

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF WESTCHESTER

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JAMES E. SWEENEY, F. WARREN BENTON, SAM	:	
ORANS, BRIAN PAYNE, RAY MALDONADO, DAN	:	
HEUBEL, PAUL J. ABRAHAMSEN, CHRISTOPHER	:	
MACDONALD, and MICHAEL WEINER,	:	
	:	
	:	
Plaintiffs,	:	<b>SUPPLEMENTAL</b>
	:	<b>AFFIDAVIT OF THOMAS P.</b>
	:	<b>BRODERICK</b>
-against-	:	
	:	
ELIZABETH N. FELD, Mayor, MARLENE KOLBERT,	:	
Trustee, ANNE McANDREWS, Trustee, JIM	:	
MILLSTEIN, Trustee, RICHARD WARD, Trustee,	:	
constituting the Village of Larchmont Board of Trustees	:	
and RICHARD HEINE, "Chief" of the Fire Department of	:	
the Village of Larchmont,	:	
	:	
Defendants.	:	
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STATE OF NEW YORK            )  
  ) ss.:  
COUNTY OF WESTCHESTER )

THOMAS P. BRODERICK, being duly sworn, deposes and says:

1. I am Thomas P. Broderick and I live at 6 Colonial Avenue Drive in Larchmont, New York.
2. I submit this supplemental affidavit to correct certain statements that have been made by Defendant Richard Heine in these proceedings. I previously filed an affidavit in this case sworn to on May 29, 2007.

**A. Incident Command at an Apartment Fire**

3. In Richard Heine's affidavit at paragraph 8, Heine describes what he considers to have been a "dangerous situation" involving incident command at a fire involving a five-story apartment building.
4. Defendant Heine was not working during the incident that he describes. The four paid firefighters on duty at the fire, at 17 Addison Street, were Captain Andersen, Captain Epstein, Firefighter Martyn and Firefighter Baumblatt.

5. As previously noted I am a volunteer member of the Larchmont Fire Department and at the time of the incident I was Second Deputy Chief selected by the membership of the Department. My vehicle was the first unit on the scene. I arrived ahead of the paid firefighters on Engine 34, Tower Ladder 7 and Engine 35. By the department's incident command protocol, I was the incident commander.

6. From the beginning, I was advised of the situation from the men on the fire floor as they requested various types of equipment, such as fire hose and the thermal imaging camera. Once I had confirmed the working fire I requested Ladder 19 from Town of Mamaroneck Fire Department ("TMFD") since it was a six story building with a fire on the top floor. TMFD Ladder 19 is first Mutual Aid Ladder. This remains the case today even under Defendant Heine's revised Mutual Aid plan that relies much more on New Rochelle as the second due for mutual aid.

7. After Ladder 19 was already requested, Captain Andersen called me on the Radio and requested that I ask for Ladder 11 from New Rochelle Fire Department. ("NRFD") I understood his request, but as the incident commander I did not agree with his request and did not forward this call to 60-Control which would have dispatched Ladder 11 from NRFD if I had made the request.

8. Based on the information provided by Captain Andersen and the visible smoke indicators that I could see from the exterior, I concluded that the additional ladder was not needed. The indicators that I saw, which were the basis for my decision as the incident commander, was light grey smoke floating gently out of the building. Heavy dark smoke pushing out of the building would have been the indicator of a severe fire condition warranting an upgrade in the number of men and apparatus.

9. Upon TMFD Ladder 19's arrival, two crews (one from LFD and one from TMFD) used the Aerial Ladder from Ladder 19 to ventilate the roof. The fire was contained to the area of origin and did not spread to the roof or the adjoining apartments.

10. I did not call for Ladder 11 from New Rochelle because it was not needed. Defendant Heine is mistaken in his affidavit when he states that the NRFD call was "cancelled." We did not need an additional Tower Ladder as Larchmont has one and we did not need the three men that would have come with it, therefore the call was never made.

11. The volunteer chiefs have not in the past and do not now have a problem calling in an all-paid department such as NRFD. NRFD has been on our mutual aid list for several categories of emergency, such as for responses to Building Collapse. We have also utilized some of the NRFD career firefighters to as instructors to train the volunteer and career staff in firefighting techniques. It should also be noted that several Larchmont volunteers have gone on to become NRFD firefighters and have risen into the officer ranks. We completely respect and admire NRFD and have even had our Tower Ladder called to them for mutual aid.

## **B. The Letter Concerning 60 Control**

12. In Defendant Heine's supplemental affidavit at paragraph 10, he states that the "volunteer chief" sent an unauthorized letter to initiate the Larchmont Fire Department's participation in centralized fire dispatching by the County. That statement is also false.

13. For the Court's information, 60 Control is the County's central fire and emergency medical services dispatch service, serving many fire departments and emergency medical services in Westchester County. Currently every other Fire Department in the Sound Shore Area, from Pelham Manor to Port Chester, uses 60 Control for dispatching. This includes the New Rochelle Fire Department, which is a fully-paid department, and other combination departments. In total count, approximately 40 of the 57 Westchester Department uses 60 Control for dispatching. The primary advantage of 60 Control for Larchmont would be to shorten response times, an issue of primary concern for any fire department.

14. Because the Larchmont Fire Department does not yet participate in 60 Control, one fire truck is delayed in responding to each alarm because one paid firefighter has to page out for the volunteer firefighters before leaving the firehouse. A related and important problem is that the volunteer firefighters are delayed in being paged. For example, an alarm might come in at night, and the paid firefighter would have to dress, go downstairs from the bunk room to the alarm room, and then page out for the volunteers. If 60 Control was in effect, the volunteers would have heard about the alarm at the same time as the paid firefighters.

15. Larchmont's paid firefighters are opposed to joining 60 Control because the union views dispatching as work reserved for members of the union.

16. The minutes of the August 7, 2006 Fire Council meeting include a resolution by Fire Council to initiate this process, which would take approximately six months to complete. During this process, we would assess issues raised by the paid firefighters' union, the Board, and members of Fire Council such as: would the alarm tone signals be strong enough to reach our pagers? Would the county system actually be faster than the current dispatching system we had in place? In this way the decision to use or not use 60-Control could be made based upon facts rather than conjecture.

17. On August 9, 2007, Chief MacDonald sent a letter, which I drafted, to 60 Control to start the process of evaluating whether it would be beneficial to switch to 60-Control for Larchmont Fire Department dispatching. The letter specifically states "the actual transfer of dispatching will not occur until all of the preparatory work is completed and we are satisfied that it will suit our needs." Thus, both parties must be sure it is in the best interest of the village to do so. It does not state that a final decision has been made; nor does it represent that I am the final decision maker.

18. The letter was not the authorization of a change, but the start of the process that would need a final authorization by the Village Board before implementation.

### **C. Inventory Accountability for Firefighter Personal Protective Equipment**

19. Defendant Heine (Supplemental Affidavit paragraph 6) states that previous chiefs have failed to track and monitor the “turnout gear” which is issued to firefighters.

20. Accountability for personal protective equipment was an issue in the early 1990s but this was subsequently resolved. The department has a formal procedure that assigns responsibilities to the Chief and to Deputy Chiefs. The procedure states that the duties of the First Deputy Chief include:

- Directs and controls the issuance and repairs of all Department paging units. Keeps up to date records of same.
- Administers the inventory control process, including records and audits.
- Directs and controls the issuance of turnout gear and keeps complete and efficient records of same.

22. As the First Deputy Chief for the past three years, I was responsible for the inventories of firefighter personal protective equipment.

23. Once each year, as part of a winter drill that included OSHA-mandated testing of face masks, I required all of the volunteer firefighters to report with their personal protective equipment. The equipment inventories were updated and verified (including the serial numbers of pagers where available) and we also evaluated the state of the gear to determine whether repairs or replacements were necessary, and to verify the dates in our inventory for budget of planned replacement of equipment.

24. Periodically a member would become inactive. I would task the member’s Company President with the responsibility to contact the inactive member to get the gear returned. Because our recruiting of new members in the past year has been particularly effective, we have had a waiting list for gear for new members. Therefore, returning of gear by inactive members has been particularly important.

25. Attachment One is a copy of the inventory as of early 2007.

26. Unless Defendant Heine is referring to inventories in the 1990s, his statement concerning the maintenance of inventories is inaccurate. His lack of information might be due to the fact that until May 16, 2007 he served as a lieutenant and did not participate in the inventory process for volunteer personal protective equipment. In his affidavit he may have been communicating information that he had heard from others.

  
THOMAS P. BRODERICK

Sworn to before me this  
8 day of ~~May~~, 2007  
*June*

  
Notary Public

**CAROLYN R YOUNG**  
**NOTARY PUBLIC STATE OF NEW YORK**  
**QUALIFIED IN WESTCHESTER COUNTY**  
**COMMISSION EXPIRES 03 08 20 11**  
**REGISTRATION NO. 01YO6020942**

## Attachment One: 60-Control Letter

August 9, 2006

Commissioner Anthony Sutton  
Department of Emergency Services  
4 Dana Rd.  
Valhalla, NY 10595

Dear Commissioner Sutton,

The Fire Council of the Larchmont Fire Department would like to start the process of switching our Fire dispatching to 60 Control. As we understand, the process takes several months and the actual transfer of dispatching will not occur until all of the preparatory work is completed and we are satisfied that it will suit our needs.

If you have any questions, please feel free to contact Deputy Chief Tom Broderick at (914) 953-5503. He will be the point of contact for this process.

Thank you for your assistance.

Sincerely,

Chris W. MacDonald  
Chief of Department

cc: Fire Council

