

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

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| A. J. PROPERTIES, LLC, |) | |
| |) | |
| Plaintiff, |) | |
| |) | Civil Action No. |
| v. |) | 11-10835-FDS |
| |) | |
| STANLEY BLACK & DECKER, INC., |) | |
| |) | |
| Defendant. |) | |
| |) | |

**FURTHER MEMORANDUM
TO THE SUPREME JUDICIAL COURT OF MASSACHUSETTS**

SAYLOR, J.

On April 8, 2013, this Court certified the following question of state law to the Supreme Judicial Court of Massachusetts, pursuant to Supreme Judicial Court Rule 1:03:

Does the rule of *Quaranto v. Silverman*, 345 Mass. 423, 426-27 (1963), that “the assignment of a debt carries with it every remedy or security that is incidental to the subject matter of the assignment and could have been used or made available to the assignor,” extend to a situation where a mortgage and a surety agreement secured an obligation, and both the mortgagor and the surety breached that obligation prior to a written assignment of the mortgage, does the assignee, by operation of law, acquire the right against the surety’s receiver for the surety’s breach of its obligation?

On August 7, 2013, this Court informed the Supreme Judicial Court that newly discovered evidence, specifically a release executed in May 2003, had prompted it to lift the stay on proceedings before it and permit defendant to amend its answer and address the possible impact of the release on a motion for summary judgment.

On November 22, 2013, after briefing and a hearing, this Court denied defendant’s motion for summary judgment based on the May 2003 release. The certified question therefore

remains ripe for resolution by the Supreme Judicial Court.

The Clerk of the Court is directed to forward to the Supreme Judicial Court, under official seal, copies of this Memorandum and any other part of the record of this case that was not previously so forwarded, including, among other things, this Court's Memorandum and Order of November 22, 2013, denying summary judgment.

So Ordered.

/s/ F. Dennis Saylor
F. Dennis Saylor IV
United States District Judge

Dated: November 22, 2013