

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

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