

STATE OF MAINE

AROOSTOOK, ss

SUPERIOR COURT

CIVIL DOCKET

DOCKET NO. CARSC-CV-18-135

RICHARD CAYER and)
ANN CAYER)
PLAINTIFFS)
vs.)
)
)
TOWN OF MADAWASKA, et al)
DEFENDANT)

ORDER REGARDING
MEDIATION FEE
RULE 16B

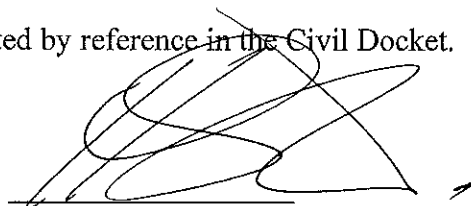
Before the court is the litigants' dispute regarding division of the mediation fee. Phone conference with counsel was held May 3, 2019. Plaintiffs commenced this action against the Town of Madawaska plus five individuals who each were employees or agents of the Town during the time the causes of action accrued. The Plaintiffs assert there are six separate defendants and therefore the defendants collectively should pay 6/7th of the mediation fee and they pay 1/7th. The Defendants maintain that although there may be six different defendants named, they are collectively one body, who all are under the umbrella of the Town. Defendants further maintain that each individual defendant was an employee or agent of the Town, and in the end, if any liability is established it will be assumed by the Town. From the discussion held during the phone conference it was unclear whether liability could be established against any one individual that would not be assumed by the Town or for which the Town would also be liable. All of the defendants are represented by the same counsel.

Based on its limited perspective of the case, the court is left with the view that there is one plaintiff party, Mr. and Mrs. Cayer, suing one defendant party, the Town of Madawaska and it's

five employees or agents, on various theories of liability. Although the plaintiffs may perceive that individual employees or agents of the Town may have wronged them, as alleged in their various counts, it remains that it is the Town that is at the heart of the plaintiffs' claims of wrongdoing. On the present record, the court is not persuaded that the defendants should be counted as more than one party for the purpose of allocation the Rule 16B mediation fee. Accordingly, the court orders that the Rule 16B mediation fee be divided equally, with Plaintiffs Mr. and Mrs. Cayer to pay 50% and the Defendants Town of Madawaska and the five named individuals to pay 50%, provided however the court reserves the right to reallocate this division in the event the matter goes to final judgment and the court is required to make an order on a request for bill of costs.

Pursuant to Rule 79(a) this order shall be incorporated by reference in the Civil Docket.

Dated: May ^{7th} 2, 2019



Harold L. Stewart, II
Justice, Superior Court