

THE STATE OF NEW HAMPSHIRE

STRAFFORD, SS

SUPERIOR COURT

No. 219-2011-CV-000349

DAVID K. TAYLOR

v.

THE OYSTER RIVER COOPERATIVE SCHOOL BOARD

and

HENRY BRACKETT, Chairman

MOTION TO AMEND PETITION FOR INJUNCTIVE RELIEF

PURSUANT TO RSA 91-A:7

NOW COMES David K. Taylor, ("Taylor") a citizen of the town of Durham, New Hampshire, and moves to amend his Petition for Injunctive Relief Pursuant to RSA 91-A:7 filed against the Oyster River Cooperative School Board, (the "Board") a body corporate and politic and Henry Brackett, Chairman of ORCSB, ("Brackett") and in support there of, states as follows:

1. On or about August 3, 2011, Taylor filed a Petition for Injunctive Relief pursuant to RSA 91-A with this Court. That Petition was filed because, in the months leading up to its filing, the Board repeatedly violated the tenets of RSA 91-A, actively avoided compliance with RSA 91-A:2 and RSA 91-A:3, and pursued a hidden agenda destructive to the high quality of education expected by the citizens of Durham, Madbury and Lee.

2. The Petition alleged two counts against the Board; a violation of RSA 91-A, and a violation of Part 1, Article 8 of the New Hampshire Constitution. The Petition also alleged two counts against Brackett; a violation of RSA 91-A, and a violation of Part 1, Article 8 of the New Hampshire Constitution.

3. As part of the discovery in this case, Taylor has taken the deposition of Brackett and received additional documents from counsel for the Board and Brackett. That deposition and the documents reveal additional violations of RSA 91-A by the Board and Brackett such that Taylor now moves to amend his initial Petition to add those additional claims and violations of RSA 91-A.

4. RSA 514:9 (2007) allows the trial court to permit a substantive amendment to pleadings "in any stage of the proceedings, upon such terms as the court shall deem just and reasonable, when it shall appear to the court that it is necessary for the prevention of injustice...." Under RSA 514:9, liberal amendment of pleadings is permitted unless the changes would surprise the opposing party, introduce an entirely new cause of action, or call for substantially different evidence. *Dent v. Exeter Hosp.*, 155 N.H. 787, 796, (2007). Whether to allow a party to amend his or her pleadings rests in the sound discretion of the trial court. *Id.* at 796-97. The Supreme Court will not disturb

disturb the trial court's decision absent an unsustainable exercise of discretion. *Id.* at 797.

5. In the present case, amendment of the Petition at this point effects no surprise to the Board or Brackett, it does not add an entirely new cause of action but supplements the pleading presently before the court, and does not call for substantially different evidence. *Dent v. Exeter Hosp.*, 155 N.H. 787, 796, (2007). Accordingly, this court is well within its discretion in granting the present motion to amend.

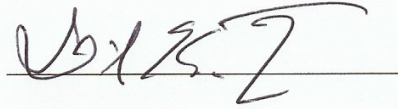
6. Taylor's First Amended Petition for Injunctive Relief pursuant to RSA 91-A is appended hereto.

WHEREFORE, Taylor requests that this Court:

- A. Grant the present Motion to Amend;
- B. After granting the present motion, compel the Board and Brackett to comply with Chapter 91-A and produce the requested information within forthwith;
- C. Enjoin future violations of Chapter 91-A by the Board and Brackett in accordance with RSA 91-A:8 III, by issuing an order compelling the Board to comply with RSA 91-A request by Taylor within the mandates of that law;
- D. Award Taylor his costs and attorneys fees made necessary by the bringing of this action as allowed by RSA 91-A:8, I;
- E. Declare such other relief as may be just and equitable.

Respectfully submitted,

Dated: 28 Sept. 2011

A handwritten signature in black ink, appearing to read 'D.K. Taylor', written over a horizontal line.

David K. Taylor

CERTIFICATE OF SERVICE

I hereby certify that a copy of the within Motion was sent this 28 day of September, 2011 to all counsel of record.

A handwritten signature in black ink, appearing to read "David K. Taylor", is written over a horizontal line.

David K. Taylor, *pro se*