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February 23, 2015

Via UPS Next Day Air #1Z A3V 722 22 1009 7892

Norfolk County Superior Court
Civil Clerk's Office
650 High Street
Dedham, MA 02026

Re: *Bharanidharan Padmanabhan, MD, PhD v. City of Cambridge, et al.*
Norfolk Superior C.A. NOCV14-01410

Dear Sir or Madam:

Enclosed please find the following documents for filing and docketing in the above-entitled action:

1. Emergency Motion of Commonwealth Defendants to Strike Plaintiff's Returns of Service and for Enlargement of Time to File Answers and/or Responsive Pleadings to Complaint; and
2. Certificate of Service.

Thank you for your attention to this matter.

Very truly yours,

A handwritten signature in black ink, appearing to read "Mark P. Sutliff".

Mark P. Sutliff, Ext. 2576
Assistant Attorney General
Government Bureau/Trial Division

Enc.

cc: Bharanidharan Padmanabhan, pro se (First Class Mail)
Brian H. Sullivan, Esq. (First Class Mail)
Rebecca A. Cobbs, Esq. (First Class Mail)

COMMONWEALTH OF MASSACHUSETTS

NORFOLK, ss.

SUPERIOR COURT
C.A. No. 14-01410

BHARANIDHARAN PADMANABHAN,
MD, PhD,

Plaintiff,

v.

CITY OF CAMBRIDGE, et al.

Defendants.

**EMERGENCY MOTION OF COMMONWEALTH DEFENDANTS TO STRIKE
PLAINTIFF'S RETURNS OF SERVICE AND FOR ENLARGEMENT OF TIME
TO FILE ANSWERS AND/OR RESPONSIVE PLEADINGS TO COMPLAINT**

Now come Defendants James Paikos, Loretta Kish Cooke, Stephen Hctor,
Robert Bouton, Candace Lapidus Sloane, and Marianne Felice (collectively
“Commonwealth Defendants”) and move to strike Plaintiff’s returns of service and/or
request this Court to further enlarge the time to file answers and/or responsive pleadings
to the complaint based on the following reasons:

1. This pro se case is brought against the Commonwealth Defendants and others
alleging a variety of claims based on, inter alia, a pending disciplinary proceeding
against Plaintiff before the Board of Registration in Medicine.
2. Among the approximately 71 defendants named in the complaint, Plaintiff names
six Commonwealth Defendants who were performing their respective duties and
responsibilities at the Board of Registration in Medicine during the alleged
relevant times.

3. On or about February 12, 2015, the court allowed the Commonwealth Defendants' motion to enlarge the time to respond to the complaint so issues of representation could be resolved.
4. While the motion to enlarge was pending, Plaintiff attempted to default Defendants James Paikos and Loretta Kish Cooke for failing to file a responsive pleading within the required time period under Mass. R. Civ. P. 12(a)(1).
5. On February 5, 2015, the docket shows that Plaintiff's request for default was denied by the court because Plaintiff failed to serve the complaint personally or at the last and usual place of abode of Defendants Paikos and Cooke as required by Mass. R. Civ. P. 4(d)(1).
6. The undersigned counsel have now received requests for representation from all of the above-named Commonwealth Defendants.
7. A review of the docket reveals that in addition to Defendants Paikos and Cooke, Plaintiff failed to serve Defendants Stephen Hocter, Robert Bouton, Candace Lapidus Sloane, and Marianne Felice personally or at the last and usual place of abode as required by Mass. R. Civ. P. 4(d)(1). The returns of service for these defendants should be struck consistent with this court's February 5, 2015 order concerning Defendants Paikos and Cooke.
8. The docket further reveals that Defendant Julian Harris was served by certified mail; however, the return receipt shows that it was signed for by Sarah Haile and consequently, the return of service should be struck.¹

¹ M.G.L. c. 223A, § 6(a)(3) states that service of an out-of-state defendant by mail must be addressed to the person to be served and requiring a signed receipt. G.L. c. 223A, § 6(b) further provides: "When service is made by mail, proof of service shall include a receipt signed by the addressee or other evidence of personal

9. Plaintiff recently served Defendant Paikos at his last and usual place of abode on February 11, 2015. Under Mass. R. Civ. P. 12(a)(1), Defendant Paikos has twenty (20) days to respond to the complaint.

Wherefor, Defendant Paikos respectfully requests the court enlarge the time from February 25, 2015 to March 3, 2015 to file a responsive pleading to Plaintiff's complaint, and Defendants Loretta Kish Cooke, Stephen Hoctor, Robert Bouton, Candace Lapidus Sloane, and Marianne Felice have twenty (20) days, respectively, to file responsive pleadings from the date Plaintiff makes effective service.

Respectfully submitted,

JAMES PAIKOS, LORETTA KISH COOKE,
STEPHEN HOCTOR, ROBERT BOUTON,
CANDACE LAPIDUS SLOANE, and
MARIANNE FELICE,

By their Attorneys,

MAURA HEALEY
ATTORNEY GENERAL



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Date: February 23, 2015

delivery to the addressee satisfactory to the court." There is no evidence of personal delivery to Julian Harris, M.D. See M.G.L. c. 223A, § 6.

CERTIFICATE OF SERVICE

I, Mark P. Sutliff, Assistant Attorney General, hereby certify that I have this day, February 23, 2015, served the foregoing **Emergency Motion** upon all parties of record by mailing a copy, first class, postage prepaid to:

Bharani Padmanabhan, MD, PhD
Pro se
30 Gardner Road, #6A
Brookline, MA 02445

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