

**HEARING DATE: SEPTEMBER 21, 2023**

STATE OF RHODE ISLAND  
PROVIDENCE, SC

SUPERIOR COURT

STATE OF RHODE ISLAND, )  
PETER F. NERONHA, in his )  
capacity as Attorney General of the )  
STATE OF RHODE ISLAND; and )  
DR. UTPALA BANDY, )  
in her capacity as Interim Director, )  
RHODE ISLAND DEPARTMENT )  
OF HEALTH, )  
Plaintiffs, )  
v. )  
PIONEER INVESTMENTS, L.L.C., )  
ANURAG SUREKA )  
Defendants )

C.A. No.: PC-2023-02652

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**DEFENDANTS PIONEER INVESTMENTS, LLC AND ANURAG SUREKA’S MOTION  
TO DIRECT THE ATTORNEY GENERAL’S OFFICE TO CEAST AND DESIST FROM  
MAKING FURTHER EXTRAJUDIIAL COMMENTS THAT ARE INFLMMATORY  
AND PREJUDICIAL TO DEFENDANTS**

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Now come the Defendants, Pioneer Investments, LLC and Anurag Sureka (“Defendants”), pursuant to Rule 3.6 of the Rhode Island Rules of Professional Conduct, and hereby move for an order directing the Attorney General’s Office to refrain from making further public comments that are prejudicial, inflammatory and adverse to the Defendants. As grounds for said motion, the Defendants aver the following:

On June 6, 2023, The State of Rhode Island, Peter Nerohna, as the Attorney General, and Dr. Utpala Bandy, as the Interim Director of the Rhode Island Department of Health, filed a wide-ranging enforcement action against the Defendants. In the complaint, the Attorney General’s Office alleges that the Defendants are responsible for creating a public nuisance, violate The Lead Poisoning Prevention Act and Lead Hazard Mitigation Act, violate various provisions of the Rhode

Island Property Maintenance Code and Housing Maintenance Code and violate Rhode Island's Deceptive Trade Practices Act. On the very same day, the Attorney General's Office issued a press release which was reported in various media outlets. (See June 6, 2023 Press Release attached as Exhibit A). In the press release, the Attorney General said the following:

Today's action signals that enough is enough when it comes to the alleged misconduct of a major landlord who is placing the health and safety of Rhode Islanders at risk. Let's cut right to it – as alleged, profits are being placed over basic human dignity and that cannot stand.

This press release clearly violates Rule 3.6 of the Rhode Island Rules of Professional Conduct. Rule 3.6(a) provides:

- (a) A lawyer who is participating or has participated in the investigation or litigation of a matter shall not make an extrajudicial statement that the lawyer knows, or reasonably should know will be disseminated by means of public communication, and will have a substantial likelihood of materially prejudicing an adjudicative proceeding in the matter.

This press release was undoubtedly meant for public consumption and indeed was reported by various media outlets. Moreover, the Attorney General's statement that Defendants are placing the health and safety of Rhode Islanders at risk and are placing profits over basic human dignity serves no other purpose other than casting the Defendants in a negative light – to say the least – and has a substantial likelihood of prejudicing the proceedings and clearly violate Rule 3.6. Accordingly, this Court should order that the Attorney General's office refrain from making any further extrajudicial comments for public consumption that are inflammatory and/or prejudicial to the Defendants who are entitled to a fair trial on the merits.

*WHEREFORE*, the Defendants respectfully request that this Court grant the instant Motion.

DEFENDANTS,  
PIONEER INVESTMENTS, L.L.C.  
ANURAG SUREKA  
BY THEIR ATTORNEYS,

Date: 8/2/23

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**CERTIFICATE OF SERVICE**

I hereby certify that on the 2<sup>nd</sup> day of August, 2023, I electronically filed and served this document through the electronic filing system with notice to the following parties. The document electronically filed and service is available for viewing and/or downloading from the Rhode Island Judiciary's Electronic Filing System.

**Representing the Plaintiffs**

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**Representing Interested Party, City of Woonsocket**

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/s/ John A. Caletri  
John A. Caletri, Esquire (#6204)

# Exhibit A



STATE OF RHODE ISLAND

Attorney General Peter F. Neronha

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Attorney General Neronha sues major R.I. landlord for violations of state rental, lead hazard, and consumer protection laws

# Attorney General Neronha sues major R.I. landlord for violations of state rental, lead hazard, and consumer protection laws

*Published on Tuesday, June 06, 2023*

Attorney General Peter F. Neronha today announced that the Office has filed a lawsuit against a major Rhode Island rental corporation and its president for failing to comply with numerous state rental, lead hazard, and consumer protection laws that have placed the health and safety of hundreds of renters at risk and which constitute unfair market practices.

In the complaint filed in Providence County Superior Court, the Attorney General alleges that Pioneer Investments, L.L.C. and its president, Anurag Sureka, own and operate more than 175 residential rental units across Rhode Island, and routinely ignore lead hazard laws, landlord-tenant laws, housing code regulations, and regularly engage in unfair and deceptive trade practices throughout the state. The result, as alleged, is that Pioneer's properties fall into disrepair, pose significant health and safety risks, and endanger Rhode Island renters and in particular the children who reside in these properties.

"Today's action signals that enough is enough when it comes to the alleged misconduct of a major landlord who is placing the health and safety of Rhode Islanders at risk. Let's cut right to it – as alleged, profits are being placed over basic human dignity and that cannot stand," said **Attorney General Neronha**. "In Rhode Island, nearly 500 children are lead poisoned every year. It is preventable, and the toll that these children and we as a community pay is enormous. This Office is committed to stopping the lead poisoning of children, be it through prosecution as in this case, or through proactive legislation. I thank the Department of Health for their partnership and assistance as we aim to end lead poisoning in Rhode Island for good."

As stated in the complaint, Pioneer tenants affirmed in sworn affidavits the presence of significant lead poisoning hazards, persistent rodent infestations, deterioration of the building structure, cracking walls and windows, and intermittent loss of water and heat in numerous Pioneer properties. A cross-reference of Pioneer properties with RIDOH and municipal code enforcement officials reveal a pattern of violations

and failure to adhere to proper lead hazard mitigation and notification and maintenance code compliance. It is further alleged that Pioneer improperly charged and overcharged late fees on tenants, all while profiting unfairly from tenants with limited options in Rhode Island's historically tight rental market.

According to RIDOH analysis, at least 11 children have had detectable levels of lead, and at least five children have been lead-poisoned while residing in Pioneer's properties.

"Safe and healthy housing is a key environmental determinant of health," said **Interim Director of Health Utpala Bandy, MD, MPH**. "Legal actions to hold landlords accountable are part of Rhode Island's comprehensive approach to minimizing lead exposures for children, along with lead screenings, referrals for case management, and the identification of lead hazards in homes. We will continue to work with the Rhode Island Attorney General and other partners toward our goal of ensuring that the children in every ZIP code throughout the state live in environments that support healthy development."

Attorney General Neronha, as the state's lead advocate, seeks to protect Rhode Islanders from further lead poisoning and stop unlawful and dangerous housing practices by ordering Pioneer to provide code-compliant, lead-safe housing and complete, truthful lead disclosures to their tenants. Additionally, the Attorney General seeks disgorgement of unjust profits, restitution to tenants harmed by Pioneer's conduct, and fines and penalties.

The complaint also calls for the appointment of an independent monitor to oversee and report on Pioneer's compliance with their obligations to assess each property and correct conditions in full compliance with state and federal laws.

### **Lead Enforcement Action by Attorney General Neronha**

Lead enforcement has been a priority for Attorney General Neronha. Since the fall of 2021, the Attorney General has filed 19 lawsuits and obtained hundreds of thousands of dollars in penalties from landlords who have failed to fully address serious lead violations in properties where children were lead poisoned. As a result of actions by the Office, more than 65 housing units have been remediated following the issuance of intent to sue letters, pre-suit negotiations, and lawsuits.

In April 2023, Attorney General Neronha alongside legislative partners announced a package of bills aimed at drastically reducing childhood lead poisoning in Rhode Island. The three proposed bills mark a crucial step in eradicating childhood lead poisoning by ensuring compliance with existing laws.

In January 2023, Attorney General Neronha announced lead remediation agreements totaling more than \$700,000 in value. In April and May 2022, the Attorney General filed lead enforcement lawsuits against Pawtucket and Woonsocket landlords. In March 2022, the Attorney General filed lead enforcement lawsuits against four Providence landlords following the lead poisoning of children at each of their properties.

The Attorney General has also strengthened working relationships with other state agencies engaged in lead poisoning prevention, including the Department of Health and Department of Environmental Management, and cities and towns. In February 2022, the Attorney General and RIDOH issued Guidance for Local Code Enforcement on Lead Hazard Violations to cities and towns to support local housing code enforcement officers in the vital role they can play in preventing childhood lead poisoning.

Photos of Pioneer properties as provided by Pioneer's current and former tenants

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Sup.Ct.Rules, Art. V, Rules of Prof.Conduct, Rule 3.6

**Rule 3.6. Trial Publicity**

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(a) A lawyer who is participating or has participated in the investigation or litigation of a matter shall not make an extrajudicial statement that the lawyer knows or reasonably should know will be disseminated by means of public communication and will have a substantial likelihood of materially prejudicing an adjudicative proceeding in the matter.

(b) Notwithstanding paragraph (a), a lawyer may state:

- (1) the claim, offense or defense involved and, except when prohibited by law, the identity of the persons involved;
- (2) information contained in a public record;
- (3) that an investigation of a matter is in progress;
- (4) the scheduling or result of any step in litigation;
- (5) a request for assistance in obtaining evidence and information necessary thereto;
- (6) a warning of danger concerning the behavior of a person involved, when there is reason to believe that there exists the likelihood of substantial harm to an individual or to the public interest; and
- (7) in a criminal case, in addition to subparagraphs (1) through (6):
  - (i) the identity, residence, occupation and family status of the accused;
  - (ii) if the accused has not been apprehended, information necessary to aid in apprehension of that person;
  - (iii) the fact, time and place of arrest; and
  - (iv) the identity of investigating and arresting officers or agencies and the length of the investigation.

(c) Notwithstanding paragraph (a), a lawyer may make a statement that a reasonable lawyer would believe is required to protect a client from the substantial undue prejudicial effect of recent publicity not initiated by the

lawyer or the lawyer's client. A statement made pursuant to this paragraph shall be limited to such information as is necessary to mitigate the recent adverse publicity.

(d) No lawyer associated in a firm or government agency with a lawyer subject to paragraph (a) shall make a statement prohibited by paragraph (a).

## Editors' Notes

### COMMENTARY

[1] It is difficult to strike a balance between protecting the right to a fair trial and safeguarding the right of free expression. Preserving the right to a fair trial necessarily entails some curtailment of the information that may be disseminated about a party prior to trial, particularly where trial by jury is involved. If there were no such limits, the result would be the practical nullification of the protective effect of the rules of forensic decorum and the exclusionary rules of evidence. On the other hand, there are vital social interests served by the free dissemination of information about events having legal consequences and about legal proceedings themselves. The public has a right to know about threats to its safety and measures aimed at assuring its security. It also has a legitimate interest in the conduct of judicial proceedings, particularly in matters of general public concern. Furthermore, the subject matter of legal proceedings is often of direct significance in debate and deliberation over questions of public policy.

[2] Special rules of confidentiality may validly govern proceedings in juvenile, domestic relations and mental disability proceedings, and perhaps other types of litigation. Rule 3.4(c) requires compliance with such rules.

[3] The Rule sets forth a basic general prohibition against a lawyer's making statements that the lawyer knows or should know will have a substantial likelihood of materially prejudicing an adjudicative proceeding.

Recognizing that the public value of informed commentary is great and the likelihood of prejudice to a proceeding by the commentary of a lawyer who is not involved in the proceeding is small, the rule applies only to lawyers who are, or who have been involved in the investigation or litigation of a case, and their associates.

[4] Paragraph (b) identifies specific matters about which a lawyer's statements would not ordinarily be considered to present a substantial likelihood of material prejudice, and should not in any event be considered prohibited by the general prohibition of paragraph (a). Paragraph (b) is not intended to be an exhaustive listing of the subjects upon which a lawyer may make a statement, but statements on other matters may be subject to paragraph (a).

[5] There are, on the other hand, certain subjects that are more likely than not to have a material prejudicial effect on a proceeding, particularly when they refer to a civil matter triable to a jury, a criminal matter, or any other proceeding that could result in incarceration. These subjects relate to:

- (1) the character, credibility, reputation or criminal record of a party, suspect in a criminal investigation or witness, or the identity of a witness, or the expected testimony of a party or witness;
- (2) in a criminal case or proceeding that could result in incarceration, the possibility of a plea of guilty to the offense or the existence or contents of any confession, admission, or statement given by a defendant or suspect or that person's refusal or failure to make a statement;
- (3) the performance or results of any examination or test or the refusal or failure of a person to submit to an examination or test, or the identity or nature of physical evidence expected to be presented;
- (4) any opinion as to the guilt or innocence of a defendant or suspect in a criminal case or proceeding that could result in incarceration;
- (5) information that the lawyer knows or reasonably should know is likely to be inadmissible as evidence in a trial and that would, if disclosed, create a substantial risk of prejudicing an impartial trial; or
- (6) the fact that a defendant has been charged with a crime, unless there is included therein a statement explaining that the charge is merely an accusation and that the defendant is presumed innocent until and unless proven guilty.

[6] Another relevant factor in determining prejudice is the nature of the proceeding involved. Criminal jury trials will be most sensitive to extrajudicial speech. Civil trials may be less sensitive. Non-jury hearings and arbitration proceedings may be even less affected. The Rule will still place limitations on prejudicial comments in these cases, but the likelihood of prejudice may be different depending on the type of proceeding.

[7] Finally, extrajudicial statements that might otherwise raise a question under this Rule may be permissible when they are made in response to statements made publicly by another party, another party's lawyer, or third

persons, where a reasonable lawyer would believe a public response is required in order to avoid prejudice to the lawyer's client. When prejudicial statements have been publicly made by others, responsive statements may have the salutary effect of lessening any resulting adverse impact on the adjudicative proceeding. Such responsive statements should be limited to contain only such information as is necessary to mitigate undue prejudice created by the statements made by others.

[8] See Rule 3.8(e) for additional duties of prosecutors in connection with extrajudicial statements about criminal proceedings.

Sup. Ct. Rules, Art. V, Rules of Prof. Conduct, Rule 3.6, RI R S CT ART V RPC Rule 3.6

Current with amendments received through June 15, 2023. Some rules may be more current, see credits for details.

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