

30

SUPREME JUDICIAL COURT OF MASSACHUSETTS

Case No. SJC 08126

Michael Elbery, pro se
Appellant

v.

Commonwealth of Massachusetts

**Appeal from the Single Justice of the Supreme Judicial Court of Massachusetts under C.
211 s. 3
Regarding Judge Dan Toomey's Limiting the Appellant's Motion for New Trial to 60 pages**

APPELLANT'S BRIEF

Michael Elbery
168 Fairfield St.
Needham, Mass. 03492
781-444-7324

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ABBREVIATION TABLE

App. = Appendix, MRCP=Mass. Rules of Criminal Procedure

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Fourteenth Amendment of the United States Constitution	4, 2

STATEMENT OF JURISDICTION

This is an appeal from a decision of a single justice of the Massachusetts S.J.C., see app. A & B, regarding a petition under C. 211 s. 3 by Michael Elbery, (hereinafter the defendant), see app. C. The full court of the S.J.C. has jurisdiction to hear this appeal via C. 211 s. 3 and the Mass. R.A.P. 10.

STATEMENT OF ISSUES PRESENTED

1. Should a Massachusetts Superior Court Judge be allowed to limit a defendant's Motion for New Trial, Rule 30 of the MRCP, to 60 pages including exhibits and appendix where there is no such provision in Massachusetts law that allows for a limitation on a Motion for New Trial under Rule 30?
2. Should a Superior Court Judge be allowed to violate a criminal defendant's right to Due Process of Law under the Fourteenth Amendment by limiting the number of pages that a criminal defendant can present via a Motion for New Trial under Rule 30 of the MRCP?
3. Should a criminal defendant be deprived of Due Process of Law in violation of the Fourteenth Amendment by limiting the number of pages that defendant can produce via a Motion for New Trial under Rule 30 of the MRCP where far more pages are required in order to properly raise all claims of the unconstitutional activity that occurred at the underlying trial that caused the conviction?

STATEMENT OF CASE

This appeal results from an order of alleged discretion by Superior Court Judge Daniel Toomey limiting this defendant's Motion for New Trial under the MRCP - Rule 30 to 60 pages including exhibits, appendix and addendum to that motion, see app. C-ex. 3 & 4. This is continuance of the illegalities via conspiracy that infested this defendant's trial at Worcester Superior Court on 6-28-93 through 7-2-93. Judge Dan Toomey attempts via this limitation of Due Process and pages to this defendant's Motion for New Trial to eliminate most of the meritorious claims this defendant makes via his Motion for New Trial. This defendant originally petitioned a single justice under Mass. C. 211 s. 3, see app. C, regarding this limitation by Toomey of this plaintiff's Motion for New Trial and was denied, see app. A.

As per the attached Petition to the Single Justice, app. C, there is no provision under Mass. Law that allows Toomey to limit a Motion for New Trial under Rule 30. In fact, the theory of post conviction activity under MRCP Rule 30 is that the defendant must present all issues and claims that would cause and allow for a new trial and present it *once*. In other words Rule 30 is a "one shot deal" by which you must present **every claim** you have, *once*, in order to obtain a new trial. To limit this procedure, Rule 30, via page limitation would be contrary to that theory of "all" in "one shot".

ARGUMENT

SUMMARY OF ARGUMENT

The order by Judge Toomey limiting this defendant's Motion for New Trial to 60 pages including exhibits, appendix, and addendum, is a violation of MRCP 30, Superior Court Rule 9 and Due Process of Law under the Fourteenth Amendment of the U.S. Constitution.

1. There is no allowance in Massachusetts law for Toomey to limit this defendant's Motion for New Trial to 60 pages including exhibits, appendix and addendum. In fact, the law is that a Motion for New Trial under MRCP - Rule 30 has no page limit. Further, Massachusetts Superior Court Rule 9 does not allow for a limit on pages regarding criminal motions. See app. D & E.

What Toomey is attempting to do by his order of page limits on this defendant's Motion for New Trial is to violate this defendant's Due Process Rights under the Fourteenth Amendment. Toomey has an interest in limiting this defendant's Motion for New Trial in order to limit exposure of the constitutional violations that took place at the defendant's underlying trial/conviction.

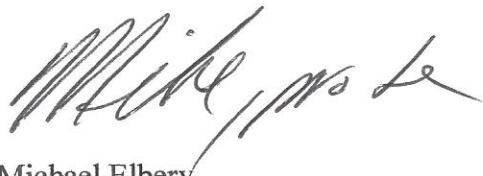
To allow Toomey to review this defendant's Motion for New Trial with the belief that he can limit the pages to 60 is a miscarriage of justice. The appeal process does not compensate for this injustice as the appeals Court will at most order a remand on the appeal of the Motion for New Trial and in so doing further consume this defendant's life needlessly. This defendant's Motion for New Trial was filed with Toomey on July 6, 1999 and contains 115 pages of merit,

dozens of constitutional violations plus exhibits and supporting documents, see Ex. 5 of the Petition with the Single Justice for the full Motion for New Trial. As a matter of constitutional law a new trial must be granted. This limit by Toomey is just an attempt to cover-up his part in a conspiracy to violate this defendant's constitutional rights.

2. Judge Dan Toomey's order of alleged discretion to limit this defendant's Motion for New Trial to 60 pages is an abuse of discretion and clearly an error and violation of law. See MRCP Rule 30 and Superior Court Rule 9, App. D & E.

CONCLUSION

This tactic by Toomey will be deemed by the Federal Courts under federal law of habeas corpus ad subjiciendum to be another illegal procedure suffered by Michael Elbery at the hands of the Massachusetts authorities.



Michael Elbery
168 Fairfield St.
Needham, Mass. 02492
781-444-7324
8-17-99

CERTIFICATE OF SERVICE

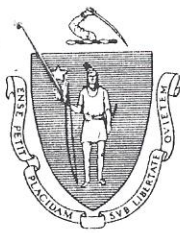
I the appellant, Michael Elbery, sent the original and 18 copies of this appellate brief to the Clerk of the Mass. S.J.C. at 1404 New Courthouse, Pemberton Sq., Boston, Mass., hand delivered on ~~8-21-99~~ ⁹⁻⁸⁻⁹⁹ and 2 copy each to Mass. Attorney General's Office at 1 Ashburton Place and to clerk at Worcester Superior Court at 2 Main St., Worcester, Mass. via U.S. mail on the same day.



APPENDIX

- A. Notice of denial of Petition under C. 211 s. 3 by S.J.C. single justice.
- B. Notice of Appeal to denial of Petition
- C. Petition under C. 211 s. 3 and exhibits
- D. Rule 30 of the MRCP
- E. Rule 9 of the Rules of Superior Court

Ex A



The Commonwealth of Massachusetts
SUPREME JUDICIAL COURT
FOR SUFFOLK COUNTY
1404 COURTHOUSE
BOSTON, MASSACHUSETTS 02108
August 5, 1999

MAURA S. DOYLE
CLERK
(617) 557-1050/557-1100
FAX (617) 523-1540

ASSISTANT CLERKS
LILLIAN C. ANDRUSZKIEWICZ (617) 557-1184
GEORGE E. SLYVA (617) 557-1185
FRANCIS V. KENNEALLY (617) 557-1186

Michael Elbery
168 Fairfield Street
Needham, MA 02492

RE: No. SJ-1999-0308

COMMONWEALTH
vs.
MICHAEL ELBERY

NOTICE OF DOCKET ENTRY

You are hereby notified that on August 4, 1999, the following was entered on the docket of the above referenced case:

JUDGMENT: denying relief under c. 211, s.3 without a hearing.
(Ireland, J.)

Maura S. Doyle
Maura S. Doyle
Clerk

To: Michael Elbery
Hon. Daniel F. Toomey
Worcester Superior Court Dept.
Worcester Dist. Atty's Office
Office of the Attorney General

Ex. B

SUPREME JUDICIAL COURT OF MASSACHUSETTS

Commonwealth

C. 211 s. 3

v.

SJ 99-0308

Michael Elbery

Notice of Appeal

The Petitioner, Michael Elbery, hereby serves notice of appeal from the denial by Single Justice Ireland on 8-4-99 regarding the C. 211 s. 3 petition of the above docketed case, see attached. As a result the petitioner will appeal the same issue/matter before the full court.



Michael Elbery
168 Fairfield St.
Needham, Mass. 02492
781-444-7324
8-8-99

my copy Ex. E

SUPREME JUDICIAL COURT OF MASSACHUSETTS

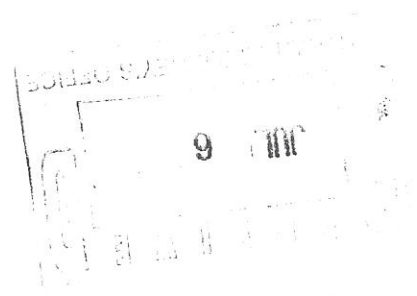
Michael Elbery, pro se
petitioner

Mass. C. 211 s. 3

v.

Judge Dan Toomey
Worcester Superior Court
Worcester District Attorney's Office
Massachusetts Attorney General's Office
respondents

**Petition for Relief Under General Superintendence of all the Courts to Prevent Abuses of
Lower Courts
Massachusetts C. 211 s. 3**



FILED
JUL 06 1999

ATTEST: *Louise P. Lemouereux* CLERK

1. This defendant/petitioner, Michael Elbery, (hereinafter defendant) was illegally convicted in Worcester Superior Court before Judge Dan Toomey on 7-2-93 and sentenced to 10 years in state prison. That criminal case was Com. v. Elbery 93-0135. See Ex. M of Ex 5.

2. This defendant has filed, on 7-6-99, a meritorious Motion for New Trial under M.R.C.P. 30, see Ex. 5.

3. This defendant in 1997, as a result of being incorrectly advised by a bar-attorney/relative, motioned Judge Dan Toomey to allow additional pages to comprise his anticipated motion for new trial. See Ex. #1.

4. This defendant realizing that he was incorrect, via Ex. 1 above, as a matter of law, that there is no page limit to Criminal Motions under Superior Court Rule 9 or 9b, motioned to withdraw his motion in paragraph #3. See Ex. #2.

5. Regardless of the law and this defendant's motion in paragraph #4 above Judge Dan Toomey maintained, in Violation of Due Process of Law, the 60 page limit to this defendant's motion for new trial, this including exhibits. See Exs. #3 and #4.

ARGUMENT

There is no discretion for Judge Dan Toomey to limit this defendant's Motion for New Trial to 60 pages or any other amount. There is no such provision under M.R.C.P. - Rule 30 or Mass. Rules of Superior Court Rule 9 or 9b. The attachments or exhibits, alone, to this New Trial Motion are over 60 pages.

The Supreme Judicial Court has jurisdiction to stop this illegal discretion by Toomey via Mass. C. 211 s. 3. There is no other remedy available to prevent this limitation by Toomey of this defendant's Due Process of Law under the Fourteenth Amendment of the U.S. Constitution. This page limit by Toomey is arbitrary.

As per Ex #5 the trial of the conviction of this defendant was one giant miscarriage of justice and a continuum of violations of this defendant's Constitutional Rights under the U.S. Constitution. There were so many illegalities during that trial that it requires over 100 pages of factual Memorandum of Fact and Law in order that justice can be served.

This defendant asks the Supreme Judicial Court of Massachusetts to prevent further abuse of this defendant's rights by ordering Judge Toomey to obey the law and remove his page limit regarding this defendant's Motion For New Trial.

The pages in excess of 60, as per Ex. # 5, is required to present the injustice of that conviction. Without these pages (all), per Ex. 5, this defendant's rights will once again be violated. The Federal government will deem such a state procedure illegal for the purposes of habeas corpus ad subjiciendum. *Messer v. Roberts* C.A. 10 (Kan.) 1996, 74 F. 3d 1009, *Calderon v. U.S. Dist. Court for Eastern Dist. of Calf.* C.A. 9 (Cal) 1996, 96 F 3d 1126, (state procedures must be applied in even handed manner and consistently enforced, the state procedures must be regular and adequate).

WHEREFORE,

this defendant, Michael Elbery, asks the Supreme Judicial Court to order no limit on this defendant's rights via pages of his Motion for New Trial under Rule 30 of the M.R.C.P.

This defendant also asks that Toomey not delay and make quick time of a decision regarding this defendant's Motion for New Trial in order that this wrongly convicted citizen may regain his liberty at the Superior Court level or upon exhaustion of remedies both state and federal.

Defendant/Petitioner Requests Hearing on this matter.

A handwritten signature in cursive script that reads "Michael Elbery, pro se".

Michael Elbery, pro se

168 Fairfield St.

Needham, Mass. 02492

781-444-7324

7-2-99

Ex. 1

Michael Elbery
168 Fairfield St.
Needham, Mass. 02192
617-444-7324
2-25-97

Loring P. Lamoureux
Clerk of the Courts
Room 21 Court House
2 Main St.
Worcester, Mass. 01608-1176

Dear Sir:

Please find enclosed for immediate filing and review by Judge Daniel Toomey DEFENDANT'S MOTION FOR ALLOWANCE OF FORTY ADDITIONAL PAGES TO COMPLETE MOTION FOR NEW TRIAL.

Respectfully submitted,



Michael Elbery

FILED

JUL 06 1999

ATTEST: *Loring P. Lamoureux* CLERK

COMMONWEALTH OF MASSACHUSETTS

Worcester, ss.
Worcester Superior Court
Criminal Docket #93-0135

Commonwealth
v
Michael Elbery

MOTION FOR ALLOWANCE OF FORTY ADDITIONAL PAGES TO COMPLETE MOTION
FOR NEW TRIAL

The defendant moves the court for leave from Superior Court Rule 9A-b-4 which limits a motion memoranda to 20 pages. This pro se litigant asks the Court for leave to submit an additional 40 pages. I can not present all factual claims , all being U.S. Constitutional violations, on 20 pages.

Each factual claim not only requires statement of fact, legal authority and argument but also requires an explanation of resulting prejudice. At this point I have 12 factual claims each containing subsets of additional violations of law and related factual claims.

To exclude any of these factual claims allowed by Rule 30 would be an injustice. Each claim not only depicts a constitutional violation but rises to a miscarriage of justice, all claims must be presented in order that this pro se litigant can fairly present the injustices surrounding his conviction on 7-2-93.

Thank you for your immediate attention regarding this
matter.

Respectfully submitted,

Michael Elbery

Michael Elbery

FILED

JUL 06 1999

ATTEST:

Living P. Lamoureux CLERK

168 Fairfield St.

Needham, Mass. 02192

617-444-7324

Ex. 2

Michael Elbery
168 Fairfield St.
Needham, Mass. 02192
617-444-7324

3-12-97

Loring P. Lamoureux
Clerk of the Courts
Room 21 Court House
2 Main St.
Worcester, Mass. 01608-1176

Dear Sir:

Please find enclosed for immediate filing and review by Judge Toomey

COMBINED MOTION TO WITHDRAW DEFENDANT'S MOTION FOR ALLOWANCE OF FORTY ADDITIONAL
PAGES TO COMPLETE MOTION FOR NEW TRIAL AND MOTION TO CORRECT ERROR OF LAW.

Respectfully submitted,

Michael Elbery
Michael Elbery

COMBINED MOTION TO WITHDRAW DEFENDANT'S MOTION FOR ALLOWANCE OF FORTY ADDITIONAL
PAGES TO COMPLETE MOTION FOR NEW TRIAL AND MOTION TO CORRECT ERROR OF LAW

The defendant moves to withdraw motion attached, expansion of new trial motion
to 40 pages.

The defendant was in error, in that Rule 9A of Sup. Ct. applies only to civil cases.
Evidently the defendant was in good company as the Court's staff did not pick up
this error .

The defendant withdraws the motion attached and maintains the status quo, as
Massachusetts Law allows , there is no page limit under a Rule 30 motion.

FILED

JUL 06 1999

ATTEST: *Loring P. Lomouev* CLERK

Respectfully submitted,

Michael Elbery

Michael Elbery

168 Fairfield St.
Needham, Mass. 02192
617-444-7324

3-10-97

C-Ex. 3
93-0135

COMMONWEALTH OF MASSACHUSETTS

Worcester, ss.
Worcester Superior Court
Criminal Docket #93-0135

Commonwealth
v
Michael Elbery

MOTION FOR ALLOWANCE OF FORTY ADDITIONAL PAGES TO COMPLETE MOTION

FOR NEW TRIAL

22

The defendant moves the court for leave from Superior Court Rule 9A-b-4 which limits a motion memoranda to 20 pages. This pro se litigant asks the Court for leave to submit an additional 40 pages. I can not present all factual claims, all being U.S. Constitutional violations, on 20 pages.

Each factual claim not only requires statement of fact, legal authority and argument but also requires an explanation of resulting prejudice. At this point I have 12 factual claims each containing subsets of additional violations of law and related factual claims.

To exclude any of these factual claims allowed by Rule 30 would be an injustice. Each claim not only depicts a constitutional violation but rises to a miscarriage of justice, all claims must be presented in order that this pro se litigant can fairly present the injustices surrounding his conviction on 7-2-93.

2/28/97 ALLOWED, PROVIDED, HOWEVER, THAT DEFENDANT'S MEMORANDUM SHALL NOT EXCEED 60 PAGES INCLUDING ITEMS OF APPENDIX, ADDENDUM AND COPIES OF DOCUMENTS

AS TO WHICH DEFENDANT MAKES REFERENCE IN THE MEMO.
-DE Toomey
JSC

NOTIFY PARTIES

2/28/97
copy to DA
dit
re

3/17/97 NOTWITHSTANDING DEFENDANT'S WITHDRAWAL OF HIS MOTION, THIS COURT, AS A MATTER OF DISCRETION, DIRECTS THAT HIS INITIAL SUBMISSIONS IN SUPPORT OF HIS RULE 30 MOTION SHALL NOT EXCEED 60 PAGES.
-D. Rooney JSC

COMBINED MOTION TO WITHDRAW DEFENDANT'S MOTION FOR ALLOWANCE OF FORTY ADDITIONAL PAGES TO COMPLETE MOTION FOR NEW TRIAL AND MOTION TO CORRECT ERROR OF LAW

The defendant moves to withdraw motion attached, expansion of new trial motion to 40 pages.

The defendant was in error, in that Rule 9A of Sup. Ct. applies only to civil cases. Evidently the defendant was in good company as the Court's staff did not pick up this error.

The defendant withdraws the motion attached and maintains the status quo, as Massachusetts Law allows, there is no page limit under a Rule 30 motion.

Respectfully submitted,

Michael Elbery
Michael Elbery

168 Fairfield St.
Needham, Mass. 02192
617-444-7324

3-12-97

FILED

MAR 13 1997

ATTEST
[Signature]
CLERK

3/17/97
copy to JOA
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ye

Ex. 5

Appealants, Michael Elbery,

Motion for New Trial

is with the single

Justice — too big to

make 10 copies.

Mike

Subdivision (b). The objective of subdivision (b) is to encourage the disposition of post-conviction motions upon affidavit. Presently, the rule in Massachusetts is that the use of affidavits in lieu of oral testimony is discretionary with the trial judge. *Commonwealth v. Coggins*, 324 Mass. 552, 87 N.E.2d 200 (1949). The only change contemplated by this subdivision is that the use of this established procedure is to be extended to all cases where it is deemed appropriate by the trial judge. See Mass.R.Crim.P. 30(c)(3).

Subdivision (c). The provision of Mass.R.Crim.P. 32, relative to service and notice, are incorporated by this subdivision.

Subdivision (d). This provision is paralleled in subdivision (c)(7) of Mass.R.Crim.P. 30 and is intended to expedite the disposition of motions for post-conviction relief.

RULE 30. POST CONVICTION RELIEF

(Applicable to District Court and Superior Court)

(a) **Unlawful Restraint.** Whoever is imprisoned or restrained of his liberty pursuant to a criminal conviction may at any time, as of right, file a written motion requesting the trial judge to release him or to correct the sentence which he is then serving upon the ground that his confinement or restraint was imposed in violation of the Constitution or laws of the United States or of the Commonwealth of Massachusetts.

(b) **New Trial.** The trial judge upon motion in writing may grant a new trial at any time if it appears that justice may not have been done. Upon the motion the trial judge shall make such findings of fact as are necessary to resolve the defendant's allegations of error of law.

(c) **Post Conviction Procedure.**

(1) **Service and Notice.** The moving party shall serve the District Attorney with a copy of any motion filed under this rule; the moving party shall serve the Attorney General with a copy of any motion filed under subdivision (a) of this rule.

(2) **Waiver.** All grounds for relief claimed by a defendant under subdivisions (a) and (b) of this rule shall be raised by the defendant in his original or amended motion. Any grounds not so raised are waived unless the judge in his discretion permits them to be raised in a subsequent motion, or unless such grounds could not reasonably have been raised in the original or amended motion.

(3) **Affidavits.** Each moving party shall file and serve and each party opposing a motion may file and serve affidavits where appropriate in support of his respective position. The judge may rule on the issue or issues presented by such motion on the basis of the facts alleged in the affidavits without further hearing if no substantial issue is raised by the motion or affidavits.

(4) **Discovery.** Where affidavits filed by the moving party under subdivision (c)(3) establish a prima facie case for relief, the judge on motion of any party

may authorize such discovery as is deemed appropriate and as would be available in civil cases, subject to appropriate protective order.

(5) **Counsel.** The judge in his discretion may assign or appoint counsel in accordance with the provisions of these rules to represent a defendant in the preparation and presentation of motions filed under subdivisions (a) and (b) of this rule.

(6) **Presence of Moving Party.** A judge may entertain and determine a motion under subdivisions (a) and (b) of this rule without requiring the presence of the moving party at the hearing.

(7) **Place of Hearing.** All motions under subdivisions (a) and (b) of this rule may be heard by the trial judge wherever he is then sitting.

(8) **Appeal.** An appeal from a final order under this rule may be taken to the Appeals Court by either party.

(A) If an appeal is taken, the defendant shall not be discharged from custody pending final decision upon the appeal; provided, however, that the defendant may, in the discretion of the judge, be admitted to bail pending decision of the appeal.

(B) If an appeal or application therefor is taken by the Commonwealth, upon written motion supported by affidavit, the Appeals Court or the Supreme Judicial Court may determine and approve payment to the defendant of his costs of appeal together with reasonable attorney's fees, if any, to be paid on the order of the trial court after entry of the rescript or the denial of the application. If the final order grants relief other than a discharge from custody, the trial court or the court in which the appeal is pending may, upon application by the Commonwealth, in its discretion, and upon such conditions as it deems just, stay the execution of the order pending final determination of the matter.

(9) **Appeal Under G.L. c. 278, § 33E.** If an appeal or application for leave to appeal is taken by the Commonwealth under the provisions of Chapter 278, Section 33E, upon written notice supported by affidavit, the Supreme Judicial Court may determine and approve payment to the defendant of his costs of appeal together with reasonable attorney's fees to be paid on order of the trial court after entry of the rescript or the denial of the application.

Amended effective April 14, 1995.

Reporter's Notes

This rule, which marks a significant departure from prior Massachusetts practice, is derived from a number of sources. See Fed.R.Crim.P. 33, 35; ABA *Standards Relating to Post-Conviction Remedies* (Approved Draft, 1968); Rules of Criminal Procedure (U.L.A.) Rule 632 (1974).

Subdivision (a). This subdivision consolidates the previously distinct procedures of habeas corpus and writ of error. Although these two remedies have been applied to separate and distinct issues, there seems little reason to maintain a

SUPERIOR COURT RULES

Ex E
Rule 9

Rule 9

MOTIONS AND INTERLOCUTORY MATTERS

(Applicable to all cases)

A motion must be in writing and filed before being placed upon a list for hearing, unless otherwise ordered by the court, or otherwise provided for under Rule 61.

In civil cases the court need not hear any motion, or opposition thereto, grounded on facts, unless the facts are verified by affidavit, or are apparent upon the record and files, or are agreed and stated in writing signed by the attorneys for the parties interested.

The court may require the filing of a brief, in such form and within such time as it may direct, as a condition precedent to being heard on a motion or interlocutory matter, or on the entry of a judgment upon a master's report.

In civil cases, no party moving to dismiss a pleading for failure to state a claim upon which relief can be granted, and no party moving for summary judgment in his favor as to all or part of a claim, counterclaim, or cross-claim, whether he be claimant or defending party, shall have such motion accepted for filing unless, at the time such motion is presented for filing, it is accompanied by a brief containing (1) a statement of the issue or issues presented; (2) an argument in summary form; and (3) a short conclusion stating precisely the relief sought. A copy of the brief shall be served upon the adverse party or parties with a copy of the motion.

In criminal cases the court need not hear any motion, or opposition thereto, grounded on facts, unless the facts are verified by affidavit. No motion to suppress evidence, other than evidence seized during a warrantless search, and no motion to dismiss may be filed unless accompanied by a memorandum of law, except when otherwise ordered by the court.

History—

Amended May 6, 1978, effective June 5, 1978; June 26, 1980, effective Sept 1, 1980; March 1, 1985; July 18, 1989, effective Oct 2, 1989

Editorial Note—

The 1985 court order amended the last paragraph of this rule.

The 1989 court order deleted the third sentence of the fourth paragraph which allowed the adverse party to file a reply brief one day prior to hearing on the motion.

Rules Committee Statement—

The proposed [1989] amendment to Rule 9 is designed to remove a conflict between that Rule and Rule 9A. As presently written, Rule 9 says that briefs in opposition to motions to dismiss and for summary judgment may be filed one day before the hearing on the motion and Rule 9A says that they must be filed 10 (or, if the next amendment is adopted, 21) days after the motion is served. The amendment would resolve the conflict by eliminating the conflicting portion of Rule 9.

Research References—

2 Mass Proc, Civil Procedure § 12:14.

3 Mass Proc, Civil Procedure §§ 34:46-48; 37:45.

6 Mass Proc, Criminal Procedure § 6:35.

56 Am Jur 2d, Motions, Rules, and Orders §§ 9 et seq.

18 Am Jur Pl & Pr Forms, Rev, Motions, Rules, and Orders, Forms 1 et seq.

Texts—

Massachusetts Collection Law § 5:54A.

Shapiro, Perlin and Connors, Massachusetts Collection Law 2d Ed, § 7:55.