

UNITED STATES DISTRICT COURT
DISTRICT OF MAINE

CRC HEALTH GROUP, INC. AND)	
CRC RECOVERY, INC.,)	
)	
PLAINTIFFS)	
)	
v.)	CIVIL No. 2:11-cv-196-DBH
)	
TOWN OF WARREN,)	
)	
DEFENDANT)	

REPORT OF PRE-FILING CONFERENCE UNDER LOCAL RULE 56

A pre-filing conference was held on August 1, 2013.

The parties first clarified the scope of their objections and proposed motions. In response to the defendant's objections to the plaintiffs' identification of Local Rule 44 Records, the plaintiffs stated that they will not seek authentication of nonpublic records by this vehicle. Accordingly, no action need be taken on the defendant's objection.

Although a final decision has not been made, it is likely that the plaintiffs will drop CRC Recovery, Inc.'s parent company, CRC Health Group, Inc., as a plaintiff.

The plaintiffs seek only a damages remedy in the case.

The plaintiffs seek only damages traceable to the Town's enactment of a moratorium ordinance. They do not seek damages resulting from the subsequent "Large Facilities" ordinance, although they may use evidence of the latter in seeking to establish liability for the moratorium.

After discussion, the parties agreed to narrow their summary judgment motion practice to three issues. The plaintiffs will move for summary judgment as to liability only on the ground that the Town's moratorium ordinance was facially discriminatory. The defendant will move for summary judgment on the two bases that damages for lost profits are unavailable to the plaintiffs as a matter of law and that the plaintiffs do not have admissible expert testimony on damages. In the latter connection the defendant will re-depose the plaintiffs' expert Dr. Feldman later this month and the parties will argue the related Daubert issue based upon that record and the defendant's position that Dr. Feldman is not entitled to rely on CRC's own projections in calculating damages.

The following deadlines were established by agreement:

August 9, 2013, for the defendant to propose a record and joint stipulations;

August 23, 2013, for filing the record and joint stipulations;

August 30, 2013, for both parties' motions and any additional statements of material fact;

September 30, 2013, for responses to the motions and additional statements of material fact;

October 11, 2013, for replies to the responses.

SO ORDERED.

DATED THIS 1ST DAY OF AUGUST, 2013

/s/D. Brock Hornby
D. BROCK HORNBY
UNITED STATES DISTRICT JUDGE