

MAURA HEALEY
ATTORNEY GENERAL

THE COMMONWEALTH OF MASSACHUSETTS
OFFICE OF THE ATTORNEY GENERAL

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BOSTON, MASSACHUSETTS 02108

(617) 727-2200
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July 25, 2018

Hand Delivery

Civil Clerk's Office
Suffolk Superior Court, 12th Floor
Three Pemberton Square
Boston, MA 02108

Re: Commonwealth of Massachusetts v. Hicham Ali Hassan

Dear Sir/Madam:

Enclosed for filing and docketing in the above-referenced case, please find the following three documents:

1. Civil Action Cover Sheet
2. Complaint and Jury Demand
3. Motion to Appoint Special Process Server

Because this matter is filed on behalf of the Commonwealth, all filing fees are waived. Kindly date-stamp copies of each of these documents and affix the docket number to each.

Thank you for your attention to this matter.

Sincerely,

Carolina Almonte
Special Assistant Attorney General
Civil Rights Division



CIVIL ACTION COVER SHEET		DOCKET NUMBER	Trial Court of Massachusetts The Superior Court	
PLAINTIFF(S):	Commonwealth of Massachusetts Office of the Attorney General	COUNTY Suffolk		
ADDRESS:	One Ashburton Place, 18th FL Boston, MA 02108	DEFENDANT(S): Hicham Ali Hassan		
ATTORNEY:	Genevieve Nadeau and Carolina Almonte			
ADDRESS:	One Ashburton Place, 18th FL Boston, MA 02108	ADDRESS: 218 Newbury Street Apt. 3R Boston, MA 02116		
BBO:	677566 and 695717			
TYPE OF ACTION AND TRACK DESIGNATION (see reverse side)				
CODE NO. D99	TYPE OF ACTION (specify) Other Equity Action	TRACK F	HAS A JURY CLAIM BEEN MADE? <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO	
*If "Other" please describe: _____				
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 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):				\$ N/A
B. Documented lost wages and compensation to date				\$ _____
C. Documented property damages to dated				\$ _____
D. Reasonably anticipated future medical and hospital expenses				\$ _____
E. Reasonably anticipated lost wages				\$ _____
F. Other documented items of damages (describe below)				\$ _____
G. Briefly describe plaintiff's injury, including the nature and extent of injury:				
TOTAL (A-F):				\$ N/A
CONTRACT CLAIMS (attach additional sheets as necessary)				
Provide a detailed description of claims(s):				
TOTAL:				\$ N/A
Signature of Attorney/Pro Se Plaintiff: X				Date: July 25, 2018
RELATED ACTIONS: Please provide the case number, case name, and county of any related actions pending in the Superior Court.				
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: July 25, 2018



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)
- 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 / Wrongful Death (A)
- B07 Malpractice - Other (A)
- B08 Wrongful Death, G.L. c.229 §2A (A)
- B15 Defamation (A)
- B19 Asbestos (A)
- B20 Personal Injury - Slip & Fall (F)
- B21 Environmental (F)
- B22 Employment Discrimination (F)
- BE1 Fraud, Business Torts, etc. (A)
- B99 Other Tortious Action (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 §9 (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) (X)
- E94 Forfeiture, G.L. c.265 §56 (X)
- E95 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	<u> F </u>	<input checked="" type="checkbox"/> YES <input type="checkbox"/> 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 pro se party.**

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.**

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, ss.

SUPERIOR COURT

COMMONWEALTH OF MASSACHUSETTS,

Plaintiff,

v.

HICHAM ALI HASSAN,

Defendant.

CIVIL ACTION NO.

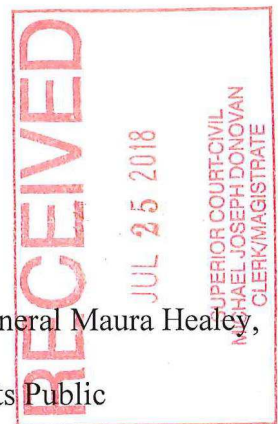
COMPLAINT

The Commonwealth of Massachusetts, by and through Attorney General Maura Healey, brings this action pursuant to G.L. c. 272, §§ 92A and 98 (the Massachusetts Public Accommodation Law), and G.L. c. 93A (the Massachusetts Consumer Protection Act), against Hicham Ali Hassan, who owns and manages The Tannery ("The Tannery") located in Boston, Massachusetts, arising out of his discriminatory treatment of customers based on race, color, national origin, and/or immigration status.

The Commonwealth seeks injunctive relief, compensatory and punitive damages, civil penalties, and attorneys' fees and costs.

PARTIES

1. Plaintiff Commonwealth of Massachusetts is represented by and through its Attorney General, whose principal place of business is located at One Ashburton Place, Boston, Massachusetts.



2. Defendant Hicham Ali Hassan, also known as Sam Hassan, owns and manages The Tannery, a retail store located at 711 Boylston Street, Boston, Massachusetts. Mr. Hassan is sued in his individual capacity.

JURISDICTION AND VENUE

3. The Court has jurisdiction over this action and the power to grant the relief requested pursuant to G.L. c. 93A, § 4, G.L. c. 151B, §§ 5 and 9, G.L. c. 12, § 10, and G.L. c. 214, § 1.

4. Venue properly lies in Suffolk County pursuant to G.L. c. 223, § 5, and G.L. c. 93A, § 4, because it is the county in which the unlawful and discriminatory conduct occurred and it is the county in which Defendant has his principal place of business.

FACTS

5. The Tannery is an upscale shoe and clothing store located at the corner of Boylston Street and Exeter Street in Boston.

6. The Tannery's hours of operation are Monday through Saturday from 9:00 a.m. to 8:00 p.m., and Sunday from 10:00 a.m. to 7:00 p.m.

December 2017 Incident

7. Walter Lewis is a 64-year-old African American male and a Marine veteran.

8. On the evening of Friday, December 1, 2017, Mr. Lewis was shopping in the Back Bay neighborhood of Boston. He left a store on Newbury Street and called a friend on his cell phone. Mr. Lewis entered The Tannery at approximately 7:40 p.m. with his friend still on the phone.

9. Mr. Lewis went to The Tannery to browse the collection and potentially make a purchase. He was particularly interested in purchasing a Canada Goose jacket and he knew that he could find one at The Tannery.

10. Upon entering the store, Mr. Lewis was approached by a man who he understood to be the store owner (Mr. Hassan). Mr. Hassan was accompanied by a Caucasian woman who was also an employee of the store. Mr. Hassan approached Mr. Lewis and said "what's up brother man!" repeatedly. He told Mr. Lewis that the store was closing at 8 p.m.

11. After this initial dialogue with Mr. Hassan, which took place in the entry way of the store, Mr. Lewis observed various Caucasian patrons, including a Caucasian couple, enter the store and proceed to shop. Neither Mr. Hassan nor any other employee told them that the store would be closing soon. Mr. Lewis, on the other hand, was effectively prevented from proceeding beyond the store's entryway.

12. Mr. Lewis asked Mr. Hassan why he was being stopped and prevented from shopping when other customers who arrived after him were allowed to enter and shop.

13. Mr. Hassan's demeanor changed after Mr. Lewis confronted him. He became hostile with Mr. Lewis, telling him, "I do not want your kind in my store." The female employee said nothing and returned to the store counter.

14. Mr. Lewis responded by saying, "I barely walked in the store and you're telling me you do not want me in your store? Why? What did I do?" Mr. Hassan repeated that he did not want Mr. Lewis to shop in his store.

15. Mr. Hassan then asked if Mr. Lewis had a "Black American Express Card," which is an exclusively invitation-only credit card available to a limited number of individuals. Mr. Hassan told Mr. Lewis that he (Mr. Hassan) had a "Black American Express Card" and then

motioned toward his pocket. Mr. Lewis understood Mr. Hassan to be implying that he did not have the funds to shop at The Tannery.

16. Mr. Hassan then told Mr. Lewis that he did not want his money and to shop at a different store across the street.

17. Mr. Hassan stood very close to Mr. Lewis during this conversation and ultimately led Mr. Lewis back to the door.

18. Mr. Hassan then followed Mr. Lewis outside of the store.

19. At that point, a Caucasian male (another employee) walked outside and approached Mr. Lewis. He asked Mr. Lewis what had just happened. Mr. Lewis described his exchange with Mr. Hassan.

20. Mr. Lewis explained that he simply wanted to shop and perhaps purchase something from the store as he has done on previous occasions. He said that he did not understand why he was singled out while other customers were allowed to shop. Mr. Lewis further told the employee that he did not do anything wrong and felt that he deserved an explanation for being treated so poorly.

21. Mr. Hassan remained outside while Mr. Lewis spoke to the employee. At one point, he made a show of removing his jacket in anger or frustration.

22. After Mr. Lewis finished describing what had happened, the employee turned away without a response, only further confusing Mr. Lewis.

23. After leaving the store, Mr. Lewis located a police officer a block away on Newbury Street. He asked about rights and told the officer what had happened.

24. As Mr. Lewis reported to the officer, he felt humiliated and devastated by the incident. He left The Tannery feeling hurt, confused, and embarrassed.

Pattern of Discrimination

25. The December 2017 incident involving Mr. Lewis is not the first time that Mr. Hassan and The Tannery have discriminated against a customer based on a protected characteristic. In fact, the Commonwealth alleges that Mr. Hassan has engaged, and continues to engage, in an ongoing pattern of such discrimination based on race, color, national origin, and/or immigration status.

26. For example, on March 26, 2017, at approximately 3 p.m., Miriam Yarima Ariza entered The Tannery store to browse the collection. Ms. Ariza is of Middle Eastern decent.

27. When Ms. Ariza entered the store it was empty with the exception of a Caucasian woman who was also browsing shoes. The owner (Mr. Hassan) was conversing with another customer on the other side of the store.

28. When Ms. Ariza found a pair of boots that she was interested in, she approached Mr. Hassan and inquired about the availability of her size. He immediately asked Ms. Ariza, "Where are you from?"

29. Ms. Ariza, puzzled by the question, responded "What do you mean? I am from here. I live in the area." Mr. Hassan repeated, "No, where are you from?" Ms. Ariza replied to Mr. Hassan, "I live in Cambridge," and then proceeded to ask about the availability of the shoes for the second time.

30. Rather than assist Ms. Ariza, Mr. Hassan said "I don't have them and if I did they would cost 3 million dollars." Ms. Ariza was confused and asked Mr. Hassan to clarify. Instead, he turned to another customer and proclaimed, "I love Trump! I am glad he is going to get rid of all the immigrants because I do not trust immigrants!"

31. Mr. Hassan continued to talk about his distrust of immigrants, at which point Ms. Ariza decided she no longer wanted the shoes. As she was about to exit the store, Mr. Hassan shouted to her, "Get out of here! We don't want you here! I don't trust your people!"

32. Ms. Ariza left the store frustrated and shaken by the ordeal.

33. The experiences of Mr. Lewis and Ms. Ariza are examples of a pattern of similar experiences reported by customers of The Tannery in reviews of the store posted on social media sites.

34. Among other things, Mr. Lewis and Ms. Ariza felt humiliated and embarrassed following their experiences at The Tannery.

CAUSES OF ACTION

Count I: Discrimination in a Place of Public Accommodation **(G.L. c. 272, §§ 92A and 98)**

35. The Commonwealth re-alleges and incorporates the preceding paragraphs.

36. The Tannery is a place of public accommodation as defined in G.L. c. 272, § 92A, because it is open to and accepts or solicits the patronage of the general public.

37. Defendant Hicham Ali Hassan is the owner and manager of The Tannery.

38. Mr. Hassan unlawfully discriminated against Walter Lewis, Miriam Yarima Ariza, and others by refusing them entry to The Tannery, refusing them service, or otherwise discriminating against these customers, based on their race, color, and/or national origin.

39. As a result of Mr. Hassan's unlawful conduct, Mr. Lewis, Ms. Ariza, and others suffered damages, including emotional distress.

40. On May 14, 2018, the Commonwealth filed a complaint with the Massachusetts Commission Against Discrimination Pursuant to G.L. c. 151B, §§ 5 and 9. On June 4, 2018, the

Commission granted the Commonwealth's request to remove its claims under G.L. c. 151B to Superior Court.

Count II: Violation of the Consumer Protection Act
(G.L. c. 93A, § 2)

41. The Commonwealth re-alleges and incorporates the preceding paragraphs.

42. Defendant Hicham Ali Hassan is a "person" as that term is defined in G.L. c. 93A, § 1.

43. As the owner, operator, and manager of a retail store, Mr. Hassan is engaged in trade or commerce as defined in G.L. c. 93A, § 1.

44. Mr. Hassan has engaged in unfair and deceptive business practices by engaging in a pattern of discriminatory treatment of customers based on their race, color, national origin, and/or immigration status, including by denying Walter Lewis entry and service and by harassing him based on his race or color, and by denying Miriam Yarima Ariza service and harassing her based on her race, color, national origin, and/or immigration status.

45. As a result of Mr. Hassan's unlawful conduct, Mr. Lewis, Ms. Ariza, and others suffered damages, including emotional distress.

46. By letter dated May 14, 2018, the Commonwealth gave Mr. Hassan the required notice pursuant to G.L. c. 93A, § 4, of its intention to bring an action under the Massachusetts Consumer Protection Act.

PRAYER FOR RELIEF

WHEREFORE, the Commonwealth of Massachusetts requests that this Court:

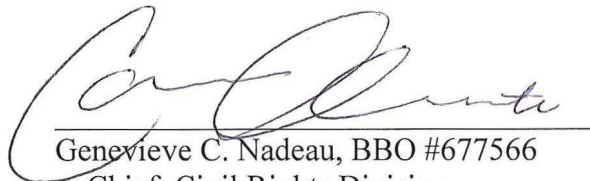
- (a) Find that Defendant violated G.L. c. 272, §§ 92A and 98, and G.L. c. 93A, § 2;
- (b) Issue injunctive relief requiring Defendant to comply with G. L. c. 272, §§ 92A and 98, and G.L. c. 93A;

- (c) Award compensatory and punitive damages to Walter Lewis, Miriam Yarima Ariza, and any other individual victims of discrimination identified at trial;
- (d) Award civil penalties up to \$5,000.00 for each of Defendant's unfair or deceptive acts or practices as determined by this Court;
- (e) Award attorneys' fees and costs; and
- (f) Order such other relief as the Court deems just and proper.

PLANTIFF DEMANDS A TRIAL BY JURY.

Respectfully submitted,

COMMONWEALTH OF MASSACHUSETTS
MAURA HEALEY
ATTORNEY GENERAL



Genevieve C. Nadeau, BBO #677566

Chief, Civil Rights Division

Carolina Almonte, BBO #695717

Special Assistant Attorney General

One Ashburton Place

Boston, Massachusetts 02108

(617) 963-2376

Carolina.Almonte@state.ma.us

Dated: July 25, 2018

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, ss.

SUPERIOR COURT

COMMONWEALTH OF MASSACHUSETTS,

Plaintiff,

v.

HICHAM ALI HASSAN,

Defendant.

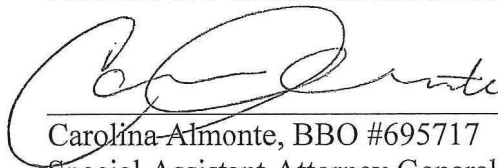
CIVIL ACTION NO. _____

MOTION TO APPOINT SPECIAL PROCESS SERVER

Plaintiff, the Commonwealth of Massachusetts, respectfully moves this Court to appoint Kevin McCarthy, Director of the Investigation Division of the Attorney General's Public Protection Bureau, or his successor or designee, to serve the summons, complaint, and all other papers of this action upon the defendants. Kevin McCarthy, his successor, or his designee is a qualified person over the age of eighteen and is not a party in this action. As grounds for this motion, Plaintiff states that the need for immediate service warrants this appointment.

Respectfully submitted,

COMMONWEALTH OF MASSACHUSETTS
ATTORNEY GENERAL MAURA HEALEY



Carolina Almonte, BBO #695717
Special Assistant Attorney General
Office of the Attorney General
One Ashburton Place
Boston, MA 02108
Tel: (617) 963-2376
Carolina.Almonte@state.ma.us



Date: July 25, 2018

SUFFOLK, ss.

COMMONWEALTH OF MASSACHUSETTS

SUPERIOR COURT

COMMONWEALTH OF MASSACHUSETTS,

Plaintiff,

v.

HICHAM ALI HASSAN,

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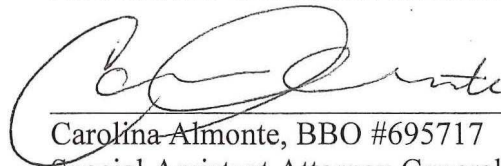
7/25/18
Allowed by the Court
(Hiles.f)
Attest: Margaret M. Sellen, Dist. Clerk
CIVIL ACTION NO. 18-2285E

MOTION TO APPOINT SPECIAL PROCESS SERVER

Plaintiff, the Commonwealth of Massachusetts, respectfully moves this Court to appoint Kevin McCarthy, Director of the Investigation Division of the Attorney General's Public Protection Bureau, or his successor or designee, to serve the summons, complaint, and all other papers of this action upon the defendants. Kevin McCarthy, his successor, or his designee is a qualified person over the age of eighteen and is not a party in this action. As grounds for this motion, Plaintiff states that the need for immediate service warrants this appointment.

Respectfully submitted,

COMMONWEALTH OF MASSACHUSETTS
ATTORNEY GENERAL MAURA HEALEY



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Date: July 25, 2018