



STATE OF MAINE  
CUMBERLAND, ss.

BUSINESS AND CONSUMER COURT  
Location: Cumberland  
Docket No. BCD-APP-2024-0007

CHARLES SIDMAN, )  
 )  
 Plaintiff, )  
 )  
 v. )  
 )  
 TOWN OF BAR HARBOR, )  
 )  
 Defendant. )

**PLAINTIFF’S SUPPORTING  
STATEMENT OF MATERIAL FACTS  
(M.R. Civ. P. 56(h))**

Pursuant to Rule 56(h) of the Maine Rules of Civil Procedure, Plaintiff Charles Sidman hereby asserts the following undisputed facts in support of his motion for summary judgment on Count II of the Amended Complaint, seeking declaratory judgment.

1. Defendant Town of Bar Harbor (the “Town”) is a municipal corporation in the State of Maine. Plaintiff’s Amended Complaint (“Am. Compl.”) ¶ 2 (June 6, 2024); Defendant’s Answer to Amended Complaint (“Def.’s Ans.”) ¶ 2 (Aug. 2, 2024).

2. The Charter of the Town of Bar Harbor (the “Charter”) states: “The Town shall have all the powers possible for a municipality to have under the Constitution and laws of the State of Maine.” Joint Exhibit (“Jt. Ex.”) 1 at 001, Bar Harbor, Me., Charter (the “Charter”), Art. I, § C-2 (July 1, 2010).

3. The Charter states: “There shall be a Town Council of seven members elected by the qualified voters of the Town...” Jt. Ex. 1 at 001, Charter, Art. III, § C-7(A).

4. At all relevant times, the Town Council consisted of elected members Valerie Peacock, Gary Friedmann, Matthew Hochman, Maya Caines, Joe Minutolo, Earl Brechlin, and Kyle Shank. Am. Compl. ¶ 14; Def.’s Ans. ¶ 14.

5. The Charter states: “Voting, except on procedural motions, shall be by roll call, ... A majority of the Council shall constitute a quorum for purposes of conducting an official meeting and transacting municipal business.” Jt. Ex. 1 at 004-005, Charter, Art. III, § C-14(C)(1).

6. The Charter states: “Except as otherwise provided in this Charter, the required majority [of the Town Council] to effectuate the passage, adoption or enactment of an item shall be a simple majority of a quorum.” Jt. Ex. 1 at 005, Charter, Art. III, § C-14(C)(1).

7. The Charter states: “Each Councilor in attendance shall vote on all issues and questions presented for vote except when a valid conflict of interest is stated and recognized by a majority vote of the Council.” Jt. Ex. 1 at 005, Charter, Art. III, § C-14(C)(2).

8. The Charter states: “Neither the Council nor its members have authority over Town employees, except through the Manager. Neither the Council nor its members shall give orders to any such employee, either publicly or privately.” Jt. Ex. 1 at 004, Charter, Art. III, § C-11(C).

9. The Charter empowers the Town Council to:

Adopt land use ordinance amendments by supermajority vote as defined in § C-14C(3) when:

[1] The land use ordinance change is procedural or minor in that it seeks to correct, modify, or reconcile inconsistencies, contradictions, and errors or to bring the land use ordinance into compliance with state statutes pertaining to municipal zoning; and

[2] The land use ordinance change is first recommended to the Planning Board by the Planning Director and upon review and after a public hearing, the Planning Board recommends it to the Town Council by a supermajority vote.

Jt. Ex. 1 at 003, Charter, Art. III, § C-10(A)(9)(d).

10. The Charter defines a “supermajority vote” as “2/3 of the full membership of the body rounded up to the nearest whole number.” Jt. Ex. 1 at 005, Charter, Art. III, § C-14(C)(3)(a).

11. For land use ordinance changes that are neither procedural nor minor the Land Use Ordinance of the Town of Bar Harbor, Maine (the “LUO”), codified as Bar Harbor, Me., Code §§ 125-1 to 125-114, provides four methods for proposing amendments:

- (1) Citizen petition. Upon the written petition of a number of registered voters equal to at least 10% of the number of votes cast in the Town at the last gubernatorial election, but in no case fewer than 10 registered voters, the Town Council shall automatically insert in the warrant for a regular or special Town Meeting an article to amend this chapter.
- (2) Property owner. A property owner may submit a written request to the Planning Board to consider an amendment and the Planning Board shall consider this request at a public hearing....
- (3) Planning Board. The Planning Board may propose an amendment and the Planning Board shall consider this amendment at a public hearing....
- (4) Town Council. The Town Council may submit a written request to the Planning Board to consider an amendment, and the Planning Board shall consider this request at a public hearing....

Jt. Ex. 2 at 005-006, Bar Harbor, Me., Land Use Ordinance (the “LUO”), Ch. 125, Art. I, § 125-9(A) (Nov. 8, 2011).

12. The LUO states: “Such amendment may be adopted by a majority vote at a duly constituted Town Meeting.” Jt. Ex. 2 at 007, LUO, Ch. 125, Art. 1, § 125-9(E).

13. Plaintiff Charles Sidman is a resident of the Town of Bar Harbor. Am. Compl. ¶ 1; Def.’s Ans. ¶ 1; Affidavit of Charles Sidman (“Sidman Aff.”) ¶ 3 (Nov. 12, 2024).

14. Mr. Sidman is the co-owner of two properties in the Town of Bar Harbor, including a commercial property located at 6 Mount Desert Street in downtown Bar Harbor, for which he pays property taxes to the Town. Sidman Aff. ¶ 4.

15. Mr. Sidman and his wife have owned and operated the Argosy Gallery, a fine art gallery, at their downtown property for twenty-nine years. Sidman Aff. ¶ 5.

16. The Argosy Gallery, located at 6 Mount Desert Street in downtown Bar Harbor, is less than one-half mile, just a few blocks, from the pier located at 55 West Street in Bar Harbor where the majority of cruise ship passengers disembark into Bar Harbor. Sidman Aff. ¶ 6.

17. Mr. Sidman and his wife (the “Sidmans”) are adversely affected by the large crowds of cruise ship passengers who disembark in the Town during the cruise ship season between May and October each year, which cause Town-wide congestion and overcrowding leading to the inundation of local services, amenities, and attractions. Sidman Aff. ¶ 7.

18. The clientele of the Sidmans’ business—collectors of fine art—complain and refuse to come to the gallery on days when cruise ships are disembarking passengers because Bar Harbor is overrun with cruise ship passengers. Sidman Aff. ¶ 8.

19. The Sidmans used to operate Argosy Gallery at two locations, but it became too much of a nuisance to navigate the crowds caused by cruise ship passengers while shuttling back and forth between locations, and in 2022 the Sidmans decided to close their original gallery location that was even closer to the cruise ship disembarkation area than the 6 Mount Desert Street location. Sidman Aff. ¶ 9.

20. Mr. Sidman was the leader of a Petitioning Committee that successfully advanced a citizens’ petition to amend the LUO to limit the number of passengers disembarking from cruise ships into Bar Harbor (the “Initiative”). Sidman Aff. ¶ 10.

21. The Town Council opposed the Initiative and recommended that voters reject the passage of the Initiative. Sidman Aff. ¶ 11.

22. The petition passed on November 8, 2022, by a vote of 1,780 (58.3%) to 1,273 (41.7%) and amended the LUO. Am. Compl. ¶ 23; Def.’s Ans. ¶ 23; Sidman Aff. ¶ 12.

23. The Initiative took effect on December 8, 2022, and is incorporated into the LUO, codified as Bar Harbor, Me. Land Use Ordinance, Chapter 125, Article VII, § 125-77(H) (Nov. 8, 2022) (the “Disembarkation Ordinance”). Am. Compl. ¶ 24; Def.’s Ans. ¶ 24; Sidman Aff. ¶ 13.

24. The Disembarkation Ordinance states:

After the effective date of this chapter, a written permit from the Code Enforcement Officer shall be required for the following activities, regardless of whether such activities have received site plan or subdivision approval or whether they also require review by the Design Review Board...:

H. Disembarking persons from cruise ships on, over, or across any property located within the Town of Bar Harbor.

Jt. Ex. 2 at 007-008, LUO, Ch. 125, Art. VII, § 125-77(H).

25. The Disembarkation Ordinance states: “For the purposes of this section, ‘cruise ship’ has the same meaning as set forth in § 153-22B of the Town of Bar Harbor Code.” Jt. Ex. 2 at 008, LUO, Ch. 125, Art. VII, § 125-77(H)(1).

26. Section 153-22(B) of the of the Town of Bar Harbor Code states: “‘cruise ship’ means a watercraft carrying passengers for hire which is capable of providing overnight accommodations for 49 or more passengers.” Jt. Ex. 2 at 054, Bar Harbor, Me., Code § 153-22(B) (July 17, 2012).

27. The Disembarkation Ordinance states:

As determined by the Harbor Master, no more than 1,000 persons, in the aggregate, may disembark on a single calendar day from any cruise ship(s) and come to shore on, over, or across any property located within the Town of Bar Harbor; provided, however, that this subsection shall not apply with regard to any cruise ship reservations that have been accepted by the Harbor Master prior to March 17, 2022.

Jt. Ex. 2 at 008, LUO, Ch. 125, Art. VII, § 125-77(H)(2).

28. The Disembarkation Ordinance states:

The Harbor Master shall develop rules and regulations in order to establish (a) a reservation system for cruise ships that transport persons by watercraft for

disembarkation in the Town of Bar Harbor; (b) a mechanism for counting and tracking the number of persons disembarking each day; (c) a mandatory procedure for reporting violations to the Code Enforcement Officer; and (d) any other provisions that the Harbor Master deems necessary under this subsection. Any property owner issued a permit under this § 125-77H shall comply with all rules and regulations promulgated by the Harbor Master under this subsection.

Jt. Ex. 2 at 008, LUO, Ch. 125, Art. VII, § 125-77(H)(3).

29. The Disembarkation Ordinance states:

This subsection shall be enforced by the Code Enforcement Officer in accordance with § 125-100 of this chapter, based on information as to violations provided by the Harbor Master, and property owners in violation of this subsection shall be subject to such fines, penalties, actions and orders as are authorized by 30-A M.R.S. § 4452, as the same may be amended, provided that each disembarking person exceeding the permitted daily limit in § 125-77H(2) is a specific violation under 30-A M.R.S. § 4452(3)(B), resulting in a minimum \$100 penalty per excess unauthorized person.

Jt. Ex. 2 at 008-009, LUO, Ch. 125, Art. VII, § 125-77(H)(4).

30. The Disembarkation Ordinance states:

Notwithstanding 1 M.R.S. § 302, and regardless of the date on which it is approved by the voters, this subsection will be applicable as of March 17, 2022, and shall govern any and all applications for permits or approvals required under this subsection that were or have been pending before any officer, board, or agency of the Town of Bar Harbor on or at any time after March 17, 2022; provided, however, that the Town will not take any enforcement action under this subsection with regard to any cruise ship visits occurring prior to the date of adoption by voters at Town Meeting.

Jt. Ex. 2 at 009, LUO, Ch. 125, Art. VII, § 125-77(H)(5).

31. Section 125-100 of the LUO states: “The Code Enforcement Officer shall enforce the provisions of [the LUO] and the terms and conditions of any permit or approval granted under [the LUO] ....” Jt. Ex. 2 at 009, LUO, Ch. 125, Art. X, § 125-100(B) (Nov. 2, 2004).

32. Section 125-100 of the LUO states:

If, after investigation, the Code Enforcement Officer finds that any provision of [the LUO] or any term or condition of any permit or approval granted under [the LUO] is being violated, he/she shall give written notice by certified mail, return

receipt requested, of such violation to the owner and to the occupant of such premises, and to any other person responsible for such violation, indicating the nature of the violation and ordering that action necessary to correct it... A copy of such notice shall be submitted to the Town Council and shall be maintained as a permanent record.

Jt. Ex. 2 at 009, LUO, Ch. 125, Art. X, § 125-100(B).

33. Section 125-101 of the LUO states:

If, after notice given pursuant to § 125-100B, the violation ... is not abated or corrected within the specified time, the Code Enforcement Officer shall report same to the Town Council. The Code Enforcement Officer's report shall indicate the additional enforcement actions that he/she intends to take and whether the Town Attorney has been consulted or will subsequently be involved. At its next meeting, the Town Council shall vote to accept the Code Enforcement Officer's report.

Jt. Ex. 2 at 009-010, LUO, Ch. 125, Art. X, § 125-101(A)(1) (May 4, 1998).

34. Section 125-101 of the LUO states:

The Town Council or its authorized agent is hereby authorized to enter into administrative consent agreements for the purpose of eliminating violations of this chapter and recovering fines without court action. Such agreements shall not allow an illegal structure or use to continue in a shoreland district unless there is clear and convincing evidence that the illegal structure or use was constructed or conducted as a direct result of erroneous advice given by an authorized municipal official and there is no evidence that the owner acted in bad faith, or unless the removal of the structure or use will result in a threat or hazard to public health and safety or will result in substantial environmental damage.

Jt. Ex. 2 at 010, LUO, Ch. 125, Art. X, § 125-101(A)(2).

35. Section 125-109 of the LUO defines the "Shoreland District or Zone" as follows:

The land area located within 250 feet, horizontal distance, of the normal high water line of any great pond or river; within 250 feet, horizontal distance, of the upland edge of a coastal wetland, including all areas affected by tidal action; within 250 feet of the upland edge of a freshwater wetland; or within 75 feet, horizontal distance, of the normal high water line of a stream.

Jt. Ex. 2 at 040, LUO, Ch. 125, Art. XII, § 125-109 (Nov. 4, 2008).

36. Section 153-4(B) of the of the Town of Bar Harbor Code provides: "It shall be the duty of the Harbor Master to: (1) Enforce the provisions of all rules, regulations, ordinances and

other laws which are lawfully promulgated and which are within his/her jurisdiction pursuant to law.” Jt. Ex. 2 at 052, Bar Harbor, Me., Code, Ch. 153, Art. I, § 153-4(B)(1) (July 17, 2012).

37. Section 1-14(A) of the Town of Bar Harbor Code provides: “In the construction of this Code, and of all ordinances and resolutions of the Town, the following rules shall be observed.... The word ‘may’ is permissive, and the word ‘shall’ is mandatory.” Jt. Ex. 2 at 001, Bar Harbor, Me., Code, Ch. 1, Art. II, § 1-14(A)(7) (Oct. 2, 1990).

38. Section 125-108 of the LUO provides: “Language used in this chapter shall be construed as follows: ... The words ‘shall’ and ‘will’ are mandatory, and the word ‘may’ is permissive.” Jt. Ex. 2 at 012, LUO, Ch. 125, Art. XII, § 125-108(F) (June 12, 1990).

39. In an Amended Decision and Order, dated March 1, 2024, the United States District Court for the District of Maine (Walker, J.), in *Assoc. to Preserve and Protect Local Livelihoods, et al. v. Town of Bar Harbor*, No. 1:22-cv-00416-LEW, upheld the lawfulness of the Disembarkation Ordinance. Am. Compl. ¶ 35, Def.’s Ans. ¶ 35; Sidman Aff. ¶ 14.

40. On March 6, 2024, the Town Council held a Special Meeting. Jt. Ex. 3, March 6, 2024 Special Bar Harbor Town Council Meeting Minutes; Sidman Aff. ¶ 15.

41. At the March 6, 2024 Special Meeting of the Town Council, Town Council chairperson Valerie Peacock read a prepared statement of the Town Council regarding the Disembarkation Ordinance. Jt. Ex. 3, March 6, 2024 Special Bar Harbor Town Council Meeting Minutes; Sidman Aff. ¶ 15.

42. The Town Council’s prepared statement was memorialized by a press release issued by the Town Council on the same day. Am. Compl. ¶ 41; Def.’s Ans. ¶ 41.

43. In its the prepared statement regarding the cruise ship ordinance enforcement, the Town Council announced the following:

This Council has already directed the Harbor Master to cancel, or reject, requests for reservations made after the day of the vote for all ships with lower berth capacities greater than 1,000 passengers. The disembarkation of passengers of cruise ships with reservations for the 2024 season that are made and accepted after this date are subject to the current Ordinance. However, the Council will honor reservations made before the town voted. Passengers from these 2024 ships will not be subject to the disembarkation limits of the Ordinance.

(the “Decision and Order”). Jt. Ex. 4, Statement of Bar Harbor Town Council (March 6, 2024).

44. The Decision and Order was posted on the Town’s website after its announcement and remains available on the Town’s website. Town Council Statement Mar. 6, 2024, available at <https://www.barharbormaine.gov/DocumentCenter/View/7643/Council-Statement-3-6-2024?bidId=> (last visited Nov. 13, 2024).

45. No public hearing was announced or held by the Town Council prior its issuance of its Decision and Order. Sidman Aff. ¶ 16.

46. No public hearing was announced or held before the Planning Board to consider the Town Council’s Decision and Order prior to its announcement. Sidman Aff. ¶ 17.

47. The Town Council did not take any vote prior to issuing its Decision and Order. Excerpts of Defendant’s Answers to Plaintiff’s First Set of Interrogatories ¶ 2 (Sept. 4, 2024) (a true copy is attached hereto as Exhibit A); Am. Compl. ¶ 45; Def.’s Ans. ¶ 45.

48. No vote to adopt the Decision and Order was taken at a duly constituted Town Meeting prior to the Town Council’s announcement of its Decision and Order. Sidman Aff. ¶ 18.

49. The change to the application date of the Disembarkation Ordinance exempted an additional 34 ships with 72,729 passengers from the application of the Disembarkation Ordinance. Sidman Aff. ¶¶ 19-22.

50. In total, the Town has allowed an additional 93 cruise ships to disembark an additional 101,278 passengers into Bar Harbor during 2024 that should have been subject to the Disembarkation Ordinance. Sidman Aff. ¶¶ 19-24.

51. Neither the Harbor Master nor the Code Enforcement officer for the Town of Bar Harbor has taken any actions to enforce the Disembarkation Ordinance against any disembarkations from cruise ships that had made reservations for the 2024 cruise ship season after the March 17, 2022 application date, but before the November 8, 2022 vote on the Initiative to adopt the Disembarkation Ordinance. Sidman Aff. ¶ 25.

52. Of the 93 cruise ships with 101,278 passengers that should have been subject to the Disembarkation Ordinance in 2024, the Code Enforcement Officer has only issued a single notice of violation against a pier owner for only a single instance of disembarking cruise passengers without a proper permit. Sidman Aff. ¶ 26; *see* Jt. Ex. 5, Notice of Violation to Golden Anchor, LLC (Aug. 5, 2024).

53. On July 1, 2024, the Town issued a Press Release concerning the Town Council's adoption of a new "Cruise Ship Disembarkation Ordinance" on June 18, 2024. Jt. Ex. 6, Town of Bar Harbor Press Release (July 1, 2024).

54. In its July 1, 2024 Press Release, the Town stated:

As explained during the June 18, 2024, Council Meeting, the Cruise Ship Disembarkation Ordinance constitutes the "rules and regulations" required by Land Use Ordinance Section 125-77(H)(3). These rules and regulations are necessary for the regulation of the disembarkation of no more than 1,000 cruise ship passengers per day in the Town of Bar Harbor, or enforcement action if any violation was to occur.

Jt. Ex. 6, Town of Bar Harbor Press Release (July 1, 2024).

55. In its July 1, 2024 Press Release, the Town stated:

The Council's passage of the Cruise Ship Disembarkation Ordinance on June 18, 2024, does not supersede a previous press statement released on March 6, 2024. All cruise ship anchorage reservations confirmed on or before November 8, 2022, will allow for disembarkation for the 2024 season.

Jt. Ex. 6, Town of Bar Harbor Press Release (July 1, 2024).

Dated: November 15, 2024

/s/ Jason J. Theobald

Jason J. Theobald (Bar No. 5605)

David P. Silk (Bar No. 3136)

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*Attorneys for Plaintiff Charles Sidman*



# SIDMAN SMF EXHIBIT A

STATE OF MAINE  
CUMBERLAND, ss.

BUSINESS AND CONSUMER COURT  
Location: Portland  
Docket No. BCD-APP-2024-0007

CHARLES SIDMAN,	)	
	)	
Plaintiff,	)	
	)	
v.	)	
	)	
	)	DEFENDANT'S OBJECTIONS AND
	)	ANSWERS TO PLAINTIFF'S FIRST
TOWN OF BAR HARBOR,	)	SET OF INTERROGATORIES
	)	
	)	
Defendant.	)	

Pursuant to Rules 26 and 33 of the Maine Rules of Civil Procedure, defendant Town of Bar Harbor (the "Defendant") and Rudman Winchell, on behalf of the Defendant, object to and answer Plaintiff's First Set of Interrogatories as follows:

### GENERAL OBJECTIONS

The following general objections apply to each of the particular Interrogatories propounded upon Defendant and are incorporated within each response set forth below. No specific objection shall be construed as a waiver of any general objection.

Defendant objects to the extent any Interrogatory, via Plaintiff's "Definitions and Instructions" or otherwise, seeks to impose obligations different from, or in excess of, those created by the Maine Rules of Civil Procedure. Defendant's responses are made pursuant to, and as limited by, said rules.

Defendant objects to any Interrogatory to the extent it seeks information and/or documents protected by the attorney-client privilege, the work-product doctrine, and/or any other privileges, protections or doctrines of similar effect.

## INTERROGATORIES

1. Describe in detail all actions taken by the Town (including without limitation, the departments of the Town's Code Enforcement Officer, Town Manager, Harbor Master, general counsel, Town Council members, or other persons acting on behalf of or under the control of the Town and/or the Town Council) between February 29, 2024, and March 6, 2024, regarding or concerning the prepared statement read by Council Chair Valerie Peacock at the Special Town Council Meeting on March 6, 2024.

**Objections:** Defendant objects that this interrogatory is vague, imprecise, overly broad, unduly burdensome, and incapable of response. The interrogatory is vague, imprecise, and incapable of response because this interrogatory refers to "all actions," but contains no meaningful, limiting, or otherwise informative definition of what constitutes "an action." It is totally unclear whether "an action" includes every spoken word, or every spoken sentence. It is likewise unclear whether "an action" includes every physical step taken by all such individuals, such as each step walking to and from a vehicle or into a building—or turning on a computer. Or does "action" refer only to formal or official actions by the Town? Moreover, "Town" is defined so broadly in Plaintiff's "Definitions and Instructions" that Town includes, for example, every "employee" of the Town. This means that the action of a Town employee turning on the lights for the press conference, or testing the sound system, would count as "an action concerning the prepared statement." This interrogatory is overly broad and unduly burdensome because depending upon what the interrogatory means by "an action," "regarding," and "concerning," an answer to this interrogatory could well require detailed descriptions spanning more than 100 pages, including thousands of actions that are in no way legally relevant to the Plaintiff's sole remaining Count II as it appears in Plaintiff's Amended Complaint filed June 6, 2024. It is not the obligation of Defendant to re-write, guess, or figure out what Plaintiff is asking, in a manner that would be intelligible and capable or reasoned response aimed at relevant information as to, e.g., "whether the Town through its Town Council has authority to amend or veto a lawfully passed land use ordinance by directing employees to disregard the provisions of a lawfully enacted land use ordinance," as Plaintiff describes the "controversy" in Count II, ¶ 92 of his Amended Complaint. Defendant further objects to the extent this interrogatory could be interpreted as requesting detailed descriptions of communications privileged under the Rules of Evidence, such as the attorney client privilege, and communications privileged under Maine law, such as communications made during executive session.

2. Describe in detail all votes of the Town Council regarding its decision and orders described in the prepared statement read by Council Chair Valerie Peacock at the Special Town Council Meeting on March 6, 2024; and in answering this interrogatory please provide the date

and time of all said votes, the location of all Town Council meetings where any votes were taken, whether said meetings were open to the public, whether the public was provided with notice of any said meetings and votes, and the results of all said votes.

**Objections:** This interrogatory is predicated on the incorrect legal conclusion or premise that the Council's statement of March 6, 2024, constituted or memorialized a "decision," and constituted or memorialized an "order" or "orders" of the Council. Defendant denied and hereby again denies that that is a fair or correct legal conclusion. Answer and Defenses to Amended Complaint ¶ 40.

**Answer:** Subject to and without waiving the foregoing objections, there was no such vote or votes. The Town has denied and does deny the argumentative characterization of the Council's statement of March 6, 2024, as a "resolution," and the Town has already stated that the Council took no "vote" concerning the statement. Answer and Defenses to Amended Complaint ¶ 45.

3. Describe in detail any and all communications among any Town officials or employees, including without limitation, the Town's Code Enforcement Officer, Town Manager, Harbor Master, general counsel, Town Council members, and other persons acting on behalf of or under the control of the Town and/or the Town Council, concerning or related to the prepared statement read by Council Chair Valerie Peacock at the Special Town Council Meeting on March 6, 2024.

**Objections:** Defendant objects that this interrogatory is vague, imprecise, overly broad, unduly burdensome, and incapable of response. The interrogatory is vague, imprecise, and incapable of response because this interrogatory refers to "any and all communications" "concerning or related to" the March 6<sup>th</sup> statement, but contains no meaningful, limiting, or otherwise informative definition of what constitutes "a communication" that would conceivably limit this interrogatory to communications relevant to Plaintiff's sole remaining Count II as it appears in Plaintiff's Amended Complaint filed June 6, 2024. E.g., if on the way to the March 6<sup>th</sup> meeting Chair Peacock told the Town Manager she was on the way to the meeting where she would read a statement, that would be "a communication" within the meaning of this interrogatory, yet plainly outside the realm of anything possibly relevant to the case. Likewise, e.g., if the Town Clerk mentioned to another employee of the Town that Mr. Sidman is suing the Town over the March 6<sup>th</sup> statement, that would be "a communication" within the meaning of this interrogatory, yet plainly outside the realm of anything possibly relevant to the only surviving Count in this case. This interrogatory is overly broad because, as illustrated by the previous examples, it sweeps way more broadly than anything relevant to the case. This interrogatory is unduly burdensome because in light of the fact that the Town employs approximately 100 people, answering this interrogatory would require the Town to interrogate every employee as to

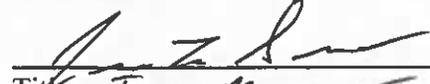
Enforcement Officer as a result of the directions from the Town Council, its members, or any other persons acting on behalf of or under the control of the Town and/or Town Council as described in the prepared statement read by Council Chair Valerie Peacock at the Special Town Council Meeting on March 6, 2024.

**Objections:** This Interrogatory is predicated on the false premise that there were such "directions" to the CEO. Also, nothing in the March 6th statement states or suggests that the Council directed the CEO. And, again, the actual issue in this case is the authority of the Council. So, to the extent this Interrogatory asks for the details of actions or forbearance taken by the CEO as a result of directions or orders from the Town Manager, this Interrogatory seeks information that is not relevant to this case, or calculated to lead to the discovery of relevant, admissible evidence. This Interrogatory is also unintelligible, and unanswerable, to the extent it refers vaguely to "other persons acting on behalf of or under the control of the Town and/or Town Council." It is simply unclear what the universe of such persons are, or what is meant by "on behalf of" or "under the control of" in this context, especially in light of how broadly Plaintiff defines "Town" in his "Definitions and Instructions."

**Answer:** Subject to and without waiving the foregoing objections, to the best knowledge of the Town, none.

**As to Answers:**

Dated at Bar Harbor, Maine, this 4 day of September, 2024.

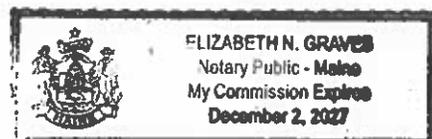
  
\_\_\_\_\_  
Title: Town Manager  
TOWN OF BAR HARBOR  
SEPTEMBER 4, 2024

STATE OF MAINE

HANCOCK, ss.

Personally appeared before me the above-named JAMES SMITH, in <sup>his</sup> ~~her~~ capacity as duly authorized TOWN MANAGER for the Town of Bar Harbor, and made oath that the foregoing is true and accurate to the best of the Town of Bar Harbor's knowledge, information and belief, and to the extent that it is based upon information and belief, she believes it to be true.

  
\_\_\_\_\_  
NOTARY PUBLIC  
My Commission Expires: 12/02/2027



**As to Objections:**

Dated at Bangor, Maine, this 4<sup>th</sup> day of September, 2024.

/s/ Jonathan P. Hunter

Jonathan P. Hunter, Esq., Bar No. 4912

Stephen W. Wagner, Esq., Bar No. 5621

Rudman Winchell

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