

CARROLL SUPERIOR COURT
CASE SUMMARY
CASE NO. 212-2016-CV-00148

Deborah A. Canty, et al v Property Owners Association
at Suissevale, Inc.

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Location: Carroll Superior Court
Filed on: 09/22/2016

CASE INFORMATION

Case Type: **Complaint for Accounting**

Case Status: **10/24/2017 Closed**

PARTY INFORMATION

Plaintiff	Canty, Deborah A. Howlett, Michael A.	McLaughlin, Timothy J., ESQ <i>Retained</i> 603-225-7262(W) McLaughlin, Timothy J., ESQ <i>Retained</i> 603-225-7262(W)
Defendant	Property Owners Association at Suissevale, Inc.	Delude, Matthew J, ESQ <i>Retained</i> 603-626-3300(W) Pappas, Thomas J., ESQ <i>Retained</i> 603-626-3300(W)

DATE	EVENTS & ORDERS OF THE COURT	INDEX
09/22/2016	Complaint for Accounting Filed by: Attorney Kilchenstein, Eric Tolbert, ESQ; Attorney McLaughlin, Timothy J., ESQ	Index #1
09/27/2016	Summons on Complaint	Index #2
09/27/2016	Service Property Owners Association at Suissevale, Inc. served 10/15/2016	
10/24/2016	Return of Service Filed by: Attorney McLaughlin, Timothy J., ESQ	Index #3
11/14/2016	Answer Filed by: Attorney Delude, Matthew J, ESQ <i>Property Owners Association at Suissevale, Inc.'s Answer and Affirmative Defenses</i>	Index #4
11/16/2016	Appearance Filed by: Attorney Pappas, Thomas J., ESQ <i>Thomas J. Pappas, Esquire - as Counsel for Defendant, Property Owners at Suissevale, Inc.</i>	Index #5
11/16/2016	Appearance Filed by: Attorney Delude, Matthew J, ESQ <i>Matthew J. Delude, Esquire - as Counsel for Defendant, Property Owners at Suissevale, Inc.</i>	Index #6
12/22/2016	Structuring Order - Stipulated Filed by: Attorney McLaughlin, Timothy J., ESQ; Attorney Delude, Matthew J, ESQ	Index #7
12/22/2016	Order Made (Judicial Officer: Ignatius, Amy L)	

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01/13/2017	CANCELED Scheduling Conference <i>**Compliance Hearing Re: Parties failure to file Stipulated Structuring /ADR Order</i>	
05/03/2017	Withdrawal Filed by: Attorney Kilchenstein, Eric Tolbert, ESQ <i>Atty. Kilchensetin for Deborah Canty, Michael Howlett</i>	Index #8
05/30/2017	Stipulation Filed by: Attorney Delude, Matthew J, ESQ <i>Joint Stipulation as to Disputed Issues and Motion to Approve and Order Same</i>	Index #9
05/31/2017	Granted (Judicial Officer: Ignatius, Amy L) <i>Motion Granted. Joint Stipulation is Approved. Case dismissed with prejudice except as to attorney's fees.</i>	
10/23/2017	Agreement Filed by: Attorney McLaughlin, Timothy J., ESQ; Attorney Delude, Matthew J, ESQ <i>Agreement for Docket Markings</i>	Index #10
10/23/2017	Approved (Judicial Officer: Ignatius, Amy L) <i>Approved. So Ordered.</i>	
10/23/2017	Docket Markings (Judicial Officer: Ignatius, Amy L)	
11/30/2017	CANCELED Final Pretrial	
11/30/2017	CANCELED Trial Management Conference	
12/11/2017	CANCELED Jury Selection	
12/18/2017	CANCELED Bench Trial <i>Scheduling Purpose Only-Actual date to be given at TMC</i>	

TARGET DATE

TIME STANDARDS

THE STATE OF NEW HAMPSHIRE

CARROLL, ss.

SUPERIOR COURT

DEBORAH A. CANTY and MICHAEL A. HOWLETT

v.

PROPERTY OWNERS ASSOCIATION AT SUISSEVALE, INC.

Docket No. 212-2016-CV-00148

AGREEMENT FOR DOCKET MARKINGS

It is hereby stipulated and agreed between the parties that the above-entitled action may be marked as follows:

“Case settled. Neither party. No interest; no costs; no further action for the same cause.”


Respectfully submitted,

PROPERTY OWNERS ASSOCIATION AT
SUISSEVALE, INC.,

By Its Attorneys,
PRIMMER PIPER EGGLESTON & CRAMER, PC

Dated: October 19, 2017

By:



Thomas J. Pappas, Esq. (N.H. Bar #4111)
Matthew J. Delude, Esq. (N.H. Bar #18305)
P.O. Box 3600
Manchester, NH 03105-3600
(603) 626-3300
tpappas@primmer.com
mdelude@primmer.com

Approved. S. ordered

Amy Ignatius

10/23/2017

1



Amy L. Ignatius
Presiding Justice

DEBORAH A. CANTY and MICHAEL A. HOWLETT,

By Their Attorneys,
SHAHEEN & GORDON PA

Dated: October 19, 2017

By:


  10305

Timothy J. McLaughlin, Esq.
107 Storrs Street
PO Box 2703
Concord, NH 03302
(603) 819-4231
tmclaughlin@shaheengordon.com

CERTIFICATE OF SERVICE

I hereby certify that on this date a copy of the foregoing document was forwarded via U.S. Mail, postage prepaid to Timothy J. McLaughlin, Esq. and Eric Tolbert Kilchenstein, Esq.

Dated: October 19, 2017


Matthew J. Delude, Esq. (N.H. Bar #18305)

THE STATE OF NEW HAMPSHIRE

CARROLL, ss.

SUPERIOR COURT

DEBORAH A. CANTY and MICHAEL A. HOWLETT

v.

PROPERTY OWNERS ASSOCIATION AT SUISSEVALE, INC.

Docket No. 212-2016-CV-00148

**JOINT STIPULATION AS TO DISPUTED ISSUES AND
MOTION TO APPROVE AND ORDER SAME**

NOW COME the Plaintiffs, Deborah A. Canty and Michael A. Howlett, and Defendant, Property Owners Association at Suissevale, Inc. ("POASI"), by their respective legal counsel, and submit the following Joint Stipulation as to Disputed Issues and respectfully move this Court to approve the same and order the relief requested herein as follows:

1. POASI will set aside the following documents for review by Plaintiffs in POASI's offices during business hours, which are posted on the front door and vary but are usually Monday, 9 a.m. to 3 p.m.; Wednesday, 9 a.m. to 3 p.m.; and Saturday, 9 a.m. to 1 p.m.:

A. Water Source Project - Two large binders full of documents related to the drilling of wells at two different well sites. Water test results. Four signed proposals from Hydro Source Engineers. A Meredith Village Bank loan agreement. POASI also has three opinion letters from lawyers which are not available for review as they are privileged and Plaintiffs agree that said documents will not be provided.

B. Leon, McDonald & Roberts 2014 Audit - The Leon, McDonald & Roberts audit and invoices.

*Joint Stipulation
is Approved.
Case dismissed with
prejudice except
as to attorney's fees.*

Motion Granted / ~~Denied~~

Amy Ignatius

Amy L. Ignatius, Presiding Justice
DATE 5/31/2017

- C. Symmetry Partners - Symmetry Partners investment quarterly reports and statements.
- D. Board of Directors - Minutes of Board of Directors meetings from 2010 to 2016.
- E. 2010-2016 Certificate of Insurance - all POASI insurance coverages.
- F. Reconciliations from 2013 to 2015 - Annual Reports of Suissevale are POASI reconciliations which are available for review. Plaintiffs non-suit the remainder of paragraph 15.F of their Complaint for Accounting.
- G. 2013-2015 Water Invoices - Copies of the Lake Region Water invoices from 2010 to date.
- H. Accounting Firms Regarding Water Committee - Yearly Email reports available for review.
- I. Closed Session Minutes - Plaintiffs non-suit paragraph 15.I. of their Complaint for Accounting.
- J. Tax Returns - 2011 to 2015 tax returns.
- K. Annual Meeting Minutes - Available for review.
- L. Suissevale Members Assigned Docks - Member list available for review.
- M. Contact List for all Suissevale Members - Contact information for Suissevale members is not available as it is privileged and contains confidential information. Plaintiffs agree to this and POASI will instead prepare a list of surnames for all of the members of the Association. No other member information will be provided.
- N. Loan Agreements - There are no executed loan agreements. Plaintiffs non-suit paragraph 15.N. of their Complaint for Accounting.

O. Certifications of Board of Directors elections - 2010 through 2016 are available for inspection.

P. Work Product of Orr & Reno regarding covenants - All legal work product from Orr & Reno is privileged information and not available for inspection. Plaintiffs agree to this.

Q. Financial Audits - Available for inspection (see Leon, McDonald & Roberts 2014 Audit).

R. Bank Statements - Bank statements of the Association for the last seven years.

S. No other documents will be made available.

2. Plaintiffs will bring their own paper and copier/scanner to make copies at POASI offices of any and all documents they wish to obtain pursuant to this stipulation. No copying services will be provided by POASI. POASI agrees not to charge an administrative charge during this process provided that Plaintiffs visit POASI offices during normal business hours. All review and copying must be commenced and concluded within the thirty (30) day period following approval of this stipulation by the Court, dated from the date of notice of this Court's approval order. In the event that POASI's offices are not open during otherwise normal business hours during the thirty (30) day period, then Plaintiffs' time to review and copy will be extended a corresponding amount of time.

3. This Joint Stipulation As To Disputed Issues shall conclusively resolve the issues in this matter with respect to all parties with one exception. All parties to this action assert that they are entitled to attorneys' fees due to the actions of the other parties. To date, the parties have been unable to resolve the attorneys' fee issue and may ultimately have to seek a determination from this Court. The parties will continue to attempt to resolve that issue but respectfully request this Court to

retain jurisdiction solely with respect to that issue and dismiss this action with prejudice as to all other issues consistent with the terms of this Joint Stipulation.

WHEREFORE, the parties respectfully request that this Honorable Court:

- A. APPROVE this Joint Stipulation As to Disputed Issues;
- B. DISMISS this action with prejudice as to all issues except the attorneys' fee issue; and
- C. GRANT such further relief as is equitable and just.

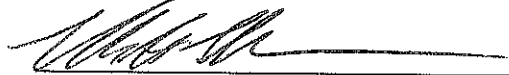
Respectfully submitted,

PROPERTY OWNERS ASSOCIATION AT
SUISSEVALE, INC.,

By Its Attorneys,
PRIMMER PIPER EGGLESTON & CRAMER, PC

Dated: May 26, 2017

By:

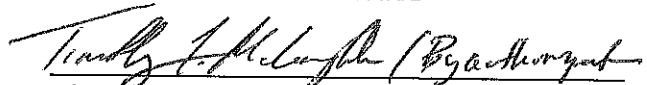

Thomas J. Pappas, Esq. (N.H. Bar #4111)
Matthew J. Delude, Esq. (N.H. Bar #18305)
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Manchester, NH 03105-3600
(603) 626-3300
tpappas@primmer.com
mdelude@primmer.com

DEBORAH A. CANTY and MICHAEL A. HOWLETT,

By Their Attorneys,
SHAHEEN & GORDON PA

Dated: May 26, 2017


By:


Timothy J. McLaughlin, Esq.
107 Storrs Street
PO Box 2703
Concord, NH 03302
(603) 819-4231
tmclaughlin@shaheengordon.com

CERTIFICATE OF SERVICE

I hereby certify that on this date a copy of the foregoing document was forwarded via U.S. Mail, postage prepaid to Timothy J. McLaughlin, Esq. and Eric Tolbert Kilchenstein, Esq.

Dated: May 26, 2017


Matthew J. Delude, Esq. (N.H. Bar #18305)

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THE STATE OF NEW HAMPSHIRE
JUDICIAL BRANCH
http://www.courts.state.nh.us

Court Name: Carroll Superior Court
Case Name: Deborah A. Canty, et al v. Property Owners Association at Suizzevale, Inc.
Case Number: 212-2016-CV-00148
(if known)

APPEARANCE/WITHDRAWAL

APPEARANCE

Type of appearance (Select One)

- Appearance Limited Appearance (*Civil cases only*)

If limited appearance, scope of representation:

Select One:

- As Counsel for:

(Name) (Address) (Telephone Number)

(Name) (Address) (Telephone Number)

(Name) (Address) (Telephone Number)

- I will represent myself (*self-represented*)

WITHDRAWAL

As Counsel for Deborah A. Canty Michael A. Hawlett

Type of Representation: (Select one)

- Appearance:
 Notice of withdrawal was sent to my client(s) on: May 1, 2017 at the following address:
27 Zermatt Street, Moultonborough, NH 03254
 A motion to withdraw is being filed.

- Limited Appearance: (Select one)
 I am withdrawing my limited appearance as I have completed the terms of the limited representation.
 The terms of limited representation have not been completed. A motion to withdraw is being filed.

I certify that on this date I provided a copy of this document to the parties who have filed an appearance for this case by: Hand-delivery OR US Mail OR Email (only when there is prior agreement of the parties to use this method of service).

May 1, 2017
Date
P. O. Box 977 Shaheen + Gordon, PA
Mailing Address
Dover, NH 03821-0977
(603) 749-5000
Telephone

[Signature]
Signature
Eric Tolbert Kilchensetin
Printed Name
soconnell@shaheengordon.com
Email Address
#15896
NH Bar ID # if attorney

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THE STATE OF NEW HAMPSHIRE
JUDICIAL BRANCH

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

Court Name: **Carroll Superior Court**

Case Name: **Deborah Canty et al. v. Property Owners Association at Suissevale, Inc.**

Case Number: **212-2016-CV-00148**
(if known)

CASE STRUCTURING AND ADR ORDER*

(See Superior Court Rule 5)

1. Plaintiff's Counsel: Trial Tim McLaughlin At conference Tim McLaughlin
2. Defendant's Counsel: Trial Thomas Pappas At conference Matthew Delude
3. Causes(s) of action: Accounting Counterclaims N/A
4. Insurance carrier: The Cincinnati Ins. Co. Disclosure of policy limits by: 02/01/2017
5. The parties have agreed to file a motion with the Merrimack County Superior Court within 30 days requesting that this matter be placed on the Business and Commercial Dispute Docket.
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 02/01/2017. 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: 06/01/2017
Defendant's disclosure of experts and reports due: 08/01/2017
10. The following deadlines apply:
All interrogatories propounded by 09/01/2017
All depositions to be completed by 10/01/2017
All dispositive motions to be filed: no later than 120 days prior to the trial
Completion of all discovery: 10/01/2017
Deadline for filing all other pre-trial motions: no later than 14 days prior to trial
Deadline for filing of witness and exhibit lists: no later than the trial management conference
In actions to recover damages for personal injuries, independent medical examinations pursuant to Superior Court Civil Rule 28A must be conducted by the completion of discovery.
11. Jury trial requested? Yes No
12. If jury trial previously demanded, is it now being waived? Yes No
13. Requested trial date: 12/04/2017 Estimated trial length: 1 day
14. Jury trial assignment: Trial Mgt Conf.: _____ Jury Selection: _____
15. Bench trial assignment: Trial Mgt Conf.: _____ Week of: 12/04/2017
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.

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THE STATE OF NEW HAMPSHIRE

CARROLL, ss.

SUPERIOR COURT

DEBORAH A. CANTY and MICHAEL A. HOWLETT

v.

PROPERTY OWNERS ASSOCIATION AT SUISSEVALE, INC.


Docket No. 212-2016-CV-00148

APPEARANCE

In the above-entitled action please enter my appearance for the Defendant Property Owners Association at Suissevale, Inc.

I hereby certify that a copy of this appearance has been forwarded this day via e-mail & U.S. Mail to John F. Sullivan, Esq. and Jeremy D. Eggleton, Esq.

Dated: November 14, 2016



Thomas J. Pappas, Esq. (N.H. Bar#4111)
PRIMMER PIPER EGGLESTON & CRAMER PC
P.O. Box 3600
Manchester, NH 03105-3600
(603) 626-3300
tpappas@primmer.com

THE STATE OF NEW HAMPSHIRE

CARROLL, ss.

SUPERIOR COURT

DEBORAH A. CANTY and MICHAEL A. HOWLETT

v.

PROPERTY OWNERS ASSOCIATION AT SUISSEVALE, INC.

Docket No. 212-2016-CV-00148

**PROPERTY OWNERS ASSOCIATION AT SUISSEVALE, INC.'S
ANSWER AND AFFIRMATIVE DEFENSES**

NOW COMES the Defendant, Property Owners Association at Suissevale, Inc. ("Suissevale"), by and through its attorneys, Primmer Piper Eggleston & Cramer PC, and hereby submits its Answer and Affirmative Defenses as follows:

ANSWER TO COMPLAINT

1. Suissevale admits the allegations of Paragraph 1.
2. Suissevale admits the allegations of Paragraph 2.
3. Suissevale admits the allegations of Paragraph 3.
4. Suissevale denies the allegations of Paragraph 4.
5. The allegations contained in paragraph 5 are conclusions of law and, as such, require no response. To the extent a response is required, Suissevale denies the same.

PARTIES

6. Suissevale admits the allegations of Paragraph 6.
7. Suissevale admits the allegations of Paragraph 7.
8. Suissevale admits the allegations of Paragraph 8.
9. Suissevale admits the allegations of Paragraph 9.

8. The Plaintiffs' claims are barred or limited, in whole or in part, by the Plaintiffs' failure to mitigate loss.

9. The Plaintiffs' claims are barred or limited, in whole or in part, for lack of standing.

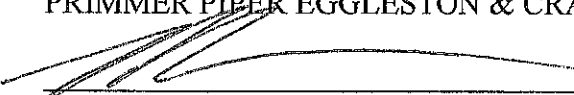
10. Defendant reserves the right to supplement or amend its affirmative defenses, and to assert additional affirmative defenses, as the nature and scope of the Plaintiffs' claims are developed further through discovery.

Respectfully submitted,

PROPERTY OWNERS ASSOCIATION AT
SUISSEVALE, INC.,
By Its Attorneys,

PRIMMER PIPER EGGLESTON & CRAMER PC,

Dated: November 14, 2016 By:


Thomas J. Pappas, Esq. (N.H. Bar #4111)
Matthew J. Delude, Esq. (N.H. Bar #18305)
P.O. Box 3600
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mdelude@primmer.com

CERTIFICATE OF SERVICE

I hereby certify that on this date a copy of the foregoing document was forwarded via U.S. Mail, postage prepaid to Timothy J. McLaughlin, Esq. and Eric Tolbert Kilchenstein, Esq.

Dated: November 14, 2016


Matthew J. Delude, Esq. (N.H. Bar #18305)

Carroll County Sheriff's Department

Return of Service

CARROLL, SS.

10 / 15 / , 2016

I summoned the within named Property Owners Association at
Suissevale, Inc.

by giving in hand to

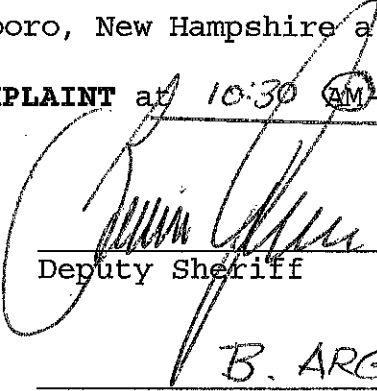
ROBERT ASHTON

by leaving at the abode of

at 17 Langdorf Street, in Moultonboro, New Hampshire a copy of this

SUMMONS IN A CIVIL ACTION AND COMPLAINT at 10:30 AM PM.

Fees: Service	\$50.00
P&H	\$ 1.00
Travel	\$17.82
Total	\$68.82


 Deputy Sheriff
B. ARGUE
 Deputy Sheriff Printed Name

Service address other than above: _____

Address location: () Work () New Residence () Other: _____