

STATE OF NEW HAMPSHIRE
Superior Court
Grafton, ss.
Case No. 215-2022-CV-00167

Steven Rand and Randvest, Inc.,
120 Highland Street
Plymouth, NH 03264

Dr. Robert Gabrielli and the
Gabrielli Family Ltd. Partnership,
40 Via Tranquilla
Concord, NH 03301

Jessica Wheeler Russell and Adam Russell,
76 Manor Road
Concord, NH 03303

Petitioners,

v.

The State of New Hampshire
c/o Attorney General for the State of NH
33 Capitol Street
Concord, NH 03301,

Defendant.

Granted



Honorable Lawrence A. MacLeod, Jr.

August 31, 2022

Clerk's Notice of Decision
Document Sent to Parties
on 09/01/2022

ASSENTED TO MOTION TO AMEND COMPLAINT

Now come the petitioners, through counsel, and move to amend the Complaint filed in this matter to add two new petitioners and clarify one factual proposition. The State assents to this motion and both parties agree that an amendment of the Complaint triggers an extension of time in which the State must answer for a period of 14 days beyond the current due date of August, 26, 2022. Rule 15(a), N.H. Super. Ct. Rules.

In support of this motion, the petitioners state as follows.

1. Petitioners Rand, Gabrielli, Jessica and Adam Russell filed their Complaint on or about June 28, 2022. The parties agreed to extend the time for the State to file its Answer until August 26, 2022. The State has not filed an Answer at the time of this filing.

2. The Petitioners propose with this First Amended Complaint to add two additional petitioners, James Lewis of Hopkinton, and John Lunn of Newport. The First Amended Complaint adds allegations about the property ownership, taxes and property values of the new petitioners and their respective towns in conformity with the factual allegations made by the original petitioners. The First Amended Complaint also clarifies a factual assertion that was unclear in the original Complaint. The clarification appears in paragraph 58 of the First Amended Complaint. Finally, petitioners have also added information about the new petitioners to Table A of the Appendix.

3. Liberal amendment is permitted in the Court's discretion, especially at this early stage of the litigation where absolutely no prejudice will be suffered by the State.

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, 931 A.2d 1203 (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. We will not disturb the trial court's decision absent an unsustainable exercise of discretion. *Id.* at 797.

Coan v. N.H. Dep't of Env't Servs., 161 N.H. 1, 10-11, 8 A.3d 109, 117 (2010).

4. The First Amended Complaint is attached to this pleading as Exhibit A.

Wherefore, the petitioners pray this motion be granted.

Dated: August 23, 2022

Respectfully submitted,
/s/ Andru Volinsky
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Certificate of Service

I certify that I served a true and exact copy of this motion along with Exhibit A upon the State of New Hampshire via the Court's electronic filing system this 23rd day of August, 2022.

/s/ Andru Volinsky