

# Supreme Judicial Court and Appeals Court of Massachusetts



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### SUPREME JUDICIAL COURT for the Commonwealth Case Docket

**CRISTINA BARBUTO vs. ADVANTAGE SALES AND MARKETING, LLC & another**  
SJC-12226

#### CASE HEADER

<b>Case Status</b>	Decided, Rescript issued	<b>Status Date</b>	08/15/2017
<b>Nature</b>	Employment dispute	<b>Entry Date</b>	11/17/2016
<b>Appellant</b>	Plaintiff	<b>Case Type</b>	Civil
<b>Brief Status</b>		<b>Brief Due</b>	
<b>Quorum</b>	Gants, C.J., Lenk, Hines, Gaziano, Lowy, Budd, JJ.		
<b>Argued Date</b>	03/09/2017	<b>Decision Date</b>	07/17/2017
<b>AC/SJ Number</b>	<a href="#">2016-P-1332</a>	<b>Citation</b>	477 Mass. 456
<b>DAR/FAR Number</b>	<a href="#">DAR-24781</a>	<b>Lower Ct Number</b>	1584CV02677
<b>Lower Court</b>	Suffolk Superior Court	<b>Lower Ct Judge</b>	Robert N. Tochka, J.
<b>Route to SJC</b>	Direct Appellate Review		

#### INVOLVED PARTY

- Cristina Barbuto**  
Plaintiff/Appellant  
Blue brief & appendix filed
- Advantage Sales Marketing, LLC**  
Defendant/Appellee  
Red brief filed
- Joanne Meredith Villaruz**  
Defendant/Appellee  
Awaiting red brief
- NFIB Small Business Legal Center**  
Amicus  
Amicus brief filed
- Massachusetts Commission Against**  
Amicus  
Amicus brief filed
- Massachusetts Employment Lawyers**  
Amicus  
Amicus brief filed
- American Civil Liberties Union o**  
Amicus
- GLBTQ Legal Advocates & Defender**  
Amicus
- Mental Health Legal Advisors Com**  
Amicus
- Union of Minority Neighborhoods**  
Amicus
- Jewish Alliance for Law and Soci**  
Amicus
- Health Law Advocates**  
Amicus

#### ATTORNEY APPEARANCE

- [Matthew J. Fogelman](#), Esquire  
[Adam Dimitri Fine](#), Esquire  
[Danielle Jurema](#), Esquire
- [Michael Kent Clarkson](#), Esquire  
[M. Tae Phillips](#), Pro Hac Vice Attorney
- [Michael Kent Clarkson](#), Esquire
- [Gregory D. Cote](#), Esquire  
[Elizabeth Milito](#), Foreign Practitioner
- [Reid Michael Wakefield](#), Esquire  
[Constance M. McGrane](#), Esquire
- [David Andrew Russcol](#), Esquire  
[Chetan Tiwari](#), Esquire

## BRIEFS

[Appellant Barbuto Brief](#) [Appellee Advantage Sales Marketing Brief](#) [Amicus NFIB Small Business Legal Center Brief](#)  [Amicus MCAD Brief](#) [Amicus MELA Brief](#) 

## DOCKET ENTRIES

Entry Date	Paper	Entry Text
11/17/2016	#1	Entered. Notice to counsel.
11/17/2016		Transferred from Appeals Court: No briefs yet.
12/08/2016	#2	NOTICE of February argument sent.
12/19/2016	#3	SERVICE of brief and joint appendix for Plaintiff/Appellant Cristina Barbuto by Matthew J. Fogelman.
12/20/2016	#4	MOTION for Admission of Counsel Pro Hac Vice (Atty. M. Tae Phillips), filed for Advantage Sales & Marketing LLC and another by Michael Kent Clarkson, Esquire. (ALLOWED)
01/06/2017	#5	NOTICE of March argument sent.
01/06/2017	#6	ANNOUNCEMENT: The Justices are soliciting amicus briefs. Whether the termination of an employee's employment based on her lawful use of medical marijuana outside the workplace violates G. L. c. 151B, § 4, or is otherwise wrongful; whether the medical marijuana act and the regulations promulgated thereunder create a private right of action for an employee who has been terminated because of her use of medical marijuana.
01/09/2017	#7	LETTER from Advantage Sales & Marketing LLC, et al. regarding briefing schedule.
01/17/2017	#8	SERVICE of brief for Defendants/Appellees Advantage Sales & Marketing LLC & another by Michael Kent Clarkson, M. Tae Philips.
01/18/2017	#9	SERVICE of amicus brief for Amicus NFIB Small Business Legal Center by Gregory D. Cote, Elizabeth Milito.
02/03/2017		Notice of 03/09/2017, 9:00 AM argument at John Adams Courthouse, Rm 1 (jac1) sent.
02/03/2017	#10	NOTICE of Reserve March argument sent.
02/06/2017	#11	NOTICE of April argument sent.
02/21/2017	#12	MOTION to extend time to file amicus brief (to 3/7/17 or 2 weeks before oral argument in later date), filed for Massachusetts Commission Against Discrimination by Reid Michael Wakefield, Constance McGrane.
02/27/2017	#13	OPPOSITION to Paper #12, filed by Advantage Sales & Marketing LLC and Joanne Meredith Villaruz.
02/27/2017	#14	MOTION to extend to 3/7/17 filing of amicus brief, filed for Massachusetts Employment Lawyers Association by David Andrew Russcol, Esquire.
02/28/2017	#15	OPPOSITION to Paper #14, filed by Advantage Sales & Marketing LLC et al.
03/01/2017	#16	ORDERED for argument on April 9. Notice sent. (The order for argument is VACATED)
03/03/2017	#17	ORDERED for argument on March 9. Notice sent.
03/07/2017	#18	Renewed Motion to extend to 3/7/17 filing of amicus brief, filed for Massachusetts Commission Against Discrimination by Reid Michael Wakefield, Esquire, Constance McGrance, Esquire. (Referred to the quorum)
03/07/2017	#19	SERVICE of amicus brief for Amicus Massachusetts Commission Against Discrimination by Reid Michael Wakefield, Constance McGrane. (Distributed to quorum)
03/07/2017	#20	MOTION to extend to 3/7/17 filing of amicus brief, filed for Massachusetts Employment Lawyers Association & others by David Andrew Russcol, Esquire.(Referred to the quorum)
03/07/2017	#21	SERVICE of amicus brief for Amicus Massachusetts Employment Lawyers Association & others by David Andrew Russcol. (Distributed to quorum) (See no. 22 for additional amici).
03/09/2017		Oral argument held. (Gants, C.J., Lenk, J., Hines, J., Gaziano, J., Lowy, J., Budd, J.).

**DOCKET ENTRIES**

03/13/2017 #22	The Jewish Alliance for Law and Social Action and Health Law Advocates wish to join the amicus brief that was filed on behalf of the Massachusetts Employment Lawyers Association and others on March 7, 2017.
03/30/2017 #23	SUPPLEMENTAL CITATION filed for Advantage Sales and Marketing LLC and Joanne Meredith Villaruz by M. Tae Phillips (O), Esquire. (Distributed to Quorum)
07/17/2017 #24	RESCRIPT (Full Opinion): We reverse the judge's allowance of the motion to dismiss the plaintiff's claim for handicap discrimination and the related claims under G. L. c. 151B, and affirm the allowance of the motion as to the counts claiming an implied private cause of action under the act and wrongful termination in violation of public policy. We remand the case to the Superior Court for further proceedings consistent with this opinion. (By the Court)
08/15/2017	RESCRIPT ISSUED to trial court.

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As of 08/15/2017 20:00

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