
**TOWN OF FALMOUTH
OFFICE OF TOWN COUNSEL
MEMORANDUM**

TO: JULIAN SUSO, TOWN MANAGER
FROM: FRANK K. DUFFY, JR., TOWN COUNSEL
PATRICIA A. HARRIS, ASSOCIATE TOWN COUNSEL
SUBJECT: LITIGATION REPORT
DATE: 11/14/2016
CC: TOWN DEPARTMENTS AS NOTED

The following is the Legal Department's periodic report of pending cases and cases resolved since the previous report. Following the name of the case/action is the name of the Court or Agency involved, the nature of the case and the present status of the case. Special Counsel is noted where appropriate.

BOARD OF APPEALS

CASE: Graham Allison & Elizabeth Allison v. ZBA
PROPERTY: Cape Codder Road
COURT: Land Court
DATE OF ENTRY: October 2014
ISSUE: Appealing decision of ZBA denying an enforcement order
STATUS: Land Court dismissed appeal because it was filed "too late to be timely".
Plaintiffs' have appealed to the Appeals Court. Hearing held April, 2016.
Appeals Court affirmed

CASE: American Tower, LLC v. ZBA
PROPERTY: East Falmouth Highway
COURT: Barnstable Superior Court
DATE OF ENTRY: December 2014
ISSUE: Appealing decision of ZBA granting a special permit for wireless tower
with conditions unacceptable to plaintiff.
STATUS: Settled by agreement of the parties.

CASE: Neil and Elizabeth Andersen v. ZBA, Building Comm'er & Falmouth
PROPERTY: Wind Turbine I
COURT: Barnstable Superior Court
DATE OF ENTRY: March 2011
ISSUE: Appealing decision of ZBA that a special permit was not needed to
construct the wind turbine at the WWTF.
STATUS: Judgment for defendant. Appeals Court reversed judgment of Superior
Court. Board of Selectmen authorized an application for further
appellate review by Supreme Judicial Court. Petition for further appellate
review was denied 6/5/15. Town has applied to ZBA for special permit
for Wind 1. Permit denied. Case complete.

CASE (I): Richard Cottrel, et al v. Appeals Board, Building Commission and R.
Gilbert Allenby
PROPERTY: 996 East Falmouth Highway
COURT: Barnstable Superior Court
DATE OF ENTRY: December 2009
ISSUE: Appeal from decision upholding Building Commissioners decision to
refuse request for enforcement.
STATUS: Case moved to Land Court.

CASE (II): Richard Cottrel, et al v. Appeals Board, Building Commission and R.
Gilbert Allenby, All Cape Recycling, Inc. and R & H Construction, Inc.
PROPERTY: 996 East Falmouth Highway
COURT: Land Court
DATE OF ENTRY: March 2011
ISSUE: Appeal from decision of Board to modifying an existing special permit.
STATUS: Pending. Remanded to ZBA for further hearings.

CASE: Frances M. Coutinho, Trustee of Coutinho Realty Trust
v. Neal Dunn and Rene Russo, Trustees of Neal Dunn 2012 Revocable
Trust and ZBA
PROPERTY: 25 Moses Road, North Falmouth
COURT: Barnstable Superior Court
DATE OF ENTRY: April 2014
ISSUE: Appealing decision of ZBA granting a special permit to Defendant
Dunn/Russo to raze and re-construct a single-family residence.
STATUS: Stipulation of Dismissal filed 12/15.

CASE: Richard and Kerry Dipietro, Individually and as Trustees of 8 Riverway Realty Trust v. ZBA
PROPERTY: 8 Riverway, North Falmouth
COURT: Barnstable Superior Court
DATE OF ENTRY: August 2014
ISSUE: Appealing decision of ZBA denying plaintiffs a special permit to add a farmers porch and to construct an outside stairway.
STATUS: Pending.

CASE: Todd Drummey, Mark Cool, Brian Elder, Barry Funfar, Lawrence Worthington and Robert Laird v. Town of Falmouth and ZBA
PROPERTY: Wind Turbine I
COURT: Barnstable Superior Court
DATE OF ENTRY: March 2011
ISSUE: Appealing decision of ZBA that a special permit was not needed to construct the wind turbine at the WWTF.
STATUS: Judgment for defendant, ZBA decision upheld. Appealed to Appeals Court. Appeals Court reversed judgment of Superior Court. Board of Selectmen authorized application for further appellate review by Supreme Judicial Court. Application for further appellate review has been denied. Town applied to ZBA for special permit. Permit denied. Case complete.

CASE: Carol Duclos, Trustee of the 315 School Street Nominee Trust
PROPERTY: 198 Thomas B. Landers Road, East Falmouth, MA
COURT: Barnstable Superior Court
DATE OF ENTRY: August 2013
ISSUE: Appealing decision of ZBA denying request for modification of use variance and alternation of nonconforming use.
STATUS: Remanded to ZBA.

CASE: Carol Duclos, Trustee of the 315 School Street Nominee Trust
PROPERTY: 198 Thomas B. Landers Road, East Falmouth, MA
COURT: Barnstable Superior Court
DATE OF ENTRY: July 2015
ISSUE: Appealing decision of ZBA after remand denying request for modification of use variance and alteration of nonconforming use.
STATUS: ZBA denied on remand. Plaintiff appealed Remand Decision. Case pending in Superior Court.

CASE: Diane and Barry Funfar and Linda Ohkagawa v. ZBA
PROPERTY: Wind Turbine 2
COURT: Barnstable Superior Court
DATE OF ENTRY: December 2015
ISSUE: Appeal of "Laches" Decision of the ZBA denying a cease and desist order for Wind 2.
STATUS: Pending.
SPECIAL COUNSEL: Diane Tillotson, Esquire

CASE: Susan Gallagher v. ZBA
PROPERTY: 17 Green Cove Lane, East Falmouth MA
COURT: Land Court
DATE OF ENTRY: July 2013
ISSUE: Appealing decision of ZBA that an undersized lot merged with adjacent lot built in common ownership.
STATUS: Judgment for the Defendant, Zoning Board of Appeals. Plaintiff appealed to Appeals Court. Appeals Court upheld Superior Court's decision 7/16.

CASE: Cornelius K. Hurely, Jr., Individually and as Trustee of the C.K.H. Trust and Sheila H. Canty, Trustee of the Canty Family Trust v. Susanne H. Keohane, Trustee of the Harold J. Keohane Irrevocable Income Only Trust I; Harold J. Keohane individually and in his capacity as Trustee of the Keohane Santuit Realty Trust; Patricia H. Keohane; Falmouth Zoning Board of Appeals; and Kimberly Bielan, Kenneth Forman, Terrence Hurrie, Edward Van Keuren, Paul Murphy and Mark Cook, as they are the members of the Falmouth Zoning Board of Appeals
PROPERTY: 80 Santuit Road, North Falmouth
COURT: Land Court
DATE OF ENTRY: March 2016
ISSUE: Appealing decision of Zoning Board of Appeals affirming 80 Santuit Road is a buildable lot.
STATUS: Pending

CASE: Robert Laird v. Town of Falmouth and ZBA
PROPERTY: Wind Turbine 1
COURT: Barnstable Superior Court
DATE OF ENTRY: September 2015
ISSUE: Appealing decision of ZBA affirming an order of the Building Commissioner that the former sec. 240-166 of the zoning bylaw applies to Wind 1.
STATUS: Pending.
SPECIAL COUNSEL: Diane Tillotson, Esquire

CASE: Linda Ohkagawa v. Town of Falmouth and ZBA
PROPERTY: 821 West Falmouth Hwy.
COURT: Barnstable Superior Court
DATE OF ENTRY: December 2013
ISSUE: Appealing decision of ZBA denying wind turbines are a nuisance to her property.
STATUS: Stipulation of dismissal with prejudice, without costs as to Linda Ohkagawa's original complaint waiving all rights of appeal, with parties bearing their own costs of attorney's fees.
SPECIAL COUNSEL: Michelle O'Brien, Esquire

CASE: John C. Powers and David C. Warner, Trustees of the Collins Irrevocable Property Trust v. Zoning Board of Appeals and Johnson Homes, Inc.
PROPERTY: 107 County Road and 0 County Road, North Falmouth
COURT: Land Court
DATE OF ENTRY: June 2012
ISSUE: Appeal from Board decision granting a special permit to Johnson Homes, Inc. for a multifamily residential development located on land zoned "Business District 3".
STATUS: Judgment upholding ZBA decision. Plaintiffs' have appealed to Appeals Court. Appeals Court affirmed Land Court's judgment.

CASE: The Climate Foundation v. ZBA and John Gardner
PROPERTY: 3 Little Harbor Road, Woods Hole
COURT: Land Court
DATE OF ENTRY: May, 2016
ISSUE: Appealing decision of ZBA denying plaintiff status as an exempt educational use.
STATUS: Pending

CASE: Sean Revenaugh v. ZBA
PROPERTY: 50 English Street, Teaticket, MA
COURT: Barnstable Superior Court
DATE OF ENTRY: May, 2016
ISSUE: Appealing decision of ZBA denying request for special permit to allow the operation of a home-based business.
STATUS: Pending

CASE: Town of Falmouth v. Andersen and ZBA
COURT: Barnstable Superior Court
PROPERTY: 211 Blacksmith Shop Road
DATE OF ENTRY: August 2013
ISSUE: Appealing decision of ZBA finding wind turbines are a nuisance at the property.
STATUS: Trial assignment conference December 9, 2016.
SPECIAL COUNSEL: Michelle O'Brien, Esquire

CASE: Town of Falmouth v. ZBA, Elders, Laird, Drummey, Ohkagawa, Funfars and Andersens
COURT: Land Court
DATE OF ENTRY: October 2015
ISSUE: Appealing decision of ZBA order the Town of Falmouth to cease and desist all operation of the Wind Turbine know as Wind 1.
STATUS: Case dismissed by Plaintiff.
SPECIAL COUNSEL: Diane Tillotson, Esquire

CASE: Town of Falmouth v. Funfar and ZBA
COURT: Barnstable Superior Court
PROPERTY: 27 Ridgeview Drive
DATE OF ENTRY: August 2013
ISSUE: Appealing decision of ZBA finding wind turbines are a nuisance at the property.
STATUS: Scheduled for trial November 16, 2016.
SPECIAL COUNSEL: Michelle O'Brien, Esquire

CASE: Town of Falmouth v. ZBA
COURT: Land Court
PROPERTY: Wind I
DATE OF ENTRY: April, 2016
ISSUE: Appealing decision of ZBA denying an application for a special permit for the wind turbine (Wind I).
STATUS: Pending
SPECIAL COUNSEL: Diane C. Tillotson, Esquire

BOARD OF ASSESSORS

NONE

BOARD OF SELECTMEN

CASE: Ballymeade v. Board of Selectmen, et al
PROPERTY: Ballymeade
COURT: Barnstable Superior Court
DATE OF ENTRY: April 2015
ISSUE: Plaintiffs filed an application for preliminary injunction to prevent town from billing them for costs associated with connecting Ballymeade to town water.
STATUS: Pending by agreement – no injunction.

BUILDING DEPARTMENT

NONE

CONSERVATION COMMISSION

CASE: Eugene Caruso, Executor of the Estate of Angeline M. Caruso v. Conservation Commission and Town of Falmouth
PROPERTY: 191 Edgewater Drive West, East Falmouth
COURT: Barnstable Superior Court
DATE OF ENTRY: September 2013
ISSUE: Appeal from Commission decision denying variance to construct a single family residence within wetland resource areas. Complaint includes a Regulatory Taking claim against Town of Falmouth.
STATUS: Judgment for Defendants upholding ConCom decision. Regulatory Taking claim pending.

CASE: David and Martha Casiles v. Conservation Commission
PROPERTY: Ferry Road, Falmouth
COURT: Barnstable Superior Court
DATE OF ENTRY: March 2015
ISSUE: Appeal from Commission decision denying an application to construct a dock.
STATUS: Commission's decision affirmed by Superior Court Judgment 10/24/2016.

CASE: Joanne Delapa, Trustee Delcor Realty Trust v. Conservation Commission
PROPERTY: 418 Menauhant Road, Falmouth
COURT: Barnstable Superior Court
DATE OF ENTRY: October 2016
ISSUE: Appeal from Commission decision denying an application to construct a dock.
STATUS: Pending

CASE: Falmouth Conservation Commission v. Luke and Jennifer McCabe
PROPERTY: 62 English Street, Falmouth
COURT: Barnstable Superior Court
DATE OF ENTRY: November 2015
ISSUE: Enforcement Order.
STATUS: Agreement for Judgment filed September 29, 2016.

CASE: Janice Smyth v. Conservation Commission and Town of Falmouth
PROPERTY: 250 Alder Lane, North Falmouth
COURT: Barnstable Superior Court
DATE OF ENTRY: February 2013
ISSUE: Appeal from Commission decision denying variance to construct a single family residence within wetland resource areas. Complaint includes a Regulatory Taking against the Town of Falmouth.
STATUS: Superior Court affirmed ConCom's decision 2/7/14. Regulatory taking claim pending.
SPECIAL COUNSEL: Michelle O'Brien, Esquire (for Regulatory Taking claim)

FALMOUTH FIRE RESCUE DEPARTMENT

CASE: Falmouth v. Patrick Bonzagni
COURT: Falmouth District Court
DATE OF ENTRY: November 2015
ISSUE: Town filed small claim in order to recoup unpaid fees for firefighter/EMT detail.
STATUS: Judgment for Town. Constable collected debt.

CASE: Falmouth v. Ronald Mason
COURT: Falmouth District Court
DATE OF ENTRY: December 2014
ISSUE: Town filed small claim in order to recoup unpaid fees for firefighter/EMT detail.
STATUS: Judgement for Town. Constable collected debt.

HARBORMASTER

CASE: Town of Falmouth v. Joel Koblentz
COURT: Falmouth District Court
DATE OF ENTRY: December 2015
ISSUE: Suit to recover damages done to a power pedestal on town pier.
STATUS: Settled by agreement of parties.

CASE: Falmouth v. William Penney
COURT: Falmouth District Court
DATE OF ENTRY: December 2014
ISSUE: Town filed small claim in order to recoup unpaid dock fees.
STATUS: Judgement for Town. Defendant cannot be found.

HEALTH DEPARTMENT

NONE

HISTORIC DISTRICTS COMMISSION

CASE: James M. Clark and Ruth Clark, Woods Hole Community Association,
Woods Hole Historic Collection and Museum v. Falmouth Historic
Districts Commission and Elizabeth G. and Michael G. Nametz, Trustees
of Nametz Family Living Trust
PROPERTY: 46 School Street, WH
COURT: Barnstable Superior Court
DATE OF ENTRY: December 2014
ISSUE: Plaintiff appealing decision granting Nametz's request on remand for
certificate of appropriateness to construct two car garage.
STATUS: Pending.

CASE: Elizabeth G. and Michael G. Nametz, Trustees of Nametz Family Living
Trust v. Falmouth Historic Districts Commission
PROPERTY: 46 School Street, WH
COURT: Barnstable Superior Court
DATE OF ENTRY: July 2013
ISSUE: Commission denied request for certificate of appropriateness to construct
two car garage.
STATUS: Superior Court remanded to Historic District Commission. On remand,
Historic District Commission issued certificate of appropriateness.

PLANNING BOARD

CASE: GSTVS, LLC v. Planning Board
PROPERTY: 25 Crocker Road, East Falmouth
COURT: Land Court
DATE OF ENTRY: October 2014
ISSUE: Appealing decision of Planning Board denying applicant special permit.
STATUS: Trial held December 3, 2015. Judgment for Plaintiff. Planning Board's decision annulled and matter remanded to Planning Board for proceedings consistent with the Court's decision.

CASE: Matthew R. Gould, Davien B. Gould, Pierre Tillier and Gisella Tillier v. Planning Board, Falmouth Hospitality LLC, John J. Fay, III, Trustee, Robert A. Fay, Trustee of Fay's Realty Trust
PROPERTY: Lantern Lane
COURT: Land Court
DATE OF ENTRY: July 2014
ISSUE: Appeal of Planning Board approval of request for subdivision modification.
STATUS: Land Court entered judgement on 7/14/2016 affirming decision of Planning Board and dismissing plaintiffs' other claims as premature. Plaintiffs have appealed decision to Appeals Court.

CASE: Nathan Ellis Highway, LLC (Cavossa) v. Planning Board
PROPERTY: 210 Nathan S. Ellis Highway, East Falmouth
COURT: Barnstable Superior Court
DATE OF ENTRY: July 2015
ISSUE: Appealing decision of Planning Board approving in part, denying in part, request for special permit for waste disposal contractor use.
STATUS: Pending.

CASE: William V. Stafford, David F. Stafford, Jayne R. Duggan, Jayne R. Duggan v. Planning Board and Louis Larry a/k/a Louis Larrey, Trustee of the Symon Realty Trust
COURT: Barnstable Superior Court
PROPERTY: Route 28A, North Falmouth
DATE OF ENTRY: February 2016
ISSUE: Appealing the decision of the Planning Board of granting special permit for planned residential development.
STATUS: Action dismissed upon Defendant, Larrey's Motion to Dismiss.

POLICE DEPARTMENT

CASE: Kimberly Carney v. Falmouth Police Department
COURT: Falmouth District Court
DATE OF ENTRY: April 2016
ISSUE: Plaintiff's license to carry was suspended she is appealing that decision.
STATUS: Decision upheld by Judge.

CASE: Stephen Fish v. Falmouth Police Department
COURT: Barnstable District Court
DATE OF ENTRY: October 2015
ISSUE: Plaintiff's license to carry was suspended he is appealing that decision.
STATUS: Plaintiff voluntarily dismissed case.

CASE: Brian and Kimberly Hunt v. David Massi, James Porter and Town of Falmouth
COURT: United States District Court
DATE OF ENTRY: March 2013
ISSUE: § 1983 civil rights police misconduct case.
STATUS: Federal court allowed Motion to Dismiss (filed by Defendants) and dismissed all remaining claims. There is still a state tort of malicious prosecution pending. (Case being handled by insurance counsel)

CASE: Falmouth Police Dept. v. Andrew Jones
COURT: Falmouth District Court
DATE OF ENTRY: December 2015
ISSUE: Petition to revoke license to carry.
STATUS: Defendant failed to appear. Decision upheld by Judge.

CASE: Lorraine Lowery v. Falmouth Police Dept.
COURT: Falmouth District Court
DATE OF ENTRY: December 2015
ISSUE: Appealing decision of Police to revoke license to carry.
STATUS: Decision upheld by Judge. Plaintiff moved to re-open her case. Hearing held in August, 2016. Court upheld the decision.

CASE: Robert Jude Wilber v. Officers Robert Curtis, Brian Kinsella, Michael Rogers and Michael Simoneau
COURT: Barnstable Superior Court
DATE OF ENTRY: January 2015
ISSUE: Claiming MGL c. 12, § 11I and 42 USC §1983 (civil rights violations and common law torts regarding false arrest and other related claims).

STATUS: Court entered summary judgment for town and police officers. Plaintiff filed a Notice to Appeal with the First Circuit Court. (Case being handled by insurance counsel).

CASE: Falmouth Police Dept. v. William Witter
COURT: Falmouth District Court
DATE OF ENTRY: August 2016
ISSUE: Petition to revoke firearms identification card.
STATUS: Continued pending disposition of related district court case.

RECREATION DEPARTMENT

CASE: Angelina Cummings v. Town of Falmouth and Helen Kennedy
Recreation Department Director
COURT: MCAD
DATE OF ENTRY: August 2015
ISSUE: Claiming unlawful discrimination and termination.
STATUS: Case settled by agreement of parties. (Case being handled by insurance counsel)

SCHOOL DEPARTMENT (also see Town of Falmouth)

CASE: Sharon Lessard v. Falmouth Public Schools
COURT: MCAD
DATE OF ENTRY: October 2016
ISSUE: Claiming discrimination related to age.
STATUS: Pending. (Case being handled by insurance counsel)

CASE: Phyllis Pina v. Falmouth Public Schools
COURT: MCAD
DATE OF ENTRY: March 2011
ISSUE: Claiming discrimination related to health issue.
STATUS: Pending. (Case being handled by insurance counsel)

TOWN OF FALMOUTH

CASE: Neil Andersen and Elizabeth Andersen v. Town of Falmouth
COURT: Barnstable Superior Court
DATE OF ENTRY: September 2012
ISSUE: Claiming private nuisance, taking, emotional distress as a result of the release of public records related to wind turbines.
STATUS: Trial scheduled for January 23, 2017. (Case being handled by insurance counsel)

CASE: Brian Elder, et al v. Town of Falmouth
PROPERTY: 161 Blacksmith Shop Road
COURT: Barnstable Superior Court
DATE OF ENTRY: March 2013
ISSUE: Claiming loss of property value and personal injuries related to wind turbines.
STATUS: Pending. (Case being handled by insurance counsel)

CASE: Lorraine Lowery v. Town of Falmouth
COURT: MCAD
DATE OF ENTRY: January 2016
ISSUE: Alleging discrimination by Police Department – firearms license.
STATUS: Case dismissed. (Case being handled by insurance counsel)

CASE: Linda Ohkagawa v. Town of Falmouth
PROPERTY: 821 West Falmouth Highway, West Falmouth
COURT: Barnstable Superior Court
DATE OF ENTRY: February 2015
ISSUE: Claiming Wind 2 at the WWTF constitutes a nuisance and a trespass onto the property of the plaintiff.
STATUS: Pending. (Case being handled by insurance counsel)

CASE: Carol S. Petit, Trustee of Beach House Realty Trust v. Town of Falmouth
COURT: Land Court
DATE OF ENTRY: August 2013
ISSUE: Land Court registration case – Megansett.
STATUS: Pending.

CASE: Henry Pollock v. Town of Falmouth
COURT: Land Court
DATE OF ENTRY: August 2013
ISSUE: Land Court registration case – Megansett.
STATUS: Pending.

CASE: Suzanne M. Sullivan v. Town of Falmouth
COURT: Land Court
DATE OF ENTRY: November, 2013
ISSUE: Land Court registration case – Megansett.
STATUS: Pending.

TAX COLLECTOR/TREASURER

This office is now handling all Tax Taking cases.

WATER DEPARTMENT

None

**COLLINS, LOUGHRAN AND PELOQUIN, P.C. – LITIGATION REPORT
(labor counsel)**

POLICE

CASE: Richard Everton v. Town of Falmouth
COURT: Suffolk Superior Court
DATE OF FILING: December 13, 2013
ISSUE: Richard Everton was terminated for gross insubordination and negligent operation of a motor vehicle. Civil Service Upheld the discharge and the employee appealed to Superior Court.
STATUS: On June 22, 2015, the Court denied Everton's appeal of the Civil Service Commission decision; he did not file a further appeal so the matter is closed.

CASE: NEPBA (Police Lieutenants) v. Town of Falmouth
COURT: Massachusetts Department of Labor Relations (Prohibited Practice)
DATE OF FILING: May 7, 2014 original charge; refiled January 14, 2015
ISSUE: Union alleging that Town reneged on a March 2012 agreement to permit Lieutenants to bid shifts by seniority.
STATUS: The initial charge was deferred for 6 months to allow bargaining over the issue in connection with the first contract for this group; the charge was then refiled. After an initial hearing on March 20, 2015, the charge was dismissed on April 17, 2015. The matter is closed.

CASE: NEPBA (Police Lieutenants) v. Town of Falmouth
COURT: Massachusetts Department of Labor Relations (Joint Labor Management Committee - JLMC)
DATE OF FILING: January 26, 2015
ISSUE: Impasse in negotiations for first contract with Lieutenants.
STATUS: This contract was recently settled between the parties, and signed February 12, 2016.

CASE: Eric Kraus v. Town of Falmouth
COURT: Civil Service Commission
DATE OF FILING: November 4, 2014
ISSUE: Whether the Town has just cause to dismiss Eric Kraus, a Falmouth Police Officer, in connection with removing fireworks from the police station in July 2014.
STATUS: Hearing before Commissioner Stein was held on May 8, 2015, and briefs were submitted on June 26, 2015. The matter is still pending a decision from the Commission.

FIRE

CASE: Falmouth Fire Fighters Local 1397 v. Town of Falmouth (Reimbursement for Medical Expenses Related to Injury on the Job)
COURT: American Arbitration Association (Arbitration)
DATE OF FILING: September 2014
ISSUE: Union alleges Town failed to timely reimburse firefighters for medical expenses related to an injury on the job
STATUS: The parties settled the case and agreed to a two year audit of all Fire Department 111F cases to verify cases where properly billed. Human Resources is working with Cook and Company to reverse inappropriate charges identified as part of audit.

CASE: Falmouth Fire Fighters Local 1397 v. Town of Falmouth
COURT: Joint Labor Management Committee (Interest Arbitration) JLMC-14-4004
DATE OF FILING: September 10, 2014 (Petition filed by Union)
ISSUE: Successor Collective Bargaining Agreement to the one that ended June 30, 2014
STATUS: There is an MOA to settle a Contract for July 1, 2014 through June 30, 2017 that is awaiting ratification by the Union and then the Town and funding by the upcoming Town Meeting. Pending

CASE: **Falmouth Fire Fighters Local 1397 v. Town of Falmouth**
COURT: American Arbitration Association
DATE OF FILING: January 21, 2015
ISSUE: Union alleges that Town violated Contract when it did not pay Firefighters who worked a detail because the vendor did not pay the Town. Contract provision states that Town doesn't have to pay until vendor pays. Town is pursuing the vendor for payment in Court
STATUS: Case settled in 8/15.

CASE: **Bergeron v. Town of Falmouth**
COURT: Civil Service Commission
DATE OF FILING: January 22, 2015
ISSUE: Fire Lieutenant Robert Bergeron filed a "bypass" appeal because he was not selected Captain even though the top candidate coming out of the assessment center was selected. Bergeron was ranked second in the assessment center process.
STATUS: A hearing was held at the Civil Service Commission on the Town's Motion to Dismiss on April 30, 2015. The parties are awaiting the results of that Motion. Pending

CASE: **Martino and Walker v. Town of Falmouth**
COURT: Civil Service Commission
DATE OF FILING: February 12, 2015
ISSUE: The Town and two firefighters filed joint petition for 310 relief to adjust civil service seniority based on date of hire by Falmouth Fire.
STATUS: Civil Service Commission pre-hearing scheduled for March 11, 2016 concerning joint application for retroactive civil service seniority of two firefighters who recently passed physical abilities test. Pending.

AFSCME

CASE: **AFSCME Local 93 v. Town of Falmouth (2 Day Suspension)**
COURT: American Arbitration Association (Arbitration)
DATE OF FILING: June 2014
ISSUE: Union alleges no just cause for two day suspension for employee's failure to perform snow shoveling duties
STATUS: Case was settled short of arbitration hearing.

CASE: **AFSCME Local 93 v. Town of Falmouth**
COURT: Department of Labor Relations
DATE OF FILING: February, 2013
ISSUE: This discharge arbitration has been the subject of settlement discussions because of unusual circumstances which have reduced the amount of any liability that the Town will incur if an adverse decision is made.
STATUS: Case was settled in June 2015, without reinstatement of discharged employee.

