proceedings and related administrative actions. (App. 15-23.)

On January 27, 2022, the Superior Court conducted a hearing on the defendants' motions to dismiss. The hearing transcript reflects that I appeared without counsel and attempted to raise concerns regarding enforcement actions, notice, and the effect of ongoing administrative proceedings on my rights. (Transcript pp. 12-23; App. 24-32.) Following the hearing, the Superior Court allowed the defendants' motions to dismiss and entered judgment against me. (App. 23-24.)

I timely filed a Notice of Appeal from the judgment of dismissal. (App. 15-23.) On June 7, 2022, the Superior Court Clerk issued notice of assembly of the record and transmitted

notice to the Appeals Court pursuant to the Massachusetts Rules of Appellate Procedure. (App. 15-23.)

During the period following assembly of the record, I was simultaneously involved in ongoing Probate and Family Court proceedings, child-support enforcement actions, administrative disputes, employment-related hardship, and efforts to obtain review of enforcement measures that I believed had been imposed without adequate notice or procedural protections. (App. 23, 33-52.) These circumstances substantially impaired my ability to perfect the appeal within the fourteen days prescribed by Mass. R. A. P. 10(a)(1).

In July 2022, the Appeals Court issued notice that the appeal had not been docketed. (App. 15-23.) On May 6, 2025, after continuing efforts to address the underlying enforcement matters and related hardships, I filed a Motion for Leave to Docket Appeal Late before a Single Justice of the Appeals Court. (App. 11.) The motion was denied on May 9, 2025. (App. 2-5.) I subsequently filed a Motion for Reconsideration, which was denied on May 28, 2025. (App. 2-5.)

I appealed those rulings to a panel of the Appeals Court, Docket No. 2025-P-0719. (App. 7-14.) On May 18, 2026, the Appeals Court issued a summary decision pursuant to M.A.C. Rule 23.0, affirming both the denial of the motion to docket the appeal late and the denial of reconsideration. (App. 2-5.) The

Appeals Court concluded that I had failed to establish excusable neglect because the record did not sufficiently demonstrate how the documented hardships prevented the timely docketing of the appeal. (App. 2-5.)

This Application for Further Appellate Review is timely filed pursuant to Mass. R. A. P. 27.1(b) within twenty-one days of the Appeals Court's decision.

I. THIS CASE PRESENTS IMPORTANT CONSTITUTIONAL QUESTIONS CONCERNING ACCESS TO JUSTICE, DUE PROCESS, AND GOVERNMENTAL DEPRIVATION OF PROPERTY

Further appellate review is warranted because this case presents substantial constitutional questions concerning the interaction between appellate procedural rules and fundamental constitutional protections guaranteed by the United States Constitution and the Massachusetts Declaration of Rights.

During most relevant times, I was a self-represented litigant attempting to challenge child-support enforcement actions originating in Salem Probate and Family Court, Docket No. ES17W1383WD, ES17W1382WD (App. 23.) Simultaneously, I was confronting ongoing administrative proceedings, employment loss, financial hardship, and enforcement actions affecting my wages, bank accounts, tax refunds, credit standing, and other property interests. (App. 23, 33-52.)

The record demonstrates that these enforcement actions had severe consequences upon my ability to support myself, maintain

employment, and effectively pursue legal remedies. (App. 51-52.) During this period, I sought relief through multiple administrative and judicial channels, including correspondence with state agencies, efforts to obtain records, and attempts to challenge enforcement actions that I believed had been implemented without adequate notice or meaningful opportunity to be heard. The Appendix demonstrates that the Probate and Family Court recognized and protected the petitioner's parental rights through a court-approved stipulation establishing shared legal custody and parenting time. (App. 46.) The existence of this agreement undermines any suggestion that the petitioner abandoned his children or failed to maintain a parental relationship.

The constitutional protections implicated are substantial. The Fourth Amendment protects citizens against unreasonable governmental seizures of property. The Fifth and Fourteenth Amendments prohibit deprivation of property without due process of law. The Eighth Amendment prohibits excessive governmental penalties and sanctions. Article X and Article XII of the Massachusetts Declaration of Rights likewise guarantee protection of property interests and due process before governmental deprivation. The Probate and Family Court had previously entered an order recognizing the petitioner's shared legal custody and parenting rights, any subsequent governmental

action affecting those rights required meaningful notice and an opportunity to be heard consistent with Article XII of the Massachusetts Declaration of Rights and the Fourteenth Amendment. The central constitutional issue is whether appellate procedural deadlines may be rigidly enforced when doing so completely forecloses judicial review of substantial claims alleging unconstitutional deprivation of property, lack of notice, and denial of procedural due process.

II. TURNER v. ROGERS, GRULLON, AND FUNDAMENTAL FAIRNESS REQUIRE HEIGHTENED PROCEDURAL SAFEGUARDS FOR SELF-REPRESENTED LITIGANTS

In Turner v. Rogers, 564 U.S. 431 (2011), the United States Supreme Court recognized that self-represented litigants involved in child-support proceedings face significant disadvantages when confronting state enforcement systems. The Court emphasized that alternative procedural safeguards are necessary to ensure fundamental fairness when liberty or property interests are at stake. Likewise, in Department of Revenue v. Grullon, 485 Mass. 129 (2020), this Court reaffirmed the importance of meaningful notice and procedural protections before significant governmental enforcement actions affecting individual property interests may proceed.

The circumstances presented here extend beyond ordinary neglect. The record reflects that I was navigating multiple court proceedings, administrative enforcement actions, financial

hardship, and documented employment loss while proceeding without counsel. (App. 23, 24-32, 50-52.)

This issue is of significant public importance, as it may affect thousands of residents involved in automated DOR-CSE systems. The DOR-CSE serves as a fiduciary administering child support funds under the Massachusetts Uniform Trust Code, M.G.L.c 119A § 9, 830 CMR 119A. Redirecting payments without a proper judicial order constitutes a systemic breach of good faith that requires attention at a broader legal level. The court-approved stipulation reflects active parental involvement rather than neglect of legal responsibilities. (App. 46.)

The Appeals Court acknowledged the existence of hardships but concluded that they were insufficient to establish excusable neglect. The question presented herein is whether due process principles require a more searching inquiry when a self-represented litigant demonstrates substantial governmental interference with property interests and access to the courts.

III. MASS. R. A. P. 2 AND MASS. R. A. P. 14(b) EXIST TO PREVENT MANIFEST INJUSTICE.

Mass. R. A. P. 14(b) authorizes enlargement of filing deadlines upon a showing of good cause. Mass. R. A. P. 2 authorizes suspension of procedural rules where necessary to prevent manifest injustice. The Appeals Court's decision effectively treated these circumstances as insufficient as a matter of law. However, Rules 2 and 14(b) were specifically adopted to provide

equitable relief when strict application of procedural rules would produce an unjust result.

Under Berube v. McKesson Wine & Spirits Co., 7 Mass. App. Ct. 426 (1979), courts are required to balance the equities and consider whether justice is better served by allowing a case to proceed on the merits. Here, the equities favor permitting review of substantial constitutional claims rather than permanently foreclosing judicial review based solely upon a procedural default caused by extraordinary hardship.

IV. THIS CASE PRESENTS ISSUES OF EXCEPTIONAL PUBLIC IMPORTANCE

This matter extends beyond the circumstances of a single litigant. Across the Commonwealth, thousands of self-represented litigants confront complex child-support enforcement systems, administrative proceedings, and overlapping court processes without legal representation. Many face wage garnishments, tax intercepts, license restrictions, and other governmental enforcement measures that directly affect their ability to support themselves and participate meaningfully in litigation. **This Court should provide guidance concerning Mass.G.L. c 211 § 3**

1. Clarification of "excusable neglect" is needed when governmental enforcement actions substantially impair a litigant's ability to meet procedural deadlines.

2. The relationship between constitutional due process protections and appellate procedural rules.

3. The circumstances under which Mass. R. C. P. Rules 2 and 14(b) should be invoked to prevent manifest injustice, and

4. The procedural safeguards required when a self-represented litigant demonstrates substantial barriers to accessing appellate review. 45 C.F.R. § 302.33 and 42 U.S.C. § 654(4)

Nevertheless, these issues affect the administration of justice throughout the Commonwealth and implicate important constitutional protections, further appellate review is warranted under Mass. R. A. P. 27.1. For the foregoing reasons, petitioner Larry Matthew Inoa respectfully requests that this Court grant Further Appellate Review pursuant to Mass. R. A. P. 27.1. This case presents important constitutional questions concerning due process, access to the courts, protection of property interests, and the proper application of Mass. R. A. P. 2 and Mass. R. A. P. 14(b) when a self-represented litigant demonstrates extraordinary hardship arising from ongoing governmental enforcement actions.

The record reflects that the petitioner was simultaneously involved in Probate and Family Court proceedings, administrative enforcement actions, documented employment loss, and related litigation while attempting to preserve his appellate rights.

(App. 23, 24-32, 33-42, 50-52.) The petitioner further alleged that significant enforcement actions affecting wages, bank accounts, tax refunds, and other property interests occurred without adequate notice and meaningful opportunity to be heard, raising concerns under the Fourth, Fifth, Eighth, and Fourteenth Amendments to the United States Constitution, as well as Articles X and XII of the Massachusetts Declaration of Rights.

The petitioner submits that the lower courts failed to adequately consider the procedural fairness principles recognized in Turner v. Rogers, 564 U.S. 431 (2011), and Department of Revenue v. Grullon, 485 Mass. 129 (2020), when evaluating whether the documented hardships constituted excusable neglect and good cause for relief under Rules 2 and 14(b). When these circumstances were presented, no meaningful inquiry was conducted into the petitioner's actual ability to comply with appellate deadlines while navigating ongoing enforcement proceedings and severe financial hardship. (App. 2-5, 23, 50-52.) The petitioner was not a disengaged litigant. Rather, he/me was a self-represented parent attempting to preserve court-recognized parental rights. (App. 23, 46, 50-52).

Respectfully submitted,
Larry Matthew Inoa
Appellant / Self-Represented Litigant

Date: June 10, 2026

28 Lowell St
Lynn, MA, 01905
(786) 448 - 4209
Mikelarythe1@gmail.com

CERTIFICATE OF SERVICE

I certify that on this day, June 10, 2026, I electronically filed the Application for Further Appellate Review and Memorandum of Law through the Court's e-filing system, which will deliver an electronic copy of the same to Carlos Cousins, Angélica L. Durón, Vinela Marmolejos, pro se / counsel for the Commonwealth.

Service was made upon:
/s/ Carlos Cousins
Carlos Cousins, BBO#708564
Assistant Attorney General
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Carlos. Cousins@mass.gov
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Vinela Marmolejos
31 Sherman St
Lawrence, Massachusetts 01841
vmarmolejos87@icloud.com

CERTIFICATION OF COMPLIANCE

As Pro se/Appellate for the defendant-appellant, I certify that the foregoing document complies with the rules of court that pertain to filing applications for Further appellate review, pursuant to Mass. R. A. P. 11. The document is produced in 12- point Courier New, a proportionally spaced font, and contains 1,864 words in the argument section, which complies R. A. P. 11 (b).

Service was made upon:
/s/ Carlos Cousins
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Assistant Attorney General
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MASSACHUSETTS APPEALS COURT

John Adams Courthouse
One Pemberton
Square, Suite 1200
Boston, MA 02108
(617) 725-8106
http://www.mass.gov/courts/appealscourt/

Docket Number FAR-30961

Larry Inoa

Appellant(s)

v.

PAMELA CASE O'BRIEN & others, Appellee

Appellee(s)

CERTIFICATE OF SERVICE

June 10, 2026

Pursuant to Mass.R.A.P. 13(d), I hereby certify, under the penalties of perjury, that on this date of I have made service of a copy of the following document(s):

(1) APPLICATION FOR FURTHER APPELLATE REVIEW RULE 27.1
QUESTIONS PRESENTED FOR FURTHER APPELLATE REVIEW

(2) Appendix
E-FileMA Service

Carlos Cousins, BBO#708564
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Vinela Marmolejos
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Lawrence, Massachusetts 01841

upon the attorney of record for each party, or if the party has no attorney, then I made service directly to the self-represented party, by

○ hand delivery ◉ E-FileMA, class mail

to the following person(s) and address(es). *Attach a separate page if more space is necessary.*

Larry Inoa
Signature

Larry Inoa
Printed Name and BBO# (if applicable)

28 Lowell St.
Lynn MA. 01905

786-448-4209

App. 169

Defendant's

Vinela Marmolejos, Mother of the Children.
31 Sherman St., Lawrence, MA. 01841

Christopher C. Harding, DOR commissioner, MA.
100 Cambridge St, Boston, MA 02114

Pamela Casey O'Brien, Essex County Register of Probation, Salem, MA.
36 Federal St, Salem, MA, 01970

Theresa A. Bisenius, Justice, Probation and Family Courts, Salem, MA.
36 Federal St, Salem, MA, 01970

Mary McDonough, Probation Officer, Salem, MA.
36 Federal St, Salem, MA, 01970

Dina Carter, Child Support Enforcement Specialist, Woburn, MA.
100 Trade Center, 100 Sylvan Rd, Suite 760, Woburn, MA. 01801

Geoffrey E. Snyder, DOR Commissioner, MA.
100 Cambridge St, Boston, MA 02114

Michele A. Cristello, Deputy Commissioner, MA.
100 Cambridge St, Boston, MA 02114

Randy J. Kaplan, Justice, Probation and Family Courts, Salem, MA.
36 Federal St, Salem, MA, 01970

APPENDIX N

COMMONWEALTH OF MASSACHUSETTS
APPEALS COURT

Docket No. 2025-P-0719

[Filed: January 29, 2025]

LARRY INOA,	)
	)
Petitioner,	)
	)
v.	)
	)
PAMELA CASEY O'BRIEN, et al.,	)
	)
Respondents.	)
	)
	)

Informal Reply Brief of Larry Inoa (appealing party)

Statement of Issues

I, Larry Matthew Inoa, respectfully submit this Informal Reply Brief in response to the Brief of the State Appellees. The Single Justice erred in concluding that I failed to demonstrate excusable neglect and a meritorious case sufficient to permit late docketing of my appeal. The record reflects that, at the January 27, 2022 Rule 12 hearing, the Superior Court mischaracterized my claims, declined to exercise jurisdiction over properly raised constitutional violations,

App. 171

COMMONWEALTH OF MASSACHUSETTS

APPEALS COURT

Docket Number: 2025-P-0719

Larry Inoa, Appellant

Vs.

PAMELA CASE O'BRIEN & others, Appellee

On Appeal From Single Justice No. 2025-J-0325
Lower Ct SUPERIOR: No. 2184CV00771
Essex County Probate and Family Court: No. ES17W1382WD
No. WS17W1383WD

Informal Reply Brief of Larry Inoa (appealing party)

Date: 12/29/2025
Larry Inoa
28 Lowell St
Lynn, MA, 01905
(786) 448 - 4209
Mikelarythe1@gmail.com

Statement of Issues

I, Larry Matthew Inoa, respectfully submit this Informal Reply Brief in response to the Brief of the State Appellees. The Single Justice erred in concluding that I failed to demonstrate excusable neglect and a meritorious case sufficient to permit late docketing of my appeal. The record reflects that, at the January 27, 2022 Rule 12 hearing, the Superior Court mischaracterized my claims, declined to exercise jurisdiction over properly raised constitutional violations, and denied me a meaningful opportunity to be heard. These errors implicate my rights under the Fourth, Fifth, Tenth, and Fourteenth Amendments to the United States Constitution, as well as Articles I, X, and XII of the Massachusetts Declaration of Rights. I did not consent to the removal, limitation, or administrative alteration of my parental rights, and enforcement predicated on implied consent or administrative designation constitutes a deprivation of due process. The delay in docketing was not the result of willful neglect but arose from lack of notice and procedurally unfair administrative practices, which satisfy the standard for excusable neglect.

I further submit that the relief I seek does not exceed the scope of this appeal. Reversal of the Single Justice's orders, remand for consideration on the merits, and interim protection from ongoing enforcement actions are necessary to prevent continued harm to my family's integrity and economic welfare resulting from unfair practices and procedurally defective enforcement. Pursuant to Rule 6 of the Massachusetts Rules of Appellate Procedure, I seek good-faith protection in the form of direct appellate review and a stay or injunction pending appeal. Under Mass. R. App. P. 6(a)(3), such relief is appropriate where good cause, exigency, or undue hardship exists, particularly where relief from the lower court has proven unavailable or ineffective. The requested relief is narrowly tailored to preserve the status quo and prevent further constitutional injury pending appellate review.

Statement of the Case

This appeal arises from orders of a Single Justice of the Appeals Court denying my motion to docket my appeal late and denying reconsideration of that ruling. The Single Justice determined that I failed to establish excusable neglect and a meritorious basis for late docketing. The underlying appeal relates to Superior Court proceedings, including a January 27, 2022 Rule 12 hearing at which my constitutional claims were

dismissed without substantive review. I seek appellate review of the Single Justice's orders on the grounds that the delay resulted from circumstances beyond my control and that the appeal presents substantial constitutional and procedural issues warranting consideration on the merits.

STATEMENT OF FACTS RELEVANT TO THIS APPEAL

This appeal arises from the dismissal of my Superior Court action challenging administrative child support enforcement practices and from subsequent orders denying me appellate review of that dismissal. The relevant facts concern the manner in which enforcement actions were undertaken, the procedural posture of my claims, and the treatment of those claims by the Superior Court and the Appeals Court.

A. Commencement of the Superior Court Action

On April 2, 2021, I commenced this action in the Superior Court, proceeding pro se, against various state officials and agencies, including officials of the Department of Revenue Child Support Enforcement Division ("DOR"). My complaint arose from the enforcement of child support obligations associated with proceedings in the Essex Probate and Family Court.

The complaint did not seek appellate review of any Probate and Family Court judgment. Instead, it alleged that administrative

enforcement actions were undertaken without adequate notice, individualized determinations, or judicial authorization, and that those actions affected my property interests, economic stability, and parental rights. The complaint asserted constitutional and statutory claims arising from enforcement conduct undertaken under color of law.

B. Motions to Dismiss and Rule 12 Hearing

The State Appellees and a non-state defendant moved to dismiss the complaint. A hearing on the motions was held on January 27, 2022. At that hearing, the State argued that any challenge relating to child support enforcement could be addressed only in the Probate and Family Court or by appeal from that court.

During the hearing, I stated that I was not appealing a Probate and Family Court judgment but was asserting original constitutional claims arising from administrative enforcement actions. (Tr. at 5-7.) The court nonetheless treated the claims as jurisdictionally barred and accepted the State's characterization of the action as an improper collateral challenge. (Tr. at 3-4, 6-8.)

At one point, the court stated:

"Well, because he's unhappy with what happened in family and

probate court. That's why." (Tr. at 12.). The court did not address the factual allegations concerning the manner of enforcement or apply the Rule 12 standard to those allegations.

On January 31, 2022, the Superior Court entered a judgment dismissing the action with prejudice.

C. Notice of Appeal and Assembly of the Record

On March 3, 2022, I timely filed a notice of appeal from the judgment of dismissal. I subsequently notified the Superior Court of my intent to order transcripts, and on June 7, 2022, the Superior Court issued a notice of assembly of the record.

On July 8, 2022, the Appeals Court issued a Notice of Failure to Enter Appeal Timely, advising that the appeal had not been docketed within the period prescribed by Mass. R. App. P. 10(a)(1) and that a motion to a Single Justice would be required to docket the appeal late.

D. Motion to Docket the Appeal Late and Reconsideration

On May 6, 2025, I filed a motion to docket the appeal late. In an accompanying affidavit, I explained that the delay resulted from my pro se status, limited access to legal resources, lack of effective legal assistance, and ongoing administrative enforcement proceedings that affected my financial and personal circumstances. I stated that once I

became aware of the procedural requirements, I acted in good faith to seek relief.

On May 9, 2025, a Single Justice of the Appeals Court denied the motion, concluding that I had not demonstrated excusable neglect or a meritorious appellate issue.

On May 20, 2025, I filed a motion for reconsideration, asserting that DOR's enforcement actions violated state and federal law and deprived me of due process. I also sought interim relief to prevent ongoing enforcement actions pending review. On May 28, 2025, the Single Justice denied reconsideration.

E. Appeal From the Single Justice's Orders

On June 3, 2025, I filed a notice of appeal from the Single Justice's May 9 and May 28 orders. The Appeals Court docketed the appeal on June 12, 2025.

On that same date, I filed a Petition for Judicial Review and Motion for Temporary Restraining Order. The Appeals Court denied the petition, stating that the only matter then pending was my appeal from the Single Justice's orders denying leave to docket the appeal late, and set a briefing schedule. I thereafter timely filed my brief and Record Appendix.

F. Enforcement Context Relevant to This Appeal

The enforcement actions underlying my claims occurred within the administrative framework governing Title IV-D child support enforcement. Those actions included wage-related collection measures and other administrative restraints imposed without findings addressing ability to pay, voluntariness, or lawful authorization.

The procedural posture and enforcement context bear similarities to the defects identified by the Supreme Judicial Court in *Department of Revenue Child Support Enforcement v. Grullon*, 485 Mass. 129 (2020), where the Court emphasized that enforcement actions affecting liberty or property require reliable fact-finding and meaningful procedural safeguards. The relevance of those principles to this appeal is addressed in the Argument section below.

SUMMARY OF THE ARGUMENT

This appeal presents a compelling and meritorious challenge to unconstitutional administrative enforcement actions that deprived me of liberty, property, and parental rights without due process, and the Superior Court erred by dismissing these claims and insulating the State from judicial review.

I respectfully submit that the State Appellees' position mischaracterizes the record and understates the meritorious

nature of my appeal. Contrary to their claim, I have clearly explained how the Superior Court erred in dismissing my complaint by refusing to exercise original jurisdiction over constitutional claims and denying me a meaningful opportunity to be heard (Tr. at 3-8, 12). These errors implicate fundamental rights under the Fourth, Fifth, Tenth, and Fourteenth Amendments, as well as Articles I, X, and XII of the Massachusetts Declaration of Rights.

The procedural defects in enforcement mirror those condemned in *Department of Revenue Child Support Enforcement v. Grullon*, 485 Mass. 129 (2020), where the SJC vacated a civil contempt order for failure to provide notice, determine ability to pay, or ensure meaningful adversarial process. Like Grullon, my case involves coercive administrative actions—wage collection, license suspension threats, and parental-rights restrictions—taken without consent, adjudication, or proper findings, creating a substantial risk of erroneous deprivation.

Furthermore, Title IV-D agencies are not shielded by absolute immunity when acting in a quasi-commercial capacity. *FHA v. Burr*, 309 U.S. 242 (1940), and *Clearfield Trust Co. v. United States*, 318 U.S. 363 (1943), confirm that federal agencies engaging in commercial-like functions—collection, disbursement, or management of funds—remain accountable to the courts. The

United States, as a drawee of commercial paper, is treated the same as any other drawee (*U.S. v. National Exchange Bank*, 270 U.S. 527), and Title IV-D enforcement exceeding statutory authority violates the Tenth Amendment and state property protections.

Because the Superior Court insulated these violations from review, I have presented a meritorious case warranting reversal and remand for adjudication on the merits. Relief beyond remand is justified here, as the court's refusal to consider constitutional and statutory claims perpetuates ongoing deprivation of liberty, property, and parental rights.

ARGUMENT

The Single Justice's orders should be reversed. The record reflects a clear error of law and an abuse of discretion.

As a threshold matter, meaningful appellate review requires findings and articulated reasoning. Where a court denies relief affecting substantial rights, it must explain why. Here, it did not. The absence of findings alone warrants reversal. See *Boulter-Hedley v. Boulter*, 429 Mass. 808, 811-812 (1999); *Pierce v. Pierce*, 455 Mass. 286, 306 (2009); *Cesso v. Cesso*, 83 Mass. App. Ct. 1125 (2013) (Rule 1:28).

The State Appellees contend that I failed to present a meritorious appeal. That argument applies an incorrect standard. A meritorious appeal does not require a showing of probable success. It requires a nonfrivolous legal question warranting judicial consideration. The unexplained dismissal of jurisdictional and constitutional claims satisfies that standard.

To be sure, the Superior Court characterized the challenged actions as administrative enforcement beyond judicial review. Nevertheless, administrative labels do not eliminate due process requirements. Where enforcement actions affect family integrity, property interests, and economic security, courts must make findings sufficient to permit appellate review. That did not occur here.

Nor can immunity cure the absence of lawful process. Government actors are not insulated when acting outside statutory authority or without judicial authorization. See *Garabedian v. Commonwealth*, 336 Mass. 119, 124 (1957). The pleadings alleged precisely such overreach. Those allegations were never addressed.

Accordingly, the Single Justice erred in concluding that the appeal lacked merit. At minimum, the claims warranted further judicial examination.

Pending appellate review, a stay under Mass. R. A. P. 6 is necessary to preserve the status quo.

Absent relief, enforcement actions continue to impose ongoing and irreparable harm. The State, by contrast, faces no prejudice from a temporary pause. Where unresolved constitutional questions exist and procedural defects appear on the record, interim relief is appropriate to prevent appellate review from becoming moot.

The State's reliance on alleged administrative or contractual mechanisms does not cure the absence of judicial findings.

A valid obligation requires lawful authority and due process. Administrative processes cannot substitute for court orders where judicial authorization is required. Instruments entered without findings, notice, or consent lack enforceability pending review. Accordingly, any purported agreements, trusts, or enforcement instruments relied upon by the State should be deemed unenforceable unless and until lawfully adjudicated.

See; William W. Story, *A Treatise on the Law of Contracts* vol. 1, §§ 449-450 (explaining that mutual compromises and settlements of disputed rights are supported by sufficient consideration when entered into in good faith and without fraud, but that the waiver of a right that does not exist or cannot be legally enforced does not constitute valid consideration, nor will a compromise contrary to public policy be binding; further noting that bona fide compromises of doubtful rights are

enforceable in law and equity, even where consideration is unequal, and that acceptance of partial payment may support release of a larger obligation only where accompanied by a material change beneficial to the creditor; and clarifying that promises made for the benefit of a third party are enforceable only where privity of contract or an express promise exists, as a stranger to the consideration may not enforce the agreement absent such privity).

The orders denying late docketing should be reversed. The matter should be remanded for further proceedings consistent with Massachusetts law. Pending resolution, this Court should grant a Rule 6 stay to prevent ongoing harm and preserve meaningful appellate review.

For the foregoing reasons, the orders of the Single Justice should not be affirmed.

The record reflects a clear error of law and an abuse of discretion in concluding that my appeal lacked merit and in denying review without articulated findings. The issues presented raise substantial constitutional and procedural questions warranting review by the full panel.

Accordingly, this appeal is appropriate for direct review by the Full Appellate Court. The orders denying leave to docket the appeal late should be reversed, and the Court should declare void any unconstitutional contracts, designations, or enforcement instruments created or relied upon by Title IV-D

administrative agents without judicial authorization, lawful consent, or compliance with due process.

Pending review, such interim relief as is necessary to preserve the status quo should be granted.

CONCLUSION

For the foregoing reasons, this appeal is appropriate for direct review by the appellate court.

CONCLUSION (RELIEF REQUESTED)

1. Issue a Temporary Restraining Order pursuant to Mass. R. Civ. P. Rule 65A, enjoining the Massachusetts Department of Revenue and its agents from enforcing any income withholding order, garnishment, or other administrative collection until a valid court order and judgment are produced and reviewed;
2. Grant a writ of de novo review of all enforcement actions taken against me by the DOR-CSE;
3. Correct or declare null and void any administrative contracts, garnishments, or enforcement mechanismscreated or relied upon by Title IV-D administrative agents without judicial authorization or due process;
4. Award compensatory damages for lost employment, emotional distress, economic hardship, and all irretrievable time

lost with my children as a result of these enforcement actions;

5. Award punitive damages against responsible parties for knowing and willful violations of my constitutional and Massachusetts General Law rights;

6. Order the immediate reunification with my son and daughter, recognizing the irreplaceable harm caused by the deprivation of parental time and the fundamental liberty interest in family integrity; and

7. Grant any other relief this Court deems just and proper, including such interim measures as necessary to preserve the status quo pending review.

Respectfully submitted,

/s/ Larry Inoa
(You can add your signature by typing "/s/" before your full name, inserting a digital signature image, or provide a wet signature by printing and signing your name in your handwriting)

Larry Inoa
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Date: 12/29/2025

This conclusion and signature block page counts as the last page of your informal reply brief, which may not exceed 15 pages.

CERTIFICATE OF SERVICE

Pursuant to Mass. R. A. P. 13 (e), I hereby certify under the penalty of perjury, that on this date, 12/29/2025, I served a complete copy of this Informal Reply Brief on all parties, by sending it to the person(s) listed below using the email address(es) or physical mailing address(es) shown:

Name of other party or parties or their lawyer(s) who you served:
Angélica L. Durón, Assistant Attorney General

ANDREA JOY CAMPBELL, Attorney General

Vinela Marmolejos

Meredith G. Fierro, BBO# 696295

Assistant Attorney General

The email or physical mailing address(es) you sent the documents to:

ANDREA JOY CAMPBELL, Attorney General

Angélica L. Durón

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/s/ Meredith G. Fierro
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I hereby certify that on December 23, 2025, copies to non-registered users were sent by conventional mailing to:

Vinela Marmolejos
31 Sherman St Lawrence
Massachusetts 01841
Defendant-Appellee

/s/ Larry Inoa

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Date: 12/29/2025

Certificate of Mailing, Mass. R. A. P. 13 (a) (1) (B)

Pursuant to Mass. R. A. P. 13 (a) (1) (B), I hereby certify, under the penalties of perjury, that on the following date, ___12/29/2025_____, which is on or before the date this brief is due to be filed in the Appeals Court, I mailed this brief by first-class mail or its equivalent to the Appeals Court.

/s/ Larry Inoa

28 Lowell St
Lynn, MA, 01905
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Mikelarythe1@gmail.com

Date: 12/29/2025

Instructions for Filing by Mail for A Self-Represented Party Confined in a State or Federal Institution:

Certificate of Mailing and Filing, Mass. R. A. P. 13 (a) (1) (B) and 13 (a) (2)

Pursuant to Mass. R. A. P. 13 (a) (1) (B) and 13 (a) (2), I hereby certify that I am a self-represented party currently confined in a State or Federal institution, and that on the following date, _12/29/2025___, which is on or before the date when the brief is due to be filed in the Appeals Court, I deposited this brief in the institution's internal mail system for mailing to the Appeals Court.

/s/ Larry Inoa

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Mikelarythe1@gmail.com

Date: 12/29/2025

APPENDIX O

THE TRIAL COURT
PROBATE AND FAMILY COURT DEPARTMENT
ESSEX DIVISION

Docket No. 17W1383, 17W1382

[Filed: April 9, 2018]

LARRY INOA,	)
	)
Petitioner,	)
	)
v.	)
	)
PAMELA CASEY O'BRIEN, et al.,	)
	)
Respondents.	)
	)
	)

STIPULATION OF THE PARTIES

Randy J. Kaplan, Justice, Probation and Family

Is hereby agreed by the parties without the advice of counsel that the following stipulation shall be made an order or judgment of this court:

22

THE TRIAL COURT
PROBATE AND FAMILY COURT DEPARTMENT
ESSEX DIVISION
36 FEDERAL STREET
SALEM, MA 01970

DOCKET # 17W 1383
17W 1382

STIPULATION OF THE PARTIES

Larry Inoa, Plaintiff

V.

Vinela Marmolejos, Defendant

Is hereby agreed by the parties without the advice of counsel that the following stipulation shall be made an order or judgment of this court:

1. The parties agree that the mother will have physical custody of the minor children and the parties will share legal custody of the minor children, Jayden Inoa (DOB 5/4/08) and Leilani Inoa (DOB 9/29/12).

2. The parties agree that the father will have parenting time every other weekend on Friday pick up at the YMCA after school program until Sunday at 7:00 pm commencing on 4/13/18. The parties agree Monday through Thursday, the parties will alternate the pick up of the children at the YMCA after school program. The parties will notify each other by 12:00 pm via text to informed each other about who is picking up. If the father is picking up, he will have parenting time until 8:00 pm. The parties will share the responsibility for transportation. The parties agree that changes or additional parenting time will be mutually agreed upon between the parties.

3. The parties agree to contact each other in case of any emergencies pertaining to the children.

4. The parties agree that the children can contact either parent daily during the other party's parenting time.

5. The parties agree to the following holiday/school vacation schedule: The parties will agree to alternate the holidays and agree to make changes as mutually agreed in writing.
   1. Thanksgiving 2018 will be with the mother.
   2. Christmas Eve/Christmas 2018 including the Christmas break will be with the father. The mother will have parenting time as mutually agreed upon between the parties.

3. Forth of July-the parties will alternate. The mother will have July 4th 2018 and the father will have July 4, 2019.
4. New Years Eve/New Years-the parties will alternate. The mother will have New Years Eve 2018. The father will have New Years day 2019. The parties will alternate every year thereafter.
5. The parties agree that February vacation 2019 will be with the mother. The parties will alternate every year thereafter.
6. The parties agree that April vacation 2018 will be with the father. The parties will alternate every year thereafter.
7. The parties will each have the children for a month in the summer. The parties agree for July of 2018, the children will be with the father. For August of 2018, the children will be with the mother.

6. The parties agree that the above parenting schedule can be changed by mutual agreement between the parties in writing.

7. The parties agree to cooperate with each other to secure passports for the children.

8. The parties agree that either parent can take the children out of the commonwealth. The parties acknowledge that each party has family in the Dominican Republic, If the children are going to be vacationing outside the commonwealth, the party will notify the other party in writing at least 30 days in advance with an itinerary which shall include dates of departure and dates of return. It shall also include a location where the children will be and a telephone number so that the children can be contacted.

9. The parties agree that the father will pay the mother $155 a week in child support (according to the guidelines) through the Department of Revenue commencing on 4/13/18.

10. The parties acknowledge that there is an arrears in the amount of $33,490.25 that shall be preserved.

Plaintiff

Pro Se
Plaintiff's Attorney

4/9/18
Date

Defendant

Pro Se
Defendant's Attorney

Witness Signature

APPENDIX P

CONSTITUTIONAL PROVISIONS INVOLVED

UNITED STATES CONSTITUTION

ARTICLE VI, CLAUSE 2
(SUPREMACY CLAUSE)

U.S. Const. art. VI, cl. 2

Source: Constitution Annotated, Library of Congress / Congress.gov

Original source printout follows.

ARTICLE VI, CLAUSE 2
U.S. Const. art. VI, cl. 2

This Constitution, and the Laws of the United States which shall be made in Pursuance thereof; and all Treaties made, or which shall be made, under the Authority of the United States, shall be the supreme Law of the Land; and the Judges in every State shall be bound thereby, any Thing in the Constitution or Laws of any State to the Contrary notwithstanding.

CONSTITUTION ANNOTATED
Analysis and Interpretation of the U.S. Constitution

ArtVI.C2.1 Overview of Supremacy Clause

Article VI, Clause 2:

> *This Constitution, and the Laws of the United States which shall be made in Pursuance thereof; and all Treaties made, or which shall be made, under the Authority of the United States, shall be the supreme Law of the Land; and the Judges in every State shall be bound thereby, any Thing in the Constitution or Laws of any State to the Contrary notwithstanding.*

The Supremacy Clause was a response to problems with the Articles of Confederation (the Articles), which governed the United States from 1781 to 1789. The Articles conspicuously lacked any similar provision declaring federal law to be superior to state law. As a result, during the Confederation era, federal statutes did not bind state courts in the absence of state legislation implementing them. To address this issue and related political difficulties, the Confederation Congress called for a convention in 1787 to revise the Articles. While the Supremacy Clause was not a source of major disagreement at the Constitutional Convention that followed, it generated intense controversy during debates over the Constitution's ratification. But advocates of federal supremacy prevailed. The Constitution was ratified in 1788 with the Supremacy Clause.[1]

The Supremacy Clause is among the Constitution's most significant structural provisions. In the late eighteenth and early nineteenth centuries, the Supreme Court relied on the Clause to establish a robust role for the federal government in managing the nation's affairs. In its early cases, the Court invoked the Clause to conclude that federal treaties and statutes superseded inconsistent state laws. These decisions enabled the young Republic to enforce the treaty ending the Revolutionary War, charter a central bank, and enact other legislation without interference from recalcitrant states.[2]

The Supreme Court continued to apply this foundational principle—that federal law prevailed over conflicting state law—throughout the latter half of the nineteenth century.[3] But other aspects of the Court's federalism jurisprudence limited the Supremacy Clause's role during that era. Throughout this period, the Court embraced what academics have called the doctrine of "dual federalism," under which the federal government and the states occupied largely distinct, non-overlapping zones of constitutional authority.[4] While federal supremacy persisted as a background principle during these years, the Court's bifurcation of federal and state authority minimized the instances in which the two could conflict.[5]

To the extent that the Supremacy Clause did play an explicit role in the federalism disputes of this era, the Supreme Court applied it in ways that reinforced dual federalism's sharp division of federal and state power. In a series of early-twentieth-century

decisions, the Court developed a precursor to the doctrine of "field preemption"—the principle that some federal legislation implicitly prevents states from adopting any laws regulating the same general subject. Some of the Court's early field-preemption decisions aggressively employed the new doctrine, concluding that *any* congressional action in certain fields *automatically* displaced all state laws in those fields.[6]

But the Supreme Court's initial foray into field preemption soon gave way to broader legal and political trends. During the New Deal era of the 1930s and 1940s, the Court acceded to demands for a more active national government by revising other elements of its federalism jurisprudence.[7] This about-face marked the demise of dual federalism, as the Court expanded the areas in which the federal government and the states possessed concurrent authority. To prevent the federal government's newly expanded powers from smothering state regulatory authority, the Court simultaneously *narrowed* the circumstances in which federal law displaced state law. Besides retreating from the "automatic" field preemption of the early twentieth century, the Court articulated a "presumption against preemption," under which federal law does not displace state law "unless that was the clear and manifest purpose of Congress."[8]

As the preceding discussion suggests, the Supreme Court has channeled contemporary Supremacy Clause doctrine into the language of "federal preemption." The Court's cases recognize several types of preemption. At the highest level of generality,

federal law can preempt state law either *expressly* or *impliedly*. Federal law *expressly* preempts state law when it contains explicit language to that effect.[9] By contrast, federal law *impliedly* preempts state law when that intent is implicit in its structure and purpose.[10]

The Court has also identified different subcategories of implied preemption. As noted, *field preemption* occurs where federal law is "so pervasive as to make reasonable the inference that Congress left no room for the States to supplement it," or where "the federal interest is so dominant that the federal system will be assumed to preclude enforcement of state laws on the same subject."[11] In contrast, *conflict preemption* occurs where compliance with both federal and state law is impossible ("impossibility preemption") or where state law poses an obstacle to federal objectives ("obstacle preemption").[12]

Because preemption issues are primarily questions of statutory interpretation, the Supremacy Clause's role in contemporary legal doctrine differs from that of many other constitutional provisions. The basic principle enshrined in the Clause—federal supremacy—is now well-settled. Generally, litigants do not dispute the Clause's meaning or advance conflicting theories on its scope. Rather, preemption cases ordinarily turn on the same types of issues—like the textualist/purposivist divide and administrative deference—that recur in all manner of statutory litigation.[13]

This essay chronicles the Supremacy Clause's evolution from a

deeply controversial repudiation of the Articles of Confederation to its contemporary role as an essential bedrock of the structural Constitution.

Footnotes

1. ^ *See* ArtVI.C2.2.1 Articles of Confederation and Supremacy of Federal Law to ArtVI.C2.2.3 Debate and Ratification of Supremacy Clause.
2. ^ *See* Gibbons v. Ogden, 22 U.S. 1 (1824); McCulloch v. Maryland, 17 U.S. 316 (1819); Ware v. Hylton, 3 U.S. 199 (1796).
3. ^ *See* Davis v. Elmira Sav. Bank, 161 U.S. 275 (1896).
4. ^ *See, e.g.*, Edward S. Corwin, The Passing of Dual Federalism, 36 Va. L. Rev. 1, 4 (1950).
5. ^ *See* N.Y. Cent. & Hudson River R.R. Co. v. Tonsellito, 244 U.S. 360 (1917); Charleston & W. Carolina Ry. v. Varnville Furniture Co., 237 U.S. 597 (1915); Chi., Rock Island & Pac. Ry. v. Hardwick Farmers Elevator Co., 226 U.S. 426 (1913).
6. ^ *See Chi., Rock Island & Pac. Ry.*, 226 U.S. at 435.
7. ^ Wickard v. Filburn, 317 U.S. 111 (1942); United States v. Darby, 312 U.S. 100 (1941); NLRB v. Jones & Laughlin Steel Corp., 301 U.S. 1 (1937).
8. ^ Rice v. Santa Fe Elevator Corp., 331 U.S. 218, 230 (1947).
9. ^ *See* Hillsborough Cnty. v. Automated Med. Labs., Inc., 471 U.S. 707, 713 (1985).
10. ^ *See id.*
11. ^ Gade v. Nat'l Solid Wastes Mgmt. Ass'n, 505 U.S. 88, 98 (1992) (internal quotation marks and citation omitted).
12. ^ *See id.*

13. ^ *See* ArtVI.C2.3.4 Modern Doctrine on Supremacy Clause. For an overview of the textualist/purposivist debate in statutory interpretation, see VALERIE C. BRANNON, CONG. RSCH. SERV., R45153, STATUTORY INTERPRETATION: THEORIES, TOOLS, AND TRENDS (2018), https://crsreports.congress.gov/product/pdf/R/R45153. For an overview of administrative deference, see VALERIE C. BRANNON & JARED P. COLE, CONG. RSCH. SERV., LSB10204, DEFERENCE AND ITS DISCONTENTS: WILL THE SUPREME COURT OVERRULE *CHEVRON*? (2018), https://crsreports.congress.gov/product/pdf/LSB/LSB10204.

13. ^ *See* ArtVI.C2.3.4 Modern Doctrine on Supremacy Clause. For an overview of the textualist/purposivist debate in statutory interpretation, see VALERIE C. BRANNON, CONG. RSCH. SERV., R45153, STATUTORY INTERPRETATION: THEORIES, TOOLS, AND TRENDS (2018), https://crsreports.congress.gov/product/pdf/R/R45153. For an overview of administrative deference, see VALERIE C. BRANNON & JARED P. COLE, CONG. RSCH. SERV., LSB10204, DEFERENCE AND ITS DISCONTENTS: WILL THE SUPREME COURT OVERRULE *CHEVRON*? (2018), https://crsreports.congress.gov/product/pdf/LSB/LSB10204.

APPENDIX Q

CONSTITUTIONAL PROVISION

UNITED STATES CONSTITUTION
FOURTEENTH AMENDMENT
SECTION 1

U.S. Const. amend. XIV, § 1

SOURCE

Constitution Annotated

Library of Congress / Congress.gov

constitution.congress.gov/constitution/amendment-14/

The pertinent constitutional text follows on the next page.

U.S. CONST. AMEND. XIV, § 1

All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

CONSTITUTION ANNOTATED

Analysis and Interpretation of the U.S. Constitution

Constitution of the United States

Fourteenth Amendment

Fourteenth Amendment Explained

Section 1

All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

Section 2

Representatives shall be apportioned among the several States according to their respective numbers, counting the whole number of persons in each State, excluding Indians not taxed. But when the right to vote at any election for the choice of electors for President and Vice-President of the United States, Representatives in Congress, the Executive and Judicial officers of a State, or the members of the Legislature thereof, is denied to any of the male inhabitants of such State, being twenty-one years of age, and citizens of the United States, or in any way abridged, except for participation in rebellion, or other crime, the basis of representation therein shall be reduced in the proportion which the

number of such male citizens shall bear to the whole number of male citizens twenty-one years of age in such State.

Section 3

No person shall be a Senator or Representative in Congress, or elector of President and Vice-President, or hold any office, civil or military, under the United States, or under any State, who, having previously taken an oath, as a member of Congress, or as an officer of the United States, or as a member of any State legislature, or as an executive or judicial officer of any State, to support the Constitution of the United States, shall have engaged in insurrection or rebellion against the same, or given aid or comfort to the enemies thereof. But Congress may by a vote of two-thirds of each House, remove such disability.

Section 4

The validity of the public debt of the United States, authorized by law, including debts incurred for payment of pensions and bounties for services in suppressing insurrection or rebellion, shall not be questioned. But neither the United States nor any State shall assume or pay any debt or obligation incurred in aid of insurrection or rebellion against the United States, or any claim for the loss or emancipation of any slave; but all such debts, obligations and claims shall be held illegal and void.

Section 5

The Congress shall have power to enforce, by appropriate legislation, the provisions of this article.

APPENDIX R

UNITED STATES CODE
TITLE 42 — THE PUBLIC HEALTH AND WELFARE

§ 1983. CIVIL ACTION FOR DEPRIVATION OF RIGHTS
42 U.S.C. § 1983

Source: United States Code, Title 42, § 1983.

42 U.S.C. § 1983
Civil action for deprivation of rights

Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia, subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress, except that in any action brought against a judicial officer for an act or omission taken in such officer's judicial capacity, injunctive relief shall not be granted unless a declaratory decree was violated or declaratory relief was unavailable. For the purposes of this section, any Act of Congress applicable exclusively to the District of Columbia shall be considered to be a statute of the District of Columbia.
Citation: 42 U.S.C. § 1983.

(c) refuse to approve a lending institution or any other lender as a beneficiary under any program administered by it which is affected by this order or revoke such approval if previously given.

SEC. 303. In appropriate cases executive departments and agencies shall refer to the Attorney General violations of any rules, regulations, or procedures issued or adopted pursuant to this order, or violations of any nondiscrimination provisions included in any agreement or contract, for such civil or criminal action as he may deem appropriate. The Attorney General is authorized to furnish legal advice concerning this order to the Committee and to any department or agency requesting such advice.

SEC. 304. Any executive department or agency affected by this order may also invoke the sanctions provided in Section 302 where any person or firm, including a lender, has violated the rules, regulations, or procedures issued or adopted pursuant to this order, or the nondiscrimination provisions included in any agreement or contract, with respect to any program affected by this order administered by any other executive department or agency.

PART IV—ESTABLISHMENT OF THE PRESIDENT'S COMMITTEE ON EQUAL OPPORTUNITY IN HOUSING

[Revoked. Ex. Ord. No. 12259, Dec. 31, 1980, 46 F.R. 1253; Ex. Ord. No. 12892, §6-604, Jan. 17, 1994, 59 F.R. 2939.]

PART V—POWERS AND DUTIES OF THE PRESIDENT'S COMMITTEE ON EQUAL OPPORTUNITY IN HOUSING

SEC. 501. [Revoked. Ex. Ord. No. 12259, Dec. 31, 1980, 46 F.R. 1253; Ex. Ord. No. 12892, §6-604, Jan. 17, 1994, 59 F.R. 2939.]

SEC. 502. (a) The Committee shall take such steps as it deems necessary and appropriate to promote the coordination of the activities of departments and agencies under this order. In so doing, the Committee shall consider the overall objectives of Federal legislation relating to housing and the right of every individual to participate without discrimination because of race, color, religion (creed), sex, disability, familial status or national origin in the ultimate benefits of the Federal programs subject to this order.

(b) The Committee may confer with representatives of any department or agency, State or local public agency, civic, industry, or labor group, or any other group directly or indirectly affected by this order; examine the relevant rules, regulations, procedures, policies, and practices of any department or agency subject to this order and make such recommendations as may be necessary or desirable to achieve the purposes of this order.

(c) The Committee shall encourage educational programs by civic, educational, religious, industry, labor, and other nongovernmental groups to eliminate the basic causes of discrimination in housing and related facilities provided with Federal assistance.

SEC. 503. [Revoked. Ex. Ord. No. 12259, Dec. 31, 1980, 46 F.R. 1253; Ex. Ord. No. 12892, §6-604, Jan. 17, 1994, 59 F.R. 2939.]

PART VI—MISCELLANEOUS

SEC. 601. As used in this order, the term "departments and agencies" includes any wholly-owned or mixed-ownership Government corporation, and the term "State" includes the District of Columbia, the Commonwealth of Puerto Rico, and the territories of the United States.

SEC. 602. This order shall become effective immediately.

[Functions of President's Committee on Equal Opportunity in Housing under Ex. Ord. No. 11063 delegated to Secretary of Housing and Urban Development by Ex. Ord. No. 12892, §6-604(a), Jan. 17, 1994, 59 F.R. 2939, set out as a note under section 3608 of this title.]

§ 1983. Civil action for deprivation of rights

Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia, subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress, except that in any action brought against a judicial officer for an act or omission taken in such officer's judicial capacity, injunctive relief shall not be granted unless a declaratory decree was violated or declaratory relief was unavailable. For the purposes of this section, any Act of Congress applicable exclusively to the District of Columbia shall be considered to be a statute of the District of Columbia.

(R.S. §1979; Pub. L. 96-170, §1, Dec. 29, 1979, 93 Stat. 1284; Pub. L. 104-317, title III, §309(c), Oct. 19, 1996, 110 Stat. 3853.)

Editorial Notes

CODIFICATION

R.S. §1979 derived from act Apr. 20, 1871, ch. 22, §1, 17 Stat. 13.

Section was formerly classified to section 43 of Title 8, Aliens and Nationality.

AMENDMENTS

1996—Pub. L. 104-317 inserted before period at end of first sentence ", except that in any action brought against a judicial officer for an act or omission taken in such officer's judicial capacity, injunctive relief shall not be granted unless a declaratory decree was violated or declaratory relief was unavailable".

1979—Pub. L. 96-170 inserted "or the District of Columbia" after "Territory", and provisions relating to Acts of Congress applicable solely to the District of Columbia.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by Pub. L. 96-170 applicable with respect to any deprivation of rights, privileges, or immunities secured by the Constitution and laws occurring after Dec. 29, 1979, see section 3 of Pub. L. 96-170, set out as a note under section 1343 of Title 28, Judiciary and Judicial Procedure.

§ 1984. Omitted

Editorial Notes

CODIFICATION

Section, act Mar. 1, 1875, ch. 114, §5, 18 Stat. 337, which was formerly classified to section 46 of Title 8, Aliens and Nationality, related to Supreme Court review of cases arising under act Mar. 1, 1875. Sections 1 and 2 of act Mar. 1, 1875 were declared unconstitutional in *U.S. v. Singleton*, 109 U.S. 3, and sections 3 and 4 of such act were repealed by act June 25, 1948, ch. 645, §21, 62 Stat. 862.

§ 1985. Conspiracy to interfere with civil rights

(1) Preventing officer from performing duties

If two or more persons in any State or Territory conspire to prevent, by force, intimidation, or threat, any person from accepting or holding any office, trust, or place of confidence under the United States, or from discharging any duties thereof; or to induce by like means any offi-

APPENDIX S

COMMONWEALTH OF MASSACHUSETTS
MASSACHUSETTS RULES OF APPELLATE PROCEDURE
RULE 10 — DOCKETING THE APPEAL

Official source: Massachusetts Court System, Trial Court Law Libraries
https://www.mass.gov/rules-of-appellate-procedure/appellate-procedure-rule-10-docketing-the-appeal

MASSACHUSETTS RULES OF APPELLATE PROCEDURE
RULE 10. DOCKETING THE APPEAL

Relevant citations

Mass. R. App. P. 10(a)(1)(A). Rule 10(a)(1)(A)
Mass. R. App. P. 10(a)(3). Rule 10(a)(3.
Mass. R. App. P. 10(c). Rule 10(c

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RULES OF APPELLATE PROCEDURE

Appellate Procedure Rule 10: Docketing the appeal

EFFECTIVE DATE: 03/01/2019

UPDATES: Amended June 27, 1974, effective July 1, 1974
Amended effective February 24, 1975
Show more updates

(a) Docketing the appeal

(b) Filing

(c) Dismissal for failure of appellant in a civil case to comply with Rule 9(d) or Rule 10(a)

(d) Withdrawal of counsel

Reporter's notes

Downloads

Contact

(a) Docketing the appeal

(1) Civil cases

(A)

Within 14 days after receiving from the clerk of the lower court the notice of assembly of the record, each appellant, including each cross-appellant and each appellant in a joint appeal, shall pay to the clerk of the appellate court the docket fee required by law or request waiver of the fee, and the clerk shall thereupon enter the appeal of such appellant or cross-appellant upon the docket. If an appellant is authorized to prosecute the appeal without payment of fees, the clerk shall enter the appeal upon the docket at the written request of a party.

(B)

When payment or request for waiver is made by first class mail or its equivalent, it shall be deemed timely if accompanied by a certificate attesting that the day of mailing was within 14 days of receipt of the notice of assembly.

(2) Criminal cases

Upon receipt of the notice of assembly of the record, pursuant to Rule 9(e) (/rules-of-appellate-procedure/appellate-procedure-rule-9-assembly-of-the-record-reproduction-of-exhibits-notice-of-assembly-and-transmission-of-documents-from-the-lower-court#-e-duty-of-clerk-transmission), the clerk of the appellate court shall enter the appeal upon the docket.

(3) In general

Upon docketing of the appeal, the clerk shall serve written notice thereof upon each party and the clerk of the lower court. Upon motion, the lower court or a single justice of the appellate court may, for cause shown, enlarge the time for docketing the appeal or

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permit the appeal to be docketed out of time. An appeal shall be docketed under the title given to the action in the lower court, with the appellant identified as such, but if such title does not contain the name of the appellant, then the party's name, unless permitted to proceed under a pseudonym, identified as appellant, shall be added to the title.

(4) Certain constitutional claims

Within 14 days after the docketing of any civil appeal that draws into question the constitutionality of an act of the legislature, if neither the Commonwealth nor an officer, agency, or employee thereof is a party to the appeal, the party asserting the unconstitutionality of the act shall notify the attorney general of such challenge. If such a question becomes apparent to a party after the 14-day period has expired, the party shall immediately notify the attorney general. Such notice shall be given either in writing or by use of any electronic method the attorney general may designate for this purpose.

(5) Consolidated appeals

Appeals may be consolidated by order of the appellate court upon its own motion or upon motion of a party, on such terms as the court may order.

(6) Joint appeal

Upon entry of an appeal pursuant to Rule 10(a)(1) or 10(a)(2), parties who have filed a joint notice of appeal shall proceed on appeal as a single appellant, unless upon motion the appellate court grants leave to proceed separately.

(7) Cross appeals

If a cross appeal is filed, the party who files a notice of appeal first is the appellant for the purposes of these Rules. If notices are filed on the same day, the plaintiff in the proceeding below is the appellant. These

designations may be modified by the parties' agreement, filed with the appellate court, or by court order.

(b) Filing

The clerk of the appellate court shall file upon receipt any part of the record or any document authorized to be filed in lieu of the record under any provision of **Rule 9** (/rules-of-appellate-procedure/appellate-procedure-rule-9-assembly-of-the-record-reproduction-of-exhibits-notice-of-assembly-and-transmission-of-documents-from-the-lower-court), following timely docketing of the appeal. The clerk shall immediately give notice to all parties of the date of each such filing.

(c) Dismissal for failure of appellant in a civil case to comply with Rule 9(d) or Rule 10(a)

If any appellant in a civil case shall fail to comply with **Rule 9(d)** (/rules-of-appellate-procedure/appellate-procedure-rule-9-assembly-of-the-record-reproduction-of-exhibits-notice-of-assembly-and-transmission-of-documents-from-the-lower-court#-d-appellant-s-obligation) or **Rule 10(a)(1)** (/rules-of-appellate-procedure/appellate-procedure-rule-10-docketing-the-appeal#-a-docketing-the-appeal), the lower court may, on motion with notice by any appellee, dismiss the appeal, but only upon a finding of inexcusable neglect; otherwise, the court shall enlarge the appellant's time for taking the required action. If, prior to the lower court's hearing such motion for noncompliance with Rule 9(d), the appellant shall have cured the noncompliance, the appellant's compliance shall be deemed timely.

(d) Withdrawal of counsel

In all cases, any counsel who does not intend to continue representing a client on appeal, for any reason, should file a motion to withdraw his or her appearance in the lower court as soon as is practicable. After an appeal has been docketed in an appellate court, any motion to withdraw appearance of counsel shall be filed with the appellate court. The motion shall include a certificate of service in compliance with **Rule 13** (/rules-of-appellate-procedure/appellate-procedure-rule-13-filing-and-service), which shows service upon all parties to the appeal, including those represented by counsel filing the motion, at the party's or parties' last known address.

Reporter's notes

(2019)

Rule 10(a)(1)(A) (/rules-of-appellate-procedure/appellate-procedure-rule-10-docketing-the-appeal-0#-a-docketing-the-appeal) contains the entirety of prior Rule 10(a)(1) and was amended to expand the time period to docket the appeal from 10 to 14 days. The subparagraph was also amended to specify that when the lower court has authorized the appellant to proceed on appeal without payment of fees, the docketing of the appeal in the appellate court will proceed upon the "written request" of the appellant. This amendment clarifies that verbal requests to docket the appeal are not permitted.

Rule 10(a)(1)(B) (/rules-of-appellate-procedure/appellate-procedure-rule-10-docketing-the-appeal-0#-a-docketing-the-appeal) is a new subparagraph which provides that the payment or request for waiver of the docket fee is timely if accompanied by a certificate attesting that the day of its mailing was within 14 days of the appealing party's receipt of the lower court's notice of assembly of the record.

Rule 10(a)(2) (/rules-of-appellate-procedure/appellate-procedure-rule-10-docketing-the-appeal-0#-a-docketing-the-appeal),

concerning the automatic docketing of criminal appeals in the appellate court, was revised to delete the clause in the prior rule authorizing docketing upon approval by the lower court of an agreed statement pursuant to **Rule 8(d)** (/rules-of-appellate-procedure/appellate-procedure-rule-8-the-record-on-appeal-0#-d-agreed-statement-as-the-record-on-appeal). This amendment is necessary because, even in **Rule 8(d)** (/rules-of-appellate-procedure/appellate-procedure-rule-8-the-record-on-appeal-0#-d-agreed-statement-as-the-record-on-appeal) situations, a notice of assembly should issue. Related revisions to **Rule 9(e)** (/rules-of-appellate-procedure/appellate-procedure-rule-9-assembly-of-the-record-reproduction-of#-e-duty-of-clerk-transmission) also clarify that the notice of assembly should issue in this circumstance and provides a timeframe within which the notice should issue.

Rule 10(a)(3) (/rules-of-appellate-procedure/appellate-procedure-rule-10-docketing-the-appeal-0#-a-docketing-the-appeal) contains new language to provide that an appellate court clerk should not add a party's name to the title of an appeal if that party has been permitted to proceed under a pseudonym.

Rule 10(a)(4) (/rules-of-appellate-procedure/appellate-procedure-rule-10-docketing-the-appeal-0#-a-docketing-the-appeal) is a new paragraph added to provide notice to the Office of the Attorney General of constitutional challenges to acts of the legislature. The paragraph is modelled after existing **Mass. R. Civ. P. 24(d)** (/rules-of-civil-procedure/civil-procedure-rule-24-intervention#-d-intervention-by-the-attorney-general) and Fed. R. Civ. P. 44(b), with minor changes to specify the timing and manner of notice.

Rule 10(a)(5) (/rules-of-appellate-procedure/appellate-procedure-rule-10-docketing-the-appeal-0#-a-docketing-the-appeal) is a new paragraph that addresses consolidated appeals. The substance of this paragraph was moved from prior **Rule 3(b)** (/rules-of-appellate-procedure/appellate-procedure-rule-3-appeal-how-taken-0#-b-appeals-by-multiple-parties). Rule 3 prescribes how an appeal is taken, and relates to actions the appealing party must take in the lower

court to initiate an appeal. In contrast, Rule 10 is concerned with docketing an appeal and consolidation happens at the time of, or after, the docketing of the appeal in the appellate court. Relocating the paragraph from Rule 3(b) to Rule 10(a) presents it in a more appropriate context.

Rule 10(a)(6) (/rules-of-appellate-procedure/appellate-procedure-rule-10-docketing-the-appeal-0#-a-docketing-the-appeal) is a new paragraph that addresses joint appeals. Pursuant to prior **Rule 3(b)** (/rules-of-appellate-procedure/appellate-procedure-rule-3-appeal-how-taken-0#-b-appeals-by-multiple-parties), parties with similar interests could file a joint notice of appeal in the lower court or could join in an appeal after filing separate notices of appeal and then proceed on appeal as a single appellant, but still needed to enter their cases separately in the appellate court. This caused confusion for parties who sought to pay one docketing fee on behalf of all parties who have joined in an appeal. Rule 10(a)(6) clarifies that, when an appeal is docketed in the appellate court and the parties file a joint notice of appeal, they shall automatically proceed as a single appellant without leave of court. If the parties' interests are aligned, judicial economy and efficiency are advanced by having them proceed in the appellate court as a single appellant.

Rule 10(a)(7) (/rules-of-appellate-procedure/appellate-procedure-rule-10-docketing-the-appeal-0#-a-docketing-the-appeal) is a new paragraph that encompasses the content of the first sentence in prior **Rule 16(j)** (/rules-of-appellate-procedure/appellate-procedure-rule-16-briefs-0#-j-briefs-in-cases-involving-multiple-appellants-or-appellees), which concerned the designation of parties to a cross-appeal. Moving this provision to Rule 10(a)(7) clarifies for the parties at the outset of the appeal which party is the appellant and which is the appellee. In addition to relocating the provision, the designation of the parties was revised to deem the party filing the first notice of appeal as the appellant, absent agreement or court order otherwise, consistent with Fed. R. App. P. 28.1(b).

Rule 10(c) (/rules-of-appellate-procedure/appellate-procedure-rule-10-docketing-the-appeal-0#-c-dismissal-for-failure-of-appellant-in-a-civil-case-to-comply-with-rule-9-d-or-rule-10-a-) applies to an appellant's compliance with **Rules 9(d)** (/rules-of-appellate-procedure/appellate-procedure-rule-9-assembly-of-the-record-reproduction-of#-d-appellant-s-obligation) and **10(a)** (/rules-of-appellate-procedure/appellate-procedure-rule-10-docketing-the-appeal-0#-a-docketing-the-appeal). The reference to Rule 10(a)(3) was removed from the first sentence of this subdivision because Rule 10(a)(3) applies to clerks, not appellants.

Rule 10(d) (/rules-of-appellate-procedure/appellate-procedure-rule-10-docketing-the-appeal-0#-d-withdrawal-of-counsel) is a new subdivision added to resolve confusion on the part of attorneys who have appeared in the lower court but seek to withdraw from representation for purposes of an appeal. Adding this subdivision clarifies that, after an appeal is docketed in the appellate court, a motion to withdraw must be filed in the appellate court, not the lower court. This will reduce confusion as to which court the motion should be filed in after an appellate court has jurisdiction of a case.

Further organizational and stylistic revisions were made to this rule in 2019 in accordance with a global review and revision of all of the Appellate Rules. These revisions are described in the **2019 Reporter's Notes to Rule 1** (/rules-of-appellate-procedure/appellate-procedure-rule-1-scope-of-rules-definitions-0#reporter-s-notes-).

With regard to the preparation of the 2019 Reporter's Notes to this Rule, see the first paragraph of the **2019 Reporter's Notes to Rule 1** (/rules-of-appellate-procedure/appellate-procedure-rule-1-scope-of-rules-definitions-0#reporter-s-notes-). For an overview of the 2019 amendments to the Rules and a summary of the global amendments to the Rules, see 2019 Reporter's Notes to Rule 1, sections I. and II.

(2001)

[To Appellate Rule 10(A)(1)] Prior to amendment in 2001, the first sentence of Appellate Rule 10(a)(1) (/rules-of-appellate-procedure/appellate-procedure-rule-10-docketing-the-appeal-0#-a-docketing-the-appeal) provided that "the appellant" was to pay the docket fee to the clerk of the appellate court within ten days after receipt of notice of the assembly of the record or approval of an agreed statement. Where there have been multiple appellants or cross-appeals, the appellate clerks have required each appellant or cross-appellant to pay a separate docket fee. The 2001 amendment makes clear that separate docket fees are required.

(1999)

The 1999 amendments to Appellate Rule 10(a) (/rules-of-appellate-procedure/appellate-procedure-rule-10-docketing-the-appeal-0#-a-docketing-the-appeal) were part of a comprehensive set of amendments to the Appellate Rules (Rules 1, 3, 4, 8, and 10) (/law-library/massachusetts-rules-of-appellate-procedure) that had been proposed by the Supreme Judicial Court Committee on Appeals of Child Welfare Cases. The purpose of the 1999 amendments is described in the 1999 Reporter's Notes to Appellate Rule 1(c) (/rules-of-appellate-procedure/appellate-procedure-rule-1-scope-of-rules-definitions-0#reporter-s-notes-).

(1994)

[To MASS.R.A.P. 10(C)] This amendment eliminates noncompliance with Mass.R.A.P. 10(a)(1) (/rules-of-appellate-procedure/appellate-procedure-rule-10-docketing-the-appeal-0#-a-docketing-the-appeal) (the appellant's obligation to pay the docket fee within the ten day period described in Mass.R.A.P. 10(a)(1)) from the instances of noncompliance that can be cured prior to a hearing on a motion to dismiss for noncompliance. Noncompliance with Rule 9(c) (/rules-of-appellate-procedure/appellate-procedure-rule-9-assembly-of-the-record-reproduction-of#-c-impounded-materials) (appellant's obligations re: assembly of the record and transmission of the transcript) can still be cured prior to a hearing for dismissal based on such

noncompliance.

Many lawyers and pro se litigants relied on the previous version of the last sentence of Mass.R.A.P. 10(c) (/rules-of-appellate-procedure/appellate-procedure-rule-10-docketing-the-appeal-0#-c-dismissal-for-failure-of-appellant-in-a-civil-case-to-comply-with-rule-9-d-or-rule-10-a-) as their rationale for paying the filing fee only after there had been a motion to dismiss and before the lower court's hearing of such a motion, even though Mass.R.A.P. 10(a)(1) (/rules-of-appellate-procedure/appellate-procedure-rule-10-docketing-the-appeal-0#-a-docketing-the-appeal)specifically required the payment "[w]ithin ten days after receiving from the clerk of the lower court notice of assembly of the record, or of approval by the lower court of an agreed statement ..." Although the last sentence of Rule 10(c) seemed to permit such late payment as a matter of right, the practice in the Appeals Court was to refuse to accept a docket fee sent by the appellant subsequent to the ten day period described in Rule 10(a)(1) even if it was paid before a hearing described in Rule 10(c). The appellant who attempted to file the fee late was told that he or she must be successful on a motion to docket late in order for the Appeals Court to accept the payment, and that this motion would not ordinarily be entertained by the single justice while a motion to dismiss was pending in the trial court.

The prior wording of the last sentence of Rule 10(c) (/rules-of-appellate-procedure/appellate-procedure-rule-10-docketing-the-appeal-0#-c-dismissal-for-failure-of-appellant-in-a-civil-case-to-comply-with-rule-9-d-or-rule-10-a-) was therefore misleading to appellants who thought they had a right to pay the fee after the ten day period but before the hearing on a motion to dismiss; moreover, the practice of the Appeals Court may have been in disregard of the clear language of the same sentence. It does not make sense to have a ten day period in which to pay a filing fee which is widely ignored. Consequently, this amendment removes the excuse and automatic permission to pay the fee late and also makes the Rule in accord with the practice of the Appeals Court. This

amendment in no way eliminates or alters the right of an indigent pro se litigant to obtain a waiver of the obligation to pay the filing fee.

Prior to the 1999 amendment, **Appellate Rule 10(a)(3)** (/rules-of-appellate-procedure/appellate-procedure-rule-10-docketing-the-appeal-0#-a-docketing-the-appeal) required that upon the docketing of the appeal in the appellate court, the clerk serve written notice of the docketing upon each party. The 1999 amendment requires that the clerk of the appellate court also serve written notice on the clerk of the lower court whose decision is subject to the appeal.

It is significant to note that although the 1999 amendments were part of a package of amendments that related to child welfare appeals, the amendment to **Appellate Rule 10(a)(3)** (/rules-of-appellate-procedure/appellate-procedure-rule-10-docketing-the-appeal-0#-a-docketing-the-appeal) applies not only to child welfare appeals, but all other appeals as well.

(1979)

The substance of former subdivision (a) has been divided into subdivisions (a)(1), applicable to civil cases, and (a)(3), applicable to both civil and criminal cases.

Subdivision (a)(2), which provides for the automatic docketing of an appeal in a criminal case upon receipt by the clerk of the appellate court of notice of assembly of the record or approval of an agreed statement, is added.

The provision of a subdivision (a)(3) for notice to the parties of the docketing of a criminal appeal conforms to prior practice under former Appeals Court Rule 1:11 (1975: 3 Mass.App.Ct. 803) and **Supreme Judicial Court Rule 1:11** (/supreme-judicial-court-rules/supreme-judicial-court-rule-111-rule-relative-to-the-disposal-of-court-papers-and-records) (1975: 366 Mass. 860).

Since in a criminal appeal the appellant is responsible neither for initiating assembly of the record (see Rules 8[b][2] (/rules-of-appellate-procedure/appellate-procedure-rule-8-the-record-on-appeal-0#-b-producing-the-transcript-of-proceedings), 9[c] (/rules-of-appellate-procedure/appellate-procedure-rule-9-assembly-of-the-record-reproduction-of#-c-impounded-materials)) nor for taking any step to docket the appeal ([a][2], supra), subdivision (c) is limited in application to civil cases.

(1975)

The amendment requires the clerk to give written notice of the docketing to counsel for each party (or to each unrepresented party directly). This ensures that all parties receive notice of the docketing date, which is the starting point for various periods under the Rules; see, e.g. Appellate Rules 11 (/rules-of-appellate-procedure/appellate-procedure-rule-11-direct-appellate-review), 11.1 (/rules-of-appellate-procedure/appellate-procedure-rule-111-transfer-from-supreme-judicial-court), and 19 (/rules-of-appellate-procedure/appellate-procedure-rule-19-filing-and-serving-of-briefs-appendices-and-certain-motions).

In Appellate Rule 10(c) (/rules-of-appellate-procedure/appellate-procedure-rule-10-docketing-the-appeal-0#-c-dismissal-for-failure-of-appellant-in-a-civil-case-to-comply-with-rule-9-d-or-rule-10-a-) substitution of "Rule 9(c) (/rules-of-appellate-procedure/appellate-procedure-rule-9-assembly-of-the-record-reproduction-of#-c-impounded-materials)" for "Rule 9(b) (/rules-of-appellate-procedure/appellate-procedure-rule-9-assembly-of-the-record-reproduction-of#-b-exhibits)" merely corrects a previous typographical error.

(1973)

Appellate Rule 10 covers the mechanics of docketing the appeal in the appellate court.

Downloads

Massachusetts Rules of Appellate Procedure (https://www.mass.gov/doc/massachusetts-rules-of-appellate-procedure/download) (English, PDF 2.1 MB)

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APPENDIX T

COMMONWEALTH OF MASSACHUSETTS
MASSACHUSETTS RULES OF APPELLATE PROCEDURE
RULE 3 — APPEAL: HOW TAKEN

Relevant provisions: Rule 3(a)(1) and Rule 3(c)

Official source: Massachusetts Court System, Trial Court Law Libraries
https://www.mass.gov/rules-of-appellate-procedure/appellate-procedure-rule-3-appeal-how-taken

MASSACHUSETTS RULES OF APPELLATE PROCEDURE
RULE 3. APPEAL — HOW TAKEN

(a) Filing the notice of appeal

(1) An appeal permitted by law from a lower court shall be taken by filing a notice of appeal with the clerk of the lower court within the time allowed by Rule 4, with service upon all parties. Failure of an appellant to take any step other than the timely filing of a notice of appeal shall not affect the validity of the appeal, but shall be ground only for such action as the appellate court deems appropriate, which may include dismissal of the appeal.

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Appellate Procedure Rule 3: Appeal - how taken

EFFECTIVE DATE: 03/02/2023

UPDATES: Amended May 15, 1979, effective July 1, 1979
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(a) Filing the notice of appeal
(b) Appeals by multiple parties
(c) Content of the notice of appeal
(d) Service of the notice of appeal
(e) Change of counsel on appeal in criminal and certain non-criminal cases
(f) Appointment of appellate counsel in child welfare cases
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(a) Filing the notice of appeal

(1)

An appeal permitted by law from a lower court shall be taken by filing a notice of appeal with the clerk of the lower court within the time allowed by Rule 4 (/rules-of-appellate-procedure/appellate-procedure-rule-4-appeal-when-taken), with service upon all parties. Failure of an appellant to take any step other than the timely filing of a notice of appeal shall not affect the validity of the appeal, but shall be ground only for such action as the appellate court deems appropriate, which may include dismissal of the appeal.

(2)

A party need not claim an appeal from an interlocutory order to preserve the party's right to have such order reviewed upon appeal from the final judgment; but for all purposes for which an appeal from an interlocutory order has heretofore been necessary, it is sufficient that the party comply with the requirement of Massachusetts Rule of Civil Procedure 46 (/rules-of-civil-procedure/civil-procedure-rule-46-exceptions-unnecessary) or Massachusetts Rule of Criminal Procedure 22 (/rules-of-criminal-procedure/criminal-procedure-rule-22-objections), whichever was applicable to the trial of the case in the lower court.

(b) Appeals by multiple parties

If 2 or more persons are entitled to appeal from a judgment, decree, adjudication, order, or part thereof of a lower court and their interests are such as to make joinder practicable, they may file a joint notice of appeal, or may join in appeal after filing separate

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timely notices of appeal.

(c) Content of the notice of appeal

(1) Generally.

- (A) The notice of appeal shall designate:
  - (i) the party or parties taking the appeal; and
  - (ii) in civil cases, the judgment, decree, adjudication, or separately appealable order from which the appeal is taken.
- (B) The notice of appeal need not designate prejudgment orders that are appealable as part of the judgment, decree, or adjudication designated in the notice of appeal.
- (C) An appellant may designate only part of a judgment, decree, adjudication, or separately appealable order by expressly stating that the notice of appeal is so limited.
- (D) In a civil case, the notice of appeal encompasses the final judgment, regardless of whether that judgment is set out in a separate document under **Massachusetts Rule of Civil Procedure 58** (/rules-of-civil-procedure/civil-procedure-rule-58-entry-of-judgment), if the notice designates:
  - (i) an order that adjudicates all remaining claims and the rights and liabilities of all remaining parties; or
  - (ii) an order described in **Rule 4 (a) (2)** (/rules-of-appellate-procedure/appellate-procedure-rule-4-appeal-when-taken#-a-appeals-in-civil-cases).

(2) Content of the Notice of Appeal in Child Welfare Cases.

In child welfare cases, the notice of appeal and any request for a transcript, if required, shall be signed by

the person or persons, or by counsel for the entity, taking the appeal; however, if the appellant is a minor, the notice and request shall be signed by the minor's counsel. A notice of appeal that is not so signed shall not be accepted for filing by the clerk.

(3) Effect of Minor Defects in the Notice of Appeal.

An appeal should not be dismissed for minor defects, such as

- (A) informality of form or title of the notice of appeal;
- (B) failure to name a party whose intent to appeal is otherwise clear from the notice; or
- (C) a technical error in how the judgment, decree, adjudication, or separately appealable order is identified, if it is otherwise clear from the notice what is being appealed.

(d) Service of the notice of appeal

The clerk of the lower court shall serve notice of the filing of a notice of appeal by transmitting a copy thereof to counsel of record for each party other than the appellant, or, if a party is not represented by counsel, to the party. The clerk shall note on each copy served the date on which the notice of appeal was filed. Failure of the clerk to serve notice shall not affect the validity of the appeal. Service shall be sufficient notwithstanding the death of a party or counsel. The clerk shall note in the docket the names of the persons to whom copies are transmitted, and the date of transmission.

(e) Change of counsel on

appeal in criminal and certain non-criminal cases

If the defendant in a criminal case, or any party in any other proceeding, excluding child welfare cases, in which counsel is required to be made available to such party pursuant to **Supreme Judicial Court Rule 3:10** (/supreme-judicial-court-rules/supreme-judicial-court-rule-310-assignment-of-counsel), was represented by counsel at trial, the trial court counsel shall continue to represent that party on appeal until an appearance is filed by substitute counsel, if such assignment of counsel is made by the Committee for Public Counsel Services. In such proceedings, assigned trial court counsel shall, no later than the day on which the notice of appeal is filed, notify the Committee for Public Counsel Services that appellate counsel should be assigned. Assigned appellate counsel shall promptly file a notice of appearance in the trial court, following which trial court counsel may file a notice of withdrawal.

(f) Appointment of appellate counsel in child welfare cases

(1)

Subject to the provisions of **Rule 10(d)** (/rules-of-appellate-procedure/appellate-procedure-rule-10-docketing-the-appeal#-d-withdrawal-of-counsel), any party to a child welfare case in which counsel was appointed pursuant to **Supreme Judicial Court Rule 3:10** (/supreme-judicial-court-rules/supreme-judicial-court-rule-310-assignment-of-counsel) and who was represented by counsel at trial shall continue to be represented by that counsel on appeal until either the lower court has appointed counsel for appellate purposes and an appearance has been filed

by appellate counsel or the lower court has denied a motion to appoint counsel for appellate purposes.

(2)

Lower court counsel shall, on the day upon which the signed notice of appeal is filed, file, and request a hearing on, a motion to allow reasonable costs associated with the appeal in the lower court. At the same time, if lower court counsel is not appellate certified by the Committee for Public Counsel Services, counsel shall also file, and request a hearing on, a motion to appoint counsel for appellate purposes in the lower court. Subject to the provisions of **Supreme Judicial Court Rule 3:10, § 7** (/supreme-judicial-court-rules/supreme-judicial-court-rule-310-assignment-of-counsel#section-7-review-of-indigency-determination), lower court counsel shall continue to represent the party at all lower court proceedings.

(3)

If the motion to appoint counsel for appellate purposes is allowed, the Committee for Public Counsel Services shall be assigned to provide representation according to the procedures established in **Supreme Judicial Court Rule 3:10** (/supreme-judicial-court-rules/supreme-judicial-court-rule-310-assignment-of-counsel).

(4)

If counsel has not filed a motion to withdraw appearance in the lower court, or counsel has filed a motion to withdraw but the motion has not been allowed by the lower court prior to the date that the lower court transmits to the appellate court the notice of assembly of the record pursuant to **Rule 9** (/rules-of-appellate-procedure/appellate-procedure-rule-9-assembly-of-the-record-reproduction-of-exhibits-notice-of-assembly-and-transmission-of-documents-from-the-lower-court), lower court counsel will be designated as counsel in the appellate court. Any motion to withdraw filed thereafter shall comply with **Rule 10(d)** (/rules-of-appellate-

procedure/appellate-procedure-rule-10-docketing-the-appeal#-d-withdrawal-of-counsel).

Reporter's Notes

(2023)

Spurred by the 2021 amendments to Federal Rule of Appellate Procedure 3 (c) (https://www.law.cornell.edu/rules/frap/rule_3), which clarified and liberalized the requirements for the contents of a notice of appeal, the committee examined, and proposed revisions to, Rule 3 (c) (/rules-of-appellate-procedure/appellate-procedure-rule-3-appeal-how-taken#-c-content-of-the-notice-of-appeal). Those revisions are consistent with the goals of liberalization and clarification reflected in the federal rules, but the language employed is not in all cases identical to the Federal rule for reasons particular to State court procedure. The amendments merely clarify what needs (and does not need) to be included in the notice of appeal. The amendments do not expand what is appealable or alter how or when a judgment, decree, adjudication, or order must be appealed. Similarly, the amendments do not change the requirement that any issues a party would like considered on appeal must be briefed. It is the role of the briefs, not the notice of appeal, to raise the issues on appeal.

Former subparagraph (c) (1) has been broken into four new subparagraphs. Subparagraphs (c) (1) (A) – (c) (1) (C) apply to all cases (criminal and civil). Subparagraph (c) (1) (D) applies only to civil cases.

Subparagraphs (c) (1) (A) and (c) (1) (B).

Subparagraph (c) (1) (A) (/rules-of-appellate-procedure/appellate-procedure-rule-3-appeal-how-taken#-c-content-of-the-notice-of-appeal) reflects that the notice of appeal should be a simple document that provides notice a party is appealing and invokes the jurisdiction of the

appellate court. It therefore must state who is appealing and what is being appealed.

To make clear it is not necessary to designate each and every order the appellant may wish to challenge on appeal, former Rule 3 (c) (1) is renumbered as **Rule 3 (c) (1) (A)** (/rules-of-appellate-procedure/appellate-procedure-rule-3-appeal-how-taken#-c-content-of-the-notice-of-appeal) and amended to require the designation of ""the judgment, decree, adjudication, or separately appealable order from which the appeal is taken." The phrase "or part thereof" is deleted. Designation of the judgment, decree, or adjudication now encompasses prior interlocutory orders that become appealable only upon entry of such final judgment, decree, or adjudication. This principle, sometimes referred to as the merger principle, is a corollary of the final judgment rule: a party cannot appeal from most interlocutory orders, but must await final judgment, and only then obtain review of interlocutory orders. The reference to "separately appealable order," as opposed to merely "order," is intended to clarify that each order appealable upon final judgment need not be listed in the notice. Only those orders from which an immediate appeal is allowed separate and apart from final judgment need be listed—for example, a preliminary injunction order, *see, e.g.*, **G. L. c. 231, § 118** (https://malegislature.gov/Laws/GeneralLaws/PartIII/TitleII/Chapter231/Section118); an appeal subject to the doctrine of present execution, see, e.g., ***Kent v. Commonwealth*** (https://www.courtlistener.com/opinion/6578543/kent-v-commonwealth/), 437 Mass. 312, 316 (2002) (interlocutory orders that fall within the doctrine of present execution are treated as final for purposes of appeal); or certain other interlocutory orders that are separately appealable, *see*, e.g., **G. L. c. 184, § 15 (*d*)** (https://malegislature.gov/Laws/GeneralLaws/PartII/TitleI/Chapter184/Section15).

Similarly, **subparagraph (c) (1) (B)** (/rules-of-appellate-procedure/appellate-procedure-rule-3-appeal-how-taken#-c-content-of-the-notice-of-appeal) has been added to expressly state,

"[t]he notice of appeal need not designate prejudgment orders that are appealable as part of the judgment, decree, or adjudication designated in the notice of appeal." This language differs slightly from the equivalent amendment to Fed. R. App. P. 3 (c) (4) (https://www.law.cornell.edu/rules/frap/rule_3), which states the notice "encompasses all orders that, for purposes of appeal, merge into the designated judgment or appealable order. . .." Because the concept of merger may create confusion in Massachusetts practice, particularly in appeals from certain types of judgments and orders arising out of the Probate and Family Court and the Juvenile Court, Rule 3 (c) (1) (B) does not use the term "merge." Instead, it uses plain language to state that prejudgment orders that are appealable as part of the judgment need not be designated separately in a notice of appeal designating a properly appealable judgment, decree, or adjudication.

Subparagraph (c) (1) (C).

There are circumstances in which an appellant may deliberately choose to limit the scope of the notice of appeal, and wish to convey this choice to the other parties. Thus, Rule 3 (c) (1) (C) (/rules-of-appellate-procedure/appellate-procedure-rule-3-appeal-how-taken#-c-content-of-the-notice-of-appeal) has been added to allow an appellant to designate only part of a judgment, decree, adjudication, or separately appealable order, as long as the appellant does so expressly in the notice of appeal. This addition to Rule 3 (c) generally tracks the equivalent Federal rule, but omits the second sentence of the Federal rule, which simply restates the same concept in a different way. See Fed. R. App. P. 3 (c) (6) (https://www.law.cornell.edu/rules/frap/rule_3) ("Without such an express statement, specific designations do not limit the scope of the notice of appeal."). This omission should not be interpreted as a variance from the substance of the Federal rule.

Subparagraph (c) (1) (D).

Rule 3 (c) (1) (D) (/rules-of-appellate-procedure/appellate-

procedure-rule-3-appeal-how-taken#-c-content-of-the-notice-of-appeal), which tracks **Fed. R. App. P. 3 (c) (5)** (https://www.law.cornell.edu/rules/frap/rule_3), has been added to address some potential traps for the unwary in civil cases that occur when a case is decided by a series of orders or when post-judgment motions are filed. The first issue may arise when, for example, some claims are dismissed for failure to state a claim under **Mass. R. Civ. P.12 (b) (6)** (/rules-of-civil-procedure/civil-procedure-rule-12-defenses-and-objections-when-and-how-presented-by-pleading-or-motion-motion-for-judgment-on-pleadings#-b-how-presented) and then, much later in the case, the remaining claims are resolved on summary judgment. The order ruling on the motion for summary judgment, because it resolves all of the remaining claims, is a final judgment, an appeal from which confers appellate jurisdiction to review the earlier order on the motion to dismiss. But if a notice of appeal describes the second order not as a final judgment but as an order granting summary judgment, some courts might limit appellate review to the summary judgment and refuse to consider a challenge to the earlier motion to dismiss order. This new rule has been added to eliminate that trap for the unwary and clarify the notice of appeal encompasses the earlier order.

Similarly, if a trial court complies with the requirement under **Mass. R. Civ. P. 58** (/rules-of-civil-procedure/civil-procedure-rule-58-entry-of-judgment) that a separate document with a final judgment be entered following an order that resolves all remaining claims in a case, and the notice of appeal designates that order rather than the separate document, some courts might limit appellate review to that order and refuse to consider a challenge to an earlier interlocutory decision that would otherwise be reviewable as part of an appeal of the final judgment. This creates a trap for all but the wariest, because when the trial court issues the order disposing of all remaining claims, a litigant may not know whether the trial court will ever enter the separate document required by Mass. R. Civ. P. 58.

Rule 3 (c) (1) (D) (i) (/rules-of-appellate-procedure/appellate-procedure-rule-3-appeal-how-taken#-c-content-of-the-notice-of-appeal) has therefore been added to clarify that a notice of appeal designating the order resolving all remaining claims and the rights and liabilities of all remaining parties will be treated as having designated a final judgment for purposes of the appeal, regardless of whether that judgment is set out in a separate document.

Second, Rule 3 (c) (1) (D) (ii) (/rules-of-appellate-procedure/appellate-procedure-rule-3-appeal-how-taken#-c-content-of-the-notice-of-appeal) is intended to resolve another trap for the unwary that may occur when a party files a post-judgment motion that tolls the time to appeal the judgment under Rule 4 (a) (2) (/rules-of-appellate-procedure/appellate-procedure-rule-4-appeal-when-taken#-a-appeals-in-civil-cases) and then notices an appeal of the order on the post-judgment motion without noticing an appeal of the judgment. Some courts treat such a notice as limited to the postjudgment order, rather than as bringing the judgment itself before the appellate court for review.

To reduce the unintended loss of appellate rights in this situation, the amendment clarifies that a notice of appeal designating an order on a post-judgment motion listed in Rule 4 (a) (2) (/rules-of-appellate-procedure/appellate-procedure-rule-4-appeal-when-taken#-a-appeals-in-civil-cases) will also encompass the final judgment. This amendment does not alter Rule 4 (a) (3) (/rules-of-appellate-procedure/appellate-procedure-rule-4-appeal-when-taken#-a-appeals-in-civil-cases)'s requirement that a new notice of appeal be timely filed following entry of the order disposing of the last remaining post-judgment motion.

Rule 3 (c) (3) (/rules-of-appellate-procedure/appellate-procedure-rule-3-appeal-how-taken#-c-content-of-the-notice-of-appeal) has been added to clarify that an appeal should not be dismissed for minor defects in the notice of appeal. The amended rule uses "should" rather than "must,"

which is used in Fed. R. App. P. 3 (c) (7) (https://www.law.cornell.edu/rules/frap/rule_3), to allow the appellate court to rule otherwise in unusual circumstances. Rule 3 (c) (3) clarifies that an appeal should not be dismissed for minor defects such as informality of form or title, or omission of an appealing party's name, or a technical error in how the appealed judgment, decree, adjudication, or separately appealable order is identified, so long as it is clear who is appealing and what is being appealed. The amended rule does not provide an exhaustive list and there may be other minor defects in a notice of appeal that should not result in dismissal.

(2019)

Rule 3(a). The phrase "with service upon all parties" was added to the first sentence to clarify the appellant's duty to serve all other parties when filing a notice of appeal. Although the clerk of the lower court is still required to serve notice on the parties pursuant to **Rule 3(d)** (/rules-of-appellate-procedure/appellate-procedure-rule-3-appeal-how-taken#-d-service-of-the-notice-of-appeal), this amendment is consistent with **Mass. R. Civ. P. 5(a)** (/rules-of-civil-procedure/civil-procedure-rule-5-service-and-filing-of-pleadings-and-other-papers#-a-service-when-required) and **Mass. R. Crim. P. 32(a)** (/rules-of-criminal-procedure/criminal-procedure-rule-32-filing-and-service-of-papers#-a-service-when-required), which require documents (other than those allowed to be filed ex parte) filed in court to be served on all other parties.

Rule 3(b). The title of this subdivision was revised from "Joint or Consolidated Appeals" to "Appeals by Multiple Parties." The designation of parties proceeding on appeal as a single appellant is most often made by the appellate court when the appeal is docketed in the appellate court, and not by the lower court after the notice of appeal is filed there. Accordingly, language relating to consolidated appeals and authorizing parties to proceed on appeal as a single appellant was relocated to **Rules 10(a)(5) and (6)** (/rules-of-appellate-

procedure/appellate-procedure-rule-10-docketing-the-appeal#-a-docketing-the-appeal). The first sentence of **Rule 3(b)** (/rules-of-appellate-procedure/appellate-procedure-rule-3-appeal-how-taken#-b-appeals-by-multiple-parties) was revised to clarify that in addition to a judgment or order, an appeal may be taken from a "decree, adjudication . . . or part thereof." The addition of these terms makes this subdivision consistent with other parts of the Rules. See **Rules 3(c)** (/rules-of-appellate-procedure/appellate-procedure-rule-3-appeal-how-taken#-c-content-of-the-notice-of-appeal), **4(a)(1)** (/rules-of-appellate-procedure/appellate-procedure-rule-4-appeal-when-taken#-a-appeals-in-civil-cases), and **4(b)(1)** (/rules-of-appellate-procedure/appellate-procedure-rule-4-appeal-when-taken#-b-appeals-in-criminal-cases).

Rule 3(c) was reformatted to clarify the required content of a notice of appeal. **Rule 3(c)(1)** (/rules-of-appellate-procedure/appellate-procedure-rule-3-appeal-how-taken#-c-content-of-the-notice-of-appeal) applies "generally" to civil and criminal cases and **Rule 3(c)(2)** (/rules-of-appellate-procedure/appellate-procedure-rule-3-appeal-how-taken#-c-content-of-the-notice-of-appeal) applies to child welfare cases. Because the requirements related to a notice of appeal in a child welfare case are different, a separate paragraph addressing those particular requirements clarifies the rule. Regarding the signing of the notice of appeal in a child welfare case where the appellant is not a minor, the reference is amended from "party or parties taking the appeal," to "person or persons, or by counsel for the entity, taking the appeal," to be consistent with the new definition of "party" in **Rule 1(c)** (/rules-of-appellate-procedure/appellate-procedure-rule-1-scope-of-rules-definitions#-c-definitions), and because the term "person" ordinarily does not apply to government entities, such as the Department of Children and Families, which may take appeals in child welfare cases and which can act only through counsel.

Rule 3(d) was updated to replace "mailing" with "transmitting," to accommodate the fact that the lower court may have procedures by which the clerk transmits electronic notice. See **Mass. R. Civ. P. 77(d)(2)**

(/rules-of-civil-procedure/civil-procedure-rule-77-courts-and-clerks#-d-notice-of-entry-of-orders-or-judgments).

Rule 3(e), governing the change of counsel on appeal in criminal and certain non-criminal cases, was amended to change the procedure for counsel to withdraw an appearance upon the filing of a notice of appeal in the common situation that the Committee for Public Counsel Services (CPCS) assigns substitute counsel to handle a party's appeal. The prior procedure required the defendant's counsel to file a motion to withdraw that required action by the trial court before notice was made to CPCS to provide appellate representation. The new procedure requires the defendant's counsel with an appearance in the trial court to notify CPCS no later than the day on which the notice of appeal is to be filed that appellate counsel should be assigned. CPCS will then assign appellate counsel, who is required to file a prompt notice of appearance in the trial court. After the appellate attorney has entered the appearance, the prior counsel of record in the trial court may file a notice of withdrawal.

Rule 3(f)(4) is an entirely new paragraph that explains the existing practices that occur when counsel who has been active in the lower court either has not filed a motion to withdraw appearance in the lower court or when such a motion has been filed and not acted upon prior to the lower court's issuance of the notice of assembly of the record on appeal. In such instances, the lower court counsel's appearance in the case will continue and that counsel will be designated as active counsel in the appellate court. **Rule 3(f)(4)** (/rules-of-appellate-procedure/appellate-procedure-rule-3-appeal-how-taken#-f-appointment-of-appellate-counsel-in-child-welfare-cases) includes a reference to new **Rule 10(d)** (/rules-of-appellate-procedure/appellate-procedure-rule-10-docketing-the-appeal#-d-withdrawal-of-counsel), which governs motions to withdraw appearance after the lower court's issuance of the notice of assembly and docketing of an appeal in the appellate court.

The addition of **Rule 3(f)(4)** (/rules-of-appellate-procedure/appellate-procedure-rule-3-appeal-how-taken#-f-appointment-of-appellate-counsel-in-child-welfare-cases) is intended to clarify that counsel listed as active on the lower court docket at the time the lower court issues the notice of assembly per **Rule 9** (/rules-of-appellate-procedure/appellate-procedure-rule-9-assembly-of-the-record-reproduction-of-exhibits-notice-of-assembly-and-transmission-of-documents-from-the-lower-court) will be listed as active counsel on the docket of the appellate court, and encourage such counsel to file a prompt notice of withdrawal in the lower court. This is consistent with **Mass. R. Civ. P. 11(d)** (/rules-of-civil-procedure/civil-procedure-rule-11-appearances-and-pleadings#-d-change-of-appearance) and Mass. R. Prof. C. 1.16(c). Rule 3(f)(4) also clarifies that, after an appeal is docketed in an appellate court, a motion to withdraw must be filed in the appellate court, not the lower court. The inclusion of this longstanding practice into the Rules will reduce confusion on the part of attorneys as to why their appearance was entered on the appellate court docket in circumstances where the attorney was retained or assigned as lower court counsel only, and clarifies that a motion to withdraw appearance should be filed in the appellate court once that court has jurisdiction of a case. See **Rule 10(d)** (/rules-of-appellate-procedure/appellate-procedure-rule-10-docketing-the-appeal#-d-withdrawal-of-counsel).

Further organizational and stylistic revisions were made to this rule in 2019 in accordance with a global review and revision of all of the Appellate Rules. These revisions are described in the **2019 Reporter's Notes to Rule 1** (/rules-of-appellate-procedure/appellate-procedure-rule-1-scope-of-rules-definitions#reporter-s-notes-).

With regard to the preparation of the 2019 Reporter's Notes to this Rule, see the first paragraph of the **2019 Reporter's Notes to Rule 1** (/rules-of-appellate-procedure/appellate-procedure-rule-1-scope-of-rules-definitions#reporter-s-notes-). For an overview of the 2019 amendments to the Rules and a summary of the global amendments to the Rules, see 2019 Reporter's Notes

to Rule 1, sections I. and II.

(1999)

The 1999 amendments to **Appellate Rule 3** (/rules-of-appellate-procedure/appellate-procedure-rule-3-appeal-how-taken) were part of a comprehensive set of amendments to the **Appellate Rules (Rules 1, 3, 4, 8, and 10)** (/law-library/massachusetts-rules-of-appellate-procedure) that had been proposed by the Supreme Judicial Court Committee on Appeals of Child Welfare Cases. The purpose of the 1999 amendments is described in the **1999 Reporter's Notes to Appellate Rule 1(c)** (/rules-of-appellate-procedure/appellate-procedure-rule-1-scope-of-rules-definitions#reporter-s-notes-).

Appellate Rule 3(c) (/rules-of-appellate-procedure/appellate-procedure-rule-3-appeal-how-taken#-c-content-of-the-notice-of-appeal) has been amended to require that in child welfare cases, the notice of appeal must be signed by the party or parties taking the appeal unless the appellant is the minor who is the subject of the action. The clerk is directed not to accept an appeal that is not so signed. The purpose of this change is to eliminate the taking of an appeal on behalf of an absent and disinterested client.

The amendment to **Appellate Rule 3(f)** (/rules-of-appellate-procedure/appellate-procedure-rule-3-appeal-how-taken#-f-appointment-of-appellate-counsel-in-child-welfare-cases) make it clear that until appellate counsel files an appearance, trial counsel is obligated to continue representation of the client. Even after appellate counsel has filed an appearance, trial counsel will continue to represent the party at all proceedings in the trial court.

(1979)

The second paragraph of **subdivision (a)** is amended by the addition of a reference to **Mass.R.Crim.P. 22** (/rules-of-criminal-procedure/criminal-procedure-rule-22-objections), "Objections," to clarify that a party need not claim an exception to an interlocutory order adverse to his

position to preserve his right to have that order subsequently reviewed on appeal.

Subdivision (b) regulating joint or consolidated appeals, is consistent with prior criminal appellate practice.

Subdivision (c) is amended to reflect the fact that in a civil case, the notice of appeal must designate the judgment, order, or part thereof which is appealed from. It would also be appropriate in an interlocutory appeal in a criminal case for the notice of appeal to designate the order from which an appeal is being taken (e.g., denial of motion to suppress, grant of motion to dismiss), but this is not required by the rule because there is seldom any question about the matter being appealed.

General Laws, c. 278, § 33B (https://malegislature.gov/Laws/GeneralLaws/PartIV/TitleII/Chapter278/Section32%20to%2033D) (St.1955, c. 352, § 2) formerly provided that the clerk was to notify the District Attorney of a claim of appeal "forthwith." Subdivision (d) is more explicit in setting out the manner of notice and will require notification of co-defendants, if any, when a notice of appeal is filed.

Subdivision (e) "Change of Counsel on Appeal in Criminal Cases," is new and addresses the continuing responsibility of the trial attorney to provide assistance to a client beyond entry of final judgment in the trial court. See ABA *Standards Relating to Criminal Appeals* 21-2.2(a) (2d ed., Approved Draft, 1978). This subdivision seeks to avoid a hiatus in legal representation during a critical period when the defendant has questions as to the meaning and effect of conviction and the option of whether to appeal. ABA *Standards,* supra, commentary at 10.

In Pires v. Commonwealth (https://www.courtlistener.com/opinion/2233107/pires-v-commonwealth), 373 Mass. 829 (1977), the Supreme

Judicial Court held that a lawyer has a professional obligation to his client which goes beyond the trial of the case. The court adopted the provisions of the American Bar Association Project on Standards for Criminal Justice as the appropriate measure of the responsibility of counsel. Standard 8.2 of the Defense Function (Approved Draft 1971), provides:

8.2 Appeal. (a) After conviction, the lawyer should explain to the defendant the meaning and consequences of the court's judgment and his right of appeal. The lawyer should give the defendant his professional judgment as to whether there are meritorious grounds for appeal and as to the probable results of an appeal. He should also explain to the defendant the advantages and disadvantages of an appeal. The decision whether to appeal must be the defendant's own choice. (b) The lawyer should take whatever steps are necessary to protect the defendant's right of appeal.

(1973)

An appeal is initiated by filing in *the lower court* a notice of appeal, within 30 days following the order or judgment appealed from. If the Commonwealth or any office or agency thereof is a party, however, the appeal time is extended to 60 days. After the notice of appeal has been filed, the clerk of the lower court notifies all other parties by mail of the notice's having been filed. It is the date of the filing, however, not the date of the notice, which controls the timeliness of the appeal.

Downloads

Massachusetts Rules of Appellate Procedure (https://www.mass.gov/doc/massachusetts-rules-of-appellate-procedure/download) (English, PDF 2.1 MB)

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APPENDIX U

TITLE 28 — JUDICIARY AND JUDICIAL PROCEDURE

PART IV — JURISDICTION AND VENUE

CHAPTER 81 — SUPREME COURT

SELECTED STATUTORY PROVISIONS

28 U.S.C. § 1257. State courts; appeal; certiorari.

Final judgments or decrees rendered by the highest court of a State in which a decision could be had, may be reviewed by the Supreme Court as follows:

(1) By appeal, where is drawn in question the validity of a treaty or statute of the United States and the decision is against its validity.

(2) By appeal, where is drawn in question the validity of a statute of any State on the ground of its being repugnant to the Constitution, treaties or laws of the United States, and the decision is in favor of its validity.

(3) By writ of certiorari, where the validity of a treaty or statute of the United States is drawn in question or where the validity of a State statute is drawn in question on the ground of its being repugnant to the Constitution, treaties or laws of the United States, or where any title, right, privilege or immunity is specially set up or claimed under the Constitution, treaties or statutes of, or commission held or authority exercised under, the United States.

Source: United States Code, Title 28, § 1257.

cable to such business to the same extent as if it were conducted by an individual or corporation. (June 25, 1948, ch. 646, 62 Stat. 927.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., § 124a (June 18, 1934, ch. 585, 48 Stat. 993).

A proviso in section 124a of title 28, U. S. C., 1940 ed., relating to taxes accruing prior to the effective date of the 1934 act, was omitted as obsolete.

References in section 124a of title 28, U. S. C., 1940 ed., to specific officers was omitted as covered by the words "Any officers."

Word "Federal" was added before "State" in recognition of the liability of such officers for Federal taxes under the revenue laws.

Changes in phraseology were made.

§ 961. Office expenses of clerks.

Each clerk of court shall be allowed his necessary office expenses when authorized by the Director of the Administrative Office of the United States Courts. (June 25, 1948, ch. 646, 62 Stat. 927.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., §§ 544, 563 (Mar. 3, 1891, ch. 517, § 2, 26 Stat. 826; Feb. 26, 1919, ch. 49, § 5, 40 Stat. 1182; Mar. 4, 1921, ch. 161, § 1, 41 Stat. 1412; June 1, 1922, ch. 204, title II, 42 Stat. 616; May 17, 1932, ch. 190, 47 Stat. 158; June 25, 1936, ch. 804, 49 Stat. 1921).

Section consolidates parts of sections 544 and 563 of title 28, U. S. C., 1940 ed.. For remainder of such sections, see Distribution Table.

Changes were made in phraseology.

§ 962. Traveling expenses.

Officers and employees of the courts of the United States and of the Administrative Office of the United States Courts necessarily absent from their official stations on official business shall be allowed travel and subsistence expenses pursuant to regulations promulgated by the Director of the Administrative Office of the United States Courts. (June 25, 1948, ch. 646, 62 Stat. 927.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., §§ 544, 560, and 562 (Mar. 3, 1891, ch. 517, § 2, 26 Stat. 826; Feb. 26, 1919, ch. 49, §§ 3, 4, 40 Stat. 1182; Mar. 4, 1921, ch. 161, § 1, 41 Stat. 1412; June 1, 1922, ch. 204, title II, 42 Stat. 616; May 17, 1932, ch. 190, 47 Stat. 158; June 25, 1936, ch. 804, 49 Stat. 1921).

Section consolidates parts of sections 544, 560, and 562 of title 28, U. S. C., 1940 ed., with changes of phraseology necessary to effect consolidation.

Travel and subsistence of Government officers and employees are governed by sections 822—833 of title 5, U. S. C., 1940 ed., Executive Departments and Government Officers and Employees.

Payment of travel and subsistence of court officers and employees is a function of the Director of the Administrative Office of the United States Courts under section 604 of this title.

The phrase "and of the Administrative Office of the United States Courts," was inserted to remove any ambiguity as to travel allowances of employees of that office.

For remainder of said sections 544, 560, and 562 of title 28, U. S. C., 1940 ed., see Distribution Table.

§ 963. Courts defined.

As used in this chapter, unless the context indicates otherwise, the words "court" and "courts" include the Supreme Court of the United States and the courts enumerated in section 610 of this title. (June 25, 1948, ch. 646, 62 Stat. 927.)

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LEGISLATIVE HISTORY

Reviser's Note.—This section was included to embrace the Supreme Court and all courts under the supervision of the Administrative Office of the United States Courts. See section 610 of this title and reviser's note thereunder.

Part IV.—JURISDICTION AND VENUE

Chap.		Sec.
81.	Supreme Court	1251
83.	Courts of Appeals	1291
85.	District Courts; Jurisdiction	1331
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89.	District Courts; Removal of Cases from State Courts	1441
91.	Court of Claims	1491
93.	Court of Customs and Patent Appeals	1541
95.	Customs Court	1581

CROSS REFERENCES

District of Columbia courts, jurisdiction, see Title 11 of District of Columbia Code, 1951 ed.

Judicial power of the United States, see U. S. Const. Art. 3, §§ 1, 2, and U. S. Const. Amend. 11.

Tax Court jurisdiction, see sections 7441 et seq. of Title 26, Internal Revenue Code.

Chapter 81.—SUPREME COURT

Sec.
1251. Original jurisdiction.
1252. Direct appeals from decisions invalidating acts of Congress.
1253. Direct appeals from decisions of three-judge courts.
1254. Courts of appeals; certiorari; appeal; certified questions.
1255. Court of Claims; certiorari; certified questions.
1256. Court of Customs and Patent Appeals; certiorari.
1257. State courts; appeal; certiorari.

DEFINITIONS OF COURTS AND JUDGES

Section 32 of act June 25, 1948, as amended by act May 24, 1949, ch. 139, § 127, 63 Stat. 107, provided:

"(a) All laws of the United States in force on September 1, 1948, in which reference is made to a 'circuit court of appeals'; 'senior circuit judge'; 'senior district judge'; 'presiding judge'; 'chief justice', except when reference to the Chief Justice of the United States is intended; or 'justice', except when used with respect to a justice of the Supreme Court of the United States in his capacity as such or as a circuit justice, are hereby amended by substituting 'court of appeals' for 'circuit court of appeals'; 'chief judge of the circuit' for 'senior circuit judge'; 'chief judge of the district court' for 'senior district judge'; 'chief judge' for 'presiding judge'; 'chief judge' for 'chief justice', except when reference to the Chief Justice of the United States is intended; and 'judge' for 'justice', except when the latter term is used with respect to a justice of the Supreme Court of the United States in his capacity as such or as a circuit justice.

"(b) All laws of the United States in force on September 1, 1948, in which reference is made to the Supreme Court of the District of Columbia or to the District Court of the United States for the District of Columbia are amended by substituting 'United States District Court for the District of Columbia' for such designations.

"(c) All laws of the United States in force on September 1, 1948, in which reference is made to the 'Conference of Senior Circuit Judges', or to the 'Judicial Conference of Senior Circuit Judges' are amended by substituting 'Judicial Conference of the United States' for such designations.

"(d) This section shall not be construed to amend historical references to courts or judicial offices which have no present or future application to such courts or offices."

CROSS REFERENCES

Procedure and particular proceedings, generally, see parts V and VI of this title.

RULES OF THE SUPREME COURT

Procedure generally, on appeal to or in Supreme Court, see Appendix to this title.

FEDERAL RULES OF CIVIL PROCEDURE

Appeal from a district court to the Supreme Court, see rule 72, Appendix to this title.

Joint or several appeals to the Supreme Court; summons and severance abolished, see rule 74.

FEDERAL RULES OF CRIMINAL PROCEDURE

Bail upon review, see rule 46, Title 18, Appendix, Crimes and Criminal Procedure.

Stay of execution, and relief pending review, see rule 38.

Supervision of appeal, see rule 39.

Taking appeal; and petition for writ of certiorari, see rule 37.

§ 1251. Original jurisdiction.

(a) The Supreme Court shall have original and exclusive jurisdiction of:

(1) All controversies between two or more States;

(2) All actions or proceedings against ambassadors or other public ministers of foreign states or their domestics or domestic servants, not inconsistent with the law of nations.

(b) The Supreme Court shall have original but not exclusive jurisdiction of:

(1) All actions or proceedings brought by ambassadors or other public ministers of foreign states or to which consuls or vice consuls of foreign states are parties;

(2) All controversies between the United States and a State;

(3) All actions or proceedings by a State against the citizens of another State or against aliens.

(June 25, 1948, ch. 646, 62 Stat. 927.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., §§ 341, 371 (7), (8) (Mar. 3, 1911, ch. 231, §§ 233, 256, 36 Stat. 1156, 1160; Oct. 6, 1917, ch. 97, § 2, 40 Stat. 395; June 10, 1922, ch. 216, § 2, 42 Stat. 636).

This section reconciles provisions of sections 341 and 371 (7), (8) of title 28, U. S. C., 1940 ed., with Article 3, section 2 and Amendment 11 of the Constitution.

Sections 341 and 371 of title 28, U. S. C., 1940 ed., were not wholly consistent with such constitutional provisions. Said section 341 provided that the Supreme Court should have original jurisdiction of controversies between a State and citizens of other States or aliens, whereas the 11th Amendment prohibits an action in any Federal court against a State by citizens of another State or aliens.

The original jurisdiction conferred on the Supreme Court by Article 3, section 2, of the Constitution is not exclusive by virtue of that provision alone. Congress may provide for or deny exclusiveness. Ames v. Kansas, 1864, 4 S. Ct. 437, 111 U. S. 449, 28 L. Ed. 442; U. S. v. 4,450.72 Acres of Land, Clearwater County, State of Minnesota, D. C. Minn., 1939, 27 F. Supp. 167, affirmed 125 F. 2d 636.

Sections 341 and 371 of title 28, U. S. C., 1940 ed., did not confer expressly exclusive jurisdiction on the Supreme Court in civil cases between States, Louisiana v. Texas, 1899, 20 S. Ct. 251, 176 U. S. 1, 44 L. Ed. 347, as has been provided in subsection (a) (1) of the revised section. The language at the beginning of said section 341, for which said subsection has been substituted, was ambiguous and made it appear that an action by a State against the United States would be within the exclusive jurisdiction of the Supreme Court. However, in U. S. v. Louisiana, 1887, 8 S. Ct. 17, 123 U. S. 32, 31 L. Ed. 69, the Supreme Court, in a case appealed from the Court of Claims, held to the contrary.

So, also, in actions by the United States to condemn lands of a State or to enforce penalties for violation of a Federal statute against a State-owned utility, the United States district courts have jurisdiction. See United States v. State of Utah, 1931, 51 S. Ct. 438, 283 U. S. 64, 75 L. Ed. 844; United States v. 4,450.72 Acres of Land, Clearwater County, State of Minnesota, D. C. Minn. 1939, 27 F. Supp. 167, affirmed 125 F. 2d 636; United States v. State of California, 1936, 56 S. Ct. 421, 297 U. S. 175, 80 L. Ed. 567.

The intent of section 371 (7), (8) of title 28, U. S. C., 1940 ed., that the jurisdiction of the courts of the United States should be exclusive of the courts of the States in controversies to which a State is a party, and suits against ambassadors, public ministers, consuls and vice consuls, is preserved and clarified by this section and section 1351 of this title.

The revised section preserves existing law with reference to foreign ambassadors, other public ministers and consuls. Under subsection (a) (2) the Supreme Court has exclusive jurisdiction of actions or proceedings against the ambassadors or public ministers of other nations.

Under subsection (b) (1) the Supreme Court has original but not exclusive jurisdiction of actions or proceedings brought by such ambassadors or other public ministers or to which consuls or vice consuls of other nations are parties.

Section 1351 of this title gives to United States district courts, exclusive of the courts of the States, jurisdiction of civil actions against such consuls and vice consuls.

This section and said section 1351 of this title have no application to ambassadors, public ministers, consuls or vice consuls representing the United States. See Milward v. McSaul, D. C. S. D. N. Y. 1846, 17 Fed. Cas. No. 9,623 and State of Ohio ex rel. Popovici v. Alger, 1930, 50 S. Ct. 154, 280 U. S. 379, 74 L. Ed. 489.

Changes were made in phraseology.

STATUTES GOVERNING WRITS OF ERROR TO APPLY TO APPEALS

Act Jan. 31, 1928, ch. 14, § 2, 45 Stat. 54, amended Apr. 26, 1928, ch. 440, 45 Stat. 466; June 25, 1948, ch. 646, § 23, 62 Stat. 990, provided that "All Acts of Congress referring to writs of error shall be construed as amended to the extent necessary to substitute appeal for writ of error." See also, notes preceding section 1 of this title.

CROSS REFERENCES

Jury trial in original actions at law in Supreme Court against citizens of the United States, see section 1872 of this title.

Original jurisdiction—

District Court of all suits against consuls and vice-consuls, see section 1351 of this title.

Supreme Court, see also, U. S. Const. Art. 3, § 2, Cl. 2.

Writs, see section 1651 of this title.

RULES OF THE SUPREME COURT

Procedure in original actions, see rule 9, Appendix to this title.

§ 1252. Direct appeals from decisions invalidating Acts of Congress.

Any party may appeal to the Supreme Court from an interlocutory or final judgment, decree or order of any court of the United States, the United States District Court for the District of the Canal Zone, the District Court of Guam and the District Court of the Virgin Islands and any court of record of Hawaii and Puerto Rico, holding an Act of Congress unconstitutional in any civil action, suit, or proceeding to which the United States or any of its agencies, or any officer or employee thereof, as such officer or employee, is a party.

A party who has received notice of appeal under this section shall take any subsequent appeal or cross appeal to the Supreme Court. All appeals or cross appeals taken to other courts prior to such notice shall be treated as taken directly to the Supreme Court. (June 25, 1948, ch. 646, 62 Stat. 928; Oct. 31, 1951, ch. 655, § 47, 65 Stat. 726; July 7, 1958, Pub. L. 85-508, § 12 (e), (f), 72 Stat. 348.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., § 349a (Aug. 24, 1937, ch. 754, §§ 2, 5, 50 Stat. 752, 753).

Provisions relating to procedure on appeals taken under this section are incorporated in section 2101 of this title.

Words "civil action" were inserted before "suit or proceeding," in view of Rule 2 of the Federal Rules of Civil Procedure, providing for but one form of action, to be known as "civil action." However, such Rules apply only to the district courts, and hence "suit" was not deleted.

Words "or in which the United States has intervened and become a party" were omitted as surplusage.

Words "This section shall not be construed to be in derogation of any right of direct appeal to the Supreme Court of the United States under existing provisions of law" were omitted as unnecessary.

The term "any court of the United States" includes the courts of appeals, the district courts enumerated in chapter 5 of this title including those for the districts of Hawaii and Puerto Rico, the Court of Claims, the Court of Customs and Patent Appeals, the Customs Court, and The Tax Court. The revised section conforms with section 5 of act Aug. 24, 1937, ch. 754, 50 Stat. 753, defining the term "court of the United States." (See also definitive section 451 of this title.)

Appeals in cases in the courts of appeals holding a State statute invalid as repugnant to the Constitution, treaties or laws of the United States, are governed by section 1254 (2) of this title.

The Tax Court is included as there seems no more reason for intermediate review of Tax Court decisions holding an act of Congress unconstitutional than in the case of decisions of the Customs Court or Court of Customs and Patent Appeals.

Changes were made in phraseology.

Section 345 of title 28, U. S. C., 1940 ed., provided for direct appeals to the Supreme Court from interlocutory or final judgments of district courts in five instances under sections of the Code enumerated therein "and not otherwise."

Section 345 of title 28, U. S. C., 1940 ed., purports to list the only provisions for such direct appeals, but, in fact does not. For example, it omits sections 349a and 380a of title 28. It omits any reference to the act of May 22, 1936, ch. 444, 49 Stat. 1369, which authorizes direct review in suits pending under chapter 21 of title 43, U. S. C., 1940 ed., Public Lands (see section 927, note, of said title 43).

Section 345 of title 28, U. S. C., 1940 ed., should be repealed as unnecessary and misleading. Such repeal, in view of this revised section, section 1253 of this title and section 3731 of revised title 18 (Criminal Code, H. R. 1600, 80th Cong.), will remove doubt and uncertainty. (See reviser's note under section 1253 of this title. See also, U. S. v. Belt, 1943, 63 S. Ct. 1278, 319 U. S. 521, 87 L. Ed. 1559, holding that act April 27, 1912, ch. 98, § 5, 37 Stat. 94, authorizing such direct appeal from final decree of court in the District of Columbia in a suit by the United States to establish title to land, was repealed by said section 345 because it permitted direct appeal in only the five categories specified therein.)

Proceedings in Supreme Court to review decisions of the district court for, and the Supreme Court of, Puerto Rico, to be conducted in the English language (see section 866 of title 48, U. S. C., 1940 ed., Territories and Insular Possessions.)

AMENDMENTS

1958—Pub. L. 85-508 amended section to eliminate references to the District Court for the Territory of Alaska and to courts of record of Alaska. See section 81A of this title which establishes a United States District Court for the State of Alaska.

1951—Act Oct. 31, 1951, amended first par. by inserting a reference to the District Court of Guam.

EFFECTIVE DATE OF 1958 AMENDMENT

Amendment of section by Pub. L. 85-508 as effective upon the admission of Alaska into the Union, see note set out under section 81A of this title.

CROSS REFERENCES

"Court of the United States," definition, see section 451 of this title.

Criminal cases, direct appeals to Supreme Court, see section 3731 of Title 18, Crimes and Criminal Procedure.

Quorum of Supreme Court justices absent, see section 2109 of this title.

Time for appeal or certiorari, see section 2101 of this title.

Vesting and liquidation of Bulgarian, Hungarian, and Rumanian property, final orders or decrees of district courts of the United States reviewable as provided in this section, see section 1631e of Title 22, Foreign Relations and Intercourse.

Writs, see section 1651 of this title.

RULES OF THE SUPREME COURT

Procedure on appeal, see Appendix to this title.

Supersedeas on appeal, see rule 18.

Stay of proceedings to enforce judgment, see rule 62.

FEDERAL RULES OF CIVIL PROCEDURE

Direct appeals to Supreme Court, how taken, see rule 72, Appendix to this title.

§ 1253. Direct appeals from decisions of three-judge courts.

Except as otherwise provided by law, any party may appeal to the Supreme Court from an order granting or denying, after notice and hearing, an interlocutory or permanent injunction in any civil action, suit or proceeding required by any Act of Congress to be heard and determined by a district court of three judges. (June 25, 1948, ch. 646, 62 Stat. 928.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., §§ 47, 47a, 380 and 380a (Mar. 3, 1911, ch. 231, §§ 210, 266, 36 Stat. 1150, 1162; Mar. 4, 1913, ch. 160, 37 Stat. 1013; Oct. 22, 1913, ch. 32, 38 Stat. 220; Feb. 13, 1925, ch. 229, § 1, 43 Stat. 938; Aug. 24, 1937, ch. 754, § 3, 50 Stat. 752).

This section consolidates the provisions of sections 47, 47a, 380, and 380a of title 28, U. S. C., 1940 ed., relating to direct appeals from decisions of three-judge courts involving orders of the Interstate Commerce Commission or holding State or Federal laws repugnant to the Constitution of the United States.

For distribution of other provisions of the sections on which this revised section is based, see Distribution Table.

The language in section 380 of title 28, U. S. C., 1940 ed., referring to restraining the enforcement or execution of an order made by an administrative board or a State officer was omitted as covered by this revised section and section 2281 of this title.

Words in section 380a of title 28, U. S. C., 1940 ed., "This section shall not be construed to be in derogation of any right of direct appeal to the Supreme Court of the United States under existing provisions of law," were omitted as unnecessary.

Section 217 of title 7, U. S. C., 1940 ed., Agriculture, provides for a three-judge court in proceedings to suspend or restrain the enforcement of orders of the Secretary of Agriculture under the Packers and Stockyards Act of 1921.

The final proviso of section 502 of title 33, U. S. C., 1940 ed., Navigation and Navigable Waters, for direct appeal in certain criminal cases for failure to alter bridges obstructing navigation, is recommended for express repeal in view of its implied repeal by section 345 of title 28, U. S. C., 1940 ed. (See U. S. v. Belt, 1943, 63 S. Ct. 1278, 319 U. S. 521, 87 L. Ed. 1559. See reviser's note under section 1252 of this title.)

Section 28 of title 15, U. S. C., 1940 ed., Commerce and Trade, and section 44 of title 49, U. S. C., 1940 ed., Transportation, are identical and provide for convening of a three-judge court to hear and determine civil cases arising under the Sherman anti-trust law and the Interstate Commerce Act, respectively, wherein the United States is plaintiff and when the Attorney General deems such cases of general public importance.

Section 401 (d) of title 47, U. S. C., 1940 ed., Telegraphs, Telephones, and Radiotelegraphs, made the provisions of sections 28 and 29 of title 15, U. S. C., 1940 ed., Commerce and Trade, sections 44 and 45 of title 49, U. S. C., 1940 ed., Transportation, and section 345 (1) of title 28, U. S. C., 1940 ed., relating to three-judge courts and direct appeals, applicable to orders of the Federal Communications Commission enforcing the Communications Act of 1934.

CROSS REFERENCES

Direct appeals from three-judge courts—
Anti-Trust Laws, see section 29 of Title 15, Commerce and Trade.
Communications Act of 1934, see section 402 (d) of Title 47, Telegraphs, Telephones, and Radiographs.
Interstate Commerce Act, see section 45 of Title 49, Transportation.
Packers and Stockyards Act, see section 217 of Title 7, Agriculture.

Quorum of Supreme Court justices absent, see section 2109 of this title.

Time for appeal or certiorari, see section 2101 of this title.

Writs, see section 1651 of this title.

RULES OF THE SUPREME COURT

Procedure on appeal, see Appendix to this title.

Supersedeas on appeal, see rule 18.

Stay of proceedings to enforce judgment, see rule 72, Appendix to this title.

FEDERAL RULES OF CIVIL PROCEDURE

Direct appeals to Supreme Court, how taken, see rule 72, Appendix to this title.

§ 1254. Courts of appeals; certiorari; appeal; certified questions.

Cases in the courts of appeals may be reviewed by the Supreme Court by the following methods:

(1) By writ of certiorari granted upon the petition of any party to any civil or criminal case, before or after rendition of judgment or decree;

(2) By appeal by a party relying on a State statute held by a court of appeals to be invalid as repugnant to the Constitution, treaties or laws of the United States, but such appeal shall preclude review by writ of certiorari at the instance of such appellant, and the review on appeal shall be restricted to the Federal questions presented;

(3) By certification at any time by a court of appeals of any question of law in any civil or criminal case as to which instructions are desired, and upon such certification the Supreme Court may give binding instructions or require the entire record to be sent up for decision of the entire matter in controversy.

(June 25, 1948, ch. 646, 62 Stat. 928.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., §§ 346 and 347 (Mar. 3, 1911, ch. 231, §§ 239, 240, 36 Stat. 1157; Feb. 13, 1925, ch. 229, § 1, 43 Stat. 936; Jan. 31, 1928, ch. 14, § 1, 45 Stat. 54; June 7, 1934, ch. 426, 48 Stat. 926).

Section consolidates sections 346 and 347 of title 28, U. S. C., 1940 ed.

Words "or in the United States Court of Appeals for the District of Columbia" and "or of the United States Court of Appeals for the District of Columbia" in sections 346 and 347 of title 28, U. S. C., 1940 ed., were omitted. (See section 41 of this title.)

The prefatory words of this section preceding paragraph (1) were substituted for subsection (c) of said section 347.

The revised section omits the words of section 347 of title 28, U. S. C., 1940 ed., "and with like effect as if the case had been brought there with unrestricted appeal", and the words of section 346 of such title "in the same manner as if it had been brought there by appeal". The effect of subsections (1) and (3) of the revised section is to preserve existing law and retain the power of unrestricted review of cases certified or brought up on certiorari. Only in subsection (2) is review restricted.

Changes were made in phraseology and arrangement.

CROSS REFERENCES

Appeal from courts of appeals in bankruptcy cases, see section 47 of Title 11, Bankruptcy.

Detention of suspect security risks, review by Supreme Court upon certiorari or certification as provided in this section, see section 821 (d) of Title 50, War and National Defense.

Quorum of Supreme Court justices, see section 2109 of this title.

Review generally, see section 2101 et seq. of this title.

Review of appeals of orders relating to use of pesticide chemicals and raw agricultural commodities, see section 346a (i) of Title 21, Food and Drugs.

Time for appeal or certiorari, see section 2101 of this title.

Vesting and liquidation of Bulgarian, Hungarian, and Rumanian property, final orders or decrees of district courts of the United States reviewable as provided in this section, see section 1631e of Title 22, Foreign Relations and Intercourse.

Writs, see section 1651 of this title.

RULES OF THE SUPREME COURT

Procedure generally on appeal, writ of certiorari, or certification of questions, see Appendix to this title.

Supersedeas on appeal and stay pending review on certiorari, see rules 18 and 27.

FEDERAL RULES OF CIVIL PROCEDURE

Power of appellate court to stay proceedings not limited by rule 62, see rule 62 (g), Appendix to this title.

§ 1255. Court of Claims; certiorari; certified questions.

Cases in the Court of Claims may be reviewed by the Supreme Court by the following methods:

(1) By writ of certiorari granted on petition of the United States or the claimant;

(2) By certification of any question of law by the Court of Claims in any case as to which instructions are desired, and upon such certification the Supreme Court may give binding instructions on such question.

(June 25, 1948, ch. 646, 62 Stat. 928.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., § 288 (Feb. 13, 1925, ch. 229, § 3, 43 Stat. 939; May 22, 1939, ch. 140, 53 Stat. 752).

Words "including those begun under section 287 of this title" appearing in subsections (a) and (b) of section 288 of title 28, U. S. C., 1940 ed., were omitted as surplusage.

The provision of subsection (a) of section 288 of title 28, U. S. C., 1940 ed., for review and determination of all errors assigned, "with the same power and authority and with like effect, as if the cause had been brought there by appeal," was omitted as unnecessary. Review under this section is unrestricted.

Provisions for authority to review, in addition to other questions of law, "errors assigned to lack of evidence to sustain a finding of facts; that an ultimate finding or findings are not sustained by findings of evidentiary or primary facts; or that there is a failure to make a finding of fact on a material issue," were omitted as unnecessary.

Subsection (c) of section 288 of title 28, U. S. C., 1940 ed., was omitted as covered by the language at the beginning of the revised section.

Changes were made in phraseology and arrangement.

CROSS REFERENCES

Time for certiorari, see section 2101 of this title.

Writs, see section 1651 of this title.

RULES OF THE SUPREME COURT

Considerations governing review on certiorari of judgments of Court of Claims, see rule 19, Appendix to this title.

Questions certified by the Court of Claims, see rule 28.

RULES OF THE COURT OF CLAIMS

Writs of certiorari, see rule 57, Appendix to this title.

§ 1256. Court of Customs and Patent Appeals; certiorari.

Cases in the Court of Customs and Patent Appeals may be reviewed by the Supreme Court by writ of certiorari. (June 25, 1948, ch. 646, 62 Stat. 928.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., § 308 (Mar. 3, 1911, ch. 231, § 195, 36 Stat. 1145; Aug. 22, 1914, ch. 267, 38 Stat. 703; Sept. 6, 1916, ch. 448, § 6, 39 Stat. 727; Feb. 13, 1925, ch. 229, § 8, 43 Stat. 940; May 28, 1928, ch. 411, § 1, 44 Stat. 669; Jan. 31, 1928, ch. 14, § 1, 45 Stat. 54; Mar. 2, 1929, ch. 488, § 1, 45 Stat. 1475; June 17, 1930, ch. 497, title IV, § 647, 46 Stat. 762).

Provisions of section 308 of title 28, U. S. C., 1940 ed., relating to jurisdiction of the Court of Customs and Patent Appeals are the basis of section 1541 of this title.

Words "duly made as required by section 350 of this title," were omitted as surplusage.

Provision for review and determination "with the same power and authority in the case as if it had been carried by appeal to the Supreme Court" was omitted as unnecessary. Review under this section is unrestricted.

Changes were made in phraseology.

CROSS REFERENCES

Time for certiorari, see section 2101 of this title.
Writs, see section 1651 of this title.

RULES OF THE SUPREME COURT

Considerations governing review on certiorari of judgments of Court of Customs and Patent Appeals, see rule 19, Appendix to this title.

§ 1257. State courts; appeal; certiorari.

Final judgments or decrees rendered by the highest court of a State in which a decision could be had, may be reviewed by the Supreme Court as follows:

(1) By appeal, where is drawn in question the validity of a treaty or statute of the United States and the decision is against its validity.

(2) By appeal, where is drawn in question the validity of a statute of any state on the ground of its being repugnant to the Constitution, treaties or laws of the United States, and the decision is in favor of its validity.

(3) By writ of certiorari, where the validity of a treaty or statute of the United States is drawn in question or where the validity of a State statute is drawn in question on the ground of its being repugnant to the Constitution, treaties or laws of the United States, or where any title, right, privilege or immunity is specially set up or claimed under the Constitution, treaties or statutes of, or commission held or authority exercised under, the United States.

(June 25, 1948, ch. 646, 62 Stat. 929.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., § 344 (Mar. 3, 1911, ch. 231, §§ 236, 237, 36 Stat. 1156; Dec. 23, 1914, ch. 2, 38 Stat. 790; Sept. 6, 1916, ch. 448, § 2, 39 Stat. 726; Feb. 17, 1922, ch. 54, 42 Stat. 366; Feb. 13, 1925, ch. 229, § 1, 43 Stat. 937; Jan. 31, 1928, ch. 14, § 1, 45 Stat. 54).

Provisions of section 344 of title 28, U. S. C., 1940 ed., relating to procedure for review of decisions of State courts are incorporated in section 2103 of this title. Other provisions of such section 344 of title 28, U. S. C., 1940 ed., are incorporated in section 2106 of this title.

The revised section applies in both civil and criminal cases. In Twitchell v. Philadelphia, 1868, 7 Wall. 321, 19 L. Ed. 223, it was expressly held that the provisions of section 25 of the Judiciary Act of 1789, 1 Stat. 85, on which title 28, U. S. C., 1940 ed., § 344, is based, applied to criminal cases, and many other Supreme Court decisions impliedly involve the same holding inasmuch as the Court has taken jurisdiction of criminal cases on appeal from State courts. See, for example, Herndon v. Georgia, 1935, 55 S. Ct. 794, 295 U. S. 441, 79 L. Ed. 1530 and Ashcraft v. Tennessee, 1944, 64 S. Ct. 921, 322 U. S. 143, 88 L. Ed. 1192.

Provision, in section 344 (b) of title 28, U. S. C., 1940 ed., for review and determination on certiorari "with the same power and authority and with like effect as if brought up by appeal" was omitted as unnecessary. The scope of review under this section is unrestricted.

Words "and the power to review under this paragraph may be exercised as well where the Federal claim is sustained as where it is denied," in said section 344 (b), were omitted as surplusage.

The last sentence in said section 344 (b) relating to the right to relief under both subsections of said section 344, was omitted as unnecessary.

Changes were made in phraseology.

CROSS REFERENCES

Appeals from State courts—
Improvidently taken regarded as writs of certiorari, see section 2103 of this title.
Priority of criminal cases, see section 2102 of this title.
Procedure and effect, see section 2104 of this title.
Determination on review, see section 2106 of this title.
Quorum of Supreme Court justices absent, disposition of case, see section 2109 of this title.
Time for appeal or certiorari, see section 2101 of this title.
Writs, see section 1651 of this title.

RULES OF THE SUPREME COURT

Jurisdiction on appeal, see rules 10–18, Appendix to this title.
Jurisdiction on writ of certiorari, see rules 19–27.
Jurisdictional statement, see rule 15.
Order granting or denying certiorari, see rule 25.

Chapter 83.—COURTS OF APPEALS

Sec.
1291. Final decisions of district courts.
1292. Interlocutory decisions.
1293. Final decisions of Puerto Rico and Hawaii Supreme Courts.
1294. Circuits in which decisions reviewable.

CROSS REFERENCES

Jurisdiction of courts and appeals in particular matters, see reviser's note for section 1291 of this title.
Procedure and particular proceedings, generally, see parts V and VI of this title.

FEDERAL RULES OF CIVIL PROCEDURE

Appeal to a court of appeals, see rule 73, Appendix to this title.
Joint or several appeals to a court of appeals: summons and severance abolished, see rule 74.
Record on appeal to a court of appeals, see rule 75.
Agreed statement, see rule 76.

FEDERAL RULES OF CRIMINAL PROCEDURE

Application of rules, see note by Advisory Committee under rule 54, Title 18, Appendix, Crimes and Criminal Procedure.
Bail upon review, see rule 46.
Stay of execution and relief pending review, see rule 38.
Supervision of appeal, see rule 39.
Taking appeal; and petition for writ of certiorari, see rule 37.

§ 1291. Final decisions of district courts.

The courts of appeals shall have jurisdiction of appeals from all final decisions of the district courts of the United States, the United States District Court for the District of the Canal Zone, the District Court of Guam, and the District Court of the Virgin Islands, except where a direct review may be had in the Supreme Court. (June 25, 1948, ch. 646, 62 Stat. 929; Oct. 31, 1951, ch. 655, § 48, 65 Stat. 726; July 7, 1958, Pub. L. 85–508, § 12 (e), 72 Stat. 348.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., §§ 225 (a), 933 (a) (1), and section 1338 of title 48, U. S. C., 1940 ed., Territories and Insular Possessions, and sections 61 and 62 of title 7 of the Canal Zone Code (Mar. 3, 1911, ch. 231, § 128, 36 Stat. 1133; Aug. 24, 1912, ch. 390,