

COMMONWEALTH OF MASSACHUSETTS

BARNSTABLE, SS.

SUPERIOR COURT  
BACV2008-491

JOSEPH F. DUGAS and	)
PAUL REVERE III	)
	)
Plaintiffs	)
	)
V.	)
	)
	)
PETER ROBBINS and	)
Denise Geoffrion	)
	)
Defendants	)
	)

**MOTION OF DEFENDANT PETER ROBBINS FOR  
RECONSIDERATION AND REHEARING  
OF HIS SPECIAL MOTION TO DISMISS**

The Defendant Peter Robbins moves that the Court reconsider and rehear his Special Motion to Dismiss pursuant to G.L. c. 231 §59H.

As reasons therefore, the Defendant states that during the 24 months since the Court’s denial of his initial motion to dismiss, **extensive discovery has occurred**, which discovery has yielded evidence that directly impacts upon controlling elements of the anti-SLAPP defense. Furthermore, the **Supreme Judicial Court has rendered two decisions** in the meantime that further clarify the application of the anti-SLAPP defense to the precise circumstances in this case.

As a result of the newly discovered evidence and clarification of the statute through case law, Robbins submits that justice requires that his motion be reconsidered and the Plaintiff's case be dismissed.

In support of his Motion for Reconsideration and Rehearing of Special Motion to Dismiss, Peter Robbins, submits the accompanying Statement of Material Facts and exhibits attached hereto, together with the attached Memorandum of Law.

## **STATEMENT OF MATERIAL FACTS**

### **The Dredging of Barnstable Harbor**

1. In November of 2006, the Town of Barnstable applied to its Conservation Commission for an Order of Conditions, under both state and local wetlands regulations, governing the proposed dredging of the channel leading from Barnstable Inner Harbor to Barnstable Harbor. Plaintiff's Complaint, ¶5.
2. In order for the dredging project to proceed, the following additional permits and authorizations were required:
  - a. A Chapter 91 License and Water Quality Certificate from the Massachusetts Department of Environmental Protection (hereinafter, "DEP").
  - b. A "consistency statement" from the Massachusetts Office of Coastal Zone Management ("CZM").
  - c. A permit from the Army Corps of Engineers.
  - d. Approval of funding from the Barnstable Town Council.

Complaint, ¶¶5, 34, 43; Memorandum of Mark Ellis to John Klimm, attached as page 16 of Exhibit 2 to Deposition of John Klimm, attached hereto as Exhibit A; Deposition of John Klimm, attached hereto as Exhibit B, at p. 50.

3. The Barnstable Town Council, as a practice, does not take up consideration of funding for a capital project until the project is “ready to go,” i.e., fully permitted., Klimm Depo., Exh. B at pp. 12, 19-20, 48.
4. On January 16, 2007, the Barnstable Conservation Commission issued its Order of Conditions for the proposed dredging of 15,000 cubic yards of sediment from the entrance channel of Maraspin Creek ) hereinafter “the dredging project”). Plaintiffs Complaint, ¶ 16.
5. On January 30, 2007, the Plaintiff, Joseph Dugas, and others, represented by the Plaintiff Paul Revere as counsel, filed a request for review of said Order of Conditions with the Southeast Regional Office of the Department of Environmental Protection (“DEP”). Id. at ¶19.
6. On October 29, 2007, the DEP issued a Superseding Order of Conditions for the dredging project. Id. at ¶29.
7. On November 9, 2007, the Plaintiff, Joseph Dugas, and others, represented by the Plaintiff Paul Revere as counsel, filed a Claim for Adjudicatory Hearing before DEP’s Boston Office. Id. at ¶32.
8. On March 21, 2008, a fully executed final Settlement Agreement between the Town of Barnstable, the DEP and the Plaintiffs and others was filed with the Administrative Law Judge of DEP. Id. at ¶42.

9. The DEP Chapter 91 License and Water Quality Permit was issued on June 18, 2008. Exh. 2 to Klimm Affid. at p. 45.
10. The Army Corps of Engineers Permit was issued after June 20, 2008.
11. The Barnstable Town Council approved capital funding for the dredge project in August of 2008. Id. at pp. 49-50.
12. The dredging of Maraspin Creek began in the winter of 2008. Id. at 57.
13. The delay in issuance of all required permits for the dredging project resulted in a delay in the process by which the Town of Barnstable initiated the funding for the project. Deposition of John C. Klimm, Exh. B, at pp. 12, 19-20, 48-49.
14. There were no funding constraints that would have prevented the dredging from being done during the prior year, so long as the Barnstable Town Council voted to approve the capital funds. Id. at 49.

**The Defendant, Peter Robbins**

15. The defendant, Peter Robbins, is a retired law enforcement officer, private investigator, boat captain and amateur photographer. At times material to this lawsuit, he was the author of a web-based personal diary entitled The Robbins Report. Affidavit of Peter Robbins, attached hereto as Exhibit C, at ¶¶1-2.
16. The Robbins Report is one of over two hundred such “blogs” that are hosted on the website entitled Cape Cod Today ([www.capecodtoday.com](http://www.capecodtoday.com)) under a menu entitled “Blog Chowder.” Affidavit of Walter Brooks, attached hereto as Exhibit D, at ¶3.
17. The Cape Cod Today website operates as an on-line aggregator of news, weather, calendar information, human interest stories and opinion from a wide variety of

sources. It is the second-most read source of daily news and information on Cape Cod today – only the Cape Cod Times is read daily by more people. Id. at ¶2.

18. By providing ordinary people with a blogging platform and a readership, CapeCodToday.com has become the largest (and one of the only) site on Cape Cod for the promotion of participatory journalism - defined as ordinary citizens, as distinguished from professional journalists, engaging in the reporting and analyzing of news. Id. at ¶4.
19. These many blog posts are the subjects of wide and free-wheeling discussion among the site's 1700+ registered commenters. CapeCodToday.com editors delete comments solely on the basis of whether they contain obscene words, or statements that the public would find extremely offensive. Id. at ¶5
20. The Robbins Report focused on the reporting and discussion of issues of public concern. In the six months leading up to the filing of this lawsuit, Robbins wrote (among other subjects) about the following:
  - a. An extensive series of articles that deal with the controversy surrounding the permitting of a single family home in the Cape Cod National Seashore, the Wellfleet Board of Selectmen's attempt to prevent it and the resulting threat of a civil rights lawsuit by the property owner;
  - b. the developing interest of the Town of Barnstable to purchase the "Freezer Point" property on Barnstable Harbor from developer Stuart Bornstein;
  - c. the controversy surrounding efforts by individuals to rehabilitate and reopen a popular restaurant in Wellfleet, the efforts of affiliates of a

competing restaurant to thwart that effort, and the septic and water quality problems of the competing restaurant;

- d. a government initiative to increase fees for recreational fishing licenses;
- e. the controversy surrounding the disappearance of numerous works of original artwork from the former Barnstable County Hospital;
- f. the controversy at issue in the litigation before this Court – the cause for the delay in effecting the dredging of Barnstable Harbor.

Robbins Affid., Exh. C, at ¶4. See selected articles attached thereto as Exhibits A-1 through A-6.

21. Because of the significant public interest in the matters that Robbins covered, the Robbins Report was, for a time, one of the most highly read blogs in Cape Cod Chowder.

22. Robbins was solely responsible for selection of the subject matter of his writing. He wrote what he wanted, when he wanted. Deposition of Peter Robbins, Exh. E, at p. 98.

23. Robbins was compensated for his “reports” by the publishers of Cape Cod Today. He was also compensated for his photography on a case-by-case basis. Brooks Affid., Exh. D at ¶¶6-7.

24. Consistent with the usual operation of a “blog,” Robbins’ articles and opinions provoked discussion among his readers about the subject matter of his “posts.” Because the matters he writes about were matters of public debate, typically the subject of official proceedings before a building department, zoning board, conservation commission or other regulatory body, they sometimes engendered

controversy and debate. As a result, the Robbins Report consistently rated among the top blogs for number of comments received. *Id.* at ¶6.

25. In addition to the comments Robbins received as a direct result of his “reports,” Robbins also received a substantial number of private emails that provide him with information and sources of information on the matters under discussion or others. Robbins Affid., Exh. C at ¶7.
26. Robbins is the owner of a 1972 Hereschoff Harbor Pilot (18’), which he berths at the town marina in Barnstable Harbor (slip #62). Robbins Depo., Exh. E at pp. 33, 37. Robbins has kept a boat at that marina for approximately twenty-five years. *Id.*
27. The dredging of Barnstable Harbor has been an issue of contention to boat owners of Barnstable Harbor for more than a decade. Deposition of Peter Robbins, Exh. E at pp. 128-129. The current dredging project has been a subject of public interest since 2005. As originally planned, Town of Barnstable anticipated that permits would all have been issued by November of 2006. Deposition of Ann Canedy, attached as Exhibit F, at pp 41-43.

#### **Criticism of Joseph Dugas and Paul Revere**

28. Kathleen Plettner is an employee of Barnstable Marine Services, a marina service that services Joseph Dugas’ boat. She was subpoenaed for deposition a week after informing Dugas that he would be sued if he didn’t pay his bills. Deposition of Kathleen Plettner, attached hereto as Exhibit K, at pp. 6-7, 43-44.
29. On December 6, 2007, Plettner sent an email to Barnstable Town Councilor Ann Canedy, reporting to her that Dugas “says that he plans to speak at town council

- (tonight?) to set the record straight, that the dredging has not been delayed by his group, but by the fact that the town has no budget for it.” Plettner Depo., Exh. K at p. 7; Exhibit 2 to Klimm Depo., Exh. B.
30. Plettner testified that in 2007, “my understanding, from Joe, was that he believed that materials put on the beach had caused people in the neighborhood to die from cancer... He told me that he had scientific evidence...” Id. at p. 8. “Joe Dugas told me of two people that had died from spoils on Millway Beach.” Exh. K at p. 13. Dugas repeated his claims during his deposition. Dugas Depo., Exh. H at pp. 39-44.
31. Plettner discussed with Town Councilor Canedy a false claim by Paul Revere that he “had tried to contact businesses and residents in the area to discuss their objections to the dredging.” The statement was made in a November 19, 2007 public meeting called by the Conservation Commission and the Department of Public Works to discuss the dredging project with concerned residents Exh. K at pp. 12-13, 37-38.
32. On Thursday, December 6, 2007, Canedy forwarded Plettner’s email to John Klimm. Klimm Depo., Exh. B, at p. 17; Depo. Exhibit 2, page 1.
33. Later the same day, Canedy sent Klimm another email, this one a lengthy exposition regarding Mr. Dugas and issues related to the dredging, Dugas and Stuart Bornstein. Id. at pp. 26-28, Depo. Exh. 2, pp. 2-4.
34. Klimm testified that Dugas had shown him the “plan of land” referred to in Canedy’s email, which plan showed “piers and docks for an (sic) excess of 40 boats, 30 condominiums and what appears to be a warehouse or marina building”

on the “Freezer Point” property. Kilmm Depo., Exh. B at p. 32-33; Depo. Exh. 2 at p. 2.

**Joseph Dugas, Paul Revere and Stuart Bornstein**

35. Stuborn Limited Partnership, an entity under the ownership and control of Stuart Bornstein, is the owner of a seven (7) acre parcel of land that borders on Maraspin Creek and Barnstable Harbor to the east and Rendezvous Creek to the west. The property is known familiarly as “Freezer Point.” Records of the Zoning Board of Appeals, attached hereto as Exhibit G, at \_\_\_; Deposition of Joseph Dugas, attached hereto as Exh. H, at pp. 107-108; Deposition of Paul Revere, attached hereto as Exh. I, at pp. 60-61.
36. Between 1997 and 2004, Bornstein-controlled entities filed zoning applications with the Board of Appeals for four distinct development proposals, including a condominium development, a so-called “40B” multi-family development, and multi-family townhouses. ZBA Records, Exh. G.
37. After a period of eighteen months of public scrutiny including an appeal to the Housing Appeals Committee, Bornstein’s “40B” application for a comprehensive permit was denied by the Board of Appeals. Exh. G at \_\_\_.
38. Joseph Dugas, or an entity owned or controlled by him (CSR Management, Inc.), became a consultant to Bornstein with respect to the Freezer Point property in approximately May of 2007. Dugas Depo., Exh. H, at 87, 88, 107.
39. Dugas’s consulting work on behalf of Bornstein was not a subject of common knowledge. Id. at 107-108.

40. Dugas's involvement with Bornstein was in relation to the development of the Freezer Point property as a private commercial marina to include 103 boat slips, boat rack storage for 85 boats, gas pumps and a launching ramp. Id. at 107, 109.
41. There are currently no slips, no rack storage, no gas pumps and no launching ramps. Id. at 110.
42. Dugas met privately with Town Manager John Klimm to discuss the Town of Barnstable buying the Freezer Point property. Id. at 87.
43. The Town Manager for Barnstable has committed that before he leaves office, Bornstein's property will either be given development permits or be purchased by the Town for marina use. Klimm Depo., Exh. B at pp. 82-83; Dugas Depo., Exh. H at 107.
44. Paul Revere has acted as legal counsel for Bornstein on several matters that relate to the Freezer Point property. Revere Depo., Exh. I, at pp. 60-73.
45. Paul Revere testified that a portion of the Freezer Point property that lay one foot below the Flood Plain could be taken out of the Flood Plain by the use of fill. Id. at 72-73.
46. In January of 2009, Bornstein filed an Environmental Notification Form with the Massachusetts Executive Office of Environmental Affairs MEPA Office for the purpose of initiating MEPA review on a proposed Freezer Point Maintenance Dredging and Marina Development project. Public Records of the Barnstable Conservation Commission, Environmental Notification Form, attached hereto as Exhibit J, see "Project Description" at the end thereof.

47. The proposed project includes the proposed dredging of 10,000 cubic yards of material, with 7,500 cy of dredge material disposal to be used as fill on Freezer Point. Id.

#### **Robbins' Writing of the Article**

48. In the early Spring of 2008, Robbins visited the Harbor during low tide to take photographs and check on the condition of the Harbor. Robbins Depo., Exh. E at 60-61.

49. Concerned about the condition of the Harbor, Robbins telephoned Ann Canedy, the Town Councilor who represents the Barnstable Harbor area. Id. at p. 74-75.

50. Canedy informed Robbins that the dredging project was being delayed because of "pending litigation" between a group of residents, led by Joseph Dugas, and the town. Id. at 67, 74-75.

51. Canedy suggested to Robbins that Mr. Dugas had a "hidden agenda" for appealing the project permitting. Id. at 67.

52. Canedy suggested to Robbins that he look into the relationship between Mr. Dugas and Stuart Bornstein. Id. at 68.

53. Canedy suggested to Robbins that he look into where the dredge spoils would go. Id. at 68, 94.

54. Based upon the information given to him by Canedy and conversations he had with others, Robbins authored a blog post that first appeared on March 11, 2008, entitled, "Barnstable Harbor, Filling in and falling in." A copy of the blog post is attached to Robbins' Affidavit, Exh. C, as part of Exhibit A-6.

55. Robbins' article contained certain opinions or claims that the Plaintiffs assert in their Complaint are actionable libel:
- a. The article referred to the plaintiff Dugas as “ the infamous shit-stirring Joe Dugas” (Complaint, Exh. A, ¶54 );
  - b. The article referred to the plaintiff Revere as “Paul ‘the dredge isn’t coming’ Revere” (Complaint, Exh. A, ¶54);
  - c. The article claimed that the delay in the dredging of the harbor was caused by the plaintiffs’ permit-related appeals (Complaint, Exh. A, ¶¶53-59);
  - d. The article contained a subtitle, “Hidden Costs and Hidden Agendas,” and the single question, “how about hidden agendas?”<sup>1</sup>

56. After Robbins' article was published, Canedy emailed the article to John C. Klimm, Town Manager of the Town of Barnstable and David Houghton, Assistant Town Attorney. Email from Ann Canedy to John Klimm and David Houghton dated March 12, 2008, 10:09 a.m., page 9 of Exhibit 2 to Klimm Depo., Exh. B. Klimm read the article. Exh. B at p. 52-53.
57. At the time Robbins blog article was published, the dredging project had not come before the Barnstable Town Council for funding because the project was not “ready to go.” Klimm Depo., Exh. B at pp. 19-20, 48.
58. On or about Friday, May 2, 2008, Robbins telephoned the DEP public information office to learn the status of the plaintiffs’ appeal. He was informed at that time that a settlement agreement had been entered into by all parties on March 21, 2008. Robbins Affid., Exh. C at ¶14.

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<sup>1</sup> While the Complaint fails to mention it, the Plaintiffs devoted significant attention to Robbins’ suggestion that they had a “hidden agenda.” (Revere Depo., Exh. I at pp. 49-54, Dugas Depo., Exh H, pp. 63, 68).

59. On Monday, May 5, 2008, Robbins obtained a copy of the settlement agreement from the office of the Barnstable conservation commission, and he reported on the settlement in a post later that day. The article published the Settlement Agreement and contained this statement: “We should all be very pleased that everyone could get together and resolve this issue in a timely fashion.” *Id.* at ¶15.
60. Prior to the Barnstable Town Council’s voting on approval of the funding for the dredge project in August of 2008, Councilor Canedy provided to the Council members and Klimm an information packet pertaining to the project, Canedy Depo., Exh. F, at pp.39-41; Exhibit 2 to Canedy Depo; Exhibit 2 to Klimm Depo. at pp. 33-61.
61. Councilor Canedy’s document, supplied in the course of the legislative body’s consideration of a funding article, contained a page entitled “points to consider” that was prepared by Canedy Canedy Depo., Exh. F at pp. 49. Those points include: (a) the dredge has been delayed by two appeals, and (b) appropriation for dredging did not appear in the FY 2008 or 2009 capital improvement budgets due to the delay, and (c) various claims relating to the plaintiff and his supporters. Canedy Depo., Exhibit 2.

### **The Plaintiffs’ Claims of Damage**

#### *Paul Revere*

62. Paul Revere testified in his affidavit that “[s]ince the publication of Mr. Robbins’ article alleging a “hidden agenda,” I have had difficulties collecting payment for my work performed on behalf of the Requestors Robbins names in the March 11<sup>th</sup> Article.” *Revere Affid.*, Exh. L at ¶56.

63. Questioned in his deposition about his affidavit testimony, Revere stated that he is not aware of the reason why the individual purportedly responsible did not pay the group's bill, that none of the Requestors ever told him it was because of Robbins allegation of a "hidden agenda," that it was a "supposition" that there is some relationship between the Robbins articles and his inability to get paid, and that the individual had denied it was even his responsibility in the first place. Revere Depo., Exh. I at 49-55.

64. Revere candidly characterized the administrative appeals process he conducted against the town's permitting as "litigation light." Revere Depo., Exh. I at 46.

*Joseph Dugas*

65. Dugas testified in his deposition that his Cadillac Escalade was vandalized with an axe after the Robbins article was published. Dugas Depo., Exh. H at p. 80.

66. Dugas subsequently admitted that his Cadillac was vandalized before the article was published. Dugas Depo. Exh. H, at pp. 80, 113.

67. Dugas stated in his affidavit that "[a]s a result of Robbins' defamatory publication, I've been subjected to verbal abuse and inappropriate physical gestures, i.e., given the middle finger and waving fists at me by numerous individuals in and around the Village of Barnstable." Affidavit of Joseph Dugas, attached hereto as Exh. M, at ¶3.

68. One of the individuals Dugas alleged to have confronted him is Charles Fuller. Dugas stated in his deposition that Fuller had made a gesture and spit at him. Dugas Depo., Exh. H at p. 97.

69. Charles N. Fuller is the retired general manager, treasurer and publisher of the Brockton Enterprise. Mr. Fuller has stated under oath that he never read the Robbins article, has not had any conversation with Dugas since April or May of 2007, and has never spit at or made an obscene gesture toward anyone. Affidavit of Charles N. Fuller, attached hereto as Exhibit N, at ¶¶3, 6, 7, 11, 12.
70. Fuller testified that Dugas was upset at him for writing a letter to the Old Kings Highway Historical District Commission that alleged that Dugas was not an abutter to Freezer Point. Id. at 8.
71. Fuller testified that Dugas had claimed to him that he had “a written piece of paper on file in the Courthouse stating that nothing could be done at Freezer Point without his permission.” Id. at ¶9.
72. Dugas testified that Wayne Bassett called him a “no good fucking son of a bitch” who “stopped all this fucking dredging in this Harbor,” was “hollering and screaming” and “viciously mad and attacking,” and stated that he learned about Dugas’ interference with the dredging “from Peter Robbins.” Dugas Depo., Exh. H, at pp. 95-96.
73. Wayne Bassett testified that the altercation Dugas “is a total fabrication from beginning to end,” that he “never had a conversation with Joe Dugas about Barnstable Harbor dredging or bulkhead work,” that “he never had any confrontation with Joe Dugas such as he described in his deposition,” that he has “never accused him of bringing the Harbor to a standstill,” that he “did not read Mr. Robbins’ blog article about the dredging, so I would be in no position to attribute any knowledge to Peter Robbins or his article,” and that he “never

attended Sunday school with Mr. Dugas.” Affidavit of Wayne Bassett, Exh. O at ¶5.

74. Dugas testified that he had an altercation with one Mark Santos in which Santos called him a “fucking no good sonofabitch and this and that,” and got out of his car and hollered at the top of his voice. Dugas Depo., Exh. H at pp. 74-75.

75. Mark Santos testified that his altercation with Dugas began when Dugas muttered “fuck you” at him while he was waiting for his son’s school bus, that he had never read the Robbins article, and that his antipathy to Dugas is the result of an ongoing family feud lasting many years. Affidavit of Mark Santos, attached hereto as Exh. P, at ¶¶4, 6, 7.

76. Dugas testified in his deposition that as a result of Robbins’ article, he has no more rapport with Town Manager John Klimm. Dugas Depo., Exh. H at p. 93.

77. Dugas testified in his deposition that as a result of Robbins’ article, John Klimm will not meet with him and does not want to be seen with him. Id. at 92.

78. John Klimm testified at his deposition that the statements made by Mr. Dugas were not true, and characterized his rapport with Mr. Dugas as “friendly.” Klimm Depo., Exh. B at p. 80-81.

79. Dugas testified in his deposition that at the funeral of one Arthur Krakowski, he was “ridiculed” when James Gage of Brewster stated the following to him:

“Joe, have you seen the Robbins Report that come out -- I haven’t seen you in two years; but I know what you’ve done not only for the County but for Massachusetts and your Country...that is so damaging, that article that it’s not the Joe Dugas that I know.”

As a result of this, Dugas testified, he became upset and left the funeral. Dugas Depo., Exh. H at pp. 93-95.

80. James Gage is a Sergeant in the town of Orleans, MA and has been in law enforcement for thirty years. Affidavit of James Gage, attached hereto as Exhibit Q, at ¶3.
81. Sergeant Gage reviewed Dugas' deposition testimony as it relates to him, and stated under oath that he never read the Robbins article, never told Dugas that he'd read the article and never said "this is not the Joe Dugas I know." Id. at ¶5.
82. Gage does not know Dugas well, socialized with him rarely, has never had a lengthy conversation with him, and does not know what, if anything, Dugas has done for the town of Barnstable, the county or the Country. Id. at ¶ 7.
83. The only conversation Gage had with Dugas in relation to the Robbins article occurred in September or October of 2008 (after this litigation was initiated), when Gage had seen the newspaper article reporting on Dugas' litigation against Robbins and "joked about" it to Dugas. He made no comment about having read the article or about Dugas' character. Id. at ¶ 7.
84. Gage found it "deeply troubling" that Dugas would attribute fictitious statements to him, "perhaps to use my position as a police officer to manipulate the judicial process." Id. at ¶ 8.
85. Town Councilor Ann Canedy believes that Mr. Dugas' law suit has been used, at least partially, to harass and punish those who have taken an antagonistic position toward his appeals in the dredge permitting process. Affidavit of Ann Canedy, Exhibit S, at ¶¶ 10-13, 15. She has not spoken with a single person who read Robbins' article and believed it to be either untrue or defamatory. Id. At ¶ 14,

## **EXHIBITS**

EXHIBIT A – Plaintiffs’ Complaint

EXHIBIT B – Deposition of John C. Klimm (excerpts) and documents produced.

EXHIBIT C – Affidavit of Peter Robbins and exhibits A1-A16.

EXHIBIT D – Affidavit of Walter Brooks

EXHIBIT E – Deposition of Peter Robbins (excerpts)

EXHIBIT F – Deposition of Ann Canedy (excerpts) and documents produced.

EXHIBIT G – Public Records of the Barnstable Zoning Board of Appeals

EXHIBIT H - Deposition of Joseph Dugas (excerpts)

EXHIBIT I – Deposition of Paul Revere (excerpts)

EXHIBIT J – Public Records of the Barnstable Conservation Commission

EXHIBIT K – Deposition of Kathleen Plettner (excerpts) and documents produced.

EXHIBIT L – Affidavit of Paul Revere

EXHIBIT M – Affidavit of Joseph Dugas

EXHIBIT N – Affidavit of Charles N. Fuller

EXHIBIT O – Affidavit of Wayne Bassett

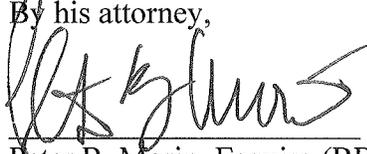
EXHIBIT P – Affidavit of Mark Santos

EXHIBIT Q – Affidavit of James Gage

EXHIBIT R – Memorandum and Decision on Special Motion to Dismiss dated November 17, 2008.

EXHIBIT S – Affidavit of Ann Canedy.

Respectfully submitted,  
PETER ROBBINS  
By his attorney,



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#### CERTIFICATE OF SERVICE

I, Peter B. Morin, hereby certify that a copy of the foregoing was sent to all parties of record by first class mail, postage prepaid, this 27 day of January, 2011.

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