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April 4, 2025

VIA EMAIL AND FIRST CLASS MAIL

OpenCommonweath
Bruce Friedman, d/b/a
OpenCommonweath
8 Marvin Street
Malden, MA 02148
bruce@amyandbruce.com
info@opencommonwealth.org

Re: **City of Malden v. William Francis Galvin, Secretary of the**
Commonwealth, et al
Middlesex Superior Court Civil Action No. 2481CV03069

Dear Mr. Friedman and Open Commonwealth:

Pursuant to Superior Court Rule 9A, I have enclosed the following documents:

1. Plaintiff City of Malden's Motion to Strike Affidavit of Defendant, Bruce Friedman; and
2. Memorandum of Law in Support of Plaintiff City of Malden's Motion to Strike Affidavit of Defendant, Bruce Friedman.

Please serve your Opposition if any, within the time prescribed under Superior Court Rule 9A.

Thank you for your attention to this matter.

Sincerely,

/s/ James R. Donnelly
Jamie R. Donnelly

JD/pmw
Enclosures

cc: Julie Frohlich, Assistant Attorney General
(via first class mail and email: julie.frohlich@mass.gov)



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COMMONWEALTH OF MASSACHUSETTS

MIDDLESEX, ss

SUPERIOR COURT DEPARTMENT
CIVIL ACTION NO: 2481CV03069

City of Malden,

Plaintiff,

v.

MANZA ARTHUR, Supervisor of Records
of the Public Records Division of the Office of
William Francis Galvin, Secretary of the
Commonwealth, WILLIAM FRANCIS GALVIN,
Secretary of the Commonwealth and
OPENCOMMONWEALTH (BRUCE
FRIEDMAN D/B/A
OPEN COMMONWEALTH.ORG),

Defendants.

PLAINTIFF CITY OF MALDEN'S
MOTION TO STRIKE AFFIDAVIT OF DEFENDANT BRUCE FRIEDMAN

NOW COMES Plaintiff City of Malden ("Malden") pursuant to Mass. R. Civ. P. 12(f) and requests that this Honorable Court strike as improper the Defendant Bruce Friedman's ("Mr. Friedman") affidavit and associated exhibits submitted on March 20, 2025, Docket No. 81 (the "Affidavit"). As grounds, and as explained in further detailed in Malden's Memorandum in Support of its Motion to Strike, the Affidavit is procedurally improper and inappropriate, factually inaccurate and irrelevant, and should not be considered by this Court. ¹

For the foregoing reasons, the Court should issue an order striking Mr. Friedman's Affidavit from this record of proceedings and accord it no weight moving forward.

¹ In the event that the Court determines the Affidavit constitutes a procedurally proper filing, Malden respectfully requests that the Court issue an order allowing it seven days from the date thereof to file an opposition.

Respectfully submitted by

Plaintiff City of Malden,
By its Attorneys,

/s/ James R. Donnelly

Felicia Vasudevan, Esq., BBO #687463
James R. Donnelly, Esq., BBO #713025
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fvasudevan@mhtl.com
jdonnelly@mhtl.com

Dated: April 4, 2025

CERTIFICATE OF SERVICE

I, James R. Donnelly, counsel for City of Malden, in the above-captioned case, certify that on this date I served the foregoing document via email and first class mail to the following recipients:

Bruce Friedman, d/b/a OpenCommonwealth.org
8 Marvin Street
Malden, MA 02148
bruce@amyandbruce.com

OpenCommonwealth
8 Marvin Street
Malden, MA 02148
info@opencommonwealth.org

Julie Frohlich
Assistant Attorney General
Constitutional & Administrative Law Division
Massachusetts Office of the Attorney General
One Ashburton Place
Boston, MA 02108
julie.frohlich@mass.gov

/s/ James R. Donnelly

James R. Donnelly

Dated: April 4, 2025

COMMONWEALTH OF MASSACHUSETTS

MIDDLESEX, ss

SUPERIOR COURT DEPARTMENT
CIVIL ACTION NO: 2481CV03069

City of Malden,

Plaintiff,

v.

MANZA ARTHUR, Supervisor of Records
of the Public Records Division of the Office of
William Francis Galvin, Secretary of the
Commonwealth, WILLIAM FRANCIS GALVIN,
Secretary of the Commonwealth and
OPENCOMMONWEALTH (BRUCE
FRIEDMAN D/B/A
OPEN COMMONWEALTH.ORG),

Defendants.

**PLAINTIFF CITY OF MALDEN'S MEMORANDUM OF LAW IN SUPPORT OF ITS
MOTION TO STRIKE AFFIDAVIT OF DEFENDANT BRUCE FRIEDMAN**

NOW COMES Plaintiff City of Malden ("Malden") pursuant to Mass. R. Civ. P. 12(f) and requests that this Honorable Court strike as improper Bruce Friedman's ("Mr. Friedman") affidavit and associated exhibits submitted on March 21, 2025, Docket No. 20 (the "Affidavit"). As grounds, and as explained in detail below, Mr. Friedman's Affidavit is procedurally improper, immaterial to this matter, and factually inaccurate. Accordingly, Malden respectfully requests that this Court strike from the record Mr. Friedman's Affidavit.¹

I. ARGUMENT

¹ In the event that the Court determines the Affidavit constitutes a procedurally proper filing, Malden respectfully requests that the Court issue an order allowing it seven days from the date thereof to file an opposition.

The Affidavit is procedurally deficient and substantively irrelevant and therefore should be stricken from the record. See Mass. R. Civ. P. 12(f) (“the court may after hearing order stricken from any pleading any insufficient defense, or any redundant, immaterial, impertinent, or scandalous matter.”). As an initial matter, the Affidavit was submitted unaccompanied by a motion, a request for relief or legal argument, rendering it a wholly insufficient defense.² Moreover, the Affidavit simply repeats what Mr. Friedman already argued *ad nauseam* in his Motion to Dismiss Under G.L. c. 231, § 59 H (the “anti-SLAPP Motion”), Docket No. 10, his Reply, Docket No. 14, and at oral arguments on March 12, 2025 – that Malden’s four cases³ seeking relief from his harassment are meant to deny his ability to make public records requests and constitute strategic litigation against public participation. Mr. Friedman should not be allowed to indiscriminately file supplemental affidavits following extensive motion practice and oral argument while the parties await a decision on the anti-SLAPP Motion.

Additionally, the Affidavit is immaterial to the anti-SLAPP Motion presently before this Court. As already extensively argued, anti-SLAPP motions to dismiss are governed by the Bristol framework, which requires that OpenCommonwealth show that Malden’s claim is based on petitioning activity alone. See Bristol Asphalt, Co. v. Rochester Bituminous Prods., Inc., 493 Mass. 539, 548, 555-56 (2024); see also Docket No. 12, p. 8-10. The Affidavit again fails to address Malden’s substantial claims for certiorari review from arbitrary and capricious determinations by the Defendant Supervisor of Records (“Supervisor”), and instead focuses on attempting to establish some nefarious intent by Malden. Malden’s intent⁴ is not relevant to the

² To the extent it is part of a motion for relief, Mr. Friedman had an obligation to file it via Superior Court Rule 9A. He failed to do so in this case and it should be dismissed on those grounds alone.

³ The City of Malden has three outstanding cases against Mr. Friedman, while Malden Public Schools has one outstanding case against Mr. Friedman.

⁴ As stated in its Opposition, Malden’s actual intent is to “correct the Supervisor’s arbitrary standard for ‘harassment’ which is incompatible with the Public Records Law and put an end to Defendant Friedman’s targeted, frivolous, and harassing conduct masquerading under the guise of the Public Records Law.”

anti-SLAPP analysis under the Bristol framework, and as such, the irrelevant Affidavit should be stricken. See Bristol, 493 Mass. at 539, 548, and 555-56.

Furthermore, the Affidavit is factually inaccurate. Paragraph 5 of the Affidavit states that “Attorney Donnelly appearing for the Plaintiff **denied** that either of the other two outstanding cases filed in 2024 buy [*sic*] the Plaintiff were about harassment.” Instead, as demonstrated by Paragraph 6 of the Affidavit, Attorney Donnelly stated that the *specific determinations* by the Supervisor from which the City sought relief in Docket No. 2481CV02456 and Docket No. 2481CV03277 were not about harassment in an effort to distinguish the posture of those cases from the instant case. And indeed, in the City’s other two cases, the Supervisor’s determinations simply deny Malden’s fee petitions based upon the Supervisor’s interpretation of “business days” under the Public Records Law; Malden first raises the issue of harassment in its respective Superior Court complaints. See City of Malden v. Manza Arthur et. al, Docket No. 2481CV02456, Dkt. No. 1; see also City of Malden v. Manza Arthur et. al, Docket No. 2481CV03277, Dkt. No 1. The Affidavit’s attempt to misconstrue statements by Malden’s counsel at oral argument to better fit Mr. Friedman’s absurd narrative of nefarious intent is misleading in itself.

Accordingly, the Affidavit should be accorded no weight in this matter and instead the Court should issue an order striking the Affidavit from the record of these proceedings.

II. CONCLUSION

For the foregoing reasons, Malden respectfully requests that this Honorable Court issue an order striking Mr. Friedman’s Affidavit from this record of proceedings and accord it no weight moving forward.

Respectfully submitted by

Plaintiff City of Malden,
By its Attorneys,

/s/ James R. Donnelly

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Julie Frohlich
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Boston, MA 02108
julie.frohlich@mass.gov

/s/ James R. Donnelly

James R. Donnelly

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