

Appeals Court of the Commonwealth of Massachusetts

№ 2018-P-1605

Walter Tuvell

Plaintiff/Appellant

v.

Jack Marshall

Defendant/Appellee

On Appeal From A Judgment Of The
Middlesex Superior Court (№1781CV02701)

MOTION IN OPPOSITION TO TIME-EXTENSION

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MOTION IN OPPOSITION TO TIME-EXTENSION

Plaintiff/Appellant Walter Tuvell hereby opposes Defendant/Appellee Jack Marshall's "**Motion to Extend Time To File Apellee [sic] Brief**" (MotExtTime) (dated Jan 29 2019). Marshall's MotExtTime should be DENIED.

As reasons, Tuvell states as follows:

(i) Marshall has already received one time-extension (unopposed by Tuvell). MotExtTime¶12. For that reason alone, he is not entitled to, nor does he deserve, any more.

(ii) *Even if* Marshall deserved a second extension: (ii') he *should* (by ethics protocol) have checked with Tuvell first; (ii") he *must* (by court rule) have filed his motion PRIOR to expiration of the second deadline. He did neither. MotExtTime¶9. His willful snubbing/dissing of this court's ethical standards imposed upon litigants and their representatives (noting that Marshall is a lawyer) shows he deserves no leeway/pity (he's not really a *pro se*, as he pretends to be, and as Tuvell really is).

(iii) Marshall has given no valid/compelling/trustable reason for violating his second deadline. In particular, the trivial illness he mentions at MotExtTime ¶13 is *not* "serious" as he pretends (because unaccompanied by any medical professional's verification), so is a meaningless subterfuge/smokescreen.

(iv) Too, the many “errors/apologies” he mumbles at MotExtTime¶6,8,11,14 are too-numerous, and eminently avoidable (absent stark incompetence), hence insincere.

(v) At MotExtTime¶3–8, Marshall “explains” his efforts to obtain a “needed” copy of the Appeals Appendix (AplApx) from the court. **BUT HE’S LYING: he always had full access to AplApx.** For, Tuvell had already served AplApx upon Marshall *immediately upon its filing*. This was certified at AplApx,¶225; and *proof* of that certification is provided herein at Exhibit A ¶4 *infra*.

(vi) Marshall’s protestations at MotExtTime¶6 about “misunderstanding” are disingenuous/LIES. For, Tuvell explained to him at the time exactly what was happening, namely, that he’d attempted to file a trivially-corrected version of AplApx, but when that was rejected for technical reasons he abandoned the attempt. This interaction is proved/provided herein at Exhibit B ¶9 *infra*.

(vii) Finally, on top of all the above, Marshall has the gall to try tricking this court into “trusting” he needs/requires/demands a *full month’s* enlargement of time — even though his brief is already “*almost complete,*” by his own self-admission/confession (MotExtTime¶15).

Oh Come On.

EXHIBIT A: EMAILS ATTESTING ORIGINAL/ TIMELY SERVICE OF APLAPX UPON MARSHALL

As mentioned in ¶(v) *supra*, the emails included in this Exhibit provide proof of Tuvell's sworn certification (AplApx₂₂₅) of service of AplApx. These four emails (each printed here on a single page) regard all four stages of production of AplApx:

- Pre-production collaboration.
- Service of 1st (flawed) version. This was rejected for technical reasons (MotExtTime¶2).
- Notice of rejection of 1st version (see preceding bullet).
- Service of 2nd (corrected, final) version.

Note: Marshall never responded to any of these (neither via email nor U.S. Mail, noting that Marshall is certainly "Internet literate," and does advertise his email address for purposes of this litigation).

Subject: Appeals Appendix
From: Walt Tuvell <Walt.Tuvell@gmail.com>
Date: 11/26/18, 8:45 AM
To: Jack Marshall <jamproethics@verizon.net>

/* BY EMAIL AND U.S. MAIL */

Jack —

Now that the record on appeal has been assembled (you will have been notified of this by the court clerk), I am compiling the joint Appeals Appendix. I propose to include the following. Please comment within the next 2 weeks (by Dec 9), otherwise I will generate/submit the Appendix as unopposed.

- Complaint (http://judicialmisconduct.us/sites/default/files/2017-09/Marshall%3DComplaint_0.pdf)
- Motion to Dismiss (<http://judicialmisconduct.us/sites/default/files/2017-10/Tuvell-v-Marshall%3DDefMotionToDismiss.pdf>)
- Opposition (<http://judicialmisconduct.us/sites/default/files/2018-06/Tuvell-v-Marshall%3DPIfDismissOppMemo.pdf>)
- Opinion with Annotations (<http://judicialmisconduct.us/sites/default/files/2018-09/Opinion%2BANN.pdf>)
- Transcript with Annotations (<http://judicialmisconduct.us/sites/default/files/2018-09/OralArgumentTranscription%2CANNOTATED.pdf>)
- Table of Defamations (<http://judicialmisconduct.us/sites/default/files/2018-10/TableOfDefamations.pdf>)

— Walt

Subject: Appeal filed
From: Walt Tuvell <Walt.Tuvell@gmail.com>
Date: 12/12/18, 1:05 PM
To: Jack Marshall <jamproethics@verizon.net>

/* BY EMAIL AND U.S. MAIL */

<http://judicialmisconduct.us/sites/default/files/2018-12/ApltBrief.pdf>

<http://judicialmisconduct.us/sites/default/files/2018-12/AppealsAppendix.pdf>

Subject: Filing rejected
From: Walt Tuvell <Walt.Tuvell@gmail.com>
Date: 12/13/18, 11:19 AM
To: Jack Marshall <jamproethics@verizon.net>

/* EMAIL ONLY (as a courtesy, because there's no formal reqt to serve you with this info) */

Yesterday's filing was rejected, for some sort of technical non-compliance reasons I don't know yet (they wouldn't tell me, it's being U.S. mailed to me). So I'll correct and refile.

Subject: Appeal filing, 2nd attempt corrected
From: Walt Tuvell <Walt.Tuvell@gmail.com>
Date: 12/17/18, 9:26 AM
To: Jack Marshall <jamproethics@verizon.net>

/* BY EMAIL AND U.S. MAIL */

http://judicialmisconduct.us/sites/default/files/2018-12/ApltBrief_0.pdf

http://judicialmisconduct.us/sites/default/files/2018-12/AppealsAppendix_0.pdf

EXHIBIT B: ATTEMPTED/ABANDONED CORRECTION TO APLAPX

The two emails in this Exhibit (the first occupying one page; the second occupying two pages in darker background, and which includes a third email involved in this stream) “puts the lie” to Marshall’s false protestations at MotExtTime¶6.

In short: No sane litigant — much less lawyer — could possibly, in good faith, “misunderstand” what was happening, contrary to Marshall’s **LIE** at MotExtTime¶6.

Subject: Corrected Appeals Appendix
From: Walt Tuvell <Walt.Tuvell@gmail.com>
Date: 1/10/19, 12:19 PM
To: Jack Marshall <jamproethics@verizon.net>

I'm in the process of filing a corrected version of the Appendix. It's at http://judicialmisconduct.us/sites/default/files/2019-01/AppealsAppendix_BIS.pdf. Once the court clerks OK it, I'll upload the official (court-stamped) version (to that same location), and notify you by U.S. mail.

Subject: Re: Filing Rejected for Case: 2018-P-1605; Walter E Tuvell v Jack Marshall; Envelope Number: 87787; Appendix
From: Walt Tuvell <Walt.Tuvell@gmail.com>
Date: 1/11/19, 7:10 AM
To: Jack Marshall <jamproethics@verizon.net>

On second thought, I'm not going to re-file the Appendix. It's a trivial error, and I've notified you about it, and I don't want to slow down the process. So instead, I'll just notify the court in my Response to your Brief.

On 1/10/19 3:00 PM, Walt Tuvell wrote:

FYI, apparently I need to file a motion to amend, and perhaps something else they haven't yet told me about. In any case, any work you've done with the old/first Appendix needn't change, because the only changes are described on p.77, and are trivial (esp. no page numbers have changed).



Filing Rejected

Envelope Number: 87787
Case Number: 2018-P-1605
Case: Walter E Tuvell v Jack Marshall

This is a notification that the following document was REJECTED for filing.

Rejection Reason(s) from Clerk's Office	
Rejection Reason	1. Brief/Appendix is non-compliant. See court-issued notice to follow for details.

Additional Comments	Motion to file amended appendix is needed.
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Filing Details	
Court	Appeals Court
Date/Time Submitted	1/10/2019 12:13 PM EST
Filing Code	Appendix
Page Count	225
Submitted By	Walter Tuvell
Submitting Attorney	

Please note that a filing rejected for technical non-conformance may be corrected and resubmitted to the court. See <http://www.mass.gov/courts/case-legal-res/rules-of-court/efiling-rules.html#rule5>

You will not be charged until the Court has ACCEPTED a filing.

Please do not reply to this email. It was automatically generated.
 For technical assistance, contact your service provider.
 Odyssey File & Serve
 (800) 297-5377

Should you have procedural questions related to e-filing a document, please call the Clerk's Office.
 Appeals Court Clerk's Office
 (617) 725-8725

CERTIFICATE OF SERVICE

Pursuant to MRAP 13(d), I hereby certify, under the pains and penalties of perjury, that I have served notification of and access to this document upon Defendant, via email and first-class U.S. Mail.



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Jan 31 2019