

STATE OF NEW HAMPSHIRE

GRAFTON, SS

SUPERIOR COURT

215-2020-CV-00128

Woodsville Fire District

v.

Town of Haverhill

**PETITIONER'S MOTION TO APPROVE CASE STRUCTURING ORDER**

Petitioner Woodsville Fire District, by and through its attorneys, Devine, Millimet & Branch, P.A., respectfully requests the court approve its proposed case structuring order. In support of this motion, Petitioner states as follows:

1. This case involves a dispute between two municipal entities regarding the allocation of highway funds pursuant to certain special legislation, and disputes under the Right-to-Know Law.
2. The Complaint was filed on April 22, 2020, Index # 1, and served on June 23, 2020. Index # 3.
3. On July 23, 2020, the Defendant filed an Answer and Counterclaim. Index #4.
4. On August 21, 2020, the Petitioner Answered the Counterclaim. Index # 6.
5. The parties have exchanged Automatic Disclosures pursuant to Superior Court Rule 22.
6. On September 15, 2020, Petitioner proposed a Case Structuring Order. Exhibit 1.
7. On September 25, 2020, Petitioner forwarded another copy of the proposed Case Structuring Order. Exhibit 2. Given the limited scope of issues involved in the case, Petitioner proposed mediation by November 15, 2020, completion of all discovery by January 15, 2021, and a bench trial date of February 15, 2021. Exhibit 3.
8. On October 2, 2020, Respondent proposed a trial date of June 2021. Exhibit 4.

9. On October 5, 2020, Petitioner responded that its proposed schedule was sensible in light of the limited scope of issues. Exhibit 5.
10. On October 14, 2020, Petitioner sent a follow up email to Respondent. To date, Respondent has not responded to Petitioner's follow-up requests.
11. Petitioner interprets Respondent's failure to respond as a rejection of the proposed schedule, and unwillingness to discuss the matter further.
12. In light of the time consumed by Respondent's failure to respond to Petitioner's follow-up requests, Petitioner respectfully requests that the Court adopt Petitioner's proposed ADR and Case Structuring Order, with the exception that ADR be scheduled to occur by December 1, 2020.
13. In light of Respondent's failure to respond to Petitioner's follow up emails, Petitioner assumes that it would be unable to obtain concurrence. Superior Court Civil Rule 11(c).

WHEREFORE, Petitioner Woodsville Fire District respectfully requests that this Honorable

Court:

- A) Adopt Petitioner's Proposed ADR and Case Structuring Order;
- B) Order the parties to engage in ADR by December 1, 2020; and
- C) Grant such other and further relief as may be just and proper.

Respectfully submitted,

WOODSVILLE FIRE DISTRICT,

By its Attorneys,

DEVINE MILLIMET & BRANCH, P.A.

Dated: October 29, 2020

/s/ Christopher D. Hawkins  
Christopher D. Hawkins, Esq. (Bar # 10005)

111 Amherst St.  
Manchester, NH 03101  
(603)669-1000  
[Chawkins@devinemillimet.com](mailto:Chawkins@devinemillimet.com)

**CERTIFICATE OF SERVICE**

I hereby certify that on this 29<sup>th</sup> day of October 2020, I served a copy of the foregoing requests for production via the court's electronic filing system upon Demetrio Aspiras, Esq., Drummond Woodsum, 501 Islington St., Suite 2C, Portsmouth, NH 03801.

/s/ Christopher D. Hawkins  
Christopher D. Hawkins

# **Exhibit 1**

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## Christopher D. Hawkins

---

**From:** Christopher D. Hawkins  
**Sent:** Tuesday, September 15, 2020 4:36 PM  
**To:** daspiras@dwmlaw.com  
**Subject:** Woodsville Fire District v. Town of Haverhill  
**Attachments:** Proposed Case Structuring Order.pdf; 2020-09-15.Woodsville RFPs to Haverhill 4822-8494-3563 v.1.pdf; 2020-09-15.WFD Automatic Disclosure 4842-1217-3259 v.1.pdf; WFD Automatic Disclosure Documents Final (WFD000001-120).pdf; Senate Legislative History of SB 75 (WFDSB75S000001-42).pdf; House Legislative History of SB75 (WFDSB75H000001-45).pdf

Attorney Aspiras:

Attached please find the following documents:

1. The Woodsville Fire District Rule 22 Disclosure;
2. Documents WFD000001-120;
3. Documents WFDSB75H000001-45;
4. Documents WFDSB75S000001-42;
5. Woodsville's Requests for Production of Documents to the Town of Haverhill; and
6. A proposed case structuring order for your review and comment.

We plan to depose Glenn English and Rick Ladd in a single day during the weeks of October 19<sup>th</sup> or 26<sup>th</sup>. Please advise your availability during those weeks.

Thank you for your attention.

**Christopher D. Hawkins, Esq.**

*Of Counsel*  
p. 603-695-8530

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**DEVINE  
MILLIMET** MANCHESTER | CONCORD | PORTSMOUTH | BOSTON  
ATTORNEYS AT LAW 603-669-1000 | DEVINEMILLIMET.COM

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## **Exhibit 2**

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**DrummondWoodsum**

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review, retransmission, dissemination or other use of, or taking of any action in reliance upon, this information by persons or entities other than the intended recipient is prohibited. If you received this in error, please contact the sender and delete the e-mail and any attachments from any computer.

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# **Exhibit 3**

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THE STATE OF NEW HAMPSHIRE  
JUDICIAL BRANCH

http://www.courts.state.nh.us

Court Name: Grafton Superior Court

Case Name: Woodsville Fire District v. Town of Haverhill

Case Number: 215-2020-CV-00128  
(if known)

CASE STRUCTURING AND ADR ORDER

(See Superior Court Civil Rules 5 and 32)

1. Plaintiff's Counsel: Trial Christopher D. Hawkins At conference Christopher D. Hawkins
2. Defendant's Counsel: Trial Demetrio Aspiras At conference Demetrio Aspiras
3. Causes(s) of action: Declaratory Judgment Counterclaims Declaratory Judgment
4. Insurance carrier: N/A Disclosure of policy limits by: N/A
5.  The parties consent to this case being transferred to the Business and Commercial Dispute Docket. A motion requesting this transfer shall be filed with the Court within 30 days. Upon receipt, the Clerk will submit the motion to the Merrimack Superior Court for ruling.
6. If defendant claims that unnamed parties are at fault (see DeBenedetto v. CLD Consulting Engineers Inc., 153 N.H. 793 (2006)), defendant shall disclose the identity of every such party and the basis of the allegation of fault no later than \_\_\_\_\_. Plaintiff shall then have 30 days from the date of disclosure to amend the initiating pleading.
7. Is there an agreement to waive statutory expert disclosure requirements under RSA 516:29-b?  
 Yes  No
8.  The parties have exchanged e-mail addresses and agree that the e-mail service of pleadings between the parties shall be considered in compliance with Superior Court Administrative Order 46.
9. Plaintiff's disclosure of experts and reports due: \_\_\_\_\_  
Defendant's disclosure of experts and reports due: \_\_\_\_\_
10. The following deadlines apply:  
All interrogatories propounded by 11/15/2020  
All depositions to be completed by 12/15/2020  
All dispositive motions to be filed: no later than 120 days prior to the trial  
Completion of all discovery: 01/15/2021  
Deadline for filing all other pre-trial motions: 14 days prior to trial management conference  
Deadline for filing of witness and exhibit lists: 14 days prior to trial management conference
11. Jury trial requested?  Yes  No
12. If jury trial previously demanded, is it now being waived?  Yes  No
13. Requested trial date: 02/15/2021 Estimated trial length: 1-2 days
14. Jury trial assignment: Trial Mgt Conf.: \_\_\_\_\_ Jury Selection: \_\_\_\_\_
15. Bench trial assignment: Trial Mgt Conf: 02/01/2021 Week of: 02/15/2021
16. Trial counsel and self-represented parties shall appear at the trial management conference and be prepared to address settlement potential. Parties represented by counsel shall be available for contact by telephone during the trial management conference. All pending pretrial motions shall be heard at the trial management conference, or as scheduled by the court. Failure to appear at the trial management conference or trial may result in dismissal, default or other sanctions.

Case Name: Woodsville Fire District v. Town of Haverhill

Case Number: 215-2020-CV-00128

**CASE STRUCTURING AND ADR ORDER**

**ADR (Alternative Dispute Resolution)**

Superior Court Civil Rule 32 requires the Court to assign all civil cases to ADR unless the parties represent by joint motion they have engaged in formal ADR before a neutral third party before filing suit or the Court exempts the parties by motion for good cause shown.

17. **ADR Order:**

- The parties stipulate and agree to an ADR process. **OR**  
 The parties do not agree to an ADR process and request the Court complete this section.

**A. Type of ADR**

- Mediation**                       **Neutral Case Evaluation**                       **Arbitration**

**Other Neutral Third Party Process:** \_\_\_\_\_

Name of person chosen to conduct ADR: Hon. Robert E.K. Morrill                       Paid     Volunteer

Address: \_\_\_\_\_

Phone: (603) 828-8564                      Email: judge@bobmorrill.com

Names of alternates: 1. Hon. Richard Galway                      2. Greg Clayon, Esq.

**B. Scheduling your ADR Session:** Date ADR shall be completed by 11/15/2020

You and the other side must contact the person selected to schedule the ADR session.

**C. ADR Reporting:** The Plaintiff shall file a copy of the ADR report with the court within 30 days of the ADR session. If the ADR report is not timely filed, the court may schedule a show-cause hearing to determine the status of the ADR process and to impose sanctions appropriate to the circumstances, if necessary.

18.  The Court has determined the parties are exempt from Rule 32 ADR.

19. Other orders:

\_\_\_\_\_

Christopher D. Hawkins, Esq.

Name of Filer

Devine Millimet & Branch, P.A.10005

Law Firm, if applicable                      Bar ID # of attorney

111 Amherst St.

Address

Manchester                      NH                       03101

City                      State                      Zip code

/s/ Christopher D. Hawkins                      09/15/2020

Signature of Filer                      Date

(603) 669-1000

Telephone

chawkins@devinemillimet.com

E-mail

\_\_\_\_\_  
Name of Filer

\_\_\_\_\_  
Signature of Filer                      Date

\_\_\_\_\_  
Law Firm, if applicable                      Bar ID # of attorney

\_\_\_\_\_  
Telephone

\_\_\_\_\_  
Address

\_\_\_\_\_  
E-mail

\_\_\_\_\_  
City                      State                      Zip code

Case Name: Woodsville Fire District v. Town of Haverhill

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**CASE STRUCTURING AND ADR ORDER**

\_\_\_\_\_  
Name of Filer

\_\_\_\_\_  
Signature of Filer Date

\_\_\_\_\_  
Law Firm, if applicable Bar ID # of attorney

\_\_\_\_\_  
Telephone

\_\_\_\_\_  
Address

\_\_\_\_\_  
E-mail

\_\_\_\_\_  
City State Zip code

\_\_\_\_\_  
Name of Filer

\_\_\_\_\_  
Signature of Filer Date

\_\_\_\_\_  
Law Firm, if applicable Bar ID # of attorney

\_\_\_\_\_  
Telephone

\_\_\_\_\_  
Address

\_\_\_\_\_  
E-mail

\_\_\_\_\_  
City State Zip code

SO ORDERED:

\_\_\_\_\_  
Date

\_\_\_\_\_  
Presiding Justice

# **Exhibit 4**

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## Christopher D. Hawkins

---

**From:** Christopher D. Hawkins  
**Sent:** Monday, October 5, 2020 6:37 PM  
**To:** 'Demetrio F. Aspiras, III'  
**Subject:** RE: Woodsville Fire District v. Town of Haverhill

Attorney Aspiras:

I will check November 6 with the witnesses and advise.

Our client is interested in resolving this matter as soon as possible and is unwilling to agree to a June trial date.

Brief review of the respective Petitions and Answers suggests this is not a summary judgment case. We respectfully submit that summary judgment motions would waste time and money considering we are looking at a one or, at most, two day bench trial. We note the District's Petition was served in June, but the Town has not yet served discovery requests.

We believe the case should be advanced during the budget season precisely so that the parties have a sense of the funds they might need to appropriate to satisfy any potential judgment.

The court's ability to accommodate us in June is no more clear than its ability to accommodate us on an earlier date. Live bench trials and hearings are happening around the state with reasonable precautions, and hopefully the court will accommodate us as well.

Our automatic disclosure is not a trial witness list, but a list of people likely to have discoverable information that we may use to support our claims and defenses. At this point in time, we anticipate 2 or 3 witnesses depending upon the witnesses and evidence the Town intends to present. We will, of course, know more after the Town provides its automatic disclosure and produces documents.

You offered no response to our November 15 mediation proposal. We believe it makes sense to mediate the case after some discovery has been exchanged and a few depositions have been taken, but before excessive amounts of legal fees have been incurred. We believe Judge Morrill, Judge Galway, or Greg Clayton would be good for this case. Their schedules fill up quickly, so please let me know if the date is acceptable and I'll try to schedule the mediator.

Thanks for your attention.

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**Sent:** Friday, October 2, 2020 4:30 PM  
**To:** Christopher D. Hawkins <CHawkins@devinemillimet.com>  
**Subject:** RE: Woodsville Fire District v. Town of Haverhill

Attorney Hawkins:

Re depositions: 11/3 and 11/6 currently work for me.

Re the CSO: I think this is a bit too optimistic. It has us going to trial in ~ 4 months, virtually eliminating a summary judgment process, with basically a 3 month discovery window smack in the holiday and budget

season. I'm not even sure the court would be able to accommodate us under current circumstances, especially with the volume of witnesses your disclosures suggest. (I'm assuming we'll still be remote at that stage).

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Attorney  
Drummond Woodsum  
603.792.7414 Direct | [DAspiras@dwmlaw.com](mailto:DAspiras@dwmlaw.com)

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## DrummondWoodsum

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# **Exhibit 5**

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## Christopher D. Hawkins

---

**From:** Christopher D. Hawkins  
**Sent:** Wednesday, October 14, 2020 11:34 AM  
**To:** Demetrio F. Aspiras, III  
**Subject:** FW: Woodsville Fire District v. Town of Haverhill

Dear Attorney Aspiras:

I have had no response to this email. Please let me know how the Town intends to proceed. Thank you.

---

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Attorney

Drummond Woodsum

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**From:** Christopher D. Hawkins [<mailto:CHawkins@devinemillimet.com>]

**Sent:** Friday, September 25, 2020 1:46 PM

**To:** Demetrio F. Aspiras, III <[DAspiras@dwmlaw.com](mailto:DAspiras@dwmlaw.com)>

**Subject:** RE: Woodsville Fire District v. Town of Haverhill

Attorney Aspiras:

This follows up on the below and my voice mail of this afternoon. Please let me know if you propose any changes to the case structuring order. Happy to discuss this at your convenience. Thanks.

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**From:** Christopher D. Hawkins

**Sent:** Tuesday, September 15, 2020 4:36 PM

**To:** [daspiras@dwmlaw.com](mailto:daspiras@dwmlaw.com)

**Subject:** Woodsville Fire District v. Town of Haverhill

Attorney Aspiras:

Attached please find the following documents:

1. The Woodsville Fire District Rule 22 Disclosure;
2. Documents WFD000001-120;
3. Documents WFDSB75H000001-45;
4. Documents WFDSB75S000001-42;
5. Woodsville's Requests for Production of Documents to the Town of Haverhill; and
6. A proposed case structuring order for your review and comment.

We plan to depose Glenn English and Rick Ladd in a single day during the weeks of October 19<sup>th</sup> or 26<sup>th</sup>. Please advise your availability during those weeks.

Thank you for your attention.

**Christopher D. Hawkins, Esq.**  
Of Counsel  
p. 603-695-8530

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