

Supreme Judicial Court

FOR THE COMMONWEALTH OF MASSACHUSETTS

SJC-13110

KELLIE PEARSON AND THE LAW OFFICES OF MARK BOOKER
PLAINTIFFS

v.

THOMAS M. HODGSON, IN HIS OFFICIAL CAPACITY AS SHERIFF OF
BRISTOL COUNTY, AND SECURUS TECHNOLOGIES, INC.
DEFENDANTS

ON CERTIFICATION FROM THE FEDERAL DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS
C.A. NO. 18-CV-11130-IT

BRIEF FOR DEFENDANT SECURUS TECHNOLOGIES, LLC

September 3, 2021

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ARGUMENT

Defendant Securus Technologies, LLC (f/k/a Securus Technologies, Inc.) respectfully submits this Reply in response to Plaintiffs' brief. Securus joins and incorporates by reference the arguments set forth in the Reply Brief filed by Sheriff Hodgson.

Plaintiffs have no good answer to the argument in Securus's Opening Brief that the 93A claim against Securus underscores the fundamental unfairness of Plaintiffs' attempt to effect legislative change through judicial fiat. See Plaintiffs' Brief at 52-53, n. 18, citing Securus Brief, 5-9. Plaintiffs argue that Securus's argument is "premature," because the Court is not being asked to resolve the 93A claim against Securus. But Plaintiffs' argument is an obvious dodge of the argument Securus is making.

Securus has not asked this Court to adjudicate Plaintiffs' 93A claim. Rather, Securus argues that the 93A claim against Securus illustrates the patent unfairness of Plaintiffs' effort to rewrite the law through this action. See Securus Brief, 5-9. Plaintiffs cited nothing, and Securus is not aware of any authorities which Plaintiffs could cite, to suggest that

this is not so. To the contrary, it is patently unfair that Securus has had to defend against a claim that it engaged in an "unfair and deceptive" practice, when it competed to contract with the Sheriff's office through a public bidding process pursuant to which the Sheriff's office solicited bids for site commissions and there was (and still is) a Massachusetts statute that provides that revenues from site commissions shall remain with the Sheriff's office. Plaintiffs seek to amend this statute through the judicial, rather than legislative, process. This unfairly causes Securus to defend against a 93A claim that has no valid basis. Plaintiffs do not address this point for the sole reason that they have no response to it.

CONCLUSION

For the reasons stated above, in Securus's Opening Brief, and in the briefs filed by Sheriff Hodgson incorporated herein by reference, the Court should answer the certified question in the affirmative.

Respectfully submitted,

Securus Technologies LLC

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Date: September 3, 2021

CERTIFICATE OF COMPLIANCE

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

I, Jason D. Frank, 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).

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 monospaced font Courier New at size 12, 10.5 characters per inch, and contains 2 total non-excluded pages.

CERTIFICATE OF SERVICE

Pursuant to Mass.R.A.P. 13(d), I hereby certify, under the penalties of perjury, that on September 3, 2021, I have made service of this Brief electronically upon the attorney of record for each party by the Electronic Filing System.

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