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October 3, 2006

Civil Clerks Department  
Taunton Superior Court  
9 Court St., Rm. 13  
Taunton, MA 02780

RE: Superior Court Department, No. BRCV 2006-01092-B  
*Ernest Ortiz v. Alan LeBovidge, Commissioner, Massachusetts Department of Revenue,  
and Catherine J. Ortiz*

Dear Sir/Madam:

Please find enclosed for filing, an ANSWER with AFFIRMATIVE DEFENSES  
for Defendant Catherine J. Ortiz

Thank you for your kind assistance.

Very truly yours;

William J. Quaglia, Esq.

WJQ:htd  
Enc.

COMMONWEALTH OF MASSACHUSETTS

BRISTOL, ss.

Superior Court Department  
No. BRCV 2006-01092-B

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Ernest Ortiz,  
Plaintiff,

v.

Alan LeBovidge, Commissioner,  
Massachusetts Department of Revenue,  
and  
Catherine J. Ortiz,  
Defendants.

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ANSWER with AFFIRMATIVE DEFENSES

Now comes the undersigned Counsel for Defendant Catherine J. Ortiz, to Answer the Plaintiffs Complaint and assert Affirmative Defenses as follows:

General Denial.

Defendant Catherine J. Ortiz makes a general denial, in good faith, of the averments stated in Plaintiff's Complaint.

First Affirmative Defense.

Plaintiff fails to state a claim upon which relief can be granted, pursuant to Mass.R.Civ.P. Rule 12(b)(6).

Second Affirmative Defense.

Plaintiff's claims are frivolous, wholly unsubstantiated and without merit.

Third Affirmative Defense.

Plaintiff has filed an action in bad faith, with malice, and in retaliation against the Defendant Catherine J. Ortiz. Defendant Catherine J. Ortiz is entitled to costs and attorney fees pursuant to M.G.L. c.231§6F.

Fourth Affirmative Defense.

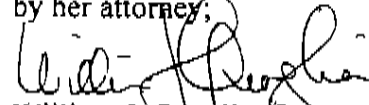
The matter upon which the Plaintiff Complains is a Probate Court matter, which was heard and decided. Plaintiff failed to bring his claims in that proceeding. Plaintiff's Complaint now attempts to circumvent the appellate process in the Probate

Court case from which he complains, and which he failed to properly plead. Therefore, the Superior Court lacks jurisdiction to hear this matter, which properly should be brought as a Complaint for Modification in the Probate Court, and should therefore be dismissed, pursuant to Mass.R.Civ.P. Rule 12(b)(1)(9) since this matter was heard as a prior action.

WHEREFORE: Defendant Catherine J. Ortiz requests that Plaintiff's Complaint be dismissed, and that he be awarded attorney fees and costs for defending against Plaintiff's frivolous claims, and for other orders as the Court deems appropriate.

Date: 10-3-06

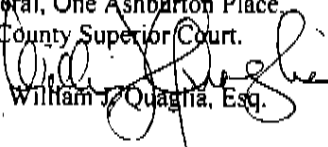
Catherine J. Ortiz  
by her attorney;



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**CERTIFICATE OF SERVICE**

I, William J. Quaglia, Esq., attorney for Defendant Catherine J. Ortiz do certify that on 10/3/06 I caused a copy of the enclosed: ANSWER with AFFIRMATIVE DEFENSES to be mailed by regular U.S. Post to: Ernest Ortiz, 90 Weeden Road, Fairhaven, MA 02719, Massachusetts Department of Revenue 100 Cambridge Street, Boston, MA 02114, Office of the Attorney General, One Ashburton Place Boston, MA 02108, with the original filing to be mailed to the Bristol County Superior Court.



William J. Quaglia, Esq.