

COMMONWEALTH OF MASSACHUSETTS  
APPEALS COURT

No. 2025-P-0235

Middlesex, ss.

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Bruce Friedman, Defendant - Appellant

V.

City of Malden, Plaintiff - Appellee

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On Appeal from a Denial Without Prejudice From the Middlesex Superior Court  
Docket No.: 2481CV02456

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**Appellee's Reply Brief for the City of Malden.**

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Date: May 2, 2025

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### STATEMENT OF ISSUES

Should the Appellant's, Bruce Friedman ("Friedman"), appeal be dismissed because he has no right to a direct appeal of the trial court's ruling, since there has been no final judgment in this case?

### STATEMENT OF THE CASE

After filing his answer to Malden's complaint, Friedman filed a special motion to dismiss. (R.A. pgs. 110-117). On January 29, 2025, the Middlesex Superior Court denied Friedman's special motion to dismiss *without prejudice*, for failure to comply with Superior Court Rule 9A. (R.A. pg. 135). Friedman filed a Notice of Appeal on February 4, 2025. (R.A. pg. 138).

### STATEMENT OF THE FACTS

On September 13, 2024, Appellee, City of Malden ("Malden") filed a complaint against Friedman in Middlesex Superior Court, Docket No. 2481CV02456. (R.A. pgs. 6 - 58). Prior to Malden serving Friedman, Friedman learned of the complaint and filed an answer and counterclaims on December 10, 2025. (R.A. pgs. 82-107). Then, on January 24, 2025, Friedman filed a special motion to dismiss. (R.A. pgs. 110 - 117). Five days later, the court denied Friedman's special motion to dismiss, *without prejudice*, for failure to comply with Superior Court Rule 9A. (R.A. pg. 135).

## ARGUMENT

### Standard of Review

Although not explicitly indicated, Friedman's appeal is based on the deferential standard of review of the trial court's discretionary action. An abuse of discretion requires "a clear error of judgment in weighing the factors relevant to the decision, such that the decision falls outside the range of reasonable alternatives" (quotation and citation omitted). L.L. v. Commonwealth, 470 Mass. 169, 185 n.27 (2014). Weighing the factors relevant to its decision, this Court must determine whether the trial court's order of denying Friedman's special motion to dismiss, *without prejudice*, was an error of judgment. Id. (R.A. pg. 135).

However, before we can get to the standard of review, we must determine if Friedman's appeal is proper. As a general rule, this Court will review claims where there has been a final judgment, decree or order that ends the litigation on the merits, Mass. R. Civ. P. 54(a); an appealable interlocutory order as of right, Mass. R. App. P. 3 (See 2023 Reporter's Notes); or discretionary interlocutory appeal, G.L. c. 231, § 118, G.L. c. 211, § 3, or M. R. Civ. P. 64(a). In this instance, there has been no final judgment, nor is there any appealable interlocutory order as of right. Moreover, the trial court did not report its order to the Appeals Court, nor did Friedman petition the Supreme Judicial Court to hear this case under its

superintendence powers. Thus, the only possible avenue left for Friedman to file an appeal would be to file an interlocutory appeal under G.L. c. 231, § 118, and he has not done so<sup>1</sup>.

I. Friedman's case should be dismissed as a matter of course as he has no right to a direct appeal.

A direct appeal is commonly taken after a final judgment or final order of a lower court. "Under the [r]ules [of civil procedure], 'judgment' is merely the final adjudicating act of the trial court, and starts the timetable for appellate review".

Sliney v. Previte, 473 Mass. 283, 290 (2015). In other words, the lower court has made a final decision on all issues presented in the case. The theory behind the Court reviewing all issues raised in a case at one time, is that the Court does not want to waste "...judicial resources through duplicative, piecemeal appellate litigation..." it would be a waste of judicial resources for that issue to remain unresolved...". Maxwell v. AIG Domestic Claims, Inc., 460 Mass. 91, 99 (2011).

After Friedman filed his answer with this court, he then filed a special motion to dismiss directly with the trial court. (R.A. pgs. 4-5). Friedman failed to comply with Superior Court Rule 9A, and file as a package, his motion, affidavit of

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<sup>1</sup> Even if Friedman had filed an interlocutory appeal, and if a single justice elected to hear his appeal, the result would be the same.

compliance, and any opposition with the court. (S.R.A. pgs. 1 – 8). As a result of his noncompliance, the trial court denied his special motion to dismiss *without prejudice*. (R.A. pg. 135).

As this Court noted, “[I]nterlocutory rulings may not be presented piecemeal to the Appeals Court or to [this court] for appellate review” because, “if such were not the rule, a creative party could engage in numerous opportunities to appeal from adverse rulings, thus significantly and needlessly **aging** the case.” McGrath v. McGrath, 65 Mass.App.Ct. 670, 672, 843 N.E.2d 100 (2006), quoting Manousos v. Sarkis, 382 Mass. 317, 321 (1981). If this Court were to accept Friedman’s appeal, it would be allowing Friedman to present his case in piecemeal and superfluously prolong this case.

Moreover, there is no significant or egregious issue where this Court should take this matter on appeal. We see “[n]othing in the papers before us suggest[ing] a pressing, exceptional need for immediate appellate intervention, or grave injustice of the sort remediable only by allowing an appeal to be taken forthwith, or dire hardship of a unique kind.” Long v. Wickett, 50 Mass. App. Ct. 380, 403, (2000) quoting Spiegel v. Trustees of Tufts College, 843 F.2d 38, 45–46 (1<sup>st</sup> Cir. 1988).

## CONCLUSION

In short, Friedman has no right to appeal the trial court's decision because there is no final order. For the reasons set forth above, this Court should dismiss Friedman's appeal and grant all other relief that is just and proper.

Respectfully submitted  
The City of Malden  
By its attorney  
/s/ *Alicia A. McNeil*

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Superior Court Rule 9A

Rule 9A. Civil Motions

Currentness

(Applicable to civil cases)

**(a) Motion Practice and Format of Papers.**

(1) *Motions*. A moving party must serve with the motion, which shall contain a request for a hearing (if desired), (1) a separate memorandum stating the reasons, including supporting authorities, that the motion should be granted and (2) affidavits or other exhibits evidencing facts on which the motion is based. These papers are referred to below as the “Motion Papers.” The moving party shall initiate a conference with the other parties for all dispositive and discovery motions subject to Rule 9C. Motions for summary judgment must also comply with section (b)(5), below.

(2) *Oppositions to Motions*. A party opposing a motion may serve (1) a memorandum in opposition that includes a statement of reasons, with supporting authorities, that the motion should not be allowed, together with a request for a hearing (if desired) and (2) affidavits or other exhibits evidencing facts on which the opposition is based, as well as (3) any cross-motion (including but not limited to a motion to strike) and (4) memorandum and affidavits supporting the cross-motion. These papers are referred to below as the “Opposition.”

(3) *Reply/Opposition to Motion to Strike*. The moving party may file a reply memorandum limited to matters raised in the opposition that were not and could not reasonably have been anticipated and addressed in the moving party's initial memorandum (“Reply”). The moving party may also file an opposition to any motion to strike or cross-motion. No other reply or surreply submission shall be filed without leave of court, which will be granted only in exceptional circumstances.

(4) *Facts Verified by Affidavit*. The court need not consider any motion, opposition, or reply based on facts unless the facts are verified by affidavit, are otherwise apparent in the record, or are agreed to in a writing signed by the interested parties or their counsel.

(5) *Format and Length of all Papers Except Exhibits*. All papers addressed by this Rule 9A, except exhibits, must conform to the following requirements:

(i) Paper size. Papers must be on 8 1/2" by 11" paper.

(ii) *Typeface.* Papers must be in 12-point, double-spaced type. The caption, footnotes, and indented quotations may be single-spaced in 12-point type.

(iii) *Title.* The title of each document must appear on the first page next to or below the caption.

(iv) *Length.* The memorandum supporting the motion or cross-motion and the memorandum in opposition may not exceed 20 pages, and the reply may not exceed 5 pages. Any appendix permitted by Superior Court Rule 9C(b) is not included in the page limit. Nor is an addendum that sets forth, verbatim and without argument, pertinent excerpts from key documents, statutes, regulations or the like.

(v) *Email Addresses.* Each attorney or self-represented party filing motion or opposition papers must include his or her email address on the papers, or certify in the filing that he or she does not have an email address.

(6) *Leave of court.* Advance leave of court is required to exceed the page limit or file a surreply. All requests for leave of court must: (1) be captioned as a pleading, (2) not exceed one page in length (not counting the caption and title), (3) state the grounds and specific relief sought (e.g., a specific proposed new page limit) and (4) include a certificate of service. The request must be sent directly to the session clerk, ATTN: Session Judge. The request must be served on all other parties, but the court need not await a response to such request before ruling. Any leave granted to the moving party for additional pages applies to the opposing party's memorandum as well, unless otherwise ordered. The title of any surreply and any memorandum exceeding 20 pages must note the date on which leave was allowed.

(7) *No Automatic Extension of Time Pending Leave of Court.* A request for leave of court under Paragraph (a)(6) does not extend the date for filing the Rule 9A Package (See Rule 9A(b)(2)) to which it relates, unless the court orders otherwise or all parties agree.

(8) *Attorney Certifications.* All dispositive and discovery motions shall include the certificate required by Superior Court Rule 9C.

**(b) Procedure for Serving and Filing Motions.**

**(1) *Service.***

(i) *General:* All Motion Papers, Oppositions, and Replies must be served on all parties and filed with the clerk in accordance with the procedure set forth in this Paragraph (b). Compliance with this Paragraph shall constitute compliance with the "reasonable time" provisions of the first sentence of Mass. R. Civ. P. 5(d)(1).

(ii) *When Service on Non-Parties is Required:* Papers must be served on specifically named non-parties in compliance with this Rule if (a) the Motion seeks to add the non-party as a party to the case; (b) the Motion seeks an order or other relief against the non-party; (c) the issues affect the personal information or other interests of the non-party. The non-party need not be served, however, if excused by a court order issued in advance for cause or if a statute or rule expressly authorizes ex parte relief.

(iii) Electronic Service: Motion and opposition papers may be served entirely electronically if the parties agree in writing to the method of service and the electronic format. The parties should note on their filings "served via email" so that scanned signatures are accepted by the court, except that all papers signed under penalties of perjury must bear original signatures when filed with the clerk. The agreement may be revoked only upon 10 days written notice to all parties. All 9A certifications must be filed in hard copy with original written signatures.

(2) *The Rule 9A Package.*

(i) The parties must cooperate in filing with the court a "Rule 9A Package." The Rule 9A Package consists of the original Motion Papers, the Opposition, and the Reply, any other papers for which leave of court is granted under Paragraph (a)(6), and any appendices or other papers permitted or required by this Rule, statute, or order of the court.

(ii) Time for Filing or Withdrawal of the Motion. Within 10 days of service of the Opposition, the moving party must either (1) file the Rule 9A Package with the court or (2) notify all parties that the motion has been withdrawn and will not be filed. If the moving party does not receive an Opposition within 3 business days after expiration of the time permitted for service of an Opposition, then the moving party must file with the clerk the Motion Papers together with an affidavit reciting compliance with this Rule and receipt of no Opposition in a timely fashion, unless the moving party withdraws the motion and has so notified all parties.

(iii) Notice of Filing. The moving party must give prompt notice of the filing of a Rule 9A Package by serving all parties with a copy of a notice of filing in a separate document that lists the title of each document included in the Rule 9A Package, and by filing the notice with the Rule 9A Package. No other list of documents need be included in the Rule 9A Package.

(iv) Exhibits. Exhibits, attached to a motion, memorandum or affidavit, or contained in a separate appendix, must be separated from one another by off-set tab dividers, or page markers if filed electronically, and the pages of the exhibits must be consecutively numbered. If more than one exhibit is included, a Table of Contents or Exhibit Index shall precede the exhibits.

(3) *Time Periods in General.* The time periods prescribed below apply unless a different time period is set by statute or order of the court. Where papers are served by mail, these time periods are extended by 3 days in accordance with Mass. R. Civ. P. 6(d).

(4) *Motions Except Motions for Summary Judgment.*

(i) Time for Service of Opposition. All Oppositions must be served no later than 10 days after service of the Motion Papers.

(ii) Effect of cross-motion/motion to strike. The provisions of Paragraph (b)(4)(i) apply to cross-motions (including motions to strike) served with the Opposition to a motion. When a cross-motion is brought, the time for filing the Rule 9A Package for the original motion is extended to be coterminous with the date for filing the cross-motion. The Rule 9A Packages for the original motion and the cross-motion must be filed together by the original moving party.

(5) *Motions for Summary Judgment.*

(i) **Statement of Facts.** A motion for summary judgment must be accompanied by a statement of the material facts as to which the moving party contends there is no genuine issue to be tried, set forth in consecutively numbered paragraphs, with page or paragraph references to supporting pleadings, depositions, answers to interrogatories, responses to requests for admission, affidavits, or other evidentiary documents ("Statement of Facts"). Only such facts as are material to deciding the motion shall be included in the Statement of Facts.

The Statement of Facts as served shall not exceed 20 pages in length and shall not include:

a. Background facts not material to decision of the motion. Such facts may be included in a party's memorandum of law even though they are not in the statement.

b. Quotations from any contract, trust, agreement, or other transactional document, or any characterizations of the document (except if admissible through percipient witnesses). The Statement of Facts may only establish the existence and authenticity of the document and the date it became effective.

c. Quotations from any statute, regulation or rule.

Quotations from material described in paragraphs b and c may be included, without argument or commentary, in an addendum to the party's memorandum of law.

This Statement of Facts must be a separately captioned document. Failure to include the Statement of Facts constitutes grounds for denial of the motion. The Court may disregard a Statement of Facts in whole or part if it is unnecessarily long or otherwise materially out of compliance with this rule.

(ii) **Service of Motion Papers.** The moving party must serve a copy of its Motion Papers, and the Moving Party's Statement of Facts, on every other party. The Moving Party's Statement of Facts must also be sent contemporaneously in electronic form by email to all parties in Rich Text Format (RTF) or such other format as to which the parties agree. The email transmission of the Moving Party's Statement of Facts is excused if (1) the moving or any opposing party is self-represented, (2) the attorney for the moving party certifies in an affidavit that he or she does not have access to email, or (3) the attorney for the moving party certifies in an affidavit that an opposing party's attorney has no email address or has not disclosed his or her email address.

(iii) **Opposition.** Within 21 days after service of the Motion Papers, any party opposing the motion must serve on the moving party the original and one copy of the Opposition, and must serve on all other parties one copy of the Opposition.

(A) **Response to Moving Party's Statement of Facts.** The Opposition may include a response to the Moving Party's Statement of Facts. The opposing party must reprint the Moving Party's Statement of Facts and set forth a response directly below the appropriate numbered paragraph, including, if the response relies on opposing evidence, page or paragraph references to supporting pleadings, depositions, answers to interrogatories, responses to requests for admission, affidavits, or other evidentiary documents. The response to the numbered paragraphs shall be limited to

stating whether a given fact is disputed and, if so, cite to the specific evidence, if any, in the Joint Appendix that demonstrates the dispute. It shall not:

- a. Deny a fact unless the party has a good faith basis for contesting it.
- b. Include a statement that a fact is not supported by the materials cited by the moving party, unless the responding party has a good faith basis for contesting it.
- c. Include commentary on whether the fact asserted is relevant or material to any issue raised in the case, although a responding party may indicate, where appropriate, that the fact is admitted only for the purposes of the summary judgment motion.
- d. Assert any Additional Facts. Additional facts may be included in the response only in the manner provided in section (b)(5)(iii)(B) below.
- e. Make legal arguments or advocacy-oriented characterizations concerning the sufficiency, relevance or materiality of the moving party's factual proffers.

Where the obligation to send the Moving Party's Statement of Facts in electronic form has been excused, the response thereto may be in a separate document. For purposes of summary judgment, each fact set forth in the moving party's statement of facts is deemed to have been admitted unless properly controverted in the manner provided in this Paragraph (b)(5)(iii)(A).

(B) Statement of Additional Facts. Opposing parties who argue that additional facts warrant denying summary judgment shall include those facts in the opposition memorandum, each to be supported with page or paragraph references to supporting pleadings, depositions, answers to interrogatories, responses to requests for admission, affidavits, or other evidentiary documents. They may not submit a separate statement of additional facts, except in support of a cross-motion for summary judgment.

(C) Service of Response to Statement of Facts. The opposing party's response to the Moving Party's Statement of Facts must be served contemporaneously by email as described in (b)(5)(H) above, unless such service is excused.

(D) Exhibits for Joint Appendix. "Where the opposing party relies upon evidence not included in the exhibits served with the Motion Papers, the opposing party must serve the moving party with such evidence in the form of new exhibits for inclusion in the Joint Appendix, in accordance with Paragraph (b)(5)(v) below.

(E) Citation of Evidence. The opposing party must cite to the Joint Appendix in accordance with Paragraph (b)(5)(v) below.

(iv) Filing of Rule 9A Package.



(A) Joint Appendix and Statement of Facts. The Rule 9A Package must also include the Joint Appendix and a Consolidated Statement of Facts, which must include the opposing party's responses to the Moving Party's Statement of Facts. Similarly, in cases with multiple parties, all parties moving or opposing summary judgment shall coordinate their statements and responses so that there shall be a single statement and response covering all motions. Unless the obligation to send the Moving Party's Statement of Facts or the response thereto in electronic form has been excused, only the Consolidated Statement of Facts (and not any intermediate versions thereof) may be filed so that the court has only a single document.

(B) Service of Statement of Facts and Joint Appendix. Upon filing the Rule 9A Package, the moving party must serve on the opposing parties the Notice of Filing described below and the following, in paper and electronic form, unless electronic form is excused: (1) the Consolidated Statement of Facts filed with the clerk; (2) the Joint Appendix, unless the parties otherwise agree

(C) Effect of Cross-Motion/Motion to Strike. The provisions of Paragraph (b)(5)(i)-(iv) apply to cross-motions for summary judgment and any other cross-motion (including a motion to strike) served with the Opposition to a motion for summary judgment. A separate Consolidated Statement of Facts must be served with any cross-motion for summary judgment. All parties moving for or opposing summary judgment shall coordinate their statements and responses so that there shall be a single consolidated document containing the respective statements of material facts and responses thereto. When a cross-motion (including motion to strike) is brought, the time for filing the Rule 9A Package for the original motion is extended to be coterminous with the date for filing the cross-motion. The Rule 9A Packages for the original motion and the cross-motion must be filed together by the original moving party.

(v) Joint Appendix.

(A) Contents, Format, Citation, and Service. All exhibits referred to in the memoranda supporting or opposing a motion or cross-motion for summary judgment, or in the Consolidated Statement of Facts, must be filed as a single joint appendix, which must include an index of the exhibits ("Joint Appendix"). The initial moving party, with the cooperation of each opposing party, is responsible for assembling the Joint Appendix and index. All pages of the Joint Appendix must be consecutively numbered by page, and each exhibit must be separated by an off-set tab divider, or page marker if filed electronically. The exhibits served by the moving party with its Motion Papers must include the consecutive numbering and offset tabs. Where an opposing party relies upon any evidence included in the moving party's exhibits, the opposing party must cite to that evidence using the form of designation of the moving party. If the opposing party designates new exhibits in accordance with Paragraph (b)(5)(iii)(D), it must serve those new exhibits, together with an index of the new exhibits, on the moving party with the Opposition, and it must serve the index on the moving party in electronic form (unless electronic service is excused). Those new exhibits must begin with the next consecutive designation following the last designation by the initial moving party (consecutive page numbering and off-set tab dividers). The opposing party must serve the original and one copy of those new exhibits with its Opposition. If the summary judgment package is e-filed, the moving party is responsible for delivering a courtesy copy of the Joint Appendix to the Session Clerk, if the clerk or hearing judge requests.

(B) Certification. The initial moving party must certify that the Joint Appendix includes all exhibits served with the Opposition, except for any exhibit(s) designated by the opposing party but not provided to the moving party. The burden is on the opposing party to move to file any designated exhibit not timely submitted. All memoranda of law filed in support of or in opposition to a motion for summary judgment shall reference the exhibit numbers as well as a paragraph in the statement of material facts.

(vi) *Decision on Certain Motions Without a Hearing.* The following types of summary judgment motions may, in the court's discretion, be denied on the papers without a hearing notwithstanding Rule 9A(c)(3) (but shall not be granted without a hearing unless the hearing is waived):

(1) Multiple summary judgment motions by a single party, or subsequent summary judgment motions by parties sharing similar interests and making the same arguments as those the court has already resolved.

(2) Motions for partial summary judgment that will save little or no trial time, will not simplify the trial and will not promote resolution of the case.

(3) Motions for summary judgment where a genuine dispute of material fact is obvious on the face of the papers.

(vii) *Sanctions for Noncompliance.* The court need not consider any motion or opposition that fails to comply with the requirements of this Rule, may return non-compliant submissions to counsel with instructions for re-filing, and may impose other sanctions for flagrant violations of the Rule.

**(c) Hearings on Motions.**

(1) *Marking.* If the court believes that a hearing is necessary or helpful to a disposition of the motion, the court will set the time and date for the hearing and notify the parties.

(2) *Request for Hearing.* A request for a hearing must set forth any statute or rule of court which, in the judgment of the submitting party, requires a hearing on the motion, as well as any reason why the court should hold a hearing. After reviewing the motion, the court will decide whether a hearing should be held and, if a hearing is to be held, will notify the parties in accordance with Paragraph (c)(1). Failure to request a hearing shall be deemed a waiver of any right to a hearing afforded by statute or court rule.

(3) *Presumptive Right to, Hearing.* Requests for hearings on the following motions will ordinarily be allowed: Attachments (Rule 4.1), Trustee Process (Rule 4.2), Dismiss or Judgment on the Pleadings (Rule 12), Adopt Master's Report (Rule 53), Summary Judgment (Rule 56), Injunctions (Rule 65), Receivers (Rule 66), and Lis Pendens (G.L. c. 184, sec. 15). Motions that are not set down for hearing in accordance with Paragraph (c) will be decided on the papers filed in accordance with this Rule.

**(d) Exceptions.** The provisions of this Rule do not apply to the following motions:

(1) *Ex Parte, Emergency, and Other Motions.* A party filing an ex parte motion, emergency motion, or motion for appointment of a special process server is excused from compliance with Paragraph (b) of this rule. Ex parte motions must be served within 3 days of a ruling on the motion. Emergency motions, other than ex parte motions, must be served on all parties forthwith upon filing; provided, however, that a party filing an emergency motion shall certify in the motion that it has made a good



faith effort to contact and confer with all parties regarding the subject of the motion, and shall set forth in the motion whether any party assents to or opposes the emergency motion. The nature of the emergency must be clearly specified in the motion.

(2) *Motions Involving Incarcerated Parties.* Administrative Directive No. 92-1, which governs civil actions filed by a plaintiff who is incarcerated, exempts that part of subdivision (b)(4)(i) of this Rule that requires the filing of the Rule 9A package. Such exemption also applies to motions in civil actions where a defendant is incarcerated and self-represented, but all parties, incarcerated or not, must serve copies upon all other parties in the case. Upon release, a previously incarcerated party shall promptly file and serve notice of change of address. All provisions of Rule 9A shall take effect (a) for the previously incarcerated party, the day of release; and (b) for the non-incarcerated party, the day of notification of the other party's release.

(3) *Motions Governed by E-filing Rules.* A motion governed by a Statute or a Court rule or order for e-filing is exempt from any requirement of this Rule to the extent inconsistent with such e-filing requirements.

(4) *Review of Decision of Administrative Agency.* Motions governed by Standing Order 1-96, to the extent the standing order specifies alternate procedures.

#### **Credits**

Adopted July 21, 1988, effective October 3, 1988. Amended July 18, 1989, effective October 2, 1989; December 6, 1989, effective January 31, 1990; December 17, 1991, effective March 1, 1992; December 10, 1993, effective January 1, 1994; February 24, 1998, effective April 1, 1998; October 6, 2004, effective November 1, 2004; January 22, 2009, effective March 2, 2009; October 24, 2012, effective January 1, 2013; September 24, 2013, effective January 1, 2014; February 20, 2014, effective April 1, 2014; September 24, 2015, effective January 1, 2016; July 26, 2017, effective September 1, 2017; July 27, 2018, effective November 1, 2018; August 3, 2023, effective September 1, 2023.

#### **Editors' Notes**

##### **GENERAL NOTES**

[*Publisher's Note:* See the Superior Court Appendix of Administrative Directives following the Superior Court Rules and Appendix of Forms.]

#### Notes of Decisions (4)

Superior Court Rule 9A, MA R SUPER CT Rule 9A

Current with amendments received through March 1, 2025. Some rules may be more current; see credits for details.

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**End of Document**

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## CERTIFICATE OF COMPLIANCE

### **Pursuant to Rule 16(k) of the Massachusetts Rules of Appellate Procedure**

I, Alicia A. McNeil, hereby certify that the foregoing brief complies with the rules of court that pertain to the filing of briefs, including, but not limited to:

Mass. R. A. P. 16 (a)(13) (addendum);  
Mass. R. A. P. 16 (e) (references to the record);  
Mass. R. A. P. 18 (appendix to the briefs);  
Mass. R. A. P. 20 (form and length of briefs, appendices, and other documents); and  
Mass. R. A. P. 21 (redaction).

*Use only if producing brief in a proportional font/word limit:* I further certify that the foregoing brief complies with the applicable length limitation in Mass. R. A. P. 20 because it is produced in the proportional font Goudy Old Style at size 14, and contains 952 total non-excluded words as counted using the word count feature of Microsoft Word.

/s/ *Alicia A. McNeil*

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Alicia A. McNeil, Esq.

## CERTIFICATE OF SERVICE

I, Alicia A. McNeil, attorney for the City of Malden, certify under the pains and penalties of perjury that I have on this 2<sup>nd</sup> day of May 2025, pursuant to Mass.R.A.P. 13(d), made service of this Brief and Appendix upon the attorney of record for each party, and the pro se litigant, by the Electronic Filing System and email on:

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/s/ *Alicia A. McNeil*

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