

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, ss.

SUPERIOR COURT

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COMMONWEALTH OF MASSACHUSETTS,  
:  
Plaintiff,  
:  
v.  
:  
PURDUE PHARMA L.P, et al,  
:  
Defendants.  
:  
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Civil Action  
No. 18-1808-BLS2

**HEARING REQUESTED**

**DEFENDANTS CRAIG LANDAU, JOHN STEWART AND  
MARK TIMNEY'S MOTION TO DISMISS THE FIRST AMENDED COMPLAINT**

Defendants Craig Landau, John Stewart, and Mark Timney (the "Officers")

hereby move this Court pursuant to Rule 12(b)(2) of the Massachusetts Rules of Civil Procedure for an order dismissing the First Amended Complaint. The grounds for this motion are fully set forth in the accompanying memorandum of law. In short, the First Amended Complaint should be dismissed because this Court lacks personal jurisdiction over each of the Officers.

In the event that the Court determines that it has jurisdiction over Defendant John Stewart, he also moves this Court pursuant to Rule 12(b)(6) of the Massachusetts Rules of Civil Procedure for an order dismissing the First Amended Complaint because it fails to state any claim against him.<sup>1</sup>

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<sup>1</sup> Defendant Stewart moves on this additional ground solely for purposes of efficiency and, in doing so, does not concede that the Court has personal jurisdiction over him or waive his personal jurisdiction defense. See Mass. R. Civ. P. 12(b) ("No defense or objection is waived by being joined with one or more other defenses or objections in a responsive pleading or motion."); Ross v. Ross, 371 Mass. 439, 443 n.2 (1976) (the inclusion of a 12(b)(6) argument in a motion to dismiss "did not constitute a waiver of the assertion that the court lacked jurisdiction").

**SUPERIOR COURT RULE 9C CERTIFICATION**

On February 26, 2019 at 12:00 p.m., prior to service of this motion, counsel for Plaintiff and counsel for the Officers conferred by telephone in a good faith effort to narrow areas of disagreement to the fullest extent, but were unable to narrow the parties' disagreement.

**REQUEST FOR HEARING**

Pursuant to Superior Court Rules 9A(c)(2) and 9A(c)(3), the Officers respectfully request a hearing on this motion because a hearing would aid the Court in resolving in an efficient and thorough manner the factual and legal issues presented so as to avoid protracted litigation in an improper forum.

Dated: March 1, 2019  
Boston, Massachusetts

Respectfully submitted,



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**CERTIFICATE OF SERVICE**

I, Maya P. Florence, hereby certify that on March 1, 2019, pursuant to an agreement among the parties, a true copy of the foregoing Defendants Craig Landau, John Stewart And Mark Timney's Motion To Dismiss The First Amended Complaint was served by email upon the following counsel of record:

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Dated: March 1, 2019

  
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Maya P. Florence