

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MASSACHUSETTS

CIVIL ACTION: 03-CV-11895-MLW

**François Gouin, Jr.**  
Plaintiff

v.

**Dori C. Gouin, Esq., a/k/a Dori Faith Chadbourne, in her professional and individual capacities,**

**John G. DiPiano, Esq., in his partnership, professional, and individual capacities,  
Mauser & Mauser,**

**Timothy M. Mauser, Esq., in his partnership, professional, and individual capacities**

**Martha D. Mauser, Esq., in her partnership, professional, and individual capacities**

**Susan James, in her official and individual capacities,**

**City of Boston**

Defendants

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**REPLY TO JOHN DiPIANO'S OPPOSITION TO  
MOTION TO DISMISS COUNTERCLAIMS OF JOHN G. DiPIANO  
OR IN THE ALTERNATIVE, MOTION FOR SUMMARY JUDGMENT**

Now comes François Gouin, Jr. ["Gouin"], and replies to John DiPiano's opposition to Gouin's motion to dismiss DiPiano's counterclaims.

As grounds, Gouin states that in his opposition, DiPiano stated inaccurate facts, irrelevant facts and facts that he failed to plead in his counterclaims. Gouin deals with each disputed fact for each of DiPiano's three counterclaims.

**1. DiPiano's facts of questionable basis are insufficient to support his first counterclaim.**

**Factual error #1 (DiP. Opp. 6-7):** *Plaintiff's request for dismissal of DiPiano's Counterclaim regarding tortious interference with an advantageous business relationship seems to be based on the conclusory statements that because the Mass. Gen. Law Ch. 272, Sec. 99 Counterclaim (allegedly) fails, the second Counterclaim also fails. This reasoning is cryptic, at best. The remainder of the bases posited for 12(b)(6) dismissal is equally cryptic.*

In Gouin's motion to dismiss, there is **no** page on which Gouin **(a)** states that the wiretap statute forms the basis of either one of DiPiano's other two counterclaims or **(b)** combines the wiretap statute with the other two counterclaims in any manner in any sentence or paragraph.

Gouin leaves to the court the determination of what is causing that type of erroneous statement to be in each of DiPiano's pleadings. Even the tort to which DiPiano referred is not, as he asserts, the second counterclaim. [For the court's convenience: Gouin argues against DiPiano's second counterclaim<sup>1</sup>/ on pages 11-13.]

**Factual error #2 (DiP. Opp. p.7, ¶2):** *That Gouin does not have a copy of a fee agreement between DiPiano and Defendant Dori Chadbourne is no basis for 12(b)(6) dismissal, . . .*

Gouin did not state, as DiPiano asserted, that DiPiano's failure to include a client-fee agreement with his Answer and Counterclaims was a basis for dismissing the case in accordance with Rule 12(b)(6). Gouin was discussing one element of DiPiano's first counterclaim, to wit, the element that requires DiPiano to demonstrate that Gouin knew of the relationship.<sup>2</sup> Gouin stated that because DiPiano failed to include a client-fee agreement with his Answer and Counterclaims, Gouin could "not know the exact nature of the attorney-client relationship between Dori and DiPiano." For example, Gouin does not know (1) whether there is an executed client fee agreement, (2) whether the former lawfirm Mauser & Mauser<sup>3</sup>/ or DiPiano executed such an agreement, if any, with Dori C. Gouin ["Dori"], (3) whether Dori went first to Mauser & Mauser, which then assigned DiPiano to the Gouin divorce, or (4) whether DiPiano was the rainmaker and brought Dori's business into the firm, (5) whether DiPiano was paid a yearly salary by the lawfirm, or (6) whether DiPiano received a percentage of the hourly fee at which Mauser charged Dori [*see Complaint Exh. V*].

<sup>1</sup> DiPiano's second counterclaim is for a violation of c. 231, §6F.

<sup>2</sup> See United Truck Leasing Corp. v. Geltman, 406 Mass. 811, 812, 815-817, 551 N.E.2d 20 (1990); Swanset Dev. Corp. v. City of Taunton, 423 Mass. 390, 397, 668 N.E.2d 333 (1996).

<sup>3</sup> Immediately after the Magistrate-Judge dismissed the case against Mauser & Mauser, DiPiano was made a general partner in the firm and it was renamed Mauser & DiPiano, LLP. DiPiano has not officially notified the court of the lawfirm name change, although he has noted it in the signature block.

**Factual error #3 (DiP. Opp. p. 7, ¶3):** *Gouin wishes to interfere with the subject business relationship is a matter of record. In correspondence by and through his counsel, directly referencing this case, Gouin expressly tries to interfere with the business relationship between Chadbourne and DiPiano that had existed at all times relevant hereto.*

The Complaint in this case was filed 29 September 2003. The third emailed letter appearing on page 4 of Exhibit 1 of DiPiano's was written by Gouin's counsel on 2 November 2004 in response to a letter Johnson received from Dori on 1 November 2004,<sup>4</sup>

1. a year after the Complaint
2. approximately four or five months after DiPiano had filed a motion to withdraw from the divorce case
3. four months after Dori had given an attorney's lien on her half interest in the Boston condo to DiPiano and his co-counsel, Raymond Sayeg (Dori had fired Sayeg on 13 June 2002, the fourth day of the divorce trial).

The order and the facts and events alleged by Dori in her letter of 1 November 2004 (the second emailed letter of DiPiano's Exhibit 1) to which Gouin's counsel was responding arose – if they arose at all – around July 2004, when the Gouin's Judgment of Divorce became Absolute and ten months after the Complaint in this case was written. And despite the post-Complaint birth of the alleged facts events, DiPiano did not plead in his counterclaim any of the events recounted in either Dori's or Johnson's letter.

The only reasonable conclusion is that all the alleged facts and events in Dori's letter are irrelevant to this Complaint and to DiPiano's causes of action: They simply had not existed prior to mid-2004 and are insufficient to support any element of DiPiano's claim for tortious interference with an advantageous business relationship.

Similarly insufficient to support DiPiano's claim for tortious interference with an advantageous business relationship is the date of the email in which Dori sent both her November 2004 letter to Johnson and Johnson's November 2004 letter to her: the date of that most recent email from

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<sup>4</sup> On page 3 of Johnson's letter, the word "incommensurate" should have read "commensurate."

Dori to DiPiano is "2005/2/14 Mon PM 03:59:31 EST." Clearly Dori and DiPiano still have an attorney-client relationship in good health. If Gouin through his attorney had interfered with Dori and DiPiano's healthy relationship, Dori would not have sent the November 2004 letters to DiPiano in her email to him on Valentine's Day this week.

**Factual error #4 (DiP. Opp. p. 7, ¶5—p.8, ¶1):** . . . that [Gouin] has failed to provide clear title to real estate from which DiPiano may be paid for legal services rendered to Chadbourne, and as required by court order in the underlying divorce, that he sought attachment on said real property in May 2004, while this action was pending, and after the Probate & Family Court, on February 18, 2004, ordered that Chadbourne be given exclusive right title and interest in the property. In short, Gouin's animosity towards DiPiano is palpable. . . . His actions have been calculated to deprive Chadbourne of assets from which DiPiano may receive compensation for his legal services, and constitute a pattern of intentional conduct designed to interfere with the relationship between an attorney and his client.

If DiPiano believes that Gouin has violated an order of the Probate & Family Court, the proper forum in which to find relief is in that court, not in federal court. His remedy does not lie in tort. It appears that he might be attempting to amend or modify or enforce the State divorce judgment, in which case, DiPiano's issues are strictly precluded from this court by the Rooker-Feldman doctrine.<sup>5/</sup> In his attempt to evade the applicable Rooker-Feldman doctrine, DiPiano has once again resorted to mendacity. The Probate & Family Court did **not** "order[ ] that Chadbourne be given exclusive right title and interest in the [Boston] property."

That court gave only one party exclusive right, title, and interest to a real property and that party was Gouin and the property is located in Pelham, Massachusetts. That is the property Merrill, Sayeg, and DiPiano had had their eyes on to satisfy their legal fees. They literally hid a legitimate appraisal of the Pelham property – Gouin's home since birth -- in an attempt to inflate the value, so that if the property were equally divided by the family court, Gouin would have had to buy out Dori's half for an amount that was almost equal to the fair market value of the entire prop-

<sup>5</sup> Rooker v. Fidelity Trust Co., 263 U.S. 413 (1923); District of Columbia Court of Appeals v. Feldman, 460 U.S. 462 (1983).

erty.<sup>6/</sup> That attempted fraud was the subject of the action about which DiPiano is fretting. *See* **Exhibit A**, the Complaint of the attempted fraud action, which is attached to this pleading.<sup>7/</sup>

That not all details of the divorce have yet been resolved or finalized between Gouin and his former wife is apparently the source of DiPiano's concern. He attributes the reason for failure of resolution to "an improper purpose or the employment of improper means on Gouin's part to interfere with an advantageous business relationship" between Dori and DiPiano.

Lastly, it turns out that while DiPiano has failed to state what advantage he allegedly lost, he has revealed in his opposition that his concern is that he has not collected his legal fees allegedly due him from Dori fast enough to suit him. His fear is clearly that should Gouin prevail against him, the interest Dori has given DiPiano in her half of the Boston condo will pass to Gouin upon an execution of judgment.

DiPiano's fear specifically arose in early May 2004: he learned that Gouin had filed an *ex parte* motion for a real estate attachment of Dori's real property interests.<sup>8/</sup> On 13 July 2004, DiPiano and/or Sayeg filed in the Suffolk Registry of Deeds the attorneys' liens on Dori's interest in the Boston condominium [Exh. E, the two attorney liens, attached to Paper #89, Gouin's Opp. to DiPiano's Mot. for Recon. of Order denying his Mot. Dism. (#4)]. The cause of the two-month delay in conveying is explained in the margin at note 8.<sup>9/</sup>

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<sup>6</sup> The hidden FSI appraisal in 2000 was \$188,000; the town assessment in 2000, roughly, \$192,000; by FY2002, \$224,000; Dori's Financial Statement with Merrill's vouching signature \$500,000; DiPiano's so-called expert appraiser at trial, up to \$880,000. The court assigned a fair market value to the property at the end of trial at \$260,000 and denied to the wife "any share in its value."

<sup>7</sup> That action, Docket No.02-CV-10873-JLT, was dismissed on the grounds that there was no State action. Gouin did not appeal the dismissal, and has not pursued his claims in State court because the family court awarded Gouin 100 percent of the property after rejecting Dori and DiPiano's appraiser's excessive valuation of the property. Dori did not appeal that award.

<sup>8</sup> In his *ex parte* motion, Gouin, of course, averred that there was a clear danger that Dori Chadbourne Gouin was about to convey her interest in the properties. His averment was true, but he thought it would be conveyed into names other than DiPiano's and Sayeg's.

<sup>9</sup> After receiving an ECF notice of the denial by Magistrate-Judge Collings of Gouin's motion for emergency attachment, Dori set out immediately to transfer or convey the property [*see* Gouin's Mot. to Dism. DiPiano, p. 11]. Because of personal reasons – the birth of a daughter within 10 days of the denial and then wedding plans for her sub-

**2. DiPiano concedes that Gouin is “right”: “[W]here Gouin argues that this action could not have affected the finality of the divorce judgment, he is right only insofar as the divorce judgment had not yet even entered when the instant commenced.” [DiPiano Opp. on p. 9, ¶1]. For that reason, DiPiano’s second counterclaim for a frivolous action must fail.**

While DiPiano’s admission is inartfully articulated, the concession is made: Gouin is right!

Thus, where Gouin argues that this action could not have affected the finality of the divorce judgment, he is right only insofar as the divorce judgment had not yet even entered when the instant commenced.

DiPiano Opp. on p. 9, ¶1. Gouin’s point was not as DiPiano stated, Gouin’s point was that evidence had closed in the divorce case four months prior to the initiation of this suit. *Therefore* this action could not have affected the finality of the divorce judgment. See DiPiano Counterclaim, p. 16, ¶11, where DiPiano asserted that Gouin was “*attempt[ing] to gain an advantage in the underlying divorce proceedings, and in attempts to intimidate, harass or embarrass Plaintiff-in-Counterclaim.*”

Because the evidence so controverts the averments in DiPiano’s counterclaim, DiPiano was forced, when writing his opposition to Gouin’s motion, to come up with a substitute for ¶11; he could not sustain his averment that Gouin was “*attempt[ing] to gain an advantage in the underlying divorce proceedings.*” The divorce case was over!<sup>10</sup> Even the Proposed Findings of Fact and Rulings of Law in the divorce had been filed almost two months earlier. There is nothing in the instant suit that can affect the finality of the Gouins’ divorce. Counterclaim 2 must be dismissed.

**3. Background and Purpose of Johnson’s Website, the Subject of DiPiano’s Exhibits 2(A), (B) and (C).**<sup>11</sup> [DiPiano’s Opposition, pp. 9-10].

sequent marriage on or around July 4th – it took Dori until 6 July 2004 to execute a Certificate of Attorney’s Lien for DiPiano, and one for Sayeg.

<sup>10</sup> And as Gouin stated in his motion to dismiss DiPiano’s counterclaims, because DiPiano initiated the criminal action underlying this lawsuit by calling 911 two weeks before the trial was to begin, it is more objectively reasonable to conclude that it was DiPiano who was “*attempt[ing] to intimidate, harass or embarrass*” Gouin in the divorce court . . . and not the other way around.

<sup>11</sup> Exh. 2(A) is to show the name “Gouin in the Search tool; Exh. 2(B) lists the “8 hits”; and Exh. 2(C) is but a corrupted print-out of the Complaint in the instant case: about ¼ to ½ inch of the entire right-hand margin has been cut off by the manner in which DiPiano printed it.

On Johnson's website, *www.falseallegations.com*, Dori is Pocahontas and Gouin is John Smith. On the website, there are no documents filed in the Gouin dissolution action which are identifiable as documents from their divorce. The point of the website was, from its conception in December 1998 and birth in early 1999 until now, to be an educational tool. It helps *pro se* parties with preparing their pleadings. It educates the public in general about how the courts work and about, for example, the format of and standards for different types of appeals (interlocutory, final, writs, "habes," etc.). It provides samples of motions, interrogatories, and requests for production of documents. It defines a few legal terms, e.g., fresh complaint. It is a pot pourri.

**Advocacy of Court Reform.** The site also serves as Johnson's soapbox, there being no forum in the Commonwealth where lawyers can share War Stories or disclose stories of unscrupulousness in, in particular, the Probate & Family Court, which most lawyers who frequent it will painfully agree that the "PFC" is like a Wild West Rodeo Show. No rules, only "Yaaaah-Whoooooo!!" But humor aside, the tragedies emanating from that court daily are so abundant across the State that Johnson found herself vigorously advocating for significant court reform.<sup>12/</sup> The need for court reform was heightened in the Gouin divorce scenario. Because Johnson left DiPiano's name in uploaded pleadings, DiPiano is distressed with Johnson, but he has not sued her, for everything she has said about him is probably true – whether or not the statements are protected by privilege.

4. **DiPiano's Arguments about Exhibits 2(A), 2(B), and 2(C) and 3 on pages 9 and 10 are irrelevant to this case. The website about which DiPiano is upset is Johnson's, not Gouin's.**

**DiPiano's Irrelevant Argument (DiP. Opp., p. 9, ¶3):** DiPiano calls attention to Judge

<sup>12</sup> Johnson ran for Governor of the Commonwealth in 2002 at considerable personal expense solely for the purpose of calling public and media attention to the devastation happening to families involved in any Probate & Family Court action.

Gould saying, in the Spring of 2001, (a) that she would monitor the site [DiPiano's Opp. Exh. 3] and (b) that Gouin's counsel was pleased and according to DiPiano, said "Oh, good." [DiP. Opp., p. 9, ¶3]. That intercourse in 2001 between Judge Gould and Johnson is totally irrelevant to this case,<sup>13</sup> which was brought a few years later, when events unforeseeable in 2001 occurred. That intercourse in 2001 between Judge Gould and Johnson and the results from it fell into desuetude once Gouin's counsel learned of the full extent of the judge's wrongdoing. Apparently it is the desuetude to which DiPiano is alluding . . . but it, too, is irrelevant to this case.

**DiPiano's Other Irrelevant Argument (DiP. Opp., p. 9, ¶4-p. 10, ¶1):** "Hit 1" of DiPiano's search links to a file about the divorce case, a file in which Johnson details the full extent of Judge Gould's wrongdoing [DiP. Opp., Exh. 2(B)]. In the file, the unscrupulousness of both Judge Gould's and Judge Roberts' courts is examined. Remarkably, Gouin was allowed to introduce at the Gouin divorce trial a summary by Chouteau Merrill of Assistant Register Jack Scully's message to her from Judge Gould, exactly a year prior to the Governor's Council approving Merrill's nomination by Gov. Jane Swift to the bench of the Probate & Family Court. See **Figure 1**, next page.

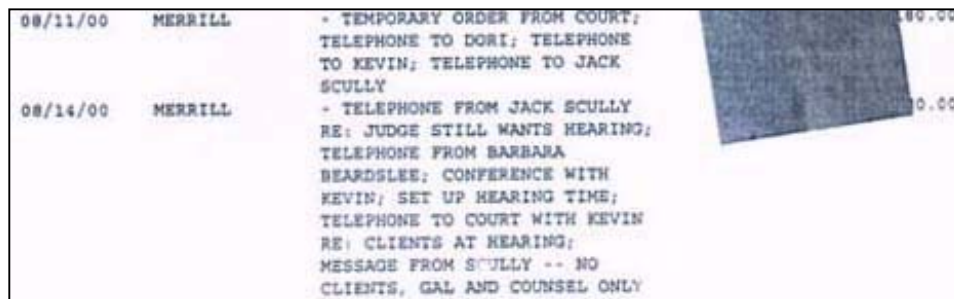
**RE: CLIENTS AT HEARING;  
MESSAGE FROM SCULLY – NO  
CLIENTS, GAL AND COUNSEL ONLY**

The subject of the bogus evidentiary hearing was Dori's motion to remove the Gouin children to Maine, but that motion that had been allowed 2½ weeks earlier. The effect: Gouin never got the evidentiary hearing to which he was entitled.<sup>14</sup> The above events occurred prior to John-

<sup>13</sup> E. Chouteau Merrill, Dori's first divorce counsel, became a judge in the Fall of 2001, just about two months after Gould herself was removed from the case, complained about Johnson's website. Johnson had kept her word to Gould. If someone is still monitoring the site, he or she has not made him or herself known to Johnson.

<sup>14</sup> When Dori wanted to remove the couple's children to Maine, Judge Gould did not wait to seek or get Gouin's consent. Nor did she allow Gouin the evidentiary hearing to which he was entitled under M.G.L. c. 208, sec. 30, . . . and so on. She allowed Dori's motion to remove the children on 8 August 2000. On 14 August 2000, Judge Gould ordered Assistant Register Jack Scully to phone Merrill and inform her that the parties were not going to be allowed at the hearing at which the guardian ad litem was to be cross-examined about her recommendation that Dori, Gouin's wife, be allowed to remove the Gouin children to Maine. Dori did not care about being present at the hearing. Gould had already decided the motion in Dori's favor on August 8th, six days earlier. But Gouin was a victim of Gould's se-

son being Gouin's counsel. An attorney from Monroe Inker's firm represented Gouin at that time. Johnson began representing Gouin on or around 3 January 2001.<sup>15</sup> Dori had been allowed on August 2000 to remove the children to Maine, although she had been taking them there for months.



**Figure 1**  
**Divorce Trial Exhibit 247**  
**Excerpt from Merrill's monthly bill for legal services to Dori Gouin.**

**DiPiano's Incorrect Argument (DiP. Opp. p. 9 ¶4-p. 10 ¶1 and ¶2):** According to DiPiano. "Hit 3," which DiPiano calls out specifically on the last line of page 9, links to a "verbatim copy of the complaint in this action. Untrue!!! The Website Complaint for the instant case, attached as Exh. 2(C) to DiPiano's opposition, is **not** a verbatim copy of the Complaint in this action. For instance, John Smith and Pocahontas are pseudonyms for, respectively, Gouin and Dori, the docket number is not affixed to the Website Complaint as it is to the original, and a strip the length of the document and about ¼ to ½ inch wide has been cut off by the method DiPiano used to print it out, thereby making the document useless for legal purposes.

At the top of Website-Pseudonym-Complaint, Johnson wrote HOW-TO NOTES for the website visitors. In those NOTES, the name Gouin appears – albeit inadvertently -- one time along with Pocahontas's, at Item #13. It is that appearance of the name Gouin about which DiPiano ap-

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cret order, nothing but a victim the entire time he was in Gould's court. Gould had allowed the removal of his children without his consent and without an evidentiary hearing.

<sup>15</sup> It did not take Johnson long to catch on to Judge Gould's wrongdoing. Trying to divert a tragedy, Johnson filed the Complaint in U.S. District Court, Docket No. 01-CV-11702-GAO. Unfortunately, prior to filing the Complaint, Johnson had not had the evidence about Gould and Scully – although even had she had it, it is unlikely it would have changed the inevitable result, namely, dismissal because the Complaint was against judges.

pears to be complaining. His beef is with Johnson not Gouin. It is her website, not Gouin's. See discussion, *infra*.

**DiPiano's Incorrect Conclusion (DiP. Opp. p. 10, ¶¶2-3):** DiPiano has unreasonably concluded that Gouin uploaded these facts not only to gain the attention of Suffolk Probate & Family Court, but also to "harass" DiPiano. As she noted above, Johnson does, indeed, want to alert and capture the attention of the Court administration at all levels to the problems in Probate & Family Court, but the website and goal is Johnson's and not Gouin's. Gouin has nothing to do with the website. And Johnson is not a party to this case.

If offended, DiPiano must seek relief in another forum. The instant case is not the vehicle in which DiPiano can find relief for his offended feelings of seeing his name in print on Johnson's website. Clearly DiPiano has not filed a defamation action against Johnson because DiPiano is aware that Johnson has documentary proof of each and every thing she has written about DiPiano.

Also clearly is that DiPiano's claim of harassment appears to be against Johnson, not Gouin. Therefore, DiPiano cannot sustain his burden in his harassment claim against Gouin (see ¶11 of his second counterclaim).

**5. The wiretap statute is not intended to cover up wrongdoing. For this reason, amongst those set forth in Gouin's Motion to Dismiss DiPiano's counterclaims, DiPiano's third counterclaim must be dismissed.**

DiPiano argues that the videorecording was secret. Clearly, if the videorecording were secret, DiPiano would not have been able to report it to the 911 call-taker: "... the husband is here with a video camera" [**Compl. Exh. J**] and Officer Calisi would not have reported Dori's complaining of being videotaped [**Compl. Exh. L (bottom of p. 1 and top of p. 2)**].

**Error by Omission:** But for the prior conduct of DiPiano, Sayeg, and their client Dori, Gouin would not have had to videorecord. All three of them, plus Dori's first counsel, Chouteau Merrill, hid the first appraisal of the Pelham real estate. That appraisal became known as the "FSI

appraisal,” named after the company that performed it. After the withheld appraisal came into Johnson’s hands, it became the root of the action Docket No.02-CV-10873-JLT, which became known as the “appraisal case” [see p. 5 n. 6]. All four (Dori and her three counsel) had denied that the Pelham appraisal took place.<sup>16/</sup> Their motive was to get an appraisal with a considerably higher value, so that if Gouin had to buy Dori out, he’d have to pay her the full price for only half the family homestead (having been built and customized by his father single-handedly).

In the Spring of 2002, DiPiano<sup>17/</sup> on Dori’s behalf filed a motion to compel appraisals of both properties [**Compl. Exh. F**]. The motion was allowed. To guard against DiPiano declaring that the Pelham appraisal again did not take place,<sup>18/</sup> Gouin videocamed the appraisal. No controversy erupted. So when the Boston appraisal came around the next week, anticipating no problem, Gouin was there with his videocam.

But Gouin was to be surprised. He had anticipated just videoing the appraisal. Instead, on his cam, he caught DiPiano (with Dori at his side) calling 911 to summon the police to the condo [**Compl. Exh. I and J, 911 report and transcript of DiPiano’s 911 call, respectively**] – despite the fact that they knew Gouin was ordered by the court to make the condo available for the appraisal inspection [**Compl. Exh. G, order**].

Then, about 1½ hours later, at the deposition of Dori by Johnson, DiPiano told Attorney Gerald Nissenbaum, at whose office the deposition was taking place, that the condo appraisal did **not** take place that morning [**Compl. Exh. M, DiPiano speaking on p. 35 of transcript of Dori’s deposition**]. Thus, but for Gouin’s videocam, Gouin might have been found in contempt by the

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<sup>16/</sup> Gouin had had reason to believe that the Boston condo and their indoor parking space also had been appraised while Dori had exclusive use (before Gouin got exclusive use of it). Dori eventually said, an appraisal had been scheduled, but she had cancelled it.

<sup>17/</sup> Raymond Sayeg, from another lawfirm, began as lead counsel of the two-man team – Sayeg and DiPiano -- that replaced Merrill during August 2001. The division of their labor held to no particular pattern, but after December 2001, DiPiano began playing a major role, he was the “bad guy” of the “good guy/bad guy” duo.

<sup>18/</sup> Dori was not allowed to attend the Pelham appraisal. Her presence would have been too upsetting for Gouin’s ter-

Probate & Family Court judge.<sup>19</sup> On several subsequent occasions, DiPiano has tried to squirm out of his old-fashioned lie [see **Compl. Exh. R, DiPiano squiggling a few weeks later, at hearing of 3 June 2002**].

Given that Gouin has discussed §§ 99(C) and 99 (Q) extensively in his Motion to Dismiss DiPiano's Counterclaims, Gouin incorporates them herein by reference and shall rest on the arguments therein. DiPiano has added nothing of substance to the substantive arguments regarding the applicability of M.G.L. c. 272, §99(C) or §99(Q).

DiPiano's third counterclaim for invasion of privacy under the wiretap statute for being videocamed must be dismissed.

WHEREFORE, Gouin prays that this Court allow his motion to dismiss DiPiano's three counterclaims.

Respectfully submitted,  
FRANÇOIS GOUIN, JR.  
By his attorney,

22 February 2005

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**AFFIDAVIT BY BARBARA C. JOHNSON**

I, Barbara C. Johnson, Esq., hereby depose that all statements and observations I attribute to myself saying or observing are true, and all other statements are true upon information and belief.

Sworn under the pains and penalties of perjury.

22 February 2005

/s/ Barbara C. Johnson <barbaracjohnson@worldnet.att.net>  
Barbara C. Johnson, Esq.  
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minally ill father, who was still living there, to see Dori. Divorce was an anathema to the Senior Mr. Gouin.

<sup>19</sup> Nissenbaum was touting for DiPiano. Nissenbaum's emails are evidence of that phenomenon, as is the transcript of a June 3d hearing, at which Nissenbaum touted irrationally for DiPiano.