

THE STATE OF NEW HAMPSHIRE

HILLSBOROUGH, SS.
NORTHERN DISTRICT

SUPERIOR COURT

PAMELA D. KELLY, MATTHEW H. EATON, KEVIN E. JORDAN
JEROME F. LAPHAM, JR., JAMES P. ROSBOROUGH, PETER W. LYLE, MICHAEL
HERRON, AMEDE A. BAILLARGEON, JR., SHANE CAREY, & ROGER FRIEDEN,
CHERYL LEBLANC, THOMAS DUFFY, AND
JOHN DOES #1 THROUGH #5 AND JANE DOES #1 THROUGH #5,
AS GENERAL CLASS OF RESIDENTS ALONG CAMP ROADS
IN THE TOWN OF NOTTINGHAM

v.

TOWN OF NOTTINGHAM

Docket #: 218-2020-CV-0008


PLAINTIFFS' ASSENTED-TO MOTION
TO VACATE CASE STRUCTURING & ADR ORDER

NOW COME, the Plaintiffs, Pamela D. Kelly ("Petitioner Kelly"), Matthew H. Eaton, Kevin E. Jordan, Jerome F. Lapham, Jr., James P. Rosborough, Peter W. Lyle, Michael Herron, Amede A. Baillargeon, Jr., Shane Carey, and Roger Frieden, Cheryl Leblanc, Thomas Duffy, John Does #1 through #5, and Jane Does #1 through #5, by and through their attorneys, Alfano Law Office, PLLC, and file this Assented-To Motion, stating as follows:

1. On or about August 24, 2020, the Defendant filed a Motion to Strike Class Action.
2. On August 31, 2020, this Court granted the proposed Case Structuring and ADR Order in this action.
3. On or about September 3, 2020, the Plaintiffs filed an Objection to the Motion to Strike Class Action.
4. On or about September 18, 2020, the Defendant filed a Reply to the Plaintiffs' Objection.
5. By Order dated November 6, 2020, this Court ruled that the Defendant's Motion to Strike Class Action was premature and that a hearing for class certification needed to be held.

Clerk's Notice of Decision
Document Sent to Parties
on 03/01/2021

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Granted

Honorable Diane M. Nicolosi
February 27, 2021

6. In the Court's November 6th Order, the Court also instructed the parties to confer regarding the amount of time that would be needed for such a certification hearing.
7. Since the Court's November 6th Order, counsel for the parties, as well as staff in the Clerk's Office have conferred on a number of occasions regarding a date for the class certification hearing.
8. Further, on or about January 12, 2021, counsel for the parties submitted the Parties' Proposal for Class Certification Proceedings, which included, inter alia, a provision for a specific number of interrogatories and a set number of hours of depositions in preparation solely for the class certification hearing and separate from any discovery efforts for the remainder of the case. ¶5 of Parties' Proposal.
9. By Clerk's Notice of WebEx Hearing, dated February 9, 2021, the day-long certification hearing has been scheduled for June 28, 2021.
10. Counsel for the parties have further conferred and agree that, in light of the amount of time until the class certification hearing and other considerations, it would be more effective and efficient if general discovery efforts were stayed until the Court renders its decision regarding class certification in this action.
11. Through this Assented-To Motion the parties seek to have the Court's August 31, 2020 Case Structuring & ADR Order vacated.
12. Within fourteen (14) of the date of the Clerk's Notice of Decision for this Court's decision regarding class certification, counsel for the parties will meet and confer with the goal of filing a proposed Case Structuring & ADR Order containing new dates and deadlines.

WHEREFORE, the Petitioners respectfully request that this Honorable Court:

- A. Grant the foregoing Assented-To Motion;
- B. Issue an Order vacating the Court's August 31, 2020 Case Structuring & ADR Order;
- C. Issue an Order instructing the parties, or through their counsel, to meet and confer, within fourteen (14) days of the date of the Clerk's Notice of Decision for this Court's decision regarding class certification, for the filing of a new proposed Case Structuring & ADR Order; and
- D. Grant such other and further relief as may be required.

Respectfully submitted,
Pamela D. Kelly, et. al.
By and through their attorneys,
Alfano Law Office, PLLC

Dated: February 25, 2021

/s/ JAMES L. SOUCY, ESQ.
James L. Soucy, Esquire (NH Bar #14937)
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CERTIFICATE OF COMPLIANCE WITH RULE 11 (c)

I, hereby, certify that I have obtained the concurrence of Susan A. Lowry, Esquire, opposing counsel-of-record, to the relief requested in the foregoing Assented-To Motion.

Dated: February 25, 2021

/s/ JAMES L. SOUCY, ESQ.
James L. Soucy, Esquire

CERTIFICATE OF SERVICE

I, hereby, certify that a copy of the foregoing has been forwarded, via the Court's electronic filing system, on this date, to Barton Mayer, Esquire, Susan A. Lowry, Esquire, and Robert Dietel, Esquire, opposing counsel-of-record.

Dated: February 25, 2021

/s/ JAMES L. SOUCY, ESQ.
James L. Soucy, Esquire