



-2-

which to file a notice of appeal from the judgment. A motion for reconsideration does not stay the running of that notice period. Hence notice of appeal from the final judgment had to be filed not later than May 22, 2007.

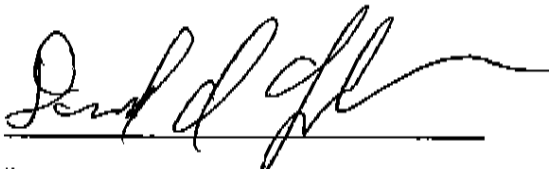
4. The plaintiff did not file his notice of appeal until May 29, 2007. Hence his appeal from the final judgment comes too late and the notice of appeal must be ~~struck insofar as it pertains to the final judgment. Only the denial of his motion for~~ reconsideration has been timely appealed.

For the reasons presented and on the authorities cited, the Commissioner prays the Court to deny

ALAN LeBOVIDGE, as he is  
Commissioner of the Massachusetts  
Department of Revenue,

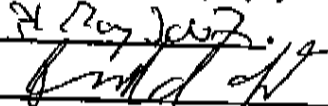
By his attorney,

MARTHA COAKLEY  
ATTORNEY GENERAL,



David A. Guberman BBO# 214020  
Assistant Attorneys General  
Government Bureau  
One Ashburton Place, Room 2019  
Boston, Massachusetts 02108  
(617) 727-2200, ext. 2072

Dated: May 31, 2007

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|--|
| <p style="text-align: center;"><b>CERTIFICATE OF SERVICE</b></p> <p>I hereby certify that a true copy of the above document was served upon the attorney of record for each other party by mail (by frank) on <u>May 31, 2007</u>.</p> <p style="text-align: center;"></p> |
|--|

Commonwealth of Massachusetts  
County of Bristol  
The Superior Court

CIVIL DOCKET# BRCV2006-01092

RE: **Ortiz v LeBovidge, Commissioner Massachusetts Department of Revenue  
et al**

TO: Ernest Ortiz  
90 Weeden Road  
Fairhaven, MA 02719

[ x ] You are hereby notified that on 05/29/2007 the plaintiff/defendant in the above entitled action filed a Notice of appeal from the final Judgment entered on March 23, 2007 and denial of Plaintiff's motion for reconsideration entered by Judge MacDonald on May 3, 2007.

(See enclosed copy of said appeal)

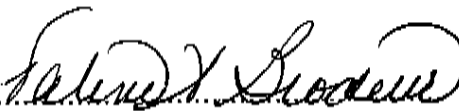
[ x ] There is not a transcript on file in the record of this case. If a transcript is to be included in the record, the attention of the parties is called to the provisions of Appellate Rule 9(c) (2). You are requested to inform me **IN WRITING** whether or not a transcript has been ordered in compliance with the provisions of Appellate Rule 8 (b) (1) to enable me to assemble the record.

Under Appellate Rule 18 (b), the appellant shall serve on the appellee designation of the parts of the record which he intends to include in the appendix and a statement of the issues he intends to present for review, and counter designations should be similarly served.

Copies of documents to be sent to the printer to be included in the appendix should be ordered from the Clerk at the time of designation.

Dated at Taunton, Massachusetts this 30th day of May, 2007.

Marc J. Santos,  
Clerk of the Courts

BY:   
Valerie a. Brodeur  
Assistant Clerk

Disabled individuals who need handicap accommodations should contact the Administrative Office of the Superior Court at (617) 788-8130

**COMMONWEALTH OF MASSACHUSETTS**

**Bristol, SS**

**Superior Court  
Docket No. 06-1092-B**

|   |
|---|
| Ernest Ortiz<br><i>Plaintiff</i>  |
| V.  |
| Alan LeBovidge, Commissioner<br>Massachusetts Department of Revenue<br>(in his official capacity),<br>Catherine J. Ortiz<br><i>Defendants</i> |

(18.)

BRISTOL, SS SUPERIOR COURT  
FILED

**MAY 29 2007**

MARC J. SANTOS, ESQ.  
CLERK/MAGISTRATE

**Plaintiff's Notice of Appeal**

Notice is hereby given that Ernest Ortiz, the above-named Plaintiff, hereby appeals from the Judgment, entered by the Bristol County Superior Court (D. Lloyd Macdonald, J.), on March 23, 2007, which dismissed all of the Plaintiff's claims and the denial of the Plaintiff's Motion for Reconsideration entered by Judge Macdonald on May 3, 2007.

Specifically, the Plaintiff appeals the dismissal of the following claims against the Defendants:

- (1) Article X of the Declaration of Rights of the Massachusetts Constitution.
- (2) Article 106 of the Basic Rights of the Massachusetts Constitution.