



settled, and provided the Probate Court with a detailed summary of the terms of the settlement. Only after that report did the appellants/would-be intervenors file a motion to intervene in that action.

2. On December 23, 2011, the Feoffees and defendants Ipswich School Committee and Superintendent of Schools filed an Agreement for Judgment, which Agreement for Judgment was assented to by the defendant Attorney General of the Commonwealth of Massachusetts. The Agreement for Judgment was approved by the Probate Court and incorporated into a Judgment dated December 23, 2011 ("Judgment"). The Judgment was docketed on January 12, 2012.

3. All Parties to the Probate Court action opposed the appellants/would-be intervenors' motion to intervene.

4. After a hearing, the Probate Court, on February 6, 2012, denied the would-be intervenors' motions for intervention and a stay of the Judgment, citing their lack of standing.<sup>1</sup>

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<sup>1</sup> The lower court cited the would-be intervenors' lack of standing in connection with its taking no action on the Feoffees' motions to strike portions of the would-be intervenors' affidavits: "No action as the proposed intervenors lack standing."

5. On February 14, 2012, the would-be intervenors filed a notice of appeal purporting to appeal from both (1) the Probate Court's denial of their motion to intervene and (2) the Judgment. The record as to that appeal has not yet been assembled.

6. Subsequently the would-be intervenors moved a Single Justice of this Court to stay the Judgment pending their appeal.

7. On March 12, 2012, the Single Justice (Agnes, J.) denied the would-be intervenors' motion for stay, again citing their lack of standing under settled case law.

8. On April 3, 2012, the would-be intervenors filed a notice of appeal from the Single Justice's March 12, 2012 Order. The record was assembled and the appeal from the Single Justice's order was docketed on April 17, 2012.

9. On April 17, 2012, the Feoffees moved the Probate Court to strike that portion of the would-be intervenors' February 14, 2012 Notice of Appeal which purported to appeal from the Judgment, on the ground that the would-be intervenors can appeal only the denial of the motion to intervene and have no right, as non-parties, to appeal from the underlying

Judgment. See Corbett v. Related Companies Northeast, Inc., 424 Mass. 714, 718-719 ("[M]erely commenting on, or objecting to, a proposed settlement . . . generally is insufficient to justify an appeal by a nonparty."); Baker v. Bd. of Selectmen of Town of Foxborough, 77 Mass.App.Ct. 1117, \*3 (2011)<sup>2</sup> ("Because the appellants were not able to intervene and thus are not parties to the underlying case, they lack standing to appeal from the agreement for judgment entered by the Land Court."); Worcester Memorial Hospital v. Attorney General, 337 Mass. 769 (1958); and Mass.R.A.P.3(c) providing, in relevant part, "the notice of appeal shall specify the party or parties taking the appeal..." On May 14, 2012, the Probate Court allowed the Feoffees' motion to strike.

10. On May 16, 2012, the would-be intervenors filed a Notice of Appeal purporting to appeal the Probate Court's May 14, 2012 allowance of the Feoffees' motion to strike.

11. The single dispositive issue that would resolve all issues properly on appeal is whether or not the lower court erred in denying the motion to

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<sup>2</sup> This case was decided pursuant to Appeals Court Rule 1:28.

intervene. Both the Probate Court and the Single Justice determined that under well-established law, only the Attorney General has the right to represent the public's interest in a charitable trust and rejected the attempt to intervene based on the would-be intervenors' lack of standing. See Weaver v. Wood, 425 Mass. 270, 275-276 (1997); Lopez v. Medford Community Center, Inc., 384 Mass. 163, 167 (1981); Ames v. Attorney General, 332 Mass. 246, 249-251 (1955); Burbank v. Burbank, 152 Mass. 254, 256 (1890); Garland v. Beverly Hosp. Corp., 48 Mass.App.Ct. 913, 914 (1999); G.L. c. 12, §8. The appellants have at no time cited any cases to the contrary.

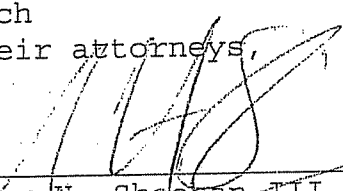
12. Despite the denial of the would-be intervenors' motion to stay enforcement of the Judgment, under which the property known as Little Neck is to be sold, the pendency of their appeal is interfering with the ability of the Feoffees to carry out the terms of the Judgment.

13. In order to avoid further delay prejudicial to the Parties, the Parties respectfully suggest that the resources of this Court and the Parties would be best used by this Court's hearing and deciding the dispositive standing/intervention issue. A

determination that under well-settled law the appellants lack standing would resolve not only their appeal of the denial of the motion to intervene, but also would render moot their appeals from the denial of the motion to stay and the striking of their appeal from the underlying judgment.

14. Accordingly, the Parties urge that the court order an expedited briefing and hearing schedule to address the dispositive issue of appellants' standing. The Parties further request that the record on appeal be limited to those matters necessary to decide the intervention issue, as resolution of this issue would resolve the case entirely.

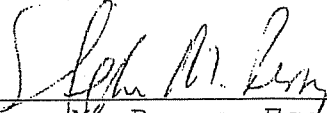
Respectfully submitted,  
Feoffees of the Grammar  
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By their attorneys,



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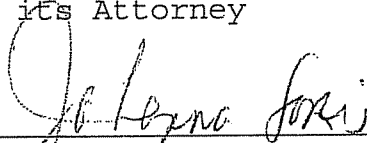
Ipswich School Committee  
and Richard Korb,  
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By their attorney



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Dated: May 25, 2012

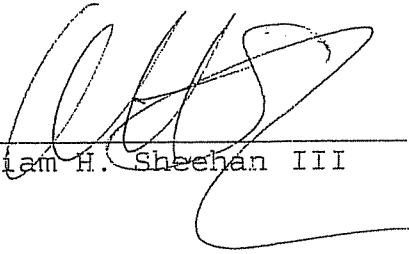
CERTIFICATE OF SERVICE

I, William H. Sheehan III, attorney for the Feoffees of the Grammar School in the Town of Ipswich, hereby certify that I have served a copy of the instant Joint Status Report of Plaintiffs/Appellees Feoffees of the Grammar School in the Town of Ipswich and Defendants/Appellees Attorney General of the Commonwealth of Massachusetts, Ipswich School Committee, and Richard Korb, Superintendent of Schools in the Town of Ipswich upon all parties or counsel of record, by mailing the same, first class mail, postage prepaid, to the following attorneys:

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Dated: May 25, 2012