

STATE OF MAINE
YORK, ss.

SUPERIOR COURT
CIVIL ACTION
DOCKET NO. RE-09-111

ROBERT F. and VIRGINIA S.)
ALMEDER, et al.,)
)
Plaintiffs)
)
v.)
)
TOWN OF KENNEBUNKPORT,)
TMF DEFENDANTS, STATE OF)
MAINE, et al.,)
)
Defendants)

MOTION OF DEFENDANT TOWN OF
KENNEBUNKPORT TO STRIKE
APPEARANCES AND ANSWERS OF THE
GREGORY LIVING TRUST AND
MARIE B. HENRIKSEN AND OPPOSITION
TO MOTION TO DISMISS

For the same reasons that Defendant Town of Kennebunkport (the “Town”) is seeking to strike the July 31, 2012 Appearance and Answer of Mary L. Emmons, the Town hereby moves to strike the August 10, 2012 Appearances and Answers filed by Gregory Living Trust and Marie B. Henriksen, and hereby opposes the Motion of Marie B. Henriksen to Dismiss the Town’s Counterclaims, in this case.

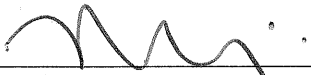
The Gregory Living Trust and Marie B. Henriksen were personally served with the pleadings in accordance with the Court’s August 30, 2010 Order for Service of Process and Service By Publication. (The Gregory Living Trust was subsequently served on October 10, 2010, and Marie B. Henriksen was served on December 3, 2010.) Neither the Gregory Living Trust, nor Marie B. Henriksen, actively participated in the discovery process in this case, or any other substantive part of this case, and so they should not be permitted to appear now, at the eleventh hour, and contest the Town’s counterclaims.¹

¹ The Town notes here, as it has repeatedly throughout the case, that its counterclaims in the above-captioned action have been asserted against Plaintiffs – not parties-in-interest – in response to Plaintiffs’ Complaint. Thus, it is unclear why the Gregory Living Trust and Marie B. Henriksen have decided to file answers to the Town’s counterclaims as parties-in-interest on the eve of trial.

The Town reiterates, as was previously stated in the Town's August 9, 2012 to TMF Defendants' Request for Default, that it is not seeking default against the Gregory Living Trust, Marie B. Henriksen, or any other party-in-interest in this case. The Town reserves the right, however, to seek entry of default and default judgment against plaintiffs in this action.

WHEREFORE, for the reasons set forth above, Defendant Town of Kennebunkport respectfully requests that the August 10, 2012 Appearances and Answers filed by Gregory Living Trust and Marie B. Henriksen in the above-captioned matter be stricken, and the Motion to Dismiss the Town's Counterclaims should be denied, for all of the reasons discussed herein.

Dated: August 16, 2012



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)
Defendants)

ORDER

And now, upon review of the Motion to Strike of Defendant Town of Kennebunkport,
such Motion is GRANTED.

Dated:

Justice, Superior Court