

The Bachman Law Firm PLLC

365 South Main Street, 2nd Floor
New City, New York 10956
845-639-3210

September 9, 2021

VIA ECF
Hon. Sherri L. Eisenpress
Supreme Court of New York
County of Rockland
1 S. Main Street
New City, New York 10956

Re: Request for a Scheduling Conference or to So Order Letter in Mancuso, et al. v. Adirondack Mountain Club, Inc., Index No. 033635/2021

Dear Judge Eisenpress:

We are counsel to the Petitioners in the above referenced matter. After completing observance of Rosh Hashana, I was disappointed to see the filing from Respondent (ECF Doc. 31) asking the Court to cancel the scheduled settlement conference.

At that scheduled settlement conference, we expected to discuss:

- Respondent's accusation that Petitioners engaged in self-dealing by recently changing the bylaws to add entry qualifications to camp and exclude most members is patently untrue as **the qualification requirements for access to our camp have been in place, in one form or another, since 1931 and have been carried through every iteration of the bylaws through today**; moreover, the necessity for limiting access to camp stems from: i) outside authorities like the NYS DOH, ii) the fact that there is no staff or lifeguard at the camp, and iii) that we are a 501c7 entity and cannot serve the public;
- Respondent's allegation that our tax filings and pass through donations were illegal and jeopardized its tax status is belied by the fact that **two months after making those allegations, the Respondent stated in its own financial statements and tax filings that "management is not aware of any events that could jeopardize the Club's tax exempt status."**;
- Respondent's claim that it provides the majority of our funding¹ is undercut by our financial records, provided in response to Respondent's request, showing that **we are 93% self-funded; mostly from one bequest explicitly to the New York Chapter Inc. of the Adirondack Mountain Club Inc.** and otherwise from camp activities; and the remaining 7% is from shared membership fees mandated to be paid over by the Respondent's bylaws;

¹ We asked Respondent to provide documentation of this claim and were told by counsel on August 26 "I apologize for the delay. The longtime CFO retired at the end of July and the new CFO is getting up to speed. I anticipate receiving the information you requested from ADK early next week." No information was provided.

- Respondent’s true motivation for the expulsion and dissolution **is to seize our cash** as shown in its own Board resolution laying claim to our “fund balances” (ECF Doc. 27, p. 3); our cash would make up for Respondent’s pandemic caused lost revenue and give it funds for other ventures. If this were not the motivation, then Respondent would have agreed to settle the case by simple disassociation, as discussed with the Court.

Of course, neither we nor the Court can force the Respondent to act in good faith, and therefore, it makes sense for the Court to have cancelled the settlement conference.

That being said, we respectfully request that the Court either convene a scheduling conference or so order this letter confirming:

1. Reply papers on the Order to Show Cause be filed on or before October 21, 2021 and a further return date for oral argument to be set thereafter.

As recounted in ECF Doc. 30, Respondent filed opposition to the OSC on July 15, 2021. We asked that the Court take no further action on the order to show cause pending (1) the setting of a briefing schedule for our reply papers (OSC, ECF Doc. 18, p.2, “Briefing schedule will be given on return date.”) and the filing of such reply papers, and (2) a further return date for oral argument. We ask that we be permitted to file reply papers on or before October 21, 2021 (the date the Court scheduled opposition to any Motion for a Change of Venue) and the Court set an argument date thereafter.

2. Pending a decision on the OSC, Respondent be ordered to comply with the TRO contained therein by, inter alia, paying over all shared membership/affiliate fees due to Petitioners, sending an updated membership list, and treating individual Petitioners as members.

The TRO directed that “Petitioners/Plaintiffs SHALL BE AND HEREBY are restored to their status and rights as they were prior to June 26, 2021, including, but not limited to, restoring the individual Petitioners/Plaintiffs to their membership in NY ADK and restoring ADK and NY ADK as a chapter of ADK and being allowed to operate in the ordinary course” ECF Doc. 18.

Respondent is not complying with the TRO in that it has:

- Failed to pay over shared membership/affiliate fees to Petitioner; such payment to a chapter is required by Respondent’s own bylaws;
- Failed to provide updated membership lists to Petitioner so that it can communicate with its members and operate in the ordinary course; and
- Failed to treat individual Petitioners as members by excluding them from member communication and not reflecting their membership status as current on their rolls.

Respectfully submitted,

/s/

Judith Bachman