

COMMONWEALTH OF MASSACHUSETTS

PLYMOUTH, SS

SUPERIOR COURT DEPARTMENT

PAUL O'KEEFE, as Personal
Representative of the Estate of JOHN
JOSEPH O'KEEFE III, PAUL O'KEEFE,
Individually, JOHN O'KEEFE II,
MARGARET O'KEEFE, and MARGARET
O'KEEFE as Grandparent/
Guardian of KAYLEY FURBUSH,

Plaintiffs,

v.

C&C HOSPITALITY, LLC d/b/a C.F.
MCCARTHY'S, G&S HOSPITALITY,
LLC d/b/a C.F. MCCARTHY'S,
WATERFALL BAR & GRILL, LTD d/b/a
WATERFALL BAR & GRILL, and
KAREN READ,

Defendants.

Civil Action No. 2483cv00692

**REPLY IN SUPPORT OF DEFENDANT KAREN READ'S MOTION FOR
ORDER REQUIRING PLAINTIFFS' COUNSEL TO DESTROY
INADVERTENTLY PRODUCED COMMUNICATION**

Plaintiffs' Opposition relies on alleged "practices" by Read's counsel, which Plaintiffs make up out of whole cloth. They then argue that these (non-existent) "practices" resulted in a waiver of perhaps the most important privilege recognized by Massachusetts law – the attorney-client privilege. Plaintiffs do so in a cynical attempt to abuse a party's honest mistake to seek an (illusory) litigation advantage, and this specious tactic should not be condoned.

Plaintiffs' alternative argument – that they should somehow be allowed to keep Defendant's inadvertently-produced, non-waived, attorney-client privileged communication for impeachment purposes – is equally baseless. On February 2, 2026, Read served her Answer to

Second Interrogatory, and even a cursory comparison of the two documents – the Answer and the privileged communication – demonstrates that the privileged communication does not provide Plaintiffs any additional areas for impeachment.

Plaintiffs’ assertions are meritless, and the Court should reject them.

1. *Read’s email resulted from an accidental “reply all” the one time her counsel blind-copied her on an email, which does not come close to meeting the standard for waiver.*

Plaintiffs base their entire waiver argument on their allegation that “by her own direction and/or by recommendation of counsel, Ms. Read has been blind copied on all e-mail communications with opposing counsel since the outset of this lawsuit.” Factually, this is simply false, and nothing in the record supports it. In fact, Read attaches to this Reply an affidavit from Read’s counsel confirming that this was a one-time blind-copy to Read and that it is not his practice to include her on emails. However, even without this affidavit, there is nothing in the record that allows Plaintiffs to make this unsupported logical leap regarding counsel’s practice, nor do they point to anything in support.

Instead of seeking to capitalize on a common and understandable human error (which most lawyers, professionals, and other email users have committed at one time or another), Plaintiffs and their counsel should heed Judge Fabricant’s advice, which they conveniently replaced with ellipses in their Opposition: “As a matter of courtesy – and in recognition of their own vulnerability – lawyers should avoid the temptation to seize opportunities arising from inadvertent disclosures.” *Charm v. Kohn*, 2010 Mass. Super. LEXIS 276, at *5 (Mass. Super. Ct. Sep. 30, 2010); *see Opp.*, at p. 5.

2. The inadvertently-disclosed privileged communication provides Plaintiffs no unique areas for impeachment.

Read recently served her Answer to Plaintiffs' Second Interrogatory, which seeks the basis for her affirmative defense that third parties caused Mr. O'Keefe's death. That Answer is attached as Exhibit 1. Comparing this Answer to the privileged communication demonstrates that there are no areas for impeachment unique to the privileged communication. Said differently, if Plaintiffs intend to impeach Read later, they can simply use the sworn Answer, they don't need the privileged communication. To be clear, Read has no problem with Plaintiffs asking her about any of these topics; she only opposes their attempt to use sharp practice to strip her of the benefit of the attorney-client privilege.

Respectfully submitted,

KAREN READ,

By her attorneys,

/s/ Damon M. Seligson

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Dated: February 4, 2026

CERTIFICATE OF SERVICE

I certify that I served a copy of this document on all counsel of record by email on February 4, 2026.

/s/ Damon M. Seligson

Damon M. Seligson

EXHIBIT 1

COMMONWEALTH OF MASSACHUSETTS

PLYMOUTH, SS

SUPERIOR COURT DEPARTMENT

PAUL O'KEEFE, as Personal
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WATERFALL BAR & GRILL, LTD d/b/a
WATERFALL BAR & GRILL, and
KAREN READ,

Defendants.

**ANSWERS TO PLAINTIFF PAUL O'KEEFE,
AS PERSONAL REPRESENTATIVE OF THE ESTATE OF
JOHN JOSEPH O'KEEFE III, FIRST SUPPLEMENTAL
INTERROGATORIES PROPOUNDED UPON DEFENDANT KAREN READ**

Defendant Karen Read ("Ms. Read") answers the Supplemental Interrogatories
propounded upon her by Plaintiff Paul O'Keefe as follows.

INTERROGATORY NO. 2:

State all facts forming the basis for your claim that Plaintiffs' damages arising from the death of
John O'Keefe III, were "caused by acts or omissions of third parties for whom Ms. Read is not
responsible," as set forth in Affirmative Defense No. 2 in your Answer to the Plaintiffs'
Complaint.

ANSWER NO. 2:

Ms. Read objects to this Interrogatory to the extent it seeks information outside of her knowledge and possession. Ms. Read further objects to this Interrogatory to the extent it seeks information subject to the attorney-client privilege or work product doctrine. Ms. Read also objects to this Interrogatory as premature because discovery is just beginning in this case and she has not yet received full production from the Massachusetts State Police or Norfolk District Attorney's Office, among others, which may contain additional evidence or information relevant to her Answer. Therefore, Ms. Read reserves the right to amend or supplement this Answer as discovery proceeds. Subject to, and without waiving these objections, Ms. Read states:

I was acquitted by a jury of all criminal charges relating to the death of John O'Keefe III after a full and public trial that exposed pervasive investigative misconduct and corruption. I did not cause, and am not responsible for, Mr. O'Keefe's death. I did not strike Mr. O'Keefe with my car. Mr. O'Keefe's wounds are inconsistent with being hit by a vehicle and consistent with being in a physical altercation and attacked by a dog. The credible evidence indicates that he was beaten inside the home at 34 Fairview Road in Canton, Massachusetts on the night of January 28-29, 2022, and died as a result.

Below, I describe certain information and facts of which I am currently aware. However, I believe there are additional facts, and additional evidence, that I do not possess, which will further support the referenced affirmative defense. To date, I've not engaged experts for a trial in this matter and, therefore, this response does not take into consideration their opinions.

Additionally, at trial, I will rely on my attorneys and experts to explain the evidence, what it means, and how it indicates who is responsible for Mr. O'Keefe's death. Other than knowing I did not hit John with my vehicle and that it was not me who killed Mr. O'Keefe, I am presenting

my knowledge solely as a layperson who observed evidence obtained and presented in connection with the two criminal trials against me.

During my criminal trials, multiple witnesses provided testimony supporting this affirmative defense. First, my counsel engaged a private investigator who took photographs of a cement ridged curb just inside the garage, and the pathology expert my counsel engaged opined that Mr. O'Keefe's head wound came from a ridged ledge.

Further, three separate doctors testified over the course of the two criminal trials that Mr. O'Keefe's arm wounds were consistent with an animal attack. And my understanding is that the owners of the house at 34 Fairview Road in Canton, Brian and Nicole Albert, testified in the first criminal trial that the Alberts' dog, Chloe, never went out into the front yard. Therefore, I believe Mr. O'Keefe was inside with Chloe.

Next, Ian Whiffin – the Commonwealth's own witness – confirmed Mr. O'Keefe's Apple Health data showing three flights of stairs were climbed after 12:20am. The Apple Health data also shows Mr. O'Keefe taking steps - enough steps to get inside the house at 34 Fairview Road in Canton.

Mr. Whiffin further presented evidence that Mr. O'Keefe's phone's battery temperature stayed flat for three hours in the middle of the night at just under 50 degrees, which is too warm to have been outside in the snow, and then plummeted just before I found his body at 6am. Therefore, the evidence supports the conclusion that Mr. O'Keefe was indoors before 6am.

I also understand that a stain on Mr. O'Keefe's sneaker had DNA from five male contributors. I understand that there were five males inside 34 Fairview Road in the early morning of January 29, 2022, and that no one saw Mr. O'Keefe outside before 6am, including Lucky Loughran (a snowplow driver in the area during the relevant time period).

In addition to these facts, the individuals inside the house at 34 Fairview Road in the early morning of January 29, 2022 also took actions that strongly suggest wrongdoing, including tampering with, destroying, fabricating, and manipulating evidence, all in a concerted effort to direct blame towards me. At the same time, the individuals and entities who had the responsibility to fully investigate the circumstances of Mr. O'Keefe's death, including the Massachusetts State Police ("MSP"), Canton Police Department, and Norfolk District Attorney's Office, and their respective officers, troopers, and employees, failed to adhere to their duties, and instead ignored, destroyed, and failed to gather or investigate highly relevant evidence in and around the house after Mr. O'Keefe's body was discovered. They did so because of, among other things, personal connections between the lead MSP investigator, Michael Proctor, and individuals within that house, Proctor's and other investigators' inherent bias, the occupants' connections to various local, state, and federal law enforcement agencies. The individuals in the house that night engaged in a concerted effort to direct the investigators' attention away from themselves and towards me instead.

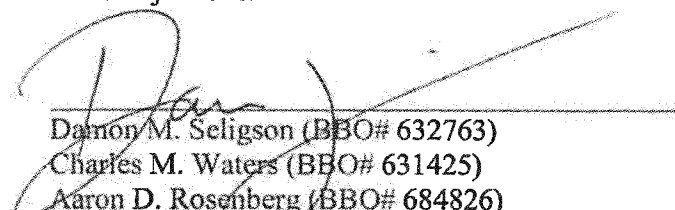
Accordingly, based on the information and evidence available to me, I believe that one or more of the occupants of the house at 34 Fairview Road, Canton during the early morning hours of January 29, 2022 caused Mr. O'Keefe's death. However, as a result of the destruction and concealment of key evidence, the truth about what happened to Mr. O'Keefe has been deliberately obscured and I do not know which specific individual or individuals within the house fatally wounded Mr. O'Keefe. What I do know without any doubt is that I played no part in causing, participating in, or contributing to his death in any way.

SIGNED UNDER THE PAINS AND PENALTIES OF PERJURY ON
_____, 2026.


KAREN READ

Dated: 2/1/26

As to objections:


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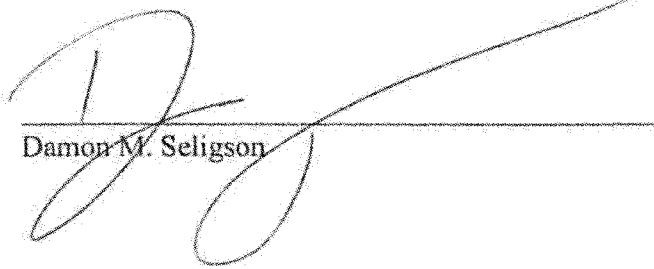
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Dated: February 1, 2026

CERTIFICATE OF SERVICE

I certify that a copy of this document was served on all counsel of record by email on
February 2nd, 2026.

Dated: February 2nd, 2026



Damon M. Seligson