

MOTION TO THE COURT AND AFFIDAVIT	CASE DOCKET NO. <u>1781CV02701</u> <i>Civil Docket No</i>	Trial Court of Massachusetts District Court Department
<u>Walter Tuwell</u> PLAINTIFF / COMMONWEALTH	vs <u>JACK Marshall</u> DEFENDANT	Middlesex Superior Court DISTRICT COURT

On behalf of the Plaintiff Commonwealth Defendant in this case, I respectfully request the Court:

Continuance: to continue this case which is presently scheduled for _____
Event
on _____, until _____, for the reasons given on page 2 of this form.

Removed default: to order that the default, default order, or default judgment that was entered on _____ be set aside, and that this case be restored to the court's calendar, for the reasons given on page 2 of this form.

Removed dismissal: to order that the order for, or judgment of, dismissal that was entered on _____ be set aside, and that this case be restored to the court's calendar, for the reasons given on page 2 of this form.

Speedy trial: to order that the complaints whose numbers are listed above be advanced for speedy trial, for the reasons given on page 2 of this form.

New trial: to order that the court's judgment in this case dated _____ be vacated and a new trial ordered, for the reasons given on page 2 of this form. Date

Revise or revoke sentence: to revise or revoke the sentence(s) imposed in this case on _____ for the reasons given on page 2 of this form. Date

Amend or extend an abuse prevention order: to extend or amend the abuse prevention order under G.L. c. 209A dated _____ in the manner and for the reasons given on page 2 of this form.

Withdraw from representation: to be permitted to withdraw from further representation of the _____ Party in this case for the reasons given on page 2 of this form.

Other: (Specify what you are asking the Court to do and the reasons on a separate piece of paper and attach it to this form.)
AWARD COSTS TO DEFENDANT AS explained Therein.

I have today mailed delivered a copy of this motion to all other parties to this case.

Any statements of fact made in this motion are made under the penalties of perjury and of my own personal knowledge. based on information that I believe is true.

DATE <u>June 1, 2018</u>	SIGNED <u>Jack A. Marshall</u>	
PRINT NAME <u>JACK A. Marshall</u>	ADDRESS <u>2707 Westminster Place, Alexandria, VA</u>	PHONE NO. <u>703-548-9408</u>

If motion is agreed to by other party, that party or attorney should sign here to indicate assent.

DATE	SIGNED <u>X</u>	PHONE NO.
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FOR CLERK-MAGISTRATE'S USE ONLY

This motion has been scheduled for hearing > before the Court on this date and time >	DATE OF HEARING	TIME OF HEARING
DATE	CLERK-MAGISTRATE OR DESIGNEE	

FOR JUDGE'S USE ONLY

After hearing Without a hearing this motion is Allowed. Denied.

DATE	JUSTICE <u>X</u>
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MOTION TO THE COURT
AND AFFIDAVIT - PAGE 2

CASE DOCKET NO. *Civil Docket/No*
1781CV02701

*MIDDLESEX SUPERIOR
COURT*

Please note that you must comply with any court rules that govern your specific motion. Attach any materials you wish the Court to consider. Include all reasons for your motion; failing to include a reason may bar you from raising it later. As indicated on page one, note that any factual statements are made under the penalties of perjury.

**Supporting Declaration Regarding Motion to Award Costs To Defendant in the
Matter of Walter Tuvell v. Jack Marshall, (Civil Docket NO. 1781CV02701)**

My name is Jack Marshall. I am a long-time member of the Massachusetts Bar (since 1975), inactive as of 2018, since I reside in Virginia. I also help teach the Mandatory course on Practicing With Professionalism required of all new admittees to practice in Massachusetts.

This is a Motion to Award costs to me, as the Defendant, in the pending case, *Walter Tuvell v. Jack Marshall*.

As I explained in detail in my Motion to Dismiss with Prejudice (October 16, 2017), the defamation suit filed against me in *Walter Tuvell v. Jack Marshall* has no legitimate legal basis. It is my belief that the suit was filed vindictively, and for the explicit purpose of causing me inconvenience, annoyance and expense, as well as to waste my time. The plaintiff was angry, as far as I can tell, because I refused his invitation to involve myself in his vendetta against a Massachusetts judge, Denise Jefferson Casper, United States District Judge of the United States District Court for the District of Massachusetts, the former Deputy District Attorney for the Middlesex District Attorney's Office in Cambridge, Massachusetts. Her offense, in Mr. Tuvell's view, was ruling against the Plaintiff in another one of his frivolous lawsuits, *Tuvell v. IBM*.

To briefly summarize the Motion to Dismiss, which will, I fervently hope, be resolved on June 7, every one of the alleged examples of libel claimed by the plaintiff fail the tests established in various Massachusetts cases. The instances of "libel" claimed by the Plaintiff are, without exception, opinions, insults, honest and *de minimus* errors of fact that were retracted in a timely manner, or unrefuted statements of fact. Moreover, every statement cited by the plaintiff occurred in online interactions as a result of his voluntary participation in a blog with its conditions of participation and methods of discourse clearly explained.

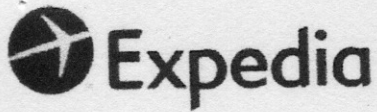
Mr. Tuvell is also claiming significant damages that are not only speculative but impossible. To this date, fewer than 488 individuals have had the opportunity to read the comments that he objects to, and in all likelihood far fewer.

Nonetheless, the plaintiff's law suit has succeeded in its vindictive objectives in many respects. It has taken up time and resources which I would have been

otherwise devoting to the mission of improving the legal profession's skills at identifying and avoiding ethical problems. My trip to Boston on June 7, in order to present and argue my Motion to Dismiss, entails out pocket expenses of \$638.95, not considering gasoline and meals, expenses that I will waive in the interests of simplicity. I have been careful to mitigate expenses, as I am not spending any money on lodging.

I believe that it would be unjust for Mr. Tuvell to be able to force me to expend this sum to defend an objectively frivolous and vexatious lawsuit, and ask the Court to require him to reimburse me the amount of \$638.95.

The receipts for my trip to Boston for the hearing are attached.



Boston

Jun 7, 2018 - Jun 7, 2018 | Itinerary # 7356258471285

Important Information

- Remember to bring your itinerary and government-issued photo ID for airport check-in and security

Price Summary

- Roundtrip Flight
- Rental Car
- Cancellation Plan
- Travel Protection - Car Rental Insurance

Total	\$638.95
Subtotal	\$638.95
Taxes & Fees	\$0.00

Washington (DCA) → Boston (BOS)

Jun 7, 2018 - Jun 7, 2018 , 1 round trip ticket

Your ticket is not yet confirmed. We are confirming it with the airline and will update your online itinerary within 24 hours.

TICKETING IN PROGRESS

Additional Flight Services

- The airline may charge additional fees Opens in a new window. for checked baggage or other optional services.

Traveler Information

Jack Anderson	No frequent flyer	Ticketing in progress
MARSHALL JR	details provided	
Adult		

* Seat assignments, special meals, frequent flyer point awards and special assistance requests should be confirmed directly with the airline.

Jun 7, 2018 - Departure Nonstop Total travel time: 1 h 35 m

Washington	Boston	1 h 35 m
DCA 8:30am	BOS 10:05am	
American Airlines 2169		
Economy / Coach (V) MAIN CABIN Confirm seats with the airline*		

Jun 7, 2018 - Return Nonstop Total travel time: 1 h 52 m

Boston	Washington	1 h 52 m
BOS 7:00pm	DCA 8:52pm	
American Airlines 2120		
Economy / Coach (L) MAIN CABIN Confirm seats with the airline*		