

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF WESTCHESTER

JAMES E. SWEENEY, F. WARREN BENTON,
SAM ORANS, BRIAN PAYNE, RAY
MALDONADO, DAN HEUBEL, PAUL J.
ABRAHAMSEN, CHRISTOPHER MACDONALD
and MICHAEL WIENER,

Plaintiffs,

-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.

Index No.: 9480/07

**AFFIDAVIT OF RICHARD
HEINE IN OPPOSITION TO
APPLICATION FOR
PRELIMINARY INJUNCTION**

STATE OF NEW YORK)
) ss:
COUNTY OF WESTCHESTER)

RICHARD HEINE, being duly sworn, deposes and says:

1. I am the Chief of the Fire Department of the Village of Larchmont (the "Village") and one of the named defendants in this action and as such I have personal knowledge of the facts contained herein. I submit this Affidavit in opposition to plaintiffs' application seeking to enjoin the Village from implementing the two resolutions adopted by Village Board of Trustees on May 16, 2007 which, among other things, provisionally appointed me as the paid Fire Chief of the Village Fire Department, and provided me with the authority over all Fire Department personnel, both paid and volunteer, and over all apparatus and equipment of the Village Fire Department.

2. I was raised in the Village and joined the Fire Department as a volunteer when I was fourteen years old. I was a volunteer from 1983 through 1989 and in December, 1989, I

became a paid professional fireman. I have been a professional firefighter for the Village for the past 17 years, most recently serving as a Lieutenant. I am also a hospital corpsman in the United States Navy Reserves and have served two tours of combat duty in Iraq.

3. On the morning of May 17, 2007, I took and filed the oath of office with the Village Clerk for the position of paid Fire Chief and I have assumed the role of Chief without incident.

4. There has been no confusion as to my status as Chief or any question as to my authority over all personnel and equipment. Former Chief MacDonald has acquiesced to my authority and has been cooperative in the transition. There have been calls in the past week while I have been in charge and they have been dispatched efficiently and without confusion or question as to my authority. I conducted a training exercise with both volunteer and career members without incident. I have received cooperation from the adjoining municipalities, the City of New Rochelle, the Town of Mamaroneck, and the Village of Mamaroneck, and they have confirmed that they will continue to provide mutual aid and that they recognize my authority as Chief. In addition, the Village Police Department has acknowledged that I am the Chief and my authority over the Fire Department. There is simply no support for plaintiffs' assertions as to chaos or confusion within the Department.



RICHARD HEINE

Sworn to before me this
24 day of May, 2007



Notary Public

EILEEN A. FINN
Notary Public, State of New York
No. 4987093
Qualified in Westchester County
Commission Expires Oct. 7, 2009

duly entered in the office of the clerk of the within named court on.

Dated,

Yours, etc.

McCULLOUGH, GOLDBERGER & STAUDT, LLP
Attorneys for

Office and Post Office Address
1311 Mamaroneck Avenue, Suite 340
White Plains, New York 10605

COUNTY OF WESTCHESTER

JAMES E. SWEENEY, F. WARREN BENTON,
SAM ORANS, BRIAN PAYNE, RAY
MALDONADO, DAN HEUBEL, PAUL J.
ABRAHAMSEN, CHRISTOPHER
MACDONALD and MICHAEL WIENER,

-against-

Plaintiffs,

NOTICE OF SETTLEMENT
PLEASE take notice that an order

of which the within is a true copy will be presented for settlement to the Hon.

one of the judges of the within named Court, at

on _____, 20____,
,
at _____ M.
Dated, _____

Yours, etc.

McCULLOUGH, GOLDBERGER & STAUDT, LLP
Attorneys for

Office and Post Office Address
1311 Mamaroneck Avenue, Suite 340
White Plains, New York 10605

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

**AFFIDAVIT OF RICHARD HEINE IN
OPPOSITION TO APPLICATION FOR
PRELIMINARY INJUNCTION**

McCULLOUGH, GOLDBERGER & STAUDT, LLP
Attorneys for Defendants

Office and Post Office Address, Telephone
1311 Mamaroneck Avenue, Suite 340
White Plains, New York 10605
(914) 949-6400

To

Attorney(s) for

Service of a copy of the within

Dated, _____
is hereby admitted.
.....

Attorney(s) for