

THE STATE OF NEW HAMPSHIRE

BELKNAP, SS

BELKNAP SUPERIOR COURT

DAVID STRANG

V.

DOUGLAS LAMBERT

EX-PARTE PLAINTIFF'S EMERGENCY COMPLAINT/MOTION FOR
PRELIMINARY INJUNCTION & PERMANENT INJUNCTION

Now comes Plaintiff and pursuant to Rule 48 of the Rules of Superior Court, moves for an emergency injunction prohibiting the meeting scheduled on August 15, 2022 at 11 am to take place and for the court to declare plaintiff Chairman Pro-Tem of the Gunstock Area Commission.

PARTIES

1. Plaintiff resides at [REDACTED]

2. Defendant resides at [REDACTED]

JURISDICTION AND VENUE

5. The court has jurisdiction under N.H. RSA 141-C; N.H. RSA 491:7 and jurisdiction to grant declaratory relief RSA 491:22.

6. The court has personal jurisdiction over defendant as it involves the county of Belknap.

7. The court has venue under N.H. RSA 507:9. Venue is proper as defendant is located in Belknap County.

STANDING

8. Plaintiff is a resident of Belknap County, New Hampshire and the illegal meeting and denying Plaintiff his role as Chairman pro-tem will impact operations of Plaintiff, Gunstock Mountain Resort, the Gunstock Area Commission and Belknap County.

9. Plaintiff also has standing under Part I Art. 8 of the New Hampshire Constitution which was approved as a constitutional amendment by the voters in 2018.

STATEMENT OF FACTS

10. The August 1 emergency meeting of just 10 members of the Belknap County Delegation announced the resignation of Commissioner David Strang from the Gunstock Commission (GAC). The legality of this meeting is currently being disputed in this court. This alleged resignation was a lie as Commissioner Strang has not resigned and no signed resignation letter exists. He is still a Commissioner and also the Vice-Chairman of the Gunstock Area Commission¹.

11. Since the former Chairman (Commissioner Peter Ness) resigned on July 29th, Vice-Chairman Strang is now also the Chairman pro-tem of the Commission. Presently there are four members on the GAC (assuming the election from the August 1, meeting was valid).

12. Per Laws of 1959 Chapter 399:3, "**Membership of the Commission.** The commission shall consist of five members who shall be resident property owners in the county of Belknap, and shall be invested with all the duties hereinafter granted to and imposed upon said commission. " Accordingly, GAC is still short 1 (or 2), members.

¹ https://www.gunstock.com/upload/photos/page_223_gac-meeting-minutes-032322-approved.pdf

13. Since this misrepresentation of Cmr. Strang's resignation at the August 1 meeting of the Belknap County Delegation, one of the Gunstock Commissioners (Secretary Douglas Lambert) has instituted a coup d'etat by announcing that he is now the Chairman pro-tem. There is no mechanism in the Gunstock Bylaws to do this when the Vice-Chairman (Cmr. Strang) is still on the Commission and the acting Chairman pro-tem.

14. Secretary Lambert has now called a Special Meeting of the Gunstock Commission for Monday, August 15 at 11 a.m., under the authority of his being Chairman pro-tem. As he does not hold this title, this is a violation of the Gunstock Bylaws, Article III, 1(e)², that portion of the Gunstock Bylaws that he is citing as his authority to call this meeting. Additionally, Commissioner Strang has not been called to this meeting and has not received any of the documents intended for discussion. This too is a violation of the Gunstock Bylaws, Article II, section 2(b) which requires the Vice-Chairman (Cmr. Strang) to be present at all meetings in the absence of the Chair. Plaintiff has also had the access to his Gunstock email account disabled, has been prevented from communicating with the auditor despite being Chair of the Gunstock Audit Committee and has had access to the attorney conducting an internal legal investigation also cut off.

15. Therefore, Cmr. Strang asks that the court immediately issue a temporary restraining order and declare the meeting on Monday August 15 at 11 am to be illegal as the call to meeting purposely excluded a sitting Commissioner who is also the Chairman pro-tem. To allow this meeting to occur without his participation and prior knowledge and review of the agenda items will irreparably harm not only him, but the Gunstock Commission and the citizens of Belknap County.

16. This request could not be submitted before this morning as the August 15th meeting of the Gunstock Commission was publicly noticed late Friday August 12th after the courts had closed and was not discovered by plaintiff until Saturday August 13th.

² See https://www.gunstock.com/upload/photos/page_193_811_by-laws_gac_signed_082118.pdf

17. There is an immediate danger of irreparable harm to the plaintiff if the meeting occurs as scheduled on August 15. There is an immediate danger of irreparable harm to the plaintiff if he is not properly recognized as Chairman pro-tem of the Gunstock Commission.

18. Chairman Strang also asks that the court demand his access and that of the Audit Committee that he appointed, to be immediately restored to the auditor (Vachon Clukay, Manchester, NH). He also asks that the court demand his access as the sole member of the Legal Services Committee to the attorney conducting the internal legal investigation (Atty. Peter Callaghan of Preti-Flaherty, Concord, NH) be immediately restored.

19. Plaintiff will likely succeed on the merits at a full hearing.

20. This complaint is being filed ex-parte as it is an emergency motion. A copy of the motion is being delivered to defendant via email at:
dlambert@gunstockcommissioners.org

21. Attorney Dan Hynes is filing the complaint via a limited appearance so that it may promptly be filed through the e-file system.

WHEREFORE, Plaintiffs requests that this Court:

- A) Issue an emergency injunction prohibiting the of meeting the Gunstock Area Commission (GAC) scheduled for August 15, 2022 to commence at 11 am;
- B) Issue an order both on an emergency temporary basis and final order after a hearing on the merits declaring plaintiff as Chairman Pro-Tem of the Gunstock Commission;
- C) Issue an order both on an emergency temporary basis and final order after a hearing on the merits Ordering defendant to recognize him as Chairman Pro-Tem including to restore his GAC email access;
- D) Invalidate any actions including votes, taken in violation of unilaterally removing plaintiff as Chair pro-tem of the GAC;

E) Costs to plaintiff as allowed.

/s/ Dan Hynes
Dan Hynes
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Bar #17708

AFFIDAVIT

I, David Strang, state the facts alleged in this motion are true and accurate to the best of my belief under the pains and penalties of perjury.

/s/David Strang

