

Commonwealth of Massachusetts

PLYMOUTH SUPERIOR COURT

Case Summary

Civil Docket

PLCV2007-01065

Wareham Free Library, Inc. et als et al v The Town of Wareham et al

FILED
IN CLERK'S OFFICE
2007
SEP 27 3 P 1:22
DISTRICT COURT

File Date	08/17/2007	Status	Disposed: transfered to other court (dtrans)
Status Date	09/27/2007	Session	B - Civil B - 3rd Floor- (52 Obery St., Plymouth)
Origin	1 - Complaint	Case Type	D13 - Declaratory judgement (231A)
Track	A - Average track	Lead Case	Jury Trial Yes

DEADLINES

	Service	Answer	Rule12/19/20	Rule 15	Discovery	Rule 56	Final PTC	Judgment
Served By			12/15/2007	10/10/2008	08/06/2009	09/05/2009		
Filed By	11/15/2007	12/15/2007	01/14/2008	11/09/2008		10/05/2009		08/01/2010
Heard By			02/13/2008	11/09/2008			02/02/2010	

PARTIES

Plaintiff
Wareham Free Library, Inc. et als
Active 08/17/2007

Private Counsel 656212
Timour Zoubaidouline
Beauregard & Burke
32 William Street
PO Box 952
New Bedford, MA 02740
Phone: 508-993-0333
Fax: 508-990-2045
Active 08/17/2007 Notify

Plaintiff
Priscilla Porter
Active 08/17/2007

*** See Attorney Information Above ***

Plaintiff
Mary Nyman
Active 08/17/2007

*** See Attorney Information Above ***

Plaintiff
Hazel Taber
Active 08/17/2007

*** See Attorney Information Above ***

PLCV2007-01065

Wareham Free Library, Inc. et als et al v The Town of Wareham et al

Plaintiff
Michelle Baum
Active 08/17/2007

*** See Attorney Information Above ***

Plaintiff
Sandra Wheller
Active 08/17/2007

*** See Attorney Information Above ***

Plaintiff
John Lanci
Active 08/17/2007

*** See Attorney Information Above ***

Plaintiff
Martha Maguire
Active 08/17/2007

*** See Attorney Information Above ***

Plaintiff
Yelena Farioli-Beaupre
Active 08/17/2007

*** See Attorney Information Above ***

Plaintiff
Diane Lazarus
Active 08/17/2007

*** See Attorney Information Above ***

PLCV2007-01065

Wareham Free Library, Inc. et als et al v The Town of Wareham et al

Plaintiff

Priscilla Porter, Trustee
Active 08/17/2007

*** See Attorney Information Above ***

Plaintiff

Mary Nyman, Trustee
Active 08/17/2007

*** See Attorney Information Above ***

Plaintiff

Hazel Taber, Trustee
Active 08/17/2007

*** See Attorney Information Above ***

Plaintiff

Michelle Baum, Trustee
Active 08/17/2007

*** See Attorney Information Above ***

Plaintiff

Sandra Wheeler, Trustee
Active 08/17/2007

*** See Attorney Information Above ***

Plaintiff

John Lanci, Trustee
Active 08/17/2007

*** See Attorney Information Above ***

Commonwealth of Massachusetts
PLYMOUTH SUPERIOR COURT
Case Summary
Civil Docket

PLCV2007-01065

Wareham Free Library, Inc. et als et al v The Town of Wareham et al

Plaintiff

Martha Maguire, Trustee
Active 08/17/2007

*** See Attorney Information Above ***

Plaintiff

Yelena Farioli-Beaupre, Trustee
Active 08/17/2007

*** See Attorney Information Above ***

Plaintiff

Diane Lazrus, Trustee
Active 08/17/2007

*** See Attorney Information Above ***

Defendant

The Town of Wareham
Served: 09/04/2007
Served (answr pending) 09/12/2007

Defendant

Brenda Eckstrom
Service pending 08/17/2007

Defendant

Bruce Sauvageau
Service pending 08/17/2007

Commonwealth of Massachusetts
PLYMOUTH SUPERIOR COURT
Case Summary
Civil Docket

PLCV2007-01065

Wareham Free Library, Inc. et al et al v The Town of Wareham et al

Defendant

John Cronan
Service pending 08/17/2007

Defendant

James Potter
Service pending 08/17/2007

Defendant

M. Jane Donahue
Service pending 08/17/2007

Defendant

Brenda Eckstrom, Member Bd. of Selectmen
Served: 09/04/2007
Served (answr pending) 09/12/2007

Defendant

Bruce Sauvageau, Member of Bd. of Selectmen
Service pending 08/17/2007

Defendant

John Cronan, Member of Bd. of Selectmen
Service pending 08/17/2007

Commonwealth of Massachusetts
PLYMOUTH SUPERIOR COURT
Case Summary
Civil Docket

PLCV2007-01065

Wareham Free Library, Inc. et als et al v The Town of Wareham et al

Defendant

James Potter, Member of the Bd. of Selectmen
Service pending 08/17/2007

Defendant

M. Jane Donahue, Member of Bd. of Selectmen
Service pending 08/17/2007

ENTRIES

Date	Paper	Text
08/17/2007	1.0	Complaint & jury claim, civil action cover sheet filed, \$305. paid into court, 6 summonses and T/O mailed
08/17/2007		Origin 1, Type D13, Track A.
08/17/2007		ONE TRIAL review by Clerk, case to remain in Superior Court.
09/12/2007	2.0	SERVICE RETURNED: The Town of Wareham(Defendant) by certified mail return receipt
09/12/2007	3.0	SERVICE RETURNED Brenda Eckstrom, Member Bd. of Selectmen
09/27/2007	4.0	Defts' Notice for Removal to the United States District Court
09/27/2007		Case REMOVED this date to US District Court of Massachusetts

EVENTS

Date	Session	Event	Result
11/15/2007	Civil B - 3rd Floor- (52 Obery St.,	Status: Clerk Follow UP service	
12/17/2007	Civil B - 3rd Floor- (52 Obery St.,	Status: Clerk Follow UP answer	

A TRUE COPY ATTEN
Thomas D. ...
CLERK

RECEIVED

SEP 27 2007

PLYMOUTH SUPERIOR COURT

COMMONWEALTH OF MASSACHUSETTS

PLYMOUTH. SS

SUPERIOR COURT
CIVIL ACTION NO. 07-01065

WAREHAM FREE LIBRARY, INC., and)
PRISCILLA PORTER, MARY NYMAN, HAZAL TABER,)
MICHELLE BAUM, SANDRA WHEELER, JOHN LANCI,)
MARTHA MAGUIRE, YELENA FARIOLI-BEAUPRE, and)
DIANE LAZARUS, Individually and As Trustees of)
Wareham Free Library, Inc.)
Plaintiffs,)

v.)

THE TOWN OF WAREHAM, and BRENDA ECKSTROM,)
BRUCE SAUVAGEAU, JOHN CRONAN, JAMES POTTER,)
And M. JANE DONAHUE, Individually and As)
Members of the Board of Selectmen of Wareham)
Defendants.)


**WRITTEN NOTICE OF REMOVAL TO
FEDERAL COURT PURSUANT TO 28 U.S.C. §1446(d)**

A Notice of Removal of the above-captioned action from the Superior Court of the Commonwealth of Massachusetts, Plymouth County, to the United States District Court for the District of Massachusetts (a copy of which Notice is filed herewith) was duly filed on September 25, 2007, in the United States District Court for the District of Massachusetts. A copy of the Notice of Removal, certified by the United States District Court for the District of Massachusetts, having been duly filed with the Clerk for the Superior Court of the Commonwealth of Massachusetts, Plymouth County, in accordance with 28 U.S.C. §1446(d), the Superior Court shall proceed no further herein unless and until the case is remanded.

Respectfully submitted,

The defendants/Plaintiffs-in-Counterclaims,
TOWN OF WAREHAM, BRENDA
ECKSTROM, BRUCE SAUVAGEAU, JOHN
CRONAN, JAMES POTTER, & M. JANE

DONOHUE, in their capacities as members of
the Board of Selectmen of Wareham,
By their attorneys,



Leonard H. Kesten, BBO#542042
Peter E. Montgomery, BBO#632698
Brody, Hardoon, Perkins & Kesten, LLP
One Exeter Plaza
Boston, MA 02116

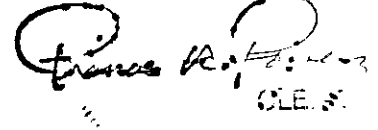
Dated: 9-26-07

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the above document
was served upon the attorney of record for each other
party by mail-hand on 9-26-07



A TRUE COPY ATTEST



Francis A. Powers
CLE. S.

Brody, Hardoon, Perkins & Kesten, LLP
Attorneys at Law

Richard E. Brody
Laurence E. Hardoon
Samuel Perkins
Leonard H. Kesten
Jocelyn M. Sedney

One Exeter Plaza
Boston, Massachusetts 02116

Telephone 617-880-7100
Facsimile 617-880-7171
www.bhpklaw.com

Judy A. Levenson
Jeremy I. Silverfine
Sherri Gilmore Bunick
Deidre Brennan Regan
Deborah I. Ecker
Pamela J. Fitzgerald
Djuna E. Perkins
Thomas P. Campbell
Peter E. Montgomery
Thomas R. Donohue
Kristin Tyler Harris

Of Counsel:
Cheryl A. Jacques

September 26, 2007

Via Federal Express
No. 862651329748

Administrator:
Elizabeth L. Joyce

Civil Clerk's Office
Plymouth Superior Court
Court Street
Plymouth, MA 02360

RE: Wareham Free Library v. Town of Wareham
C.A. No. 07-01065

Dear Sir/Madam:

Enclosed please find the following for docketing and filing with reference to the above-captioned matter:

1. Written Notice Of Removal To Federal Court Pursuant to 28 U.S.C. §1446(D); and
2. A certified copy of the Notice of Removal of Action from State Court filed with the Federal Court.

Kindly forward certified copies of the documents on file with the Superior Court and a certified copy of the docket sheet to my attention as soon as possible.

Thank you for your attention and cooperation in this matter. If you should have any questions, please contact me.

Very truly yours,

BRODY, HARDOON, PERKINS & KESTEN


Peter E. Montgomery

PEM/rb
Enclosures

Cc: Philip N. Beauregard, Esq.
Elizabeth Corbo, Esq.

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

CIVIL ACTION NO.

07 CA 11807 RCL

WAREHAM FREE LIBRARY, INC., and
PRISCILLA PORTER, MARY NYMAN, HAZAL TABER,
MICHELLE BAUM, SANDRA WHEELER, JOHN LANCI,
MARTHA MAGUIRE, YELENA FARIOLI-BEAUPRE, and
DIANE LAZARUS, Individually and As Trustees of
Wareham Free Library, Inc.
Plaintiffs,

v.

THE TOWN OF WAREHAM, and BRENDA ECKSTROM,
BRUCE SAUVAGEAU, JOHN CRONAN, JAMES POTTER,
And M. JANE DONAHUE, Individually and As
members of the Board of Selectmen of Wareham
Defendants.

MAGISTRATE JUDGE DEIN

9/25/07
This document is the correct copy of
electronically filed in the captioned case
original filed in my office on 9/25/07
Sarah A. Whorton
Clerk, U.S. District Court
District of Massachusetts

DEFENDANTS' NOTICE OF REMOVAL OF ACTION FROM STATE COURT

Pursuant to 28 U.S.C. §1441(b) and 1446, the defendants, Town of Wareham, Brenda Eckstrom, Bruce Sauvageau, John Cronan, James Potter and M. Jane Donohue in their capacities as members of the Board of Selectmen of Wareham ("defendants"), petition for removal of this action to the United States District Court for the District of Massachusetts. As grounds therefore, the defendants state as follows:

1. On or about August 17, 2007, the plaintiffs filed this suit in the Plymouth Superior Court, Civil Action No.07-01065.
2. On September 4, 2007, the plaintiffs' complaint was served upon the defendants. Attached as Exhibit A is a copy of the plaintiffs' complaint and summons which were served upon the defendants.
3. In the complaint, the plaintiffs allege that "[d]efendants have violated Plaintiffs' constitutional rights, both state and federal."

4. Because this matter is an action arising under federal law of which this Court has original jurisdiction, as authorized by 28 U.S.C. §1331, it is subject to removal under 28 U.S.C. §1441(b).

5. This Notice of Removal is being filed within the time period required by law, 28 U.S.C. §1446(b).

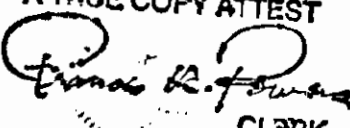
Respectfully submitted,

The defendants/Plaintiffs-in-Counterclaims,
TOWN OF WAREHAM, BRENDA
ECKSTROM, BRUCE SAUVAGEAU, JOHN
CRONAN, JAMES POTTER, & M. JANE
DONOHUE, in their capacities as members of
the Board of Selectmen of Wareham,
By their attorneys,

/s/ Peter E. Montgomery

Leonard H. Kesten, BBO#542042
Peter E. Montgomery, BBO#632698
Brody, Hardoon, Perkins & Kesten, LLP
One Exeter Plaza
Boston, MA 02116

Dated: September 25, 2007

ATRUE COPY ATTEST

CLERK

RECEIVED
AUG 17 2007
PLYMOUTH SUPERIOR COURT

COMMONWEALTH OF MASSACHUSETTS

PLYMOUTH, SS

SUPERIOR COURT DEPARTMENT
CIVIL ACTION NO. 07-106-5 B

WAREHAM FREE LIBRARY, INC., and
PRISCILLA PORTER, MARY NYMAN, HAZEL TABER,
MICHELLE BAUM, SANDRA WHEELER, JOHN LANCI,
MARTHA MAGUIRE, YELENA FARIOLI-BEAUPRE, and
DIANE LAZARUS, Individually and As Trustees of Wareham
Free Library, Inc.

Plaintiffs

v.

THE TOWN OF WAREHAM, and BRENDA ECKSTROM,
BRUCE SAUVAGEAU, JOHN CRONAN, JAMES POTTER,
and M. JANE DONAHUE, Individually and As Members of
The Board of Selectmen of Wareham

Defendants

FILED
COMMONWEALTH OF MASSACHUSETTS
SUPERIOR COURT DEPT. OF THE TRIAL COURT
PLYMOUTH COUNTY
AUG 17 2008
Clerk R. Fowles
CLERK

*305.00 PD
6 summonses
TO issue*

COMPLAINT AND JURY DEMAND

INTRODUCTION

This is an action seeking declaratory judgment, injunctive relief and damages against members of the Board of Selectmen of the Town of Wareham, Massachusetts, individually and officially, resulting from their unconstitutional and otherwise unlawful conduct directed at Plaintiffs. This action arises under the First and Fourteenth Amendments to the United States Constitution, Massachusetts General Laws Ch. 12, §§ 11H and 11I, and other relevant Massachusetts common and statutory law.

LAW OFFICES OF
BEAUREGARD, BURKE
& FRANCO
32 WILLIAM STREET
NEW BEDFORD, MA 02740

1. Plaintiffs are the duly appointed current Trustees of the Wareham Free Library, Inc., a private non-profit Massachusetts corporation located in the Town of Wareham. They bring this action in their official and individual capacities.

2. The Board of Selectmen of Wareham has five members. All five are the named defendants in this case.

3. Defendant Brenda Eckstrom is the Chairperson of the Board of Selectmen.

4. Defendant Bruce Sauvageau is a former Chairperson and a member of the Board of Selectmen.

5. Defendant John Cronan is a member of the Board of Selectmen.

6. Defendant James Potter is a member of the Board of Selectmen.

7. Defendant M. Jane Donahue is a member of the Board of Selectmen.

8. Defendants have maliciously interfered with Plaintiffs' exercise of their state and/or federal constitutional rights. At all relevant times, Defendants acted under the color of state law.

9. Wareham Free Library was established as a private non-profit corporation in 1891 ("Library corporation"). Until late 1970s the Library was wholly privately owned and operated on private funds.

10. During the late 1970s, the Library corporation, acting by its Board of Trustees, collaborated with the Town of Wareham toward the goal of integrating the Library operations into the Wareham town government system. By 1981, as a result of those efforts, the Library operations were partially integrated into the town government system, specifically as follows: library employees were reclassified as Town employees, handling of library bills and payroll was transferred to the Town Accountant and the Town Treasurer, and library funding became

part of the Town regular annual budget. The Library operation has since been funded through a combination of town appropriations and additional private donations, gifts and bequests. The library building remained privately owned, and in 1991 the physical library was moved to a new Town-owned building.

11. To oversee the partial transition of the Library into the town government system, a private Library Transition Committee was created, comprised of library trustees and town officials. The Committee considered special legislation as a means of transferring all Library operations to the Town, but ultimately voted against a transfer of assets to the Town. Thereafter, the Committee was discharged and the matter was not pursued further. The Library corporation was never dissolved and continues to exist as a private non-profit corporation to this time. See Exhibit 1, The Secretary of State's Certificate of Valid Existence.

12. The outcome of the transition was that the Library became a hybrid public/private entity. The Library operations were partially integrated into the town government system, with library employees being reclassified as Town employees by the State Labor Relations Board, handling of library bills and payroll coming under the jurisdiction of the Town, and the physical library being moved to a municipal building. On the other hand, the private non-profit Library corporation was never dissolved and its property and assets were never transferred to the Town; the corporation continues to exist and holds title to its funds and assets.

13. In 1979, as part of the transition effort, the then serving Trustees of the private Library corporation amended the corporation's by-laws to provide for a new method of selection of the trustees. The trustees then became appointed for terms of three years by a three-member committee consisting of the Wareham Town Moderator, the Chairman of the Board of Selectmen and the Chairman of the Library corporation Board of Trustees. This method of library trustee

selection has been followed consistently since 1979, challenged for the first time by Defendants at their official meeting on July 24, 2007. See Exhibit 2, Corporation's 1979 By-Laws.

14. The Trustees now continue to serve in their private capacities, as trustees of the private Library corporation. Their appointments are made by the three-member committee of which two members are town officials. They are sworn in to office by the Town Clerk.

15. All Plaintiffs were duly appointed for three year terms by the three-member committee. See Exhibit 3, Plaintiffs' Appointment Letters.

16. In late January 2007 the present Town-employed Library Director, Mary Jane Pillsbury, at the time serving also as a long-standing member of the Board of Selectmen, resigned from the Board of Selectmen as a result of escalating political and personal difficulties with fellow Selectmen, Defendants Eckstrom and Sauvageau. Pillsbury had previously openly opposed Eckstrom and Sauvageau on public town issues, and said Defendants caused her to resign by interfering with her in the performance of her duties.

17. In March 2007 the Board of Selectmen appointed the Town Treasurer, John Foster, as the Acting Town Administrator of Wareham. On March 21, 2007, Foster submitted a draft of the town budget prepared by his predecessor to the Board of Selectmen. The draft budget was then reviewed by the Town Finance Committee, working with Foster, who revised it several times and re-submitted with the Town Warrant.

18. The original draft of the budget cut the Library's funding by 54%. The Finance Committee and Foster reduced the cut to 17%. The Board of Selectmen then refused to include the revised budget in the Town Warrant, questioning the Finance Committee's right to present reviewed budgets to the Town Meeting. This action by the Board was prompted by vengeance directed at the Library Director Pillsbury.

19. Friends of The Wareham Free Library, Inc., a private non-profit corporation created for the purpose of supporting the Library, of which all Plaintiffs are active members, organized a grassroots opposition to the original budget. Friends sent out letters urging town residents to vote against the proposed 54% cut in the Library's funding.

20. Ultimately, the Finance Committee's revised budget was included in the Warrant. On April 30, 2007, the Town Meeting voted in favor of the revised budget supported by Plaintiffs and against the original draft supported by Defendants.

21. Thereafter, the Defendant Selectmen pursued a vindictive campaign against the funding sought by the Library, accusing the Trustees of "stacking" the town meeting.

22. On June 26, 2007, at a regular Board meeting, the Defendant Selectmen for the first time raised the issue of the manner of appointment of the Plaintiff Library Trustees. The matter had not been noticed on the Board's agenda for the meeting. However, Defendants Eckstrom and Sauvageau had come to the meeting prepared to discuss the matter, citing state statutes pertaining to appointment of public library trustees.

23. At the meeting, Defendant Eckstrom suggested that the Library Trustees were not appointed in accordance with the law and/or the Town Charter, and Defendant Sauvageau noted that the Board would ask the Town Counsel to review the matter; the Board, however, never voted in open session to engage the Town Counsel for that purpose.

24. For its meeting a month later, on July 24, 2007, the Board of Selectmen noticed the subject of appointment of the Plaintiff Library Trustees on its agenda and requested the Trustees to attend the meeting.

25. At the meeting on July 24, 2007, the Board reviewed a written opinion from Town Counsel questioning the legality of the appointment of the Library Trustees. The Board

then stated their preconceived position, now “validated” by Town counsel’s letter, that Library Trustees had never been properly appointed, that Plaintiff Trustees were not properly appointed, and that there were no valid Trustees presently serving. Defendant Sauvageau made a motion, prepared in advance of the meeting, to begin the process of selecting new Trustees. The Board voted in favor unanimously.

26. Since that time, Defendants have continued to treat Plaintiffs as if they are not legally Library Trustees, in effect terminating Plaintiffs as Trustees, to the extent that Trustees act in a public capacity. If the Board of Library Trustees was a public multi-member body under the Town Charter (which Plaintiffs dispute), said termination would violate the Town Charter, which provides that appointed officers of the Town may not be suspended or removed from their duties except for cause and after a public hearing.

27. Defendants have also demanded, for the first time at the Board of Selectmen’s meeting on July 24, 2007 and now continuing through Town counsel, that Plaintiffs turn over the Library corporation’s monies and its financial and other records to Defendants and/or the Town counsel.

28. In April 2007 the Plaintiff Library Trustees voted to create a private foundation for the purpose of holding and managing private donations, gifts and bequests to the Library. Plaintiffs organized The Wareham Library Foundation, Inc. The Foundation holds and manages \$350,000+ of privately donated and restricted funds to the Library. The Foundation holds no public funds.

29. The Board of Trustees is authorized by the Library corporation’s by-laws and by state law to hold and manage all funds that are privately donated, gifted or bequeathed to the Library. Such funds constitute property of the Library corporation. Establishing a public trust

or foundation for the purpose of managing library funds is advised and encouraged by the Massachusetts State Board of Library Commissioners.

30. The Defendant Selectmen now demand that all funds held by the Foundation be turned over to the Town. The Trustees refuse to comply with this unlawful demand.

31. The Defendant Selectmen are making false public accusations suggesting dishonesty and other malfeasance by the Plaintiff Trustees. The Selectmen have made threats that the Library may be shut down and that wages of library employees may be frozen unless the Trustees comply with Defendants' demands.

32. Defendants' actions described above have caused damage to Plaintiffs as private citizens, for which Plaintiffs claim compensatory and punitive damages.

COUNT I
DECLARATORY JUDGMENT

33. Plaintiffs repeat and incorporate herein the allegations above.

34. There is an actual and justiciable controversy between the parties as to whether Plaintiffs are in fact and law validly serving as Trustees of Wareham Free Library and may not be removed (or declared non-Trustees and not in office) by Defendants.

35. There is an actual and justiciable controversy between the parties as to whether the current method of appointment of Library Trustees by the three-member authority pursuant to the private Library corporation's long-standing by-law procedures is legal and must continue to be followed in the future, or whether Defendants have a right to proceed with wholesale new appointments of Library Trustees without following the private Library corporation's by-law procedures.

36. There is an actual and justiciable controversy between the parties as to whether Plaintiffs must turn over the control of the privately donated funds of the Library to the Town and/or the Board of Selectmen.

37. A declaration by the Court is necessary to resolve these controversies between the parties.

COUNT II
INJUNCTIVE RELIEF

38. Plaintiffs repeat and incorporate herein the allegations above.

39. Injunctive relief is required to prevent ongoing harm to the public interest by the actions of the Board of Selectmen.

COUNT III
42 U.S.C. § 1983 and M.G.L. Ch. 12 §§ 11H and 11I
DAMAGES AND ATTORNEYS' FEES

40. Plaintiffs repeat and incorporate herein the allegations above.

41. Defendants have violated Plaintiffs' constitutional rights, both state and federal. Defendants are liable to Plaintiffs both as citizens and as Trustees of the Wareham Free Library to pay Plaintiffs' compensatory and punitive damages and attorneys' fees.

COUNT IV
42 U.S.C. § 1983 and M.G.L. Ch. 12 §§ 11H and 11I
INJUNCTIVE RELIEF

42. Plaintiffs repeat and incorporate herein the allegations above.

43. Injunctive relief is needed against Defendants individually and as members of the Board of Selectmen, enjoining the Defendants from ongoing violations of the Plaintiffs' constitutional rights.

WHEREFORE, plaintiffs request the following relief:

1. Judgment for plaintiffs and against defendants on all counts.
2. A declaration that Plaintiffs are in fact and law validly serving as Trustees of the Wareham Free Library and may not be removed (or declared non-Trustees and not in office) by Defendants.
3. A declaration that the current method of appointment of library trustees by the three-member appointing authority consisting of the Wareham Town Moderator, the Chairman of the Board of Selectmen and the Chairman of the Board of Trustees, pursuant to the private Library corporation's by-law procedures is legal and must continue to be followed in the future, and Defendants do not have the right to proceed with wholesale new appointments of Library Trustees without following said by-law procedures.
4. A declaration that the Plaintiffs need not turn over the control of the privately donated funds of the Library to the Town and/or the Board of Selectmen.
5. A declaration that Defendants have violated Plaintiffs' First Amendment rights and M.G.L. c. 12, §§ 11H and 11I.
6. Injunctive relief against defendants, enjoining Defendants both individually and officially from unlawfully interfering with the Plaintiffs' discharge of their duties as the duly appointed Trustees of Wareham Free Library, as follows:

a. Enjoining Defendants from removing the Plaintiff Trustees or declaring them non-Trustees and not in office and from proceeding with wholesale new appointments of Library Trustees;

b. Enjoining Defendants from appointing Library Trustees not according to the private Library corporation's by-law procedures;

c. Enjoining Defendants from demanding the Plaintiff Trustees to turn over the private Library corporation's monies and financial and other records to Defendants and/or the Town counsel; and

d. Enjoining Defendants from subpoenaing the Plaintiff Trustees to obtain the private Library corporation's financial and other records.

7. Injunctive relief against Defendants under 42 U.S.C. § 1983 and M.G.L. Ch. 12 §§ 11H and 11I, enjoining Defendants both individually and officially from further violations of Plaintiffs' constitutional rights.

8. Compensatory and punitive damages.

9. Costs and attorney's fees.

10. Such other relief as may be just and proper.

JURY DEMAND

Plaintiffs demand a trial by jury on all issues so triable.

Respectfully submitted by

PLAINTIFFS,

By their Attorneys,
BEAUREGARD, BURKE & FRANCO

Timour Zoubaidouline

PHILIP N. BEAUREGARD, BBO # 034870
TIMOUR ZOUBAIDOUILLINE, BBO # 656212
32 William Street, New Bedford, MA 02740
Tel. No.: 508-993-0333

Dated: August 16, 2007

A TRUE COPY ATTEST
Thomas R. Franco
CLERK

LAW OFFICES OF
BEAUREGARD, BURKE
& FRANCO
32 WILLIAM STREET
NEW BEDFORD, MA 02740



William Francis Galvin
Secretary of the
Commonwealth

The Commonwealth of Massachusetts

Secretary of the Commonwealth

State House, Boston, Massachusetts 02133

August 10, 2007

TO WHOM IT MAY CONCERN:

I hereby certify that

WAREHAM FREE LIBRARY

appears by the records of this office to have been incorporated under the General Laws of this Commonwealth on **September 2, 1891 (Chapter 180)**.

I also certify that so far as appears of record here, said corporation still has legal existence.



In testimony of which,
I have hereunto affixed the
Great Seal of the Commonwealth
on the date first above written.

William Francis Galvin

Secretary of the Commonwealth

Processed By jbm



THE WAREHAM FREE LIBRARY

Bylaws, effective April 11, 1979

- I. The name of this corporation shall be The Wareham Free Library.
- II. The object of this corporation shall be the establishment and maintenance of a public library with a reading room for the use of all citizens and residents of the Town of Wareham, and the promotion of education and good citizenship.
- III. There shall be an annual meeting of the corporation held on the second Wednesday of July each year. Special meetings shall be called by the clerk at the direction of the Chairman or Vice-Chairman. It shall also be the duty of the clerk to call a meeting of the corporation at the written request of five members. Trustees shall meet at least 10 times a year; a trustee who misses 50 percent or more of the meetings shall be requested to resign by vote of the board. Seven days notice shall be given of all meetings of the corporation. At all meetings of the trustees a majority of the board shall constitute a quorum, but a lesser number may adjourn.
- IV. The officers and directors of the corporation, herein called trustees, shall consist of a Chairman, Vice-Chairman, Treasurer, Assistant Treasurer, Clerk and seven additional trustees. All officers of the corporation shall be chosen by the trustees from their own number. Those officers shall have the powers usually exercised by their offices. The Vice-Chairman shall have all the powers of the Chairman in the absence of the latter. The

The Treasurer shall pay for expenditures approved by the board. The fiscal year shall run from July 1 to June 30.

- V. Members of the board of trustees shall be residents and registered voters of the Town of Wareham. The terms of the members of the board of trustees shall be three years. No trustee may serve more than two consecutive terms. The members of the board of trustees shall be appointed by a committee consisting of the Chairman of the board of trustees, the Chairman of the board of selectmen and the town moderator. Appointments to fill unexpired terms shall be made in the same manner. The treasurer may be exempted from the limitation of two consecutive terms by vote of the board of trustees.
- VI. The board of trustees shall have general charge of the affairs of the library and reading room. It shall engage and discharge the Library Director and Assistant Director, establish rules and regulations for good order and the proper use of the library and reading room, and at any time alter the same. They may impose and collect all fines and forfeitures. They shall approve the bond of the Treasurer and fix the amount of the same. They may appoint and discharge such subcommittees as they may see fit and change at any time the duties and membership of the same.
- VII. At all regular meetings of the corporation, a majority of the members shall constitute a quorum, but a lesser number may adjourn. Any member may act by written proxy at such meetings. The proxy shall be filed with the clerk.



TOWN OF WAREHAM APPOINTING AUTHORITY

FILE

Wareham, Massachusetts, June 8, 2004

Mary Nyman
79 Green Gate Lane
PO Box 881-642
Onset, MA 02558 02571

Wareham

The undersigned authorized officials of the Town of Wareham have this day appointed you as a member of the **Library Board of Trustees** to a term expiring on June 30, 2007.

APPOINTING AUTHORITY

John T. Donahue, Town Moderator

Patrick G. Tropeano, Chairman
Board of Selectmen

Hazel Tabor, Chairman
Library Board of Trustees

This appointment is not valid until you have taken the oath of office and are sworn-in before the Town Clerk.

I hereby acknowledge receipt of the Open Meeting Law. Mary Nyman
Signature

Plymouth, § July 27, 2004

Then personally appeared the above named person and made an oath that he/she will perform the duties of said office to the best of his/her knowledge and belief.

Before me Mary Nyman

Cheri Cozzeshe
Town Clerk *asst*

FILE COPY

TOWN OF WAREHAM

APPOINTING AUTHORITY

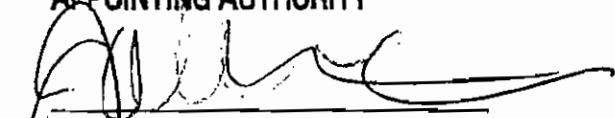


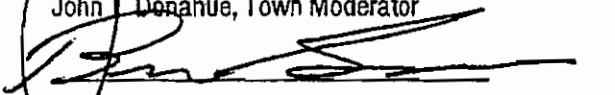
Wareham, Mass., June 21, 2005

Hazel E. Taber
136 Marion Road
Wareham, MA 02571

The undersigned authorized officials of the Town of Wareham have this day appointed you as a member to the Library Board of Trustees to a term to expire June 30, 2008.

APPOINTING AUTHORITY



John T. Donahue, Town Moderator


Bruce D. Sauvageau, Chairman
Board of Selectmen

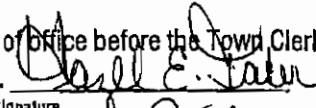
Mary Nyman, Chairman, Library Board of Trustees

This appointment is not valid until you have taken oath of office before the Town Clerk.
I hereby acknowledge receipt of the Open Meeting Law.

Signature

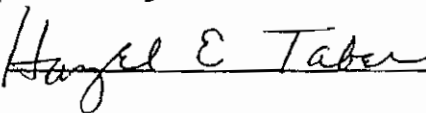
Date:

Plymouth, S.S.

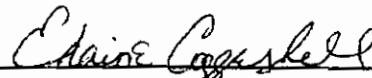

July 13, 2005

Then personally appeared the above named person and made oath that he/she will perform the duties of said office to the best of his/her knowledge and belief.

Before me



TOWN CLERK



Chaire Coggeshall
asst.



TOWN OF WAREHAM

APPOINTING AUTHORITY

Wareham, Massachusetts, June 8, 2004

Michelle A. Baum
10 Peter Cooper Drive
Wareham, MA 02571

The undersigned authorized officials of the Town of Wareham have this day appointed you as a member of the **Library Board of Trustees** to a term expiring on June 30, 2007.

APPOINTING AUTHORITY

John T. Donahue, Town Moderator

Patrick G. Tropeano, Chairman
Board of Selectmen

Hazel Tabor, Chairman
Library Board of Trustees

This appointment is not valid until you have taken the oath of office and are sworn-in before the Town Clerk.

I hereby acknowledge receipt of the Open Meeting Law.

Signature

Plymouth, § Sept 7, 2004

Then personally appeared the above named person and made an oath that he/she will perform the duties of said office to the best of his/her knowledge and belief.

Before me Michelle A. Baum

Town Clerk



TOWN OF WAREHAM

APPOINTING AUTHORITY

4
FILE

Wareham, Mass., July 20, 2004

Sandra Wheeler
35 Long Beach Way
Wareham, MA 02571

The undersigned authorized officials of the Town of Wareham have this day appointed you as a member to the Library Board of Trustees to a term to expire June 30, 2007.

APPOINTING AUTHORITY

John F. Donahue, Town Moderator

Patrick G. Tropeano, Chairman
Board of Selectmen

Hazel E. Taber, Chairman
Library Board of Trustees

This appointment is not valid until you have taken oath of office before the Town Clerk.

I Hereby acknowledge receipt of the Open Meeting Law.

Sandra Stuart Wheeler
Signature

Date: August 6, 2004

Plymouth, S.S. Aug. 6, 2004

Then personally appeared the above the above named person and made oath that he/she will perform the duties of said office to the best of his/her knowledge and belief.

Before me

Christine Coggeshall
Town Clerk




FILE COPY
TOWN OF WAREHAM
APPOINTING AUTHORITY

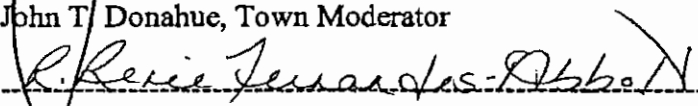
Wareham, Mass., June 27, 2006

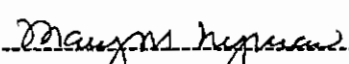
John Lanci
33 Raspberry Road
East Wareham, MA 02538

The undersigned authorized officials of the Town of Wareham have this day appointed you as a member to the Library Board of Trustees (2nd Term) to a term to expire June 30, 2009.

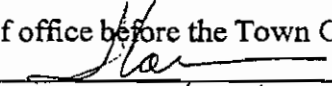
APPOINTING AUTHORITY



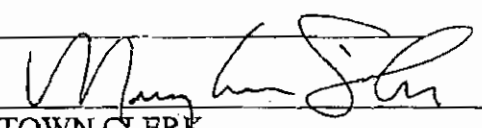
John T. Donahue, Town Moderator


R. Renee Fernandes-Abbott, Chairman, Board of Selectmen
 Vice Chair

John Lanci, Chairman, Library Board of Trustees

This appointment is not valid until you have taken oath of office before the Town Clerk.
I hereby acknowledge receipt of the Open Meeting Law. 
Plymouth, S.S. Signature Date: 6/29/06

Then personally appeared the above named person and made oath that he/she will perform the duties of said office to the best of his/her knowledge and belief.

Before me John Lanci

TOWN CLERK

FILE COPY

TOWN OF WAREHAM
APPOINTING AUTHORITY



Wareham, Mass., June 27, 2006

Yelena Farioli-Beaupre
10 Gibbs Avenue
Wareham, MA 02571

The undersigned authorized officials of the Town of Wareham have this day appointed you as a member to the Library Board of Trustees (1st Term) to a term to expire June 30, 2009.

APPOINTING AUTHORITY

[Handwritten Signature]

John T. Donahue, Town Moderator

[Handwritten Signature]

R. Renee Fernandes-Abbott, Chairman, Board of Selectmen

[Handwritten Signature] Vice Chair

John Lanci, Chairman, Library Board of Trustees

This appointment is not valid until you have taken oath of office before the Town Clerk.

I hereby acknowledge receipt of the Open Meeting Law

[Handwritten Signature]
Signature

Plymouth, S.S.

Date: 7/11/06

Then personally appeared the above named person and made oath that he/she will perform the duties of said office to the best of his/her knowledge and belief.

Before me Yelena Farioli-Beaupre

[Handwritten Signature]
TOWN CLERK Dept Asst

FILE COPY



TOWN OF WAREHAM

APPOINTING AUTHORITY

Wareham, Mass., July 19, 2005

Diane S. Lazarus
2 Mya's Court
Wareham, MA 02571

The undersigned authorized officials of the Town of Wareham have this day appointed you as a member to the Library Board of Trustees (1st Term) to a term to expire June 30, 2008.

APPOINTING AUTHORITY

[Signature]

John T. Donahue, Town Moderator

[Signature]

Bruce D. Sauvageau, Chairman
Board of Selectmen

Hazel Taber, Chairman, Library Board of Trustees

This appointment is not valid until you have taken oath of office before the Town Clerk.

I hereby acknowledge receipt of the Open Meeting Law.

[Signature]
Signature

Plymouth, S.S.

Date: 8/19/05

Then personally appeared the above named person and made oath that he/she will perform the duties of said office to the best of his/her knowledge and belief.

Before me Diane S. Lazarus

[Signature]
TOWN CLERK Dept Asst

CIVIL ACTION COVER SHEET

07-1065B

Superior Court Department County: Plymouth



PLAINTIFF(S) Wareham Free Library, Inc. and Trustees of Wareham Free Library, Inc., Individually and Officially

DEFENDANT(S) Town of Wareham and Members of the Wareham Board of Selectmen, Individually and Officially

ATTORNEY, FIRM NAME, ADDRESS AND TELEPHONE Philip N. Beauregard, Burke & Franco, 32 William Street, New Bedford, MA 02740 Board of Bar Overseers number: 034780

ATTORNEY (if known)

Origin code and track designation

Place an x in one box only:

- 1. F01 Original Complaint
2. F02 Removal to Sup.Ct. C.231,s.104 (Before trial) (F)
3. F03 Retransfer to Sup.Ct. C.231,s.102C (X)

- 4. F04 District Court Appeal c.231, s. 97 &104 (After trial) (X)
5. F05 Reactivated after rescript; relief from judgment/Order (Mass.R.Civ.P. 60) (X)
6. E10 Summary Process Appeal (X)

TYPE OF ACTION AND TRACK DESIGNATION (See reverse side)

CODE NO. TYPE OF ACTION (specify) TRACK IS THIS A JURY CASE? D13 Injunctive Relief () (X) Yes () No

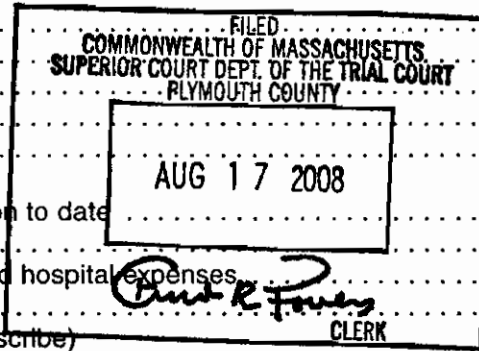
The following is a full, itemized and detailed statement of the facts on which plaintiff relies to determine money damages. For this form, disregard double or treble damage claims; indicate single damages only.

TORT CLAIMS

(Attach additional sheets as necessary)

A. Documented medical expenses to date:

- 1. Total hospital expenses
2. Total Doctor expenses
3. Total chiropractic expenses
4. Total physical therapy expenses
5. Total other expenses (describe)



Subtotal \$
TOTAL \$ Unknown

- B. Documented lost wages and compensation to date
C. Documented property damages to date
D. Reasonably anticipated future medical and hospital expenses
E. Reasonably anticipated lost wages
F. Other documented items of damages (describe)

G. Brief description of plaintiff's injury, including nature and extent of injury (describe)

Plaintiffs' state and federal civil rights have been violated, and plaintiffs have been interfered with in their performance of their duties.

CONTRACT CLAIMS

(Attach additional sheets as necessary)

Provide a detailed description of claim(s):

Also, Equity action seeking injunctive relief.

TOTAL \$

PLEASE IDENTIFY, BY CASE NUMBER, NAME AND COUNTY, ANY RELATED ACTION PENDING IN THE SUPERIOR COURT DEPARTMENT

"I hereby certify that I have complied with the requirements of Rule 5 of the Supreme Judicial Court Uniform Rules on Dispute Resolution (SJC Rule 1:18) requiring that I provide my clients with information about court-connected dispute resolution services and discuss with them the advantages and disadvantages of the various methods."

Signature of Attorney of Record

Philip N. Beauregard, Burke & Franco, R. Powers CLERK

DATE: 8/16/07

**CIVIL ACTION COVER SHEET
INSTRUCTIONS**

SELECT CATEGORY THAT BEST DESCRIBES YOUR CASE

CONTRACT		REAL PROPERTY		MISCELLANEOUS	
01	Services, labor and materials (F)	C01	Land taking (eminent domain) (F)	E02	Appeal from administrative Agency G.L. c. 30A (X)
02	Goods sold and delivered (F)	C02	Zoning Appeal, G.L. c.40A (F)	E03	Action against Commonwealth Municipality, G.L. c.258 (A)
03	Commercial Paper (F)	C03	Dispute concerning title (F)	E05	All Arbitration (X)
08	Sale or lease of real estate (F)	C04	Foreclosure of mortgage (X)	E07	c.112,s.12S (Mary Moe) (X)
12	Construction Dispute (A)	C05	Condominium lien and charges (X)	E08	Appointment of Receiver (X)
99	Other (Specify) (F)	C99	Other (Specify) (F)	E09	General contractor bond, G.L. c.149,s.29,29a (A)
TORT		EQUITABLE REMEDIES		E11	Workman's Compensation (X)
103	Motor Vehicle negligence-personal injury/property damage (F)	D01	Specific performance of contract (A)	E14	Chapter 123A Petition-SDP (X)
104	Other negligence-personal injury/property damage (F)	D02	Reach and Apply (F)	E15	Abuse Petition, G.L.c.209A (X)
105	Products Liability (A)	D06	Contribution or Indemnification (F)	E16	Auto Surcharge Appeal (X)
106	Malpractice-medical (A)	D07	Imposition of Trust (A)	E17	Civil Rights Act, G.L.c.12,s.11H (A)
107	Malpractice-other(Specify) (A)	D08	Minority Stockholder's Suit (A)	E18	Foreign Discovery proceeding (X)
108	Wrongful death,G.L.c.229,s2A (A)	D10	Accounting (A)	E96	Prisoner Cases (F)
115	Defamation (Libel-Slander) (A)	D12	Dissolution of Partnership (F)	E97	Prisoner Habeas Corpus (X)
119	Asbestos (A)	D13	Declaratory Judgment G.L.c.231A (A)	E99	Other (Specify) (X)
120	Personal Injury-Slip&Fall (F)	D99	Other (Specify) (F)		
121	Environmental (A)				
122	Employment Discrimination (F)				
199	Other (Specify) (F)				

TRANSFER YOUR SELECTION TO THE FACE SHEET.

EXAMPLE:

CODE NO.	TYPE OF ACTION (SPECIFY)	TRACK	IS THIS A JURY CASE?
B03	Motor Vehicle Negligence-Personal Injury	(F)	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No

SUPERIOR COURT RULE 29

DUTY OF THE PLAINTIFF. The plaintiff or his/her counsel shall set forth, on the face sheet (or attach additional sheets as necessary), a statement specifying in full and itemized detail the facts upon which the plaintiff then relies as constituting money damages. A copy of such civil action cover sheet, including the statement as to the damages, shall be served on the defendant together with the complaint. If a statement of money damages, where appropriate is not filed, the Clerk-Magistrate shall transfer the action as provided in Rule 29(5)(C).

DUTY OF THE DEFENDANT. Should the defendant believe the statement of damages filed by the plaintiff in any respect inadequate, he or his counsel may file with the answer a statement specifying in reasonable detail the potential damages which may result should the plaintiff prevail. Such statement, if any, shall be served with the answer.

A CIVIL ACTION COVER SHEET MUST BE FILED WITH EACH COMPLAINT, BUFF COLOR PAPER.

**FAILURE TO COMPLETE THIS COVER SHEET THOROUGHLY AND ACCURATELY
MAY RESULT IN DISMISSAL OF THIS ACTION.**

Commonwealth of Massachusetts

County of Plymouth

The Superior Court

CIVIL DOCKET # **PLCV2007-01065-B**

Courtroom Superior Court Courtroom 3rd fl (52 Obery Street, Plymouth)

RE: Wareham Free Library, Inc. et als et al v The Town of Wareham et al

TO: Timour Zoubaidouline, Esquire
 Beauregard & Burke
 32 William Street
 PO Box 952
 New Bedford, MA 02740

SCHEDULING ORDER FOR A TRACK

You are hereby notified that this case is on the track referenced above as per Superior Court Standing Order 1-88. The order requires that the various stages of litigation described below must be completed not later than the deadlines indicated, and case shall be resolved and judgment shall issue by **08/01/2010**

STAGES OF LITIGATION

DEADLINES

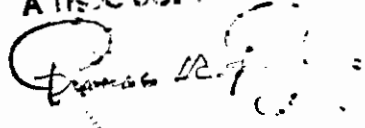
	SERVED BY	FILED BY	HEARD BY
Service of process made and return filed with the Court	11/15/2007	11/15/2007	
Response to the complaint filed (also see MRCP 12)		12/15/2007	
All motions under MRCP 12, 19, and 20	12/15/2007	01/14/2008	02/13/2008
All motions under MRCP 15	10/10/2008	11/09/2008	11/09/2008
All discovery requests and depositions served and non-expert depositions completed	08/06/2009		
All motions under MRCP 56	09/05/2009	10/05/2009	
Final pre-trial conference held and/or firm trial date set			02/02/2010
Case shall be resolved and judgment shall issue by 08/01/2010			08/01/2010

- **The final pre-trial deadline is not the scheduled date of the conference.**
- **You will be notified of that date at a later time.**
- **Counsel for plaintiff must serve this tracking order on defendant before the deadline for filing return of service.**

Dated: 08/17/2007

Francis R. Powers
 Clerk of the Court

Telephone: (508) 747-6911

A TRUE COPY ATTEST


PLYMOUTH, ss.

COMMONWEALTH OF MASSACHUSETTS

SUPERIOR COURT DEPARTMENT OF THE TRIAL COURT OF THE COMMONWEALTH CIVIL ACTION NO. PLCV2007-01065-B

SEP 12 2007

PLYMOUTH SUPERIOR COURT

Wareham Free Library, Inc., et al
....., Plaintiff(s)

vs.

The Town of Wareham, et al
....., Defendant(s)

SUMMONS

To the above-named defendant: Town Clerk; Town of Wareham, 54 Marion Road, Wareham, MA

You are hereby summoned and required to serve upon Philip N. Beaugregard, plaintiff attorney, whose address is 32 William St., New Bedford, MA 02740, an answer to the complaint which is herewith served upon you, within 20 days after service of this summons upon you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint. You are also required to file your answer to the complaint in the office of the Clerk of this court at Plymouth either before service upon plaintiff attorney or within a reasonable time thereafter.

Unless otherwise provided by Rule 13(a), your answer must state as a counterclaim any claim which you may have against the plaintiff which arises out of the transaction or occurrence that is the subject matter of the plaintiff claim or you will thereafter be barred from making such claim in any other action.

Witness, Barbara J. Rouse Esquire, at Plymouth the 31st day of August, in the year of our Lord Two thousand and seven.

Francis R. Fowers
CLERK.

NOTES

- 1. This summons is issued pursuant to Rule 4 of the Massachusetts Rules of Civil Procedure.
2. When more than one defendant is involved, the names of all defendants should appear in the caption. If a separate summons is used for each defendant, each should be addressed to the particular defendant.
3. To the plaintiff's attorney: please circle type of action involved-Tort-Motor Vehicle Tort-Contract-Equitable Relief-Other.

PROOF OF SERVICE OF PROCESS

I hereby certify and return that on September 4, 2007, I served a copy of the within summons together with a copy with a copy of the complaint in this action, upon the within-named defendant, in the following manner(See Mass. R. Civ. P. 4(d)(1-5):

By way of Certified Mail, Return Receipt No. 7007 0710 0004 4721 9210, a copy of which is attached.

Dated: Sept. 7th, 2007

N.B. TO PROCESS SERVER:-

PLEASE PLACE DATE YOU MAKE SERVICE ON DEFENDANT IN THIS BOX ON THE ORIGINAL AND ON COPY SERVED ON DEFENDANT.

September 4, 2007

A TRUE COPY ATTEST
Francis R. Fowers
CLERK

NOTICE TO DEFENDANT - You need not appear personally in court to answer the complaint, but if you claim to have a defense, either you or your attorney must serve a copy of your written answer within 20 days as specified herein and also file the original in the Clerk's office at Plymouth.


SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Town Clerk
 Town of Wareham
 54 MARION RD.
 Wareham, MA

COMPLETE THIS SECTION ON DELIVERY

A. Signature:  Agent Addressee
 X

B. Received by (Printed Name): Shelby P. Pitzer C. Date of Delivery: 2/11

D. Is delivery address different from item 1? Yes No
 If YES, enter delivery address below: Yes No

3. Service Type
 Certified Mail Express Mail
 Registered Return Receipt for Merchandise
 Insured Mail C.O.D.

4. Restricted Delivery? (Extra Fee) Yes No

2. Article Number (Transfer from service label) 7007 0710 0004 4721 9210

PS Form 3811, February 2004 Domestic Return Receipt 102596-02-M-1540

PLYMOUTH, ss.

COMMONWEALTH OF MASSACHUSETTS

SUPERIOR COURT DEPARTMENT OF THE TRIAL COURT OF THE COMMONWEALTH CIVIL ACTION NO. PLCV2007-01065-B

SEP 12 2007 PLYMOUTH SUPERIOR COURT

SEP 12 2007 CLERK

Wareham Free Library, Inc. et al Plaintiff(s)

vs.

The Town of Wareham, et al Defendant(s)

SUMMONS

To the above-named defendant: Chairman of the Board of Selectmen, Town of Wareham 54 Marion Road, Wareham, MA

You are hereby summoned and required to serve upon Philip N. Beauregard plaintiff attorney, whose address is 32 William St., New Bedford, MA 02740, an answer to the complaint which is herewith served upon you, within 20 days after service of this summons upon you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint. You are also required to file your answer to the complaint in the office of the Clerk of this court at Plymouth either before service upon plaintiff attorney or within a reasonable time thereafter.

Unless otherwise provided by Rule 13(a), your answer must state as a counterclaim any claim which you may have against the plaintiff which arises out of the transaction or occurrence that is the subject matter of the plaintiff claim or you will thereafter be barred from making such claim in any other action.

Witness, Barbara J. Rouse Esquire, at Plymouth the 31st day of August, in the year of our Lord Two thousand and seven

Francis R. Powers CLERK.

NOTES

- 1. This summons is issued pursuant to Rule 4 of the Massachusetts Rules of Civil Procedure.
2. When more than one defendant is involved, the names of all defendants should appear in the caption. If a separate summons is used for each defendant, each should be addressed to the particular defendant.
3. To the plaintiff's attorney: please circle type of action involved-Tort-Motor Vehicle Tort-Contract-Equitable Relief-Other.

PROOF OF SERVICE OF PROCESS

I hereby certify and return that on September 4, 2007 I served a copy of the within summons together with a copy with a copy of the complaint in this action, upon the within-named defendant, in the following manner(See Mass. R. Civ. P. 4(d)(1-5):

By way of Certified Mail, Return Receipt No. 7007 0710 0004 4721 9203, a copy of which is attached.

Dated: September 7, 2007

N.B. TO PROCESS SERVER:-


PLEASE PLACE DATE YOU MAKE SERVICE ON DEFENDANT IN THIS BOX ON THE ORIGINAL AND ON COPY SERVED ON DEFENDANT.

September 14, 2007

A TRUE COPY ATTEST

Francis R. Powers CLERK

NOTICE TO DEFENDANT -You need not appear personally in court to answer the complaint, but if you claim to have a defense, either you or your attorney must serve a copy of your written answer within 20 days as specified herein and also file the original in the Clerk's office at Plymouth.

SENDER: COMPLETE THIS SECTION		COMPLETE THIS SECTION ON DELIVERY	
<p>1. Article-Addressed to:</p> <p>Chairman of the Board of Selectmen Town of Wareham 54 Marion Rd. Wareham, MA</p>		<p>A. Signature  <input type="checkbox"/> Agent</p> <p><input checked="" type="checkbox"/> <input type="checkbox"/> Addressee</p>	<p>B. Received by (Printed Name) SHARON EXP. LIZU <input type="checkbox"/> Date of Delivery 2/11/04</p>
<p>2. Article Number (Transfer from service label) 7007 0710 0004 4721 9203</p> <p>PS Form 3811, February 2004 Domestic Return Receipt</p>		<p>3. Service Type</p> <p><input checked="" type="checkbox"/> Certified Mail <input type="checkbox"/> Express Mail</p> <p><input type="checkbox"/> Registered <input type="checkbox"/> Return Receipt for Merchandise</p> <p><input type="checkbox"/> Insured Mail <input type="checkbox"/> C.O.D.</p>	
		<p>4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes</p>	
		<p>102595-02-M-1540</p>	

UNITED STATES POSTAL SERVICE

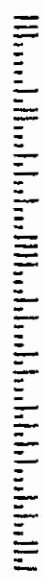


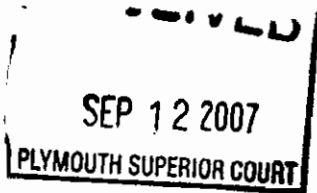
First-Class Mail
Postage & Fees Paid
USPS
Permit No. G-10

• Sender: Please print your name, address, and ZIP+4 in this box •

LAW OFFICES OF
BEAUREGARD, BURKE & FRANCO
P.O. Box 952
New Bedford, MA 02741

Wareham Free Library / LL-PNB





LAW OFFICES OF
BEAUREGARD, BURKE & FRANCO

THE ANDREW ROBESON HOUSE
P.O. BOX 952
32 WILLIAM STREET
NEW BEDFORD, MA 02740

TEL.: (508) 993-0333
FAX: (508) 990-2045
FAX: (508) 990-2002

PHILIP N. BEAUREGARD
RICHARD E. BURKE, JR.
MICHAEL FRANCO
JAMES HODGSON
TIMOUR ZOUBAIDOUILLINE
JASON PARENT

CHRISTOPHER J. CAREY
HON. WILLIAM H. CAREY
OF COUNSEL

September 10, 2007

E-Mail: andrew.robesson@verizon.net

Civil Clerk's Office
Plymouth Superior Court
Courthouse, Court Street
Plymouth, MA 02360

RE: Wareham Free Library, Inc., et al
v. The Town of Wareham, et al

Dear Sir/Madam:

Enclosed please find the following for filing:

- Summons with Return of Service (2) for:
 - Chairman of the Board of Selectmen, Town of Wareham; and
 - Town Clerk, Town of Wareham.

Thank you for your attention to this matter.

Very truly yours,

A handwritten signature in black ink, appearing to read "Philip N. Beauregard". The signature is fluid and cursive, written over the typed name below it.

PHILIP N. BEAUREGARD

PNB/II
Enclosures