

SUPREME JUDICIAL COURT FOR THE COMMONWEALTH No. _____ *(to be assigned)*

Appeals Court No. 2026-P-1331 Trial Court: Western Housing Court Trial Court Docket No. 19H79CV000212

Timothy Scott & another, Plaintiffs/Appellees,

v.

Race Street Properties, LLC & another, Defendants/Appellants.

APPLICATION FOR DIRECT APPELLATE REVIEW Pursuant to Mass. R. App. P. 11

Filed by: **Timothy Scott** Plaintiff/Appellee

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Supreme Judicial Court for the Commonwealth

No. _____ (*SJC docket number to be assigned*)

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Timothy Scott & another, Plaintiffs/Appellees,

v.

Race Street Properties, LLC & another, Defendants/Appellants.

APPLICATION FOR DIRECT APPELLATE REVIEW

Pursuant to Mass. R. App. P. 11

Plaintiff/Appellee **Timothy Scott** respectfully applies for **Direct Appellate Review** by the Supreme Judicial Court (“SJC”) of this appeal, presently docketed in the Appeals Court as **2026-P-1331**. This application is timely under **Mass. R. App. P. 11(a)** because it is filed within **21 days** of docketing.

I. STATEMENT OF THE ISSUES FOR REVIEW

This appeal presents significant questions concerning the proper interpretation and enforcement of **M.G.L. c. 239, § 4**, the statute governing the handling, storage, notice, publication, and sale of tenant property following eviction.

The Housing Court (Fields, J.) found that the defendants:

- Failed to provide the **required statutory notice** to Plaintiff before disposing of his property;
- Failed to publish the mandatory **newspaper notice** prior to auction;
- Failed to comply with the **storage and sale procedures** mandated by § 4;
- Conducted an **unlawful auction** without statutory compliance;
- Violated **every statutory requirement** imposed by M.G.L. c. 239, § 4.

The defendants now appeal that judgment, asserting that the Housing Court erred in finding statutory violations. The issues raised require authoritative clarification of the obligations imposed on landlords and storage facilities under § 4.

II. REASONS WHY DIRECT APPELLATE REVIEW IS APPROPRIATE

Direct Appellate Review is warranted under **Mass. R. App. P. 11(b)** for the following reasons:

1. Important Question of Statutory Interpretation (Rule 11(b)(1))

M.G.L. c. 239, § 4 governs the disposition of tenant property after eviction—a process affecting **thousands of Massachusetts residents annually**. The statute’s notice, publication, storage, and auction requirements are mandatory, yet frequently misunderstood or inconsistently applied.

This appeal requires the SJC to clarify:

- What constitutes **reasonable notice** under § 4;
- Whether **strict compliance** is required for publication and auction procedures;
- The scope of **landlord liability** for improper disposal of tenant property;
- Whether failure to comply with § 4 renders an auction **void**.

These are pure questions of law appropriate for SJC resolution.

2. Issues of Broad Public Interest (Rule 11(b)(2) & (3))

Improper disposal of tenant property disproportionately affects:

- Low-income tenants,

- Elderly tenants,
- Disabled tenants,
- Families experiencing displacement or homelessness.

The Legislature enacted § 4 to protect vulnerable tenants from losing essential personal property without notice. The defendants' violations—failure to notify, failure to publish, and unlawful auction—strike at the core of these protections.

Uniform enforcement of § 4 is a matter of statewide public interest.

3. Recurring Issues Requiring Immediate Clarification (Rule 11(b)(4))

Housing Court judges regularly confront disputes involving:

- Storage fees,
- Notice obligations,
- Newspaper publication,
- Auction procedures,
- Liability for improper disposal.

Yet **published appellate guidance is sparse**, and Housing Court rulings vary widely. This recurring issue requires definitive statewide clarification.

4. Need for Uniformity Across Housing Courts (Rule 11(b)(5))

Housing Courts across the Commonwealth apply § 4 inconsistently, particularly regarding:

- What constitutes adequate notice;
- Whether publication defects invalidate an auction;
- Remedies available to tenants;
- The standard for landlord compliance.

Only the SJC can provide binding statewide guidance to ensure uniform application of § 4.

5. Issues of Systemic Importance (Rule 11(b)(6))

The defendants' violations—failure to notify, failure to publish, and unlawful auction—are not isolated. They reflect a broader pattern in eviction-related property handling across Massachusetts.

Immediate SJC review will:

- Clarify statutory obligations,
- Prevent future unlawful auctions,
- Protect tenants' property rights,
- Provide guidance to landlords, constables, sheriffs, and storage facilities.

III. CONCLUSION

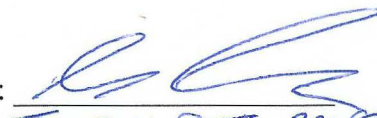
For the foregoing reasons, Plaintiff/Appellee respectfully requests that the Supreme Judicial Court grant **Direct Appellate Review** of this matter under **Mass. R. App. P. 11**.

CERTIFICATE OF SERVICE

I certify that on this date, I served a copy of this Application for Direct Appellate Review on all counsel and parties of record via **eFileMA** and/or first-class mail, postage prepaid, as required by Mass. R. App. P. 13.

Date: Sept. 21, 2026

Signature:


TIMOTHY SCOTT - PRO SE

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SUPPLEMENTAL MEMORANDUM IN SUPPORT OF APPLICATION FOR DIRECT APPELLATE REVIEW Mass. R. App. P. 11(g)

Plaintiff/Appellee **Timothy Scott** submits this supplemental memorandum in support of his Application for Direct Appellate Review.

I. The Housing Court's Findings Demonstrate Clear Statutory Violations

Judge Fields found that Defendants:

- Failed to provide **any notice** to Plaintiff before disposing of his property;
- Failed to publish the required **newspaper notice** prior to auction;
- Failed to store the property in compliance with statutory requirements;
- Conducted an **unlawful auction** without statutory compliance;
- Violated **every mandatory requirement** of M.G.L. c. 239, § 4.

These findings are not factual disputes — they are **pure questions of statutory interpretation** appropriate for SJC review.

II. The Defendants' Appeal Misstates the Statutory Requirements

Defendants argue that:

- “Substantial compliance” is enough;
- Newspaper publication is “not mandatory”;
- Notice to the tenant is “not required if the landlord believes the tenant abandoned the property.”

These arguments contradict the plain text of § 4, which requires:

- **Actual notice** to the tenant;
- **Publication** in a newspaper of general circulation;
- **Strict compliance** with auction procedures.

The SJC should resolve these recurring misinterpretations.

III. Uniformity Across Housing Courts Requires SJC Intervention

Housing Courts differ on:

- What constitutes “reasonable notice”;
- Whether publication defects invalidate an auction;
- Whether failure to notify the tenant voids the sale;
- Remedies available to tenants.

Only the SJC can provide binding statewide guidance.

IV. The Issues Are of Broad Public Importance

Improper disposal of tenant property affects:

- Evicted families,
- Elderly tenants,
- Disabled tenants,
- Low-income residents.

The Legislature enacted § 4 to prevent exactly what happened here: **secret disposal of tenant property without notice or publication.**

This case presents an ideal vehicle for SJC review.

V. Conclusion

For these reasons, Plaintiff respectfully requests that the Supreme Judicial Court grant Direct Appellate Review.

SUPPORTING AFFIDAVIT OF TIMOTHY SCOTT

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I, **Timothy Scott**, hereby state under oath:

1. I am the Plaintiff/Appellee in *Scott & another v. Race Street Properties, LLC & another*, Western Housing Court Docket No. 19H79CV000212.
2. After my eviction, the Defendants took possession of my personal property.
3. I received **no notice** of any auction or sale.
4. I never received **newspaper publication** of any auction.
5. I was never informed of the location of my property or given an opportunity to retrieve it.

6. My property was sold or disposed of without compliance with **M.G.L. c. 239, § 4.**
7. The Housing Court found that Defendants violated every statutory requirement.
8. The Defendants have appealed that judgment.
9. I submit this affidavit in support of my Application for Direct Appellate Review.

Signed under the pains and penalties of perjury this 21 day of September, 2026.



Timothy Scott

PROPOSED ORDER

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Upon consideration of Plaintiff/Appellee's Application for Direct Appellate Review pursuant to Mass. R. App. P. 11, it is hereby:

ORDERED: The Application for Direct Appellate Review is **ALLOWED**. The appeal docketed in the Appeals Court as **2026-P-1331** is hereby transferred to the Supreme Judicial Court for full review.

SO ORDERED.

Justice of the Supreme Judicial Court Dated: _____

SERVICE LIST

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