

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

STACEY HIGHTOWER
Plaintiff,

v.

CITY OF BOSTON and BOSTON POLICE
COMMISSIONER EDWARD DAVIS,
Defendants.

No. 08-CV-11955-PBS

**ASSENTED-TO MOTION BY THE DEFENDANTS AND THE COMMONWEALTH OF
MASSACHUSETTS TO EXTEND FILING DEADLINES AND RESCHEDULE THE
HEARING ON CROSS-MOTION FOR SUMMARY JUDGMENT**

The City of Boston defendants and the proposed intervener, the Commonwealth of Massachusetts, respectfully request that the Court extend the remaining deadlines for the filing of papers concerning plaintiff's motion for summary judgment as set forth below, and reschedule the hearing from April 18, 2011 to the second half of June 2011.

<u>Event</u>	<u>Current Date</u>	<u>Requested Date</u>
S.J. Opposition and Cross-Motion	March 7, 2011	April 22, 2011
Plaintiff's Reply	March 21, 2011	May 6, 2011
Defendants' Reply	April 4, 2011	May 20, 2011
Hearing	April 18, 2011	Between June 15 and June 30, 2011

Please note that counsel for the Commonwealth of Massachusetts will be away from May 23 to June 11, 2011, and thus will not be available for any hearing during that period.

Plaintiff Stacey Hightower assents to this motion. No party will be unfairly prejudiced by the requested extensions.

As grounds for this motion, the Commonwealth of Massachusetts states that it has filed an assented-to motion to intervene as of right to defend the constitutionality of Mass. Gen. L. c. 140, § 131, against plaintiff's claims that this state statute violates the Second and Fourteenth Amendments to the United States Constitution. The issues raised by plaintiff in her motion for summary judgment are complex, and the requested extension is needed to permit the Attorney General to address them properly.

Furthermore, counsel for the Commonwealth and for the City of Boston state that commitments in other cases prevent them from properly responding to the pending motion for summary judgment without the requested extension. Those commitments by counsel for the Commonwealth include, but are not limited to: (1) responding in February to a motion for a protective order in a Superior Court action concerning a constitutional challenge under the Dorman Commerce Clause to Mass. Gen. L. c. 64M, which establishes an excise tax on direct broadcast satellite service; (2) responding in March to a renewed motion for a preliminary injunction in a Superior Court action seeking revocation of a charter issued to a school in Gloucester; (3) filing briefs with the Supreme Judicial Court in early April regarding appeals from a Department of Public Utilities order approving a power purchase agreement between National Grid and Cape Wind Associates, Inc.; (4) preparing for and participating in an argument tentatively scheduled by the Supreme Judicial Court in early April concerning an appeal from the award of \$550,000 in attorneys' fees against Department of Correction officials in a case where the plaintiff won only nominal damages of one dollar; (5) preparing for and participating in an argument tentatively scheduled by the Supreme Judicial Court in early May concerning the Cape Wind power purchase agreement. In addition, counsel for the Commonwealth will be out of the country on a long-planned family trip from May 23 to June 11, 2011. Finally, counsel for the City of Boston states that she will be starting a trial on April 7, 2011, that is expected to last a week.

Certification of Compliance With L.R. 7.1(A)(2)

The undersigned counsel for the Commonwealth certifies that he contacted counsel for all parties by telephone on February 11, 2011, to resolve or narrow the issue addressed in this motion, and that the plaintiff assents to and the City of Boston defendants join in this motion.

DEFENDANTS CITY OF BOSTON and
BOSTON POLICE COMMISSIONER
EDWARD DAVIS,
By their attorney,

/s/ Lisa Skehill Maki .
Lisa Skehill Maki, BBO # 675344
Assistant Corporation Counsel
City of Boston Law Department
1 City Hall Plaza, Room 615
Boston, MA 02201
671.635.4022
lisa.maki@cityofboston.gov

COMMONWEALTH OF MASSACHUSETTS
By Martha Coakley
ATTORNEY GENERAL OF MASSACHUSETTS

/s/ Kenneth W. Salinger
Kenneth W. Salinger (BBO # 556967)
Assistant Attorney General, Government Bureau
Office of the Attorney General
One Ashburton Place
Boston, MA 02108
617.963.2075
ken.salinger@state.ma.us

ASSENTED TO BY:

PLAINTIFF STACEY HIGHTOWER
By her attorney,

/s/ Alan Gura .
Alan Gura, Esq.
Gura & Possessky, PLLC
101 N. Columbus Street, Suite 405
Alexandria, VA 22314
703.835.9085
alan@gurapossessky.com

February 11, 2011

Certificate of Service

I hereby certify that this document was filed through the Electronic Case Filing (ECF) system and thus copies will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF); paper copies will be sent to those indicated on the NEF as non registered participants on or before February 11, 2011.

/s/ Kenneth W. Salinger .