

July 19, 2018

Marshall Buttrick, Clerk
Hillsborough County Superior Court - South
30 Spring Street
Nashua, NH 03060

RE: Eliza LeCours v. Andrew Mason and Hollis Brookline Cooperative School District
Docket No. 226-2018-CV-00176

Dear Clerk Buttrick:

Please find herewith enclosed for filing the Defendants' Objection to Petitioner's Request for Reconsideration, in regards to the above-entitled matter. Please kindly present the enclosed to the Court for review and consideration.

Should you have any questions, please feel free to contact my office. Thank you.

Sincerely,



Demetrio Aspiras

DFA/ag

Enclosure.

cc: Gerald R. Prunier, Esq.
James A. O'Shaughnessy, Esq.
Andrew Mason
Hollis Brookline Cooperative School District

STATE OF NEW HAMPSHIRE

HILLSBOROUGH, SS.

SUPERIOR COURT
SOUTHERN DISTRICT

Eliza LeCours

v.

Andrew Mason and
Hollis Brookline Cooperative School District

Case No. 226-2018-CV-00176

**DEFENDANTS' OBJECTION TO PETITIONER'S
REQUEST FOR RECONSIDERATION**

NOW COME the Defendants, Hollis Brookline Cooperative School District ("the District") and (Moderator) Andrew Mason, by and through their attorneys, Drummond Woodsum & McMahon, P.A. and hereby object to Petitioner Eliza LeCours' request to reconsider the Court's well-reasoned order because the Petitioner has failed to identify any misapprehension of fact or law that would warrant reconsideration.

I. Legal Standard

1. Superior Court Rule 12(e) requires that a motion for reconsideration "state, with particular clarity, points of law or fact that the court has overlooked or misapprehended..." The purpose of a motion for reconsideration is not to rehash "old arguments previously considered and rejected" but to preserve issues for appeal and allow the trial court to correct errors. *Nat'l Metal Finishing Co., Inc. v. Barclays American/Commercial, Inc.*, 899 F.2d 119, 123 (1st Cir. 1990)(applying similar federal rule); *see* Super. Ct. R. 12(e).

II. Petitioner's Motion fails to articulate a single point of law or fact that the court overlooked or misapprehended in its Order.

2. As a threshold matter, a motion for reconsideration must state "with particularity" the "points of law or fact that the court has overlooked or misapprehended." Petitioner's Motion fails to do so. Instead, it simply rehashes the same arguments set forth in Petitioners' papers and as presented at the hearing. On this basis alone, the Motion should be summarily denied.

III. The Petitioner fails to address or challenge the relevant findings and reasoning of the Court and instead argues about a dispute the Court ruled it had no authority to resolve.

3. More importantly, the Petitioner fails to make any arguments with respect to the Court's actual ruling. The primary issue before the Court on the Motion to Dismiss was whether the Court had authority to hear and resolve the Petitioner's complaint regarding the vote in the first place. Ultimately, this Court correctly noted that "it does not have jurisdiction over this 'appeal' of a vote on an Article passed at an annual school district meeting" and that "[a]n appeal avenue to the Superior Court simply does not exist under RSA 40:4-A" ORDER pp. 5-6. In other words, whatever the Petitioners' complaints are with respect to the recounts, they cannot be heard in this Court.

4. Petitioner's Motion does not challenge this finding other than to vaguely complain, as previously raised and argued, that "[w]ithout relief from the Court, a town Moderator and the Meeting are empowered to make the rules irrespective of the laws of the land." MOTION p. 3. Petitioner presents nothing more, and notes no misapprehension of fact or law with respect to the above referenced finding.

5. Instead, the Motion argues for reconsideration of something that was not actually decided (the merits of the recounts). The Court cannot "reconsider" an issue it expressly found it

lacked jurisdiction to decide. Therefore, the Petitioner's Motion does not properly raise any issue for reconsideration and should be denied.

IV. The identified "reasons" for reconsideration were considered and rejected by this Court.

6. To the extent the "Reasons" listed in the Motion purport to identify points of law or fact in compliance with Rule 12(3), the identified reasons were previously considered and rejected by this Court.

7. In Reasons 1 & 2, the Petitioner claims that the voting instructions given during the March 15, 2018 Annual Meeting "were insufficient" because "[a]ttendance at a school district meeting is not required nor is it a prerequisite to being entitled to vote."

8. Reasons 1 & 2 were previously argued by the Petitioner, and considered and rejected by the Court.

9. Reasons 3 & 4 were previously argued by the Petitioner, and considered and rejected by the Court.

V. Petitioner had an avenue for relief and that relief was denied by the proper body and one voter should not be permitted to circumvent the legislative body and hold up the District's efforts to comply with the vote.

10. It is worth noting that the Petitioners' claim that "[w]ithout relief from the Court, a town Moderator and the Meeting are empowered to make the rules irrespective of the laws of the land" is simply false. First, this Court noted that the Moderator and the legislative body followed the applicable law.

11. Second, it is clear Petitioner simply disagrees with the outcome of the meeting itself. As the Court noted, RSA 197:19 and 40:4 empower the Moderator to preside over the meeting and prescribe the rules of the meeting, subject to any alterations by the district voters.

12. The Petitioner does not dispute the finding that “[a] final motion to reconsider the second recount failed by a vote of the legislative body.” ORDER p. 5. Petitioner was a member of that legislative body. In other words, Petitioner was heard by virtue of her, presumed, vote.

13. Further, the Petitioner does not dispute the finding “[n]either the plaintiff or any other voter challenged the recount on Article 1 during the remainder of the meeting which finally concluded on April 3, 2018.” ORDER p. 5.

14. Having failed to act during the proper course of the proceeding, Petitioner cannot perform an end run around the political process and achieve through litigation what she failed to obtain via a vote of the proper legislative body. To do so, put simply, would constitute “a severe infringement on the...rights to a fair election” of each and every voter that participated in the Annual Meeting. MOTION p. 4.

15. Further, Petitioner’s refusal to accept the legislative body’s decisions is costing the taxpayers of the District, as it continues to be forced to defend a case in a forum that lacks jurisdiction to resolve the dispute. A dispute the Petitioner was previously heard on, and lost.

16. The Annual Meeting ended on April 3, 2018. The subject vote concerned raising and appropriating funds via a bond. The uncertainty of this unexpected and unnecessary litigation is preventing the District from carrying out the will of the voters. The bond process is complicated and interest rates change on a regular basis. Each day that passes risks higher interest rates and more expense to the property owners in the District.

17. One voter should not hold so much power. A prompt resolution was requested by the District, and there should be no further delays in the guise of “reconsideration.”

WHEREFORE, Hollis Brookline Cooperative School District and Moderator Andrew Mason request that this Court:

- A) DENY the Petitioner's Request for Reconsideration; and
- B) Grant such other further relief as this Court deems fair and just.

Respectfully submitted,

HOLLIS BROOKLINE COOPERATIVE
SCHOOL DISTRICT and MODERATOR
ANDREW MASON

By their Attorneys,

DRUMMOND WOODSUM & MACMAHON, P.A.

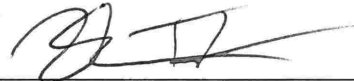
Dated: July 19, 2018

By: 

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CERTIFICATION

I hereby certify that a copy of the within Objection to Petitioner's Request for Reconsideration has been mailed 19th day of July, 2018, via first-class mail, postage prepaid, to Gerald R. Prunier, Esq., counsel for Plaintiff, at Prunier & Prolman, PA, 20 Trafalgar Square, Nashua, NH 03063.



Demetrio Aspiras, Esquire