

THE STATE OF NEW HAMPSHIRE

STRAFFORD, SS

SUPERIOR COURT  
CASE NO.:

PETER VARNEY, Petitioner

v.

TOWN OF NEW DURHAM, Respondent

**PETITION**

NOW COMES Petitioner, Peter Varney, in the above-entitled action, by and through his attorneys, the Law Offices of Paul M. Monziona, P.C., and pursuant to RSA 154:5 II, Petitions this Honorable Court for the purpose of having this Court negate the alleged dismissal of Petitioner as the Fire Chief of the Town of New Durham, and alleges as follows:

1. At all times relevant hereto, Petitioner, Peter Varney, was and is a resident of the Town of Alton, New Hampshire, with a mailing address of P.O. Box 702, Alton, New Hampshire 03809.
2. At all times relevant hereto, Respondent, Town of New Durham, was and is a town duly established and organized in accordance with applicable law in the State of New Hampshire and a municipal corporation.
3. On or about May 11, 2009, the Board Selectmen for the Town of New Durham, on behalf of the Town of New Durham, duly appointed Peter Varney as Fire Chief for the Town of New Durham. Chief Varney received written confirmation of his appointment on May 11, 2009,

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Wolfeboro, NH 03894  
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with such term to expire in March, 2012. A true and correct copy of such confirmation of appointment is attached hereto as Exhibit "A."

4. Pursuant to Article 23 of the Town of New Durham as enacted by a majority vote of a Town Warrant in March of 2008, the appointment of the Town Fire Chief is for a term of three years.

5. Upon the expiration of the above-referenced three-year term, Chief Varney continued in his capacity as Fire Chief for the Town, and through various acts and conduct, including but not limited to confirmation of reappointment by signing of paychecks by members of the Board of Selectmen, (hereinafter referred to as the "BOS"), the BOS on behalf of the Town reappointed Chief Varney for another three-year term, set to expire in March of 2015.

6. Alternatively, as a result of the acquiescence of the BOS regarding the reappointment of Chief Varney and by operation of law, the appointed position of Fire Chief for the Town of New Durham was reinstated for another three-year term.

7. Notwithstanding the above, on or about February 3, 2014, the BOS conducted a public meeting without providing the public or Petitioner notice of the meeting or of its agenda as required by RSA 91 A: 2, wherein the BOS allegedly dismissed and/or terminated the appointment of Chief Varney. Moreover, this alleged dismissal and/or termination of Chief Varney's appointment failed to provide any good cause grounds, and the BOS failed to provide Chief Varney with written specification of the reasons for such dismissal and/or termination, all in violation of RSA 154:5 II.

8. At all times relevant hereto, the acts as herein alleged on the part of the BOS were done intentionally and maliciously in that one of the members of the BOS has a predisposition against Chief Varney due to a personal dislike and a vengeful motive, and therefore Petitioner is entitled to costs and attorneys fees for the bringing of this Petition.

9. As a direct and proximate result of the above-alleged conduct, including Respondent's violation of RSA 91 A: 2, and RSA 154:5 II, Petitioner has had his lawful appointment unlawfully dismissed and/or terminated and has suffered economic and other consequential damages, and is entitled to have the alleged dismissal and/or termination negated and to have his appointment reinstated.

WHEREFORE, Petitioner, Peter Varney, prays for relief as follows:

A. For the alleged dismissal and/or termination of his position as Fire Chief of the Town of New Durham to be negated;

B. For a Court Order reinstating Chief Varney as the Fire Chief for the Town of New Durham; and

C. For all recoverable economic and consequential damages, including all special damages, and for costs, attorney's fees, and interest.

#### **REQUEST FOR HEARING**

Petitioner, Peter Varney, hereby requests a hearing on the merits of this Petition and reasonableness of such conduct pursuant to RSA 154:5 II.

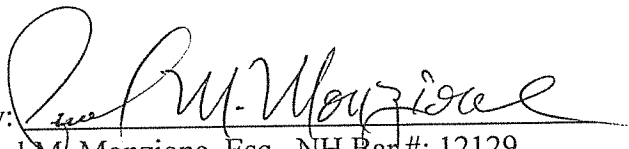
Respectfully submitted,

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PETER VARNEY  
By his attorneys,

Law Offices of Paul M. Monziona, P.C.

Date: March 17, 2014

By:   
Paul M. Monziona, Esq., NH Bar #: 12129  
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## **EXHIBIT A**

# APPOINTMENT OATH OF OFFICE

To Peter Varney of Alton in the County of Belknap.

WHEREAS, there is a vacancy for the position of Fire Chief in the Town of New Durham Fire Department in said town and whereas we, the subscribers, have confidence in your ability and integrity to perform the duties of said office, we do hereby appoint you, the said Peter Varney, Fire Chief for said Town and upon your taking the oath of office, and having this appointment and the certificate of said oath of office recorded by the Town Clerk, you shall have the powers, perform the duties, and be subject to the liabilities of such office. Term to expire March 2012.

Given under our hands this 11 day of May 2009

R. W. W. Chesapeake D. H. Bickel

Selectmen of the Town of New Durham

"I, Peter Varney, do solemnly swear that I will faithfully and impartially discharge and perform all the duties incumbent on me as Fire Chief for the Town of New Durham to the best of my abilities, agreeably to the rules and regulations of the Constitution and Laws of the State of New Hampshire; So help me God."

Signature Peter Varney

Address .....

Phone .....

Personally appeared, the above named Peter Varney took and subscribed the foregoing oath. State of New Hampshire, Strafford County.

Carole Ingham

Selectman, Town Clerk, Dep. Town Clerk

On the 14 day of May of 2009

Received and Recorded 5/14/2009

Carole Ingham

Carole M. Ingham, Town Clerk