

U.S. DISTRICT COURT
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IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF MAINE *DEPUTY CLERK*

PRO SE CIVIL COMPLAINT

JURY TRIAL REQUESTED

Case No. 1:14-cv-00515-DBH

1. Robert L. Cousins 45 Harbor Dr., Bass Harbor, Maine 04653
2. Judy A. Cousins 45 Harbor Dr., Bass Harbor, Maine 04653

v.

1	Tremont VFD Chief Keith Higgins	Mitchell Lane, Tremont, Maine 04653
2	Capt. Heath Higgins	Mansell Lane, Southwest Harbor, Maine 04679
3	Lt. Dudley Porier	Seal Cove, Tremont, Maine 04653
4	Asst. Chief Tadd Jewett	Burnt Hill Rd., Tremont, Maine 04653
5	James LaPrade	Seawall Rd, SW Harbor, Me 04679
6	David Kelly	Burnt Hill Rd., Tremont, Maine 04653
7	William Weir	Rt. 102, Tremont, Maine,04653
8	Tracy Patton	Burnt Hill Rd., Tremont, Maine 04653

9	Wayne Patton	Rt 102, Tremont, Maine 04653
10	Matthew Tetreault	Rt. 102, Tremont, Maine 04653
11	Matthew Lindsley	Macenroe Rd, Southwest Harbor, Maine 04679
12	Colton Sanborn	Seal Cove Rd, Southwest Harbor, Maine 04653
13	Thomas Chisolm	Seal Cove Rd, Southwest Harbor, Maine 04653
14	Samuel Chisolm	Seal Cove Rd, Southwest Harbor, Maine 04653
15	Hugh Gilley Jr.	Burnt Hill Rd., Tremont, Maine 04653
	John Doe #1	
	John Doe #2	
	John Doe #3	
	John Doe #4	
	John Doe #5	

jointly and severably, all defendants individually and in their official capacity

1. Statement of Claims:

COMPLAINT

On Dec 4, 2013 Cap'n Nemo's Restaurant and Cousins family residence was allowed to burn until it was a total loss. The fire of undetermined origin started on the top of a 40' lighthouse.

Upon arrival of the Tremont Fire Department, Heath Higgins asked Bob Cousins if everyone was out. "I almost had it out. I just need one more extinguisher and it will be." He responded , "You need to leave, I got it now." One more extinguisher would have doused the small fire on the top floor. I was standing 6' from the fire in the 14' lighthouse. At the station while the firefighters were donning their gear, Chief Keith Higgins reminded everyone that it would be a defensive attack and that under no circumstances were they allowed to go interior. When Fire Chief Keith Higgins arrived at the scene, he reported that " I looked in the front door and seeing the extent of the fire, decided not to send anybody in." He stated on the radio that it was fully engulfed before he was on scene. The fire would not be visible from the front door for hours. It was then allowed to burn for 5 hours to spread to our son's lobster boat 7 feet away and then beyond to our storage building. The department had boat burning training exercises on our son's 32 foot lobster boat. It was even allowed to burn our lobster tank 15 ' away from building and 10 ' away from joking firefighters. The Tremont Fire Department was predisposed not to assist us in case of fire. Firefighters are under a duty to extinguish all fires to which they are called. They breached their duty.

The actions of the Fire Department under the direction of Keith Higgins constituted a conscious, flagrant indifference. Numerous misstatements circulated both in public and to the State Fire Marshal

stating various demeaning and prejudicial accusations by Fire Chief Keith Higgins. Willful and wanton acts of bad faith are clearly demonstrated herein.

1. The Tremont Fire Department created an atmosphere of hostility toward us. Firefighters were told they were not allowed to frequent Cap'n Nemo's establishment or they would be reprimanded. Heath Higgins tarnished our reputation by telling the public that we were bad and don't go to there. We had a very successful business. The Yelp site had many glowing reviews. Heath Higgins owned a restaurant a few miles away that somehow burned to the ground a few years ago.
2. During regular firefighter meetings contingency plans of action to 'surround and drown' were discussed in case Cap'n Nemo's ever caught on fire. One such meeting took place just prior to the actual fire. In a F.O.I.A. request dated 3/27/14 we asked for those minutes and any other that spoke of the contingency plan. No records have been produced.
3. Heath Higgins spoke out in public on several occasions that if Cap'n Nemo's ever caught fire they would let it burn. Witnesses will verify this.
4. On 8/20/2007 Cap'n Nemo's was requested to attend a selectman's meeting. We replied to town manager that we would be out of state but to please put us the agenda for 9/10/2007. After a lengthy discussion, Heath Higgins requested that we be put on the agenda for 8/27/2007.
5. On 8/27/2007 Heath Higgins called an executive session to discuss Cap'n Nemo's without us being notified which violates M.M.A. Procedure.

6. On 9/10/2007 special meeting was called to determine if Cap'n Nemo's had violated the conditions of our special amusement permit. During that meeting our lives were threatened and no action was taken. Town Attorney Chad Smith suggested, "after notice and hearings of all interested parties, the board determined that no there was no incorrect statement on the application for the permit and there is no violation of the Special Amusement permit. Motion passed 4-1. Heath Higgins opposed yet couldn't state a violation. He also stated erroneously that we were open too late. He misstated to the public his assessment of a voluntary change we had made to our hours of karaoke. We voluntarily reduced our karaoke to 11pm Sunday through Thursday, 12 am on Friday, and 1am on Saturday.

7. On 12/14/2010 Keith Higgins sent a letter to State Fire Marshal along with pictures. In it he defamed our reputation, stating "It has almost become a joking matter." "One key that I should make mention of, is that the owner has been aggressive in past interference from the town officials and neighbors." (only with a neighbor who threatened Cousins with a shotgun on record at a meeting in which Higgins was present.)

8. On 1/6/2011 Fire Marshals inspected Cap'n Nemo's for the first time. We paid the permit fee as they told us we needed a dance hall permit. On 3/31/2011 Keith Higgins forwarded an email from the Fire Marshal to the town of Tremont in regard to Cap'n Nemo's adding that "He has asked that this information be kept within your office. This is because on prior occasion information was released to them in advance."

9. On 4/18/2011 there was a public hearing in regard to Cap'n Nemo's special amusement

permit. There was no public comment. On 4/25/2011, at a special selectman's meeting, Keith Higgins presented document from Fire Marshal's Office, which he gave to the Town Manager to make copies for the Select Board, pertaining to Cap'n Nemo's and possible life safety code violations. He stated the Fire Marshal would be coming to issue a violation and he wanted the Select Board to be aware that the Fire Marshal was coming. On 5/2/2011 Keith Higgins submitted a report from the State Fire Marshal's Office regarding violations at Cap'n Nemo's. Mr. Higgins stressed that "he was there to keep the Selectman informed. The issues between the Fire Marshal and Cap'n Nemo's does not involve the town in any way". 6/23/2011 The State Fire Marshal visited Cap'n Nemo's did an inspection and determined that enough progress had been made to authorize our permit with an increase in occupancy from 23 to 35.

10. 4/27/2012 Keith Higgins submitted a letter to Millard Billings regarding Fire Protection Device Emplacement (water points on bridges and wharfs). "We find these devices of great importance to protect the town's property and protect the surrounding community. ..." Tremont still does not have these water points installed years later.

11. 6/4/2012 Keith Higgins sent an email to the Town Manager concerning the traffic congestion on Flat Iron Road due to a trailer loaded with lobster traps. Town Manager Millard Billings stated that the deputies informed him that the trailer was legally parked. 6/18/2012 Keith Higgins attended a public hearing for the consideration applications for Special Amusement and On-Premise Liquor License. Motions passed. 7/2/2012 the Board was given copies of email from Keith Higgins from the State Fire Marshal office which requested that the Special Amusement Permit be held by the Town. Town Attorney

responded that neither the Town Manager nor the CEO have the authority to hold up an application that has been approved by the Select Board.

12. Keith Higgins made public accusations that we borrowed our fire suppression system so we could pass inspection then returned it when we were done. The suppression came with Cap'n Nemo's and burned with Cap'n Nemo's.

13. 12/10/2013 in an email from the State Fire Marshal "So to make a long story short we did not have a long list of uncorrected deficiencies as someone stated to the MDI reporter".

14. Keith Higgins called for police backup for a rowdy crowd before he arrived on scene.

15. Keith Higgins called the police because the crowd was throwing rocks at the firemen when actually we were asked to throw rocks and break out the window. The breaking of the window would have led to the acceleration of the fire. Heath Higgins requested we throw rocks to assist him in breaking out a window knowing the danger as we were under a burning live electrical wire.

16. Heath Higgins drained an entire truckload of water on the building concentrating on the area 25 feet from the flames. He told Sarah MacQuinn, his back up on the hose to go find something to do on the other side. At one point a bystander grabbed the hose and gave him slack so that water could be put on the flames. He did not adjust his aim. The water ran out. Judy Cousins asked "where's the water?" Higgins replied "in the ocean.

17. Keith Higgins stated that Bob was belligerent and that he could not handle him.

Asst.Chief Tadd Jewett was sent to speak to him. When asked why no water was being put on the fire he stated that they were worried about flare up. It was flared up due to lack of water. Bob was not belligerent. Bob was calmly watching the carnage unfold in horror.

18. Keith Higgins failed to establish command. Precious time was wasted. Tremont Fire Department was not communicating on state or county channel. Instead they switched to Bar Harbor frequency without telling outside respondents. Keith Higgins called for assistance for mutual aid of tankers, engines and manpower. Bar Harbor, Mt. Desert, SW Harbor, Lamoine, Hancock and Trenton all responded but could not communicate. Keith Higgins told mutual aid who arrived ready to attack interior to stand down and remain at the staging area until further notice. After an hour of standing around Mutual aid requested again to assist as they were dressed for interior attack with their SCBA gear.

Keith Higgins once again refused the offer. Lamoine left the scene after 2 ½ hours with their manpower and 5500 gallons of precious water.

19. Keith Higgins stated to the media that the biggest problem was that he ran out of water. Tremont engine 6 was the second to arrive on scene. Its hydraulic water pressure pump failed. Engine 6 was not inspected at the time of the fire. Keith Higgins had been repeatedly informed of the need for inspection.

Due to the lack of maintenance Tremont's tanker truck broke down after the first dump. The low pressure fuel pump that had been an issue previously failed once again.

20. Drivers did not have the proper EVOC certification to drive the equipment.

21. A 10 year firefighter Sarah MacQuinn met with Keith Higgins the next morning to retrieve forgotten gear. He stated “We'll have to find another way to run them out of town, they have too much support. They have \$5000 in donations already”.

22. Sarah MacQuinn quit claiming “I cannot unsee what I saw and unhear what I heard. She turned in her gear to Lt. Bill Weir who placed her on extended leave.

23. She reported a shoulder injury received during the fire which was not forwarded to the proper authorities by Keith Higgins. When she approached town Manager Dana Reed he told her to return to the fire hall and inquire about it there. When she went to the fire hall Keith Higgins banned her from the premises. She has been and is continuously harassed by the department. He has instructed firefighters not to talk to her.

25. Keith Higgins told her to remove her fire plates from vehicle or he would have her arrested.

26. Late one evening, witnesses saw the Tremont Fire Department vehicle driving back and forth in Bar Harbor near where her car was parked. When she returned to her vehicle she found her fire department emblem had been scraped off and damaged her windshield.

27. Heath Higgins was in checkout line in front of MacQuinn at the store. He said “The

firefighter that was giving the Cousins family information could be fined for breach of confidentiality.”

28. Tremont Firefighters receive a bonus check annually for services performed. Sarah MacQuinn's was withheld for some time.

29. Firefighter Sarah Macquinn requested training records for another job. The records are not forthcoming. She now has to repeat training and pay for it herself.

30. Further character assassination of Sarah MacQuinn by Keith Higgins continues. At a meeting with other firefighters he stated “ Sarah is incompetent as a firefighter and that at one point during the evening she sat down and refused to fight the fire. She is dishonest” and he wouldn't recommend her to be on any other fire department.

31. Firefighter Matthew Tetreault stole from the scene of the fire and bragged to Sarah MacQuinn that he did the midnight reconnaissance. He threatened her saying “if you tell anybody I'll kill you. When she reported the incident to three superiors no report was made to the police. Matt Tetreault initially denied accusations. He threatened Sarah MacQuinn again saying “Remember what I told you. You need to remember who you are and where you come from.” He later admitted to the theft as was reported to us by Deputy Campbell. He is still on two fire departments today. We had a bar-b-que grill that was not harmed. The following day we noted that the grill had been tossed onto a smoldering ember pile. Some knobs were missing. The respondents who returned to the firescene, Tetreault, Lindsley, and Heath Higgins, according to an incomplete incident report made out by Capt. Higgins, were there the same night Tetreault admitted to theft

of the sign.

32. Three Mutual aid firefighters witnessed Matt Tetreault entering owners vehicle at the scene of the fire and removing something. Our son's \$1800 apple computer was missing.

33. Firefighter Matt Lindsley posted pictures of the Cousins family on the 'Ban Nemo's Funding' facebook page a few days after the fire.

34. One firefighter walked off the fire detail in disgust. "This is bullshit" he proclaimed to me as he walked by to go home from the scene of the crime.

36. The firefighters have helmet firecams that were used and the recordings were shown to the firefighters at the next meeting. Requests for this evidence have not been fruitful. The claim is that no helmet cams were used.

37. SWH placed their ladder truck fifty yards from the restaurant, and 70 yards from the fire. They had the suggestion and opportunity to park safely, close enough to spray down. In the words of some firefighters, it could have been out in two to five minutes, easily. Instead, the ladder truck sprayed directly over the lighthouse onto a neighbor's roof upwind of the fire damaging his house with 2,500 gallons of water. The stream even swerved around the lighthouse on its retreat so as not to get the fire wet

3. JURISDICTION

This is a violation of our civil rights. I am a 100% disabled veteran.

4. VENUE:

This happened in Bass Harbor, Maine.

5. RELIEF:

We seek to be made whole again. We seek the replacement of the Fire Personnel involved with the terroristic (because we were a public water supply)arson (they willfully and wantonly maintained our fire with bad faith to do harm). We seek revenue lost due to the fire and exemplary damages for lost good will. We also seek unspecified punitive damages, to deter further harassment.

I lost a rare prepostal stamp collection by Scott, fantasies and unpublished issues with a value of over \$1,000,000.00. The restaurant was worth \$475,000.00. (offer made) The stress involved has no computation of value available. Good will, the same. Our business losses amount to about \$500/day (avg). It will be a year after funding to be rebuilt. (two years lost revenue=\$360,000.00) So much lost in the fire cannot be replaced: artwork, kids pottery (amazing) and projects in the works that could not be valued in dollars. Ten years of our lives were lost. Our kids have no good jobs now, and they languish awaiting a resolution. We live in my mother's house who died without resolution to the burning of the restaurant she so dearly loved.

As a 100% disabled Vietnam veteran (purposefully made homeless by the willful and wanton destruction). I am eligible for treble damages.

6. EXHAUSTION OF ADMINISTRATIVE PROCEDURES:

We presented our case in June to the Maine Municipal Association Risk Management Services who have not even interviewed all of our witnesses in five months (see enclosed letter from Randa Veilleux, senior claims representative dated Oct 23, 2014). The statute of limitations is about to run out on our federal Title 42 disabled and constitutional rights. A lack of response to a claim of 120 days is by law to be considered denied.

7. JURY TRIAL REQUESTED

8. We declare under penalty of perjury that the forgoing is true and correct to the best of our knowledge.

signatures

Date executed

12/3/2014



Robert L. Cousins pro se



Judy A. Cousins pro se

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