

BREKKA & BREKKA

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KENNETH L. BREKKA
CLARE FRAIN BREKKA

WORCESTER
(508) 752-0500

November 9, 2000

via: EXPRESS MAIL
#EJ294641332US

Framingham District Court
600 Concord Street
P. O. Box 828
Framingham, MA 01701

ATTENTION: Clerk's Office
Criminal Division

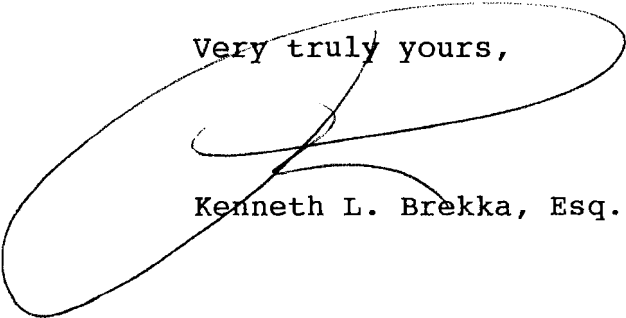
RE: Commonwealth v. Michael Elbery
Docket No. 0049CR003006

Dear Sir/Madam:

Enclosed please find for filing a Motion to Withdraw, Motion to Continue and a Motion to Preserve Video Surveillance Equipment in regard to the above referenced matter. Please note that these motions have been marked for hearing for 9:00 a.m. on November 14, 2000.

Should you have questions or comments, please feel free to contact me.

Very truly yours,



Kenneth L. Brekka, Esq.

KLB/mf
Enc.

cc: Framingham District Attorney
via: FACSIMILE and 1st Class Mail

Michael Elbery
via: EXPRESS MAIL #EJ294641346US

COMMONWEALTH OF MASSACHUSETTS

MIDDLESEX, SS.

TRIAL COURT OF THE COMMONWEALTH
FRAMINGHAM DISTRICT COURT
DOCKET # 0049 CR 3006

COMMONWEALTH OF MASSACHUSETTS)

)

MOTION TO WITHDRAW

v.)

)

)

MICHAEL ELBERY)

)

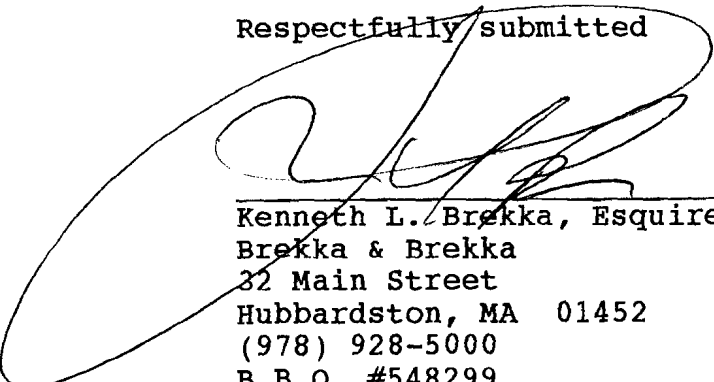
Now comes Defendant's counsel in the above entitled matter and moves this honorable court to permit him to withdraw as counsel for the Defendant. As grounds, therefore, counsel asserts the following reasons for the motion:

1. It has become apparent that it might be necessary for the proper defense of the client that there be testimony from counsel and counsel's secretary. As such, counsel is ethically bound to withdraw from the case pursuant to S.J.C. Rule 3.7. See also Com. v. Rondeau, 378 Mass. 408 (1979); and,

2. The client/attorney relationship has deteriorated to the extent that the client has filed pro se motions with the court, without notice to counsel, seeking the court to order his attorney to produce discovery. The client/attorney relationship has deteriorated for other reasons as well.

Upon the allowance of this motion, counsel for the defendant will cooperate in taking all necessary and reasonably practicable steps to protect the client's interests in this matter. Counsel has also filed a motion to continue the pretrial hearing on this matter in order to ensure that the client is adequately prepared to proceed in this matter at that time. Client may elect, however, to proceed with his pro se motions on November 14, 2000.

Respectfully submitted

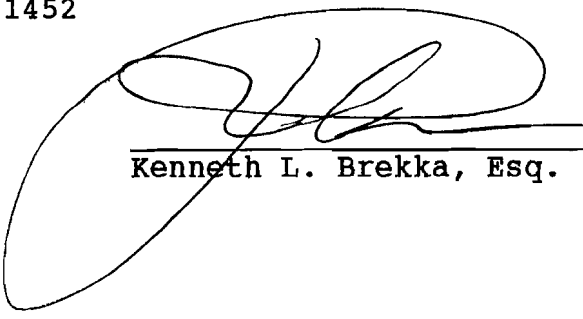


Kenneth L. Brekka, Esquire
Brekka & Brekka
32 Main Street
Hubbardston, MA 01452
(978) 928-5000
B.B.O. #548299

Please take notice that the above motion will be called for hearing in the Framingham District Court on November 14, 2000 at 9:00 A.M.

CERTIFICATION:

I, Kenneth L. Brekka, hereby certify that on this 9th day of November, 2000 I faxed ((508) 879-8966) and mailed a copy of this motion to the Framingham District Attorney's office, 100 Concord Place, Framingham, MA 01452



Kenneth L. Brekka, Esq.

COMMONWEALTH OF MASSACHUSETTS

MIDDLESEX, SS.

TRIAL COURT OF THE COMMONWEALTH
FRAMINGHAM DISTRICT COURT
DOCKET # 0049 CR 3006

COMMONWEALTH OF MASSACHUSETTS)

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)

MOTION TO CONTINUE

v.)

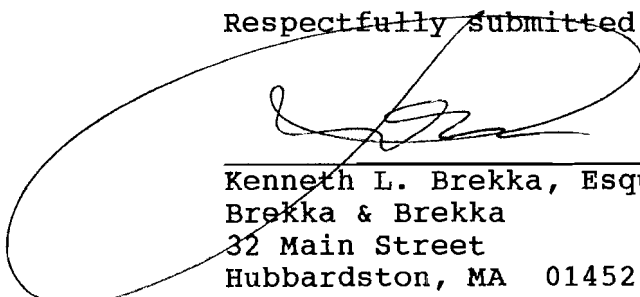
)

)

MICHAEL ELBERY)

Now comes Defendant's counsel in the above entitled matter and moves this honorable court, in light of Counsel's Motion to Withdraw, to continue the pretrial hearing on this matter in order to ensure that the client is adequately prepared to proceed in this matter at that time. Client may elect, however, to proceed with his pro se motions on November 14, 2000.

Respectfully submitted

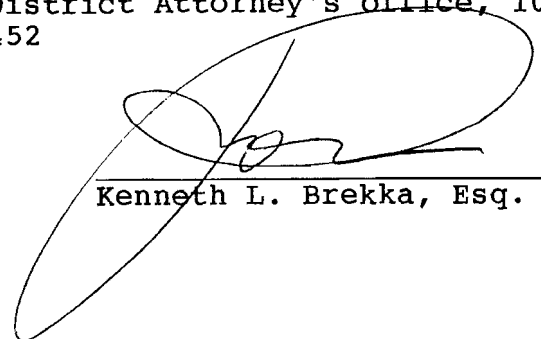


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COMMONWEALTH OF MASSACHUSETTS

MIDDLESEX, SS.

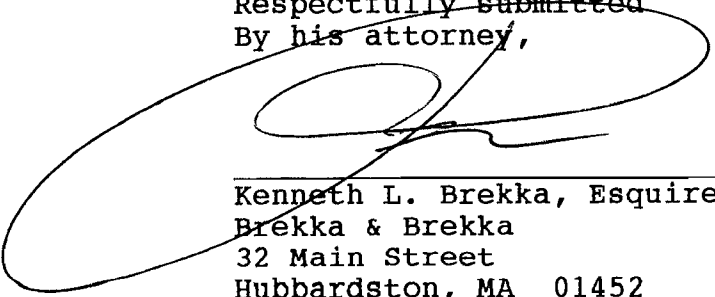
TRIAL COURT OF THE COMMONWEALTH
FRAMINGHAM DISTRICT COURT

DOCKET # 0049 CR 3006

COMMONWEALTH OF MASSACHUSETTS)	
)	
VS.)	MOTION TO PRESERVE
)	VIDEO SURVEILLANCE
)	EQUIPMENT
)	
MICHAEL ELBERY)	

Now comes the Defendant, MICHAEL ELBERY, in the above entitled matter and respectfully moves this Honorable Court to direct the Commonwealth and the owner and manager of the Mobil Gas Station located on Route 30 in Framingham with a mailing address of 696 Cochituate Road, Framingham, Massachusetts to preserve the video surveillance equipment used at the Route 30 Mobil Station on July 4, 2000 in order to allow the defendant to inspect and examine said evidence.

Respectfully submitted
By his attorney,

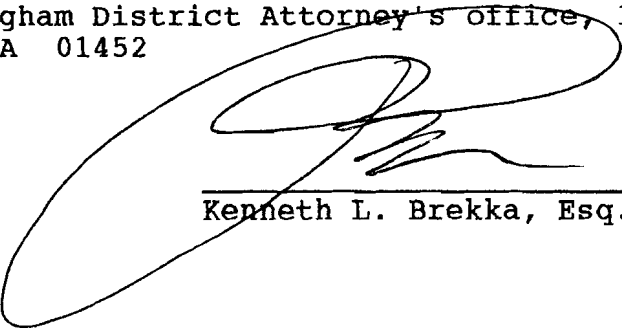


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Kenneth L. Brekka, Esq.



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No Delivery <input type="checkbox"/> Weekend <input type="checkbox"/> Holiday	Acceptance Clerk Initials	Total Postage & Fees \$

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Kenneth L. Brekka, Esq.
32 Main Street
Hubbardston, MA 01452

TO: (PLEASE PRINT)

PHONE 508, 875-7461

Framingham District Court
600 Concord Street
P. O. Box 828
Framingham, MA 01701

ATTENTION: Clerk's Office
Criminal Division

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