

STATE OF MAINE
LINCOLN, SS.

SUPERIOR COURT
CIVIL ACTION
Docket No. CV-2016-02

ROBERT J. Rubin et al,)
) Plaintiff,)
))
))
) v.)
))
PAUL A. KELLEY et al,)
) Defendant.)

ORDER ON PENDING MOTIONS

The Defendants' Special Motion to Dismiss is DENIED. The claims at issue in this case are not based on the Defendants' exercise of their right of petition under the Constitution of the United States or the Constitution of Maine. The claims made in the Complaint are statutory and common law claims based on damages allegedly due to the alleged actions of the Defendants in operating and maintaining a dam. Though the Complaint makes reference to a government proceeding, the claims in the Complaint do not arise from that proceeding but from alleged acts or failure to act on the face of the earth and resulting damages¹. The claims contained in the Complaint are not those intended to be addressed by a Special Motion to Dismiss pursuant to 14 M.R.S. §556.

The Defendants' complaints about service of process are also without merit. Service in this matter met its purpose of putting the Defendants' on notice of this action. Any Motion to Dismiss based on service of process is therefore DENIED.

However, in the interest of justice and judicial economy, this matter is STAYED until August 1, 2016 due to a stay that has been issued in a related matter.

The Defendants' are ORDERED to answer the Complaint as required by the Maine Rules of Civil Procedure by August 22, 2016. The court deems all prior answers and limited appearance to be insufficient under the rules and proper answers must be filed.

Once the answers are filed, a new scheduling order will be issued. The Scheduling Order issued on April 11, 2016 is hereby VACATED.

Any pending motions not previously addressed by the court are either MOOT and/or DENIED.

¹ The existence of the DEP action and the statutes cited in the Defendants' Motion may provide a defense to the Plaintiffs' claims but they do not give rise to a Special Motion to Dismiss pursuant to 14 M.R.S. §556.

The Clerk is directed to incorporate this Order by reference into the docket for this case, pursuant to Rule 79(a), Maine Rules of Civil Procedure.

Dated: July 5, 2016



JUSTICE, MAINE SUPERIOR COURT
Daniel I. Billings