



CHARLES P. BAUER

214 N. Main Street  
P.O. Box 1415  
Concord, NH 03302-1415

Ph: (603) 228-1181  
Direct: (603) 545-3651  
Fax: (603) 224-7588  
bauer@gcglaw.com

December 23, 2013

RECEIVED DEC 24 2013

Eileen Fox, Clerk  
New Hampshire Supreme Court  
One Charles Doe Drive  
Concord, NH 03301

**Re: City of Keene v. James Cleaveland, et al.  
Rule 7 Notice of Mandatory Appeal**

Dear Clerk Fox:

Enclosed for filing is an original and eight (8) copies of a Rule 7 Notice of Mandatory Appeal, along with a check in the amount of \$250.00 to cover the filing fee.

We will await Order from the Supreme Court notifying us of the deadline for paying the deposit amount to the court transcriber.

I have also enclosed an original and eight (8) copies of a Motion for Amicus Briefs. Please note that a copy of this motion has not been forwarded to the Cheshire County Superior Court.

Thank you for your attention to this matter.

Very truly yours,



Charles P. Bauer

CPB:lbl  
Enclosures

cc: James I. Peale, Clerk, Cheshire County Superior Court (3 copies)  
Jon Meyer, Esquire (1 copy)  
Pete Eyre, *Pro Se* (1 copy)  
Client (1 copy)

**THE STATE OF NEW HAMPSHIRE  
JUDICIAL BRANCH**

<http://www.courts.state.nh.us>

**RULE 7 NOTICE OF MANDATORY APPEAL**

This form should be used for an appeal from a final decision on the merits issued by a superior court or circuit court **except** for a decision from: (1) a post-conviction review proceeding; (2) a proceeding involving a collateral challenge to a conviction or sentence; (3) a sentence modification or suspension proceeding; (4) an imposition of sentence proceeding; (5) a parole revocation proceeding; (6) a probation revocation proceeding; (7) a landlord/tenant action or a possessory action filed under RSA chapter 540; (8) an order denying a motion to intervene; or (9) a domestic relations matter filed under RSA chapters 457 to 461-A other than an appeal from a final divorce decree or from a decree of legal separation. (An appeal from a final divorce decree or from a decree of legal separation should be filed on this form.)

**1. COMPLETE CASE TITLE AND CASE NUMBERS IN TRIAL COURT**

**City of Keene v. James Cleaveland, Garrett Ean, Kate Ager, Ian Bernard a/k/a Ian Freeman, Graham Colson and Pete Eyre (No. 213-2013-CV-0098; 213-2013-CV-0241)**

**2. COURT APPEALED FROM AND NAME OF JUDGE(S) WHO ISSUED DECISION(S)**

**Cheshire County Superior Court – Judge John C. Kissinger, Jr.**

**3A. NAME AND MAILING ADDRESS OF APPEALING PARTY. IF REPRESENTING SELF, PROVIDE E-MAIL ADDRESS AND TELEPHONE NUMBER**

**City of Keene 3 Washington St.,**

**Keene, NH 03431-3191**

E-Mail address: *N/A*

Telephone number: *N/A*

**3B. NAME, FIRM NAME, MAILING ADDRESS, E-MAIL ADDRESS AND TELEPHONE NUMBER OF APPEALING PARTY'S COUNSEL**

**Charles P. Bauer, Esq.**

**Gallagher, Callahan & Gartrell, PC**

**PO Box 1415**

**Concord, NH 03302-1415**

E-Mail address: ***bauer@gcglaw.com***

Telephone number: ***(603) 228-1181***

**4A. NAME AND MAILING ADDRESS OF OPPOSING PARTY. IF OPPOSING PARTY IS REPRESENTING SELF, PROVIDE E-MAIL ADDRESS AND TELEPHONE NUMBER**

**James Cleaveland, Garrett Ean, Kate Ager, Ian Bernard a/k/a Ian Freeman and Graham Colson (*All Represented by Jon Meyer*)**

- **Pete Eyre, Pro Se, 29 North Lincoln St.,  
Keene, NH 03431**

E-Mail address: *N/A*

Telephone number: *N/A*

**4B. NAME, FIRM NAME, MAILING ADDRESS, E-MAIL ADDRESS AND TELEPHONE NUMBER OF OPPOSING PARTY'S COUNSEL**

**Jon Meyer, Esq., (*Counsel for Cleaveland, Ean, Ager, Bernard a/k/a Freeman and Colson*)**

**Backus, Meyer & Branch, LLP**

**116 Lowell St., PO Box 516**

**Manchester, NH 03105**

E-Mail address: ***jmeyer@backusmeyer.com***

Telephone number: ***(603) 668-7272***

**5. NAMES OF ALL OTHER PARTIES AND COUNSEL IN TRIAL COURT**

***N/A***

**RULE 7 NOTICE OF MANDATORY APPEAL**

<p>6. DATE OF CLERK'S NOTICE OF DECISION OR SENTENCING. ATTACH COPY OF NOTICE AND DECISION.</p> <p><b>12/3/13</b></p> <p>DATE OF CLERK'S NOTICE OF DECISION ON POST-TRIAL MOTION, IF ANY. ATTACH COPY OF NOTICE AND DECISION.</p> <p><b>N/A</b></p>	<p>7. CRIMINAL CASES: DEFENDANT'S SENTENCE AND BAIL STATUS</p> <p><b>N/A</b></p>
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8. APPELLATE DEFENDER REQUESTED?  YES  NO  
IF YOUR ANSWER IS YES, YOU MUST CITE STATUTE OR OTHER LEGAL AUTHORITY UPON WHICH CRIMINAL LIABILITY WAS BASED AND ATTACH FINANCIAL AFFIDAVIT (OCC FORM 4)

**N/A**

9. IS ANY PART OF CASE CONFIDENTIAL?  YES  NO  
IF SO, IDENTIFY WHICH PART AND CITE AUTHORITY FOR CONFIDENTIALITY. SEE SUPREME COURT RULE 12.

10. IF ANY PARTY IS A CORPORATION, LIST THE NAMES OF PARENTS, SUBSIDIARIES AND AFFILIATES.

**N/A**

11. DO YOU KNOW OF ANY REASON WHY ONE OR MORE OF THE SUPREME COURT JUSTICES WOULD BE DISQUALIFIED FROM THIS CASE?  YES  NO  
IF YOUR ANSWER IS YES, YOU MUST FILE A MOTION FOR RECUSAL IN ACCORDANCE WITH SUPREME COURT RULE 21A.

12. IS A TRANSCRIPT OF TRIAL COURT PROCEEDINGS NECESSARY FOR THIS APPEAL?  
 YES  NO  
IF YOUR ANSWER IS YES, YOU MUST COMPLETE THE TRANSCRIPT ORDER FORM ON PAGE 4 OF THIS FORM.

**RULE 7 NOTICE OF MANDATORY APPEAL**

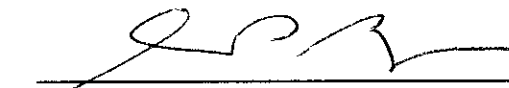
13. LIST SPECIFIC QUESTIONS TO BE RAISED ON APPEAL, EXPRESSED IN TERMS AND CIRCUMSTANCES OF THE CASE, BUT WITHOUT UNNECESSARY DETAIL. STATE EACH QUESTION IN A SEPARATELY NUMBERED PARAGRAPH. SEE SUPREME COURT RULE 16(3)(b).

- 1. As a matter of law, whether a municipality may bring a cause of action in Negligence, Interference with Contractual Employment Relations with its Employees, and Civil Conspiracy, and a Petition for Injunctive Relief, to protect its public employees from substantial workplace interference, harassment, and intimidation caused by private parties protesting governmental operations?**
  
- 2. As a matter of law, whether the lower court erred in dismissing the City's cause of action in Negligence, Interference with Contractual Employment Relations with its Employees, and Civil Conspiracy, and Petition for Injunctive Relief, filed to protect its public employees from substantial workplace interference, harassment, and intimidation against private parties protesting governmental operations?**
  
- 3. As a matter of law, whether the lower court erred in failing to balance the public employees' rights to work without substantial interference, harassment, and intimidation against the private parties' rights to protest governmental operations?**
  
- 4. As a matter of law, whether public employees have legitimate rights and interests in their public employment, worthy of protection by their public employer, to work without substantial interference, harassment, and intimidation caused by private parties protesting governmental operations?**

**RULE 7 NOTICE OF MANDATORY APPEAL**


**14. CERTIFICATIONS**

I hereby certify that every issue specifically raised has been presented to the court below and has been properly preserved for appellate review by a contemporaneous objection or, where appropriate, by a properly filed pleading.

  
\_\_\_\_\_  
Appealing Party or Counsel  
Charles P. Bauer, Esq. (NH Bar #208)

I hereby certify that on or before the date below, copies of this notice of appeal were served on all parties to the case and were filed with the clerk of the court from which the appeal is taken in accordance with Rule 26(2).

12 | 23 | 13  
Date

  
\_\_\_\_\_  
Appealing Party or Counsel  
Charles P. Bauer, Esq. (NH Bar #208)

**RULE 7 NOTICE OF MANDATORY APPEAL**

**TRANSCRIPT ORDER FORM**

**INSTRUCTIONS:**

1. If a transcript is necessary for your appeal, you must complete this form.
2. List each portion of the proceedings that must be transcribed for appeal, e.g., entire trial (see Supreme Court Rule 15(3)), motion to suppress hearing, jury charge, etc., and provide information requested.
3. Determine the amount of deposit required for each portion of the proceedings and the total deposit required for all portions listed. Do not send the deposit to the Supreme Court. You will receive an order from the Supreme Court notifying you of the deadline for paying the deposit amount to the court transcriber. Failure to pay the deposit by the deadline may result in the dismissal of your appeal.
4. The transcriber will produce a digitally-signed electronic version of the transcript for the Supreme Court, which will be the official record of the transcribed proceedings. Parties will be provided with an electronic copy of the transcript in PDF-A format. A paper copy of the transcript will also be prepared for the court.

PROCEEDINGS TO BE TRANSCRIBED					
PROCEEDING DATE (List each day separately, e.g. 5/1/11; 5/2/11; 6/30/11)	TYPE OF PROCEEDING (Motion hearing, opening statement, trial day 2, etc.)	NAME OF JUDGE	LENGTH OF PROCEEDING (in .5 hour segments, e.g., 1.5 hours, 8 hours)	RATE (standard rate unless ordered by Supreme Court)	DEPOSIT
8/12/13	Trial (Day 1)	Kissinger	6 hours	X \$137.50	\$825.00
9/30/13	Trial (Day 2)	Kissinger	6 hours	X \$137.50	\$825.00
10/1/13	Trial (Day 3)	Kissinger	4 hours	X \$137.50	\$550.00
				X \$137.50	\$
				X \$137.50	\$
				X \$137.50	\$
				X \$137.50	\$
				X \$137.50	\$
				X \$137.50	\$
				X \$137.50	\$
				<b>TOTAL DEPOSIT</b>	<b>\$2,200.00</b>

PROCEEDINGS PREVIOUSLY TRANSCRIBED					
PROCEEDING DATE (List date of each transcript volume)	TYPE OF PROCEEDING (Motion hearing, opening statement, trial day 2, etc.)	NAME OF JUDGE	NAME OF TRANSCRIBER	DO ALL PARTIES HAVE COPY (YES OR NO)	DEPOSIT FOR ADDITIONAL COPIES
				<input type="checkbox"/> Yes <input type="checkbox"/> No	TBD
				<input type="checkbox"/> Yes <input type="checkbox"/> No	TBD
				<input type="checkbox"/> Yes <input type="checkbox"/> No	TBD

**NOTE:** The deposit is an estimate of the transcript cost. After the transcript has been completed, you will be required to pay an additional amount if the final cost of the transcript exceeds the deposit. Any amount paid as a deposit in excess of the final cost will be refunded. The transcript will not be released to the parties until the final cost of the transcript is paid in full.