

**UNITED STATES DISTRICT COURT  
DISTRICT OF CONNECTICUT**

ALAN PLOFSKY,	:	CIVIL ACTION NO.
Plaintiff,	:	3:06cv789 (JCH)
v.	:	
ROSEMARY GIULIANO, RICHARD	:	
VITARELLI, CHRISTOPHER SMITH,	:	
JOHN O'CONNOR, GARY COLLINS,	:	
HELEN Z. PEARL, SCOTT STORMS,	:	
and HUGH MACGILL, each in their	:	
individual capacity,	:	
Defendants.	:	
	:	September 15, 2008

**JOINT STATUS REPORT**

The parties hereby submit the following Joint Status Report in accordance with the Court's Scheduling Order of September 17, 2007.

Pursuant to Fed. R. Civ. P. 16(c) the parties provide the following:

- (1) The parties have not identified any issues, claims or defenses that can be simplified or eliminated at present.
- (2) The parties do not presently anticipate any need to amend the pleadings.
- (3) The parties have considered the following possibilities regarding obtaining admissions of fact and of documents which will avoid unnecessary proof, stipulations regarding the authenticity of documents, and advance rulings from the court on the admissibility of evidence:
  - a. Discovery Related to Punitive Damages: The parties have stipulated that none of the defendants will raise issues and/or present evidence of his or her limited financial resources as a factor to be considered in determining an award of punitive damages. The stipulation was previously provided to the Court.

b. Admissibility of Alan Mazzola's Prior Testimony: The parties have agreed that if the former Deputy Commissioner of the Department of Administrative Services, Alan Mazzola, is unavailable to testify at the trial in this matter, then the parties may use Mr. Mazzola's prior testimony during the proceedings before the Employees Review Board under Rule 804(b)(1). However, the parties reserve the right to object to Mr. Mazzola's prior testimony for other reasons (including as to relevance, hearsay, form of the question, etc.). Also, the defendants have not waived their right to call him as a witness at trial if he is available and/or to submit an affidavit from him in support of a motion for summary judgment.

c. Deposition of Attorney General Blumenthal: The plaintiff and the Office of the Attorney General resolved this issue such that it was not necessary for the plaintiff to depose Attorney General Richard Blumenthal. Instead, Attorney General Blumenthal's office provided responses to written discovery to the satisfaction of the plaintiff. The parties anticipate discussing stipulations of fact related to such responses in advance of trial. Some concerns regarding claims of attorney-client privilege remain with regard to an email string that to date has only been provided in redacted form. If the parties are unable to reach agreement on this issue, the plaintiff will likely seek a ruling from the Court in advance of trial.

(4) The parties are making efforts, including by discussing the issues identified in (3) above, to avoid unnecessary proof and cumulative evidence. The parties do not presently anticipate offering testimony of any experts under Fed. R. Evid. 702.

(5) The defendants' Motion for Summary Judgment was filed on April 15, 2008, the plaintiff filed his Memorandum in Opposition to the defendants' motion on May 16, 2008, and the defendants' Reply brief was filed on June 16, 2008.

(6) Discovery closed on February 1, 2008. A detailed description of the discovery conducted through the date of this report is provided below.

(7) The parties will identify witness and documents, the need and schedule for filing and exchanging pretrial briefs, and the date for further conferences, if any, in accordance with the Court's Scheduling Order including as required by the Court's Pretrial Order.

(8) The parties do not believe there is any present need to refer any matter or issue to a magistrate judge or master.

(9) The parties do not believe that further settlement discussions including through use of special procedures would be helpful at this time.

(10) The parties will comply with the requirements of the Court's Pretrial Order in submitting the Trial Memorandum in accordance with the Court's Scheduling Order.

(11) The only motion presently pending before the Court is the defendants' Motion for Summary Judgment.

(12) The parties do not believe there is any present need for adopting special procedures in this matter.

(13) The parties do not intend to request an order for a separate trial for any claims or issues in this case.

(14) The parties do not presently intend to request an order directing a party to present evidence early in the trial with respect to an issue that could, on the evidence,

be the basis for a judgment as a matter of law under Rule 50(a) or a judgment on partial finding under Rule 52(c).

(15) The parties do not presently intend to request an order establishing limits on the time allowed for presenting evidence.

(16) Except as detailed herein, including in (3) above, the parties do not presently believe there are any other matters that need to be brought to the Court's attention to facilitate the just, speedy, and inexpensive disposition of this action.

The parties have conducted the following discovery through the date of this report:

(1) The parties conducted written discovery and took depositions prior to the close of discovery on February 1, 2008.

(2) On or about January 22, 2008, the plaintiff served a second set of discovery requests upon defendants Rosemary Giuliano, Gary Collins, Helen Pearl, and Hugh MacGill. Each of those defendants have responded to those requests.

For the Plaintiff,

By:                     /s/                      
Nicole M. Rothgeb ct26529  
Livingston, Adler, Pulda, Meiklejohn  
& Kelly, P.C.  
557 Prospect Avenue  
Hartford, CT 06105

For the Defendants,

By:                     /s/                      
Margaret Q. Chapple ct05550  
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55 Elm Street  
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**CERTIFICATE OF SERVICE**

This is to certify that on September 15, 2008 a copy of the foregoing Joint Status Report was filed electronically. Notice of this filing will be sent by e-mail to all parties by operation of the Court's electronic filing system or by mail to anyone unable to accept electronic filing as indicated on the Notice of Electronic Filing. Parties may access this filing through the Court's system.

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/s/  
Nicole M. Rothgeb