

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

CASE NO.: 1:15-cv-13660-NMG

RAOUL MARRADI,

Plaintiff,

vs.

K&W REALTY INVESTMENT LLC,
and PHO PASTEUR, INC.,Defendants.

PLAINTIFF'S MOTION TO STRIKE PHO PASTEUR, INC.'S JURY DEMAND

Plaintiff, RAOUL MARRADI, by and through undersigned counsel, and pursuant to Rule 39, Fed.R.Civ.P., hereby files the following Motion to Strike Defendant, PHO PASTEUR, INC.'s, Jury Demand, and as grounds therefore states as follows:

1. Plaintiff filed a Complaint (D.E. 1) against the Defendant pursuant to the Americans with Disabilities Act, 42 U.S.C. §12181, *et seq.* ("ADA"), seeking injunctive relief for the removal of barriers to access present at the Defendant's facility.
2. On August 5, 2016, Defendant, PHO PASTEUR, INC. filed an Answer and Affirmative Defenses (D.E. 18) to Plaintiff's Complaint, which includes a demand for a jury trial.

MEMORANDUM OF POINTS AND AUTHORITIES

Rule 39(a)(2) of the Federal Rules of Civil Procedure states in pertinent part that: "When a jury trial has been demanded under Rule 38, the action must be designated on the docket as a jury action. The trial on all issues so demanded must be by jury unless ... the court, on motion or on its own, finds that on some or all of those issues there is no federal right to a jury trial."

To determine whether a right to jury trial exists under the Seventh Amendment, the Court

Motion allowed. GSM Gorton, USDJ 9/20/16