

STATE OF NEW HAMPSHIRE

GRAFTON, SS.

SUPERIOR COURT

Woodsville Fire District

v.

Town of Haverhill

DOCKET NO. 215-2020-CV-00128

**TOWN'S RESPONSE TO WOODSVILLE'S
MOTION TO APPROVE CASE STRUCTURING ORDER**

NOW COMES the Defendant, Town of Haverhill (“Town”), by and through its counsel, and responds to Woodsville’s Motion to Approve Case Structuring Order, submitting its own Proposed Case Structuring Order and requesting that it be approved, and stating as follows:

1. As set forth in Woodsville’s Motion to Approve Case Structuring Order, after the respective parties answered the Complaint and Counterclaims, Woodsville’s counsel provided a proposed Case Structuring Order to undersigned counsel with a proposed trial date in February 2021 and related deadlines.

2. Undersigned counsel informed Woodsville’s counsel that, at the soonest, a June trial date might be possible, and attempted to open discussion regarding a CSO and attendant deadlines. *See* Exh. 4 to WOODSVILLE’S MOTION TO APPROVE CSO.

3. Woodsville’s counsel responded by stating his client was “unwilling to agree to a June trial date,” yet made no further counter proposals regarding any deadlines nor any invitation to discuss the same. *Id.* In other words, it was

Woodsville, not the Town, that was literally “unwilling[] to discuss the matter further.” *Compare* WOODSVILLE’S MOTION ¶ 11.

4. Attached is the Town’s proposed Case Structuring Order. It should be entered. Woodsville’s proposal is unrealistic and unreasonable.

5. For sure, at its core the *primary* claims in this case concern a discrete legal issue capable of speedy resolution: whether the statute as written obligates the Town to transfer money to Woodsville and, if so, how is that amount to be calculated. However, both sides have alleged facts and asserted claims that will certainly require development.

6. For example, it appears Woodsville is taking the position that this case concerns not just the interpretation of a statute, but the application, interpretation, and history of various agreements and dealings of the Parties. To that end, it is seeking to depose former Town employees/officials to discuss events that occurred over a decade ago.

7. Similarly, the Town alleges that Woodsville may not have properly expended transferred funds and also alleges that Woodsville violated RSA 91-A. And because Woodsville has not complied with state law requiring it to publish detailed financial records and conduct yearly audits, the Town will need to conduct discovery in order to review Woodsville’s financial records and see where, exactly, the funds at issue in this case went. This kind of discovery takes time.

8. Woodsville’s proposal essentially prevents either party from seeking summary judgment and unnecessarily fast tracks a case whose result will have

serious and lasting implications for both Parties. Woodsville's position (asserted via email) that "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," misses the real import of this case: the most significant outcome to both Parties will not be whether or not one or the other is awarded judgment for past damages, but will be the determination of what their respective obligations are moving forward. This legal determination, absent a change in the law, will have consequences that outlast this budget cycle, this year, and this decade.

9. Further, Woodsville's assertion that it needs to fast track the case in order to have a sooner sense of the funds it might need to satisfy a damage award is perplexing. The primary amount of each party's respective claims for damages is already known and alleged in their respective pleadings, so if Woodsville needs to raise and appropriate funds to cover a potential judgment, it has a great baseline number to use. Second, merely conducting discovery during the budget season (primarily December-February) will not provide that "sense," and no reasonable municipal entity is going to raise and appropriate funds under the mere specter of *potential* damages simply because discovery suggests a particular figure; especially when the core of the dispute is legal in nature. Finally, RSA 32:9 specifically authorizes the expenditure of funds to satisfy judgments without an appropriation, undermining any need to appropriate ahead of time (and according to Woodsville's 2019 Annual Report, it is sitting on over six million dollars in cash).

10. Finally, at this time the Town has no interest in mediation. While some of the tertiary claims may be capable of settlement, the core dispute in this case centers on whether or not the Town is legally obligated to raise and appropriate money from its taxpayers for the specific purpose of transferring it to Woodsville and, if so, how much. To “settle” such a claim would require the Town to voluntarily agree to undertake this obligation – or a related, modified obligation. While it is questionable whether or not such an agreement would even be enforceable long-term (what consideration, exactly, would Woodsville provide and how long could the Town bind its future administrations to a voluntary interpretation of a statute?), the Town is not interested in agreeing to do anything more than the law actually requires. To that end, a judicial resolution will be necessary.

WHEREFORE, the Town respectfully requests this Honorable Court:

- A) Enter its proposed Case Structuring Order; and
- B) For such further relief this Court deems fair and just.

Respectfully Submitted,
Town of Haverhill

By its attorneys,
Drummond Woodsum & MacMahon, P.A.

Dated: November 5, 2020

By: /s/ Demetrio Aspiras
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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Response was this date forwarded to all counsel of record via the Court's electronic filing system.

Dated: November 5, 2020

/s/ Demetrio Aspiras
Demetrio Aspiras, Esq.