

COMMONWEALTH OF MASSACHUSETTS
DEPARTMENT OF THE TRIAL COURT

HAMPDEN, SS.

DISTRICT COURT DEPARTMENT
PALMER DIVISION
CIVIL ACTION NO. **1143CV293**

| | |
|-----------------------|---|
| Brian Johnson, |) |
| Plaintiff |) |
| v. |) |
| Peter Frei, |) |
| Defendant |) |

NOTICE OF APPEAL

Now comes the defendant, Peter Frei, in the above captioned matter and hereby files his notice of appeal pursuant to G.L. c.231, s.109, and Rules of Appellate Procedure Rule 3 and 4.

Frei appeals the following issues decided in favor of the plaintiff by the Appellate Division of the District Court, issued on October 20, 2016, docket # 14-ADMS-700013:

- A) Whether a civil suit for damages under the wiretap statute G.L. c.272, s.99, lies where the defendant did not violate any of the plaintiff's privacy or property interests during the surreptitious recording.
- B) Whether the award of damages, attorney's fees, and cost against the defendant are in error as the plaintiff is not an "aggrieved person" and therefore does not meet the statutory requirement of G.L. c.272, s.99Q(3), providing for the award.
- C) In the alternative, whether the award of attorney's fees and cost was in error as the town of Holland is a government entity and not a "person" and as such can not recover attorney's fees under G.L. c.272, s.99Q which is only available to any aggrieved "person."

- D) Whether plaintiff's attorney Tani Sapirstein signed a pleading which contained a false statement of fact and law, a clear violation of Mass.R. Civ. P. Rule 11.
- E) In the alternative, whether the District Court erred or abused its discretion awarding defendant only \$16,024.65 of the \$60,430.57 fees incurred and requested.
- F) Whether the District Court erred in granting Johnson's motion for a directed verdict on the abuse of process claim.

Respectfully submitted by the Defendant,

Peter Frei
101 Maybrook Road
Holland, MA 01521
phone (413) 245 4660
November 18, 2016

Peter Frei