Exhibit F
The meeting was called to order at 12:07 p.m.

Bill raised the question that has been on the blog about whether Frank has a conflict of interest by serving on the board of the Hanover Institute and the Executive Committee. Frank denied a conflict and said he would put his loyalty to the Association ahead of the Hanover Institute. Bill Hutchinson told us that he resigned as an officer of DAOG, so he would have no conflict with the Association based on that. David Spalding said that his position with the College was fully disclosed to the voters and they decided on the conflict when they voted.

Bill made the following motion: We the Executive Committee of the Association of Alumni recognize that Frank Gado holds a position on the Board of the Hanover Institute while he is serving as an officer and director of the Association. We do not deem this to be a conflict of interest. Kate Aiken seconded the motion.

Voting "yes": Alex Mooney, David Gale, Bert Boles, Marji Ross, Tim Dreisbach, Kathryn Wallop, Cheryl Bascomb, David Spalding (8); recusing himself: Frank Gado (1); voting "no": Bill Hutchinson (1).

Alex moved that the minutes of 8/7/07 be accepted. Frank seconded the motion, which then passed unanimously.

Old Business
- Balloting Committee update: Bill and Alex met. The committee has a meeting pending with the Alumni Council's Nominating and Trustee Search committee in early September.
- Governance Committee update: the committee has not yet met.
- A letter to the Alumni Council president was composed and emailed during the previous weekend.
- Marji used regular mail to send the letter to the Governance Committee of the Board of Trustees on Monday.
- Letter/survey update revealed a lot of letters have been returned due to bad addresses. Nine to one are in favor of the questions. About 4,200 replies have come in. Frank doesn't have the figures to look at pricing. Alex moved that the day after August 27, 2007, Frank would inform the alumni of the results by posting it on the Association website and the blog and sending it to the trustees. Marji seconded the motion, which was unanimously approved.

New Business
- Haldeman meeting update: Trustee Ed Haldeman, Rick Silverman and Bill Hutchinson had dinner on 8/20/07. Bill provided a brief summary of the dinner. Discussion ensued. Marji said she was very disappointed in Bill for writing the editorial in the Dartmouth. Alex doesn't agree with what was in the editorial either. Cheryl feels others have taken a similar public position. Bert feels there are people who love the College but disagree with the direction it is taking and feel they're not being heard. Bill said he encouraged Ed to meet with people of various opinions.
•Kate dropped off the call and gave her proxy to Bill.
•Frank offered his motion and Alex seconed the motion. David Gale felt it was premature and that he would not put Frank in this role. In preparation for this motion Frank has had some discussions and there is a prestigious firm that will take this on. Given division in the committee, the firm wants one person or a concentration of people to be their client. Marji asked about prior counsel withdrawing. Frank feels we are being forced to do this by the way it's being handled. There were joint meetings to complete the 1891 agreement and that should happen again. There is an imbalance of power and we need to balance that. The firm he's talked to is Williams and Connolly, and Frank has talked to two Dartmouth alums there. They worked on the Duke lacrosse case. Bert feels we need to move quickly if the board takes action. We need to have a position prepared to support the 1891 agreement. We owe this to our constituents. Bert added to this motion and Frank agreed. Williams and Connolly expects to be paid. They probably wouldn't do it on a pro bono basis.

In response to a direct question from David Spalding, Frank stated that he has not discussed the matter of engaging a law firm with any of the trustees.

Bert proposed a further amendment which Frank agreed to. The revised resolution follows:

RESOLVED, that the Executive Committee hereby designates Frank Gado as Liaison for Legal Affairs ("the Liaison"), and that the Executive Committee hereby delegates to the Liaison the full power and authority to retain on behalf of the Association of Alumni, on terms established in the Liaison's discretion, outside counsel and other advisors as the Liaison may deem appropriate; and the Liaison is authorized to oversee and direct the work of such representatives, on behalf of the Association of Alumni, including preparing for potential litigation, as the Liaison and the representatives may deem appropriate to protect the role of Dartmouth alumni in College governance, including the right of Dartmouth alumni to select one-half of Dartmouth's non-ex officio trustees, and to ensure that alumni voting power on Dartmouth's Board of Trustees is not abridged or diluted.

This resolution does not authorize the filing of a lawsuit. Such a filing would require a further resolution of the Executive Committee.

The sense of the Executive Committee is that a duty is owed to our constituents to apprise the Association of the legal rights of alumni and, in the face of uncertainty about possible actions to undermine those rights, and the potential timing of those actions, to be prepared to defend those rights. It is the fervent desire of the Executive Committee that no legal recourse become necessary, and discussions, in good faith, with elected alumni representatives will take place with ample time prior to any Trustee vote to change the alumni role in College governance. Voting "yes" (6): Alex Mooney, Bert Boles, Tim Dreisbach, Marji Ross, Kathryn Wallop, Frank Gado; abstaining (1): David Gale; voting "no" (4): Cheryl Bascomb, Bill Hutchinson, David Spalding, Kate Aiken.

•Post-September communication's vehicles: discussed with Ed Halldeman and Rick Silverman were how the Board's decision should be communicated. Bill is looking for suggestions.
•Marji dropped of the call and gave her proxy to Bert.

Other Business

•Frank moved his motion and Alex seconded it:

RESOLVED: Whereas the Dartmouth Alumni Magazine declares that "the purposes of the Magazine are to report news of the College and its alumni, provide a medium for the exchange of views concerning College affairs, and in other ways provide editorial content that relates to the shared and diverse experiences and interests of Dartmouth alumni," and Whereas Ann P. Duffy, the chairman of the editorial board, has described the DAM as "an independent publication with a mission to inform Alumni and other reader constituents interested in knowing more about Dartmouth, including broad and varied subjects relating to the college, the faculty, the students, and most importantly, the Alumni," the executive committee of the Association of Alumni urges that those responsible for the content of the magazine devote far more attention to news of the Association and Alumni Council and to a broad presentation of views regarding relations between the alumni and the College. We ask, further, that the editorial board discuss its policies with the executive committee with the aim of promoting a more informed and sophisticated alumni electorate.

Discussion ensued. Bert felt this resolution needed to be redrafted and Frank agreed to withdraw it.

The meeting was adjourned at 2:10 p.m.
Respectfully submitted,

David Spalding
Secretary-Treasurer, Association of Alumni
Vice President for Alumni Relations
Exhibit G
Association of Alumni Executive Committee

Minutes from October 2, 2007, Conference Call

Participating: David Gale, Alex Mooney, Bill Hutchinson, David Spalding, Marji Ross, Frank Gado, Tim Dreisbach, Bert Boles

Absent: Kate Aiken, Kathryn Wallop

Proxy: Cheryl Bascomb to Bill Hutchinson

Agenda
1. Old Business
   a. Minutes of 9/4/07
   b. Minutes of 9/20/07
   c. David Gales tabled motion from 9/20/07

2. New Business
   a. Frank's first motion
   b. Frank's second motion

Old Business

The Executive Committee postponed approval the 9/4/07 minutes until Frank has a chance to review them. Frank reported having problems with his email server. Approval of the 9/20/07 minutes was tabled until the October 18, 2007 conference call. David Spalding will reformat those minutes. David Gale requested that moving forward the minutes be made available sooner. David Spalding agreed to do his best in that regard.

After a brief discussion, David Gale moved and Tim seconded that the committee should discuss Frank's two motions before reopening its discussion on David Gale's tabled motion (9/20/07).

New Business

Frank's first motion:

WHEREAS, the board of trustees enacted resolutions on September 8, 2007 that would reduce the proportion of trustees chosen by the alumni to less than one-third of Dartmouth's board, and a committee of the board announced that the proportion of "alumni trustees" may be reduced still further in the future;

WHEREAS, the Executive Committee believes that the board's willingness to diminish the responsibility of alumni for Dartmouth's governance will ill serve the College by depriving it of the myriad benefits that alumni selection of trustees provides;

WHEREAS, the Executive Committee believes it is in the best interests of Dartmouth College and its alumni that a judicial opinion be obtained as to the propriety of the board's planned governance changes, and to ensure to the greatest extent possible that the responsibility of alumni for Dartmouth College's governance is not diminished;

Whereas, members of this Executive Committee reached out to the Trustees asking whether they were
open to further negotiation on the issue of parity between the number of alumni-elected and charter trustees, and the Trustees said they were not flexible on this decision;

Whereas, a further request was made to the Trustees to delay implementation of their decision by refraining from choosing new charter trustees at the November meeting, in order to provide a chance for mediation, and the Trustees refused to provide assurance of such forbearance;

WHEREFORE, it is resolved that Frank Gado shall continue as Liaison for Legal Affairs ('the Liaison'), and that the Executive Committee hereby delegates to the Liaison the full power and authority to oversee and direct the work of outside counsel, on behalf of the Association of Alumni, to seek (a) a declaration of the Association's right to choose one-half of Dartmouth's non-ex officio trustees through the Association's chosen selection process; (b) an injunction (i) barring the College from adding charter trustees to its board, unless it seats an equal number of alumni trustees chosen by the Association, and (ii) requiring the College to continue seating alumni trustees chosen by the Association; and (d) such other and further relief as the Court deems just.

Bert reported that as an individual he had talked to Trustees John Donahoe and Christine Bucklin. In both cases, the conversations were cordial and respectful. The disagreement is based on two different premises of alumni trustees. Bert respects their reasoning, but starts from a different premise. The fundamental request was whether they would delay naming new charter trustees in November to allow time for dialogue. When asked if they would commit in writing to doing so, neither was able to. Bert feels our constituents are losing an important right and he doesn't feel we can let that happen. Bert said those differences on alumni trustees are not legally based.

Bill pointed out we're shifting from a policy dispute to an argument that this is legally actionable. Bert did not talk legal aspects with them. The question really was, would they mediate on the parity question. Having read the report, Bert felt he could persuade them that continued parity did not go against their goals. Their premises are: 1) The College is doing fine right now; 2) It's more damaging to the College's reputation and to fundraising than it is beneficial to have the debates. Bert disagrees because he feels the College is heading in some wrong directions and fundraising is not an issue. So, the position we need to safeguard for our constituents is in danger.

Bill suggested Bert has not made a legal argument. Tim felt that wasn't what Bert tried to do; rather he tried to argue for parity and a change to the election process. Since they won't change back, we now shift to a legal answer because they have both made a bad policy decision and acted illegally. David Gale indicated the Board won't breach the contract until they seat trustees. They have repudiated alumni rights and we can't allow that without taking action. Tim wants the minutes to reflect Bert's discussions with John and Christine. Cheryl Bascomb also reached out to Christine and received the same answer. Bill pointed out that these were informal contacts, not formal ones. Frank felt these were attempts to come to a reasonable agreement since we all have the College's interests at heart. Tim wants the minutes to show that we did reach out again on parity. Bert agreed they were informal contacts. Bert did tell Christine on Friday that we were likely to vote on Tuesday night to seek injunctive relief and he asked that she try to get the Board to provide limited assurance on not adding trustees in November. See Bert's email of Friday and Cheryl's email of Thursday, which are appended.

This has been discussed with lawyers. David Gale said it's based on Frank's research on the 1891 agreement as a contractual obligation or not with alumni. Tim has also met Williams & Connolly in person. Tim reported they believe it is a strong and legitimate basis. Tim cannot share that with David Spalding due to a conflict of interest. David Spalding inquired if all other members of the Executive Committee, other than himself, have had a chance to discuss this basis with Williams & Connolly as Tim noted anyone could call the partners.

Bill was surprised that this invitation had not come up in earlier discussions. He recalled that the firm chose to talk with one person. Frank noted in addition to himself, with whom W&C spoke on the Executive Committee was at his discretion.

David Spalding felt that it would be important for other members of the committee to weigh in on the basis for litigation. He asked for Bert's opinion. David Gale noted if people feel there is a strong case they can choose to vote yes, if not, they can vote no. He added that regardless of the strength of the case, we need to do this. If we don't amend our constitution, we will lose our ability to run trustee elections. There is a significant portion of alumni who are upset by the Board's recent decision and they probably won't go with any amendment if we look as if we are caving in to the Board. It needs to get sorted out whether or not this is a legal issue and we need an answer from court. Marji noted that there are other things we can do if this
fails, such as withholding funds or using the bully pulpit.

Bill commented that he had been part of a similar effort which had been an abject failure. Even that group thought they were on solid ground going into litigation. In their case the court had levied sanctions. Was the present AoA prepared to have sanctions levied against it? And how was the current case different from earlier litigation that had been a failure?

Frank believes there will be no sanctions as he had discussed that eventuality with Williams & Connolly already and they were convinced the case was solid.

Bill, recalled that his group had hoped to win. In hindsight it was not well done. Had he better counsel he may not have been a part of it. He recalled they did not have a legal basis and neither did the current AoA. He reminded the executive committee that the New Hampshire Superior Court had called the litigation he had been involved with frivolous. It came at the end of a series of other law suits.

Frank inquired if Bill was suggesting any litigation against Dartmouth in a New Hampshire court would lose?

Bill felt members of the AoA were basing their litigation on complaints rather than on legal grounds. The College has not broken a law. It's a beef, and AoA members want to ask the Court to settle that dispute where the College and the BOT have researched in depth and feel they are on very solid ground. You will have your hat handed to you.

David Gale countered that if the 1891 agreement carried legal weight regarding parity, the Board's recent action would be illegal.

Tim stated that we should just ask the Court for an opinion on whether or not the 1891 agreement was a legal contract or not. Bill pointed out that that action was what is called filing a lawsuit. It's not a simple matter of asking a question and walking away with an answer. Tim was not deterred by the semantics and pressed that the paper be filed so that the answer could be given.

Bert pointed out that he could not provide counsel re Williams' & Connolly's advice but did want to share his assessment of the current situation: 1) whether or not this has escalated far enough to sue; 2) the potential for sanctions and their cost; 3) what are the merits and do we have a case? Regarding the first two points he did not like suing is alma mater; however, not being able to go any further with the Trustees he felt he owed it to his constituents and to the College's best interest to bring a lawsuit if it must come to that. He was also willing take the risk with sanctions. After reading Ed Haldeman's emails, the Governance Committee Report, Kate Stith-Cabran's thoughtful piece, the 1891 agreement and Frank's research, he feels AoA has a case. It comes down to the intent of the 1891 agreement. Was there an intent of the trustees to be bound projecting forward with its 1891 agreement. Common sense and the historical record indicate, yes. Williams & Connolly is a very reputable law firm in Bert's opinion, which makes him feel the AoA has a good legal case. It gives him comfort to go forward and support Frank's motion.

Bill expressed his concern regarding funding legal fees. Frank felt had already been covered; however, he and Tim stated there was adequate assurance from the firm that it would not financially obligate the association for any legal fees it incurred should it move forward with the lawsuit on AoA's behalf. Frank assured the committee that the Association would be the firm's client and not some unknown entity or entities. Frank noted that he does not know who is paying the legal fees. He never wanted to be brought into that discussion. He assumes the funds may be from more than one person, but does not know. David Gale noted that we can't do what the Board requests of us without first getting a legal opinion regarding parity.

Bill asked how this serves those alumni you represent who feel the Board is perfectly right. Bert felt most did not. At a recent event in Los Angeles, some in the audience who claimed never to have voted for a petition candidate still felt removing parity would be outrageous. Bert believes our constituents are deeply offended.

Bill said that he wished they hadn't messed with it, but more due to the controversy. He doesn't think you have a snowball's chance to win a lawsuit. Tim wondered if that is due to charter or it's not an agreement. Bill said that he believes it's not an agreement. A new resolution can change this. Tim stated that there are very bright lawyers on both sides so it won't be a frivolous case. The seriousness of the issue merits the case and the support we have makes it worth debating.

Frank called the question.

Tim asked David Spalding if he would recuse himself since he had two masters. David Spalding said he would not since all alumni voting for him knew he might face a conflict of interest like this.
Voting "yes": David Gale, Alex Mooney, Marji Ross, Frank Gado, Tim Dreisbach, Bert Boles
Voting "no": Bill Hutchinson, Cheryl Bascomb, David Spalding

**Frank's second motion:**

Frank moved his second motion which was seconded by Tim Dreisbach.

I move issuance of the attached statement:

**STATEMENT OF THE ASSOCIATION OF ALUMNI OF DARTMOUTH COLLEGE**

HANOVER, N.H.—The Association of Alumni of Dartmouth College has decided to seek a judicial opinion as to the propriety of planned governance changes that the board of trustees announced on September 8, 2007.

The trustees announced that they will expand Dartmouth's eighteen-member board by adding eight new trustees to be chosen solely by the board itself. The trustees' plan would reduce from one-half to one-third the percentage of trustees elected by Dartmouth alumni (not counting New Hampshire's governor and Dartmouth's president, who serve ex officio). The trustees' plan also states that the trustees may consider reducing the percentage of "alumni trustees" even further in the future.

Under an 1891 agreement between the Association and the College, one-half of Dartmouth's trustees are to be chosen by the alumni.

The Association's Executive Committee believes that the selection of one-half of the trustees by Dartmouth alumni remains vital to ensure Dartmouth College's progress, prominence, and usefulness as America's finest undergraduate College. Alumni selection of trustees encourages Dartmouth alumni to take a lively interest in the College's affairs and to devote their attention to its needs; ensures that the College benefits from the advice and experience of its great body of successful graduates; and ensures that those who love Dartmouth the most—its sons and daughters—have responsibility for its future.

The Executive Committee believes it has a duty to act in the best interests of Dartmouth College and its alumni, and it believes that it can best serve those interests by seeking a judicial opinion as to the propriety of the board's planned governance changes, and by ensuring to the greatest extent possible that the responsibility of alumni for Dartmouth College's governance is not diminished.

Alex dropped off the call at 9:15 p.m. and gave his proxy to Frank.

Frank said he would issue the statement to alumni broadly. David Spalding said the College wouldn't post it. Bert raised an issue because he believes Dartmouth is not the pre-eminent college now, but we will get there again. Tim counseled against a change. Discussion ensued.

The question was called: voting "yes": David Gale, Alex Mooney, Marji Ross, Frank Gado, Tim Dreisbach, Bert Boles; voting "no": Bill Hutchinson, Cheryl Bascomb, David Spalding.

The committee returned to a discussion of David Gale's motion of 9/20/07.

Frank would support the motion although he's not sure it will be successful. He feels it's a good idea, but it needs to be better researched to be designed in the best way possible. We've been distracted with these other items. Has it cleared all legal hurdles?

David Gale said he's not hopeful this would be enough to change the board's mind, but it would be good to have an alternative for those who want to support the College. It is good for us to do this for these alumni.

Cheryl Bascomb joined at 9:28.

David Gale agreed to amending his motion so it needs to read as follows.

Moved, that the Association of Alumni Executive Committee authorize David Gale to investigate creating a Trust, managed by an independent trust firm, to which Dartmouth's alumni may donate; the funds in this Trust to be donated to the College at such time as the Board of Trustees is comprised of an equal number of members elected by the Board ("charter Trustees") and elected by a vote of all voting alumni ("alumni Trustees"). Further, that any interest from this Trust be used as the Association of Alumni Executive Committee deems appropriate, including, but not limited to, meeting normal operating expenses of the Association and scholarship grants to undergraduate students. Further, that the amount of funds in this Trust be announced to alumni in the Secretary/Treasurer's report at each annual meeting, and subsequently communicated directly to the Board of Trustees. And, further, that the existence of this Trust,
and instructions for donating money to it, be announced annually to all alumni through whatever means deemed appropriate by the Executive Committee of the Association.

Frank suggested that David talk to John MacGovern given the Hanover Institute’s efforts in this regard.

David moved his amended motion and Tim Dreisbach seconded it. Votes cast: six yes (David Gale, Alex Mooney, Marji Ross, Frank Gado, Tim Dreisbach, Bert Boles; three no (Bill Hutchinson, David Spalding, Cheryl Bascomb).

Frank brought up his Dartmouth Alumni Magazine motion again which Bert is to rewrite.

Tim said the bank account has $3,700 in it. Marji has said the cost of the mailing Frank funded is reasonable but she hasn’t forwarded her cost estimates. Tim suggested Frank get paid in part. Frank asked we try to get the word out to ask for money. Discussion ensued on reimbursement.

Tim noted a related issue is an Association website. Do we want our own? Commitment is to have one and maintain it. Would the College link?

Frank raised his concerns again about the College’s use of vox as a verb.

The meeting was adjourned at 10:00 p.m.

Next scheduled conference call: Thursday, October 18 at noon. Dial 866 420-6168 and enter conference code: 6462312.

Respectfully submitted,

David Spalding
Association of Alumni Secretary-Treasurer
Vice President for Alumni Relations

Boles Email
Bascomb Email
Exhibit H
Material Redacted

-----Original Message-----
From: Alumni Council [mailto:Alumni.Council@Alum.Dartmouth.ORG]
Sent: Friday, October 05, 2007 4:02 PM
To: Pepperman, Richard
Subject: Call to Drop Lawsuit

Dartmouth College Alumni Council Statement Opposing Lawsuit

On October 3, 2007, six members of the 11-member Executive Committee of the Association of Alumni of Dartmouth College caused a lawsuit to be filed against the College in New Hampshire Superior Court. The lawsuit seeks to stop the Board of Trustees of the College from taking certain actions respecting the composition of the Board, and from making nomination to the Board by alumni more democratic. Historically, the sole responsibility of the Executive Committee of the Association of Alumni has been to run the annual meeting of the Association and related elections. In contrast, the 100-member Alumni Council is the representative body of Dartmouth's 68,000 alumni, constitutionally charged with being the "primary forum" for discussion of issues and concerns relative to the alumni body and the College, and the "principal spokesperson" of the alumni. The Alumni Council's purpose is to "act in the best interests of Dartmouth College."

As the principal spokesperson for Dartmouth College's alumni, the Alumni Council opposes and calls for the immediate voluntary dismissal of the lawsuit. While the Alumni Council is aware that Dartmouth alumni have varying opinions on the desire for "parity," the Council believes that the lawsuit is meritless, against the will of the majority of Dartmouth's alumni, and harmful to the interests of the College and the alumni.

In the event, the lawsuit is still pending as of the time of the Alumni Council's Fall Meeting, November 29-December 1, 2007, the Council will consider whether any further action is appropriate based on additional consultation with the alumni body.
Exhibit I
Dartmouth Alumni Association Election Results: Record Number of Alumni Voters Elect New Association Leaders Committed to Ending Lawsuit against College

FOR IMMEDIATE RELEASE
JUNE 10, 2008

HANOVER, NH – The Dartmouth College Office of Alumni Relations today announced that a record number of Dartmouth alumni voted to elect new leadership of the Association of Alumni (AoA) committed to ending a lawsuit against the College.

Every member of the "Unity" slate of candidates for the eleven-member executive committee was elected with approximately 60 percent of the votes cast. With 24,940 ballots cast, a record number of Dartmouth College's more than 60,000 alumni participated in the election, approximately 38 percent.

"Dartmouth alumni have expressed their support for ending the lawsuit against the College and pursuing a more collaborative and productive approach to governance," said David Spalding, Dartmouth's Vice President for Alumni Relations, who was reelected secretary-treasurer of the Association."The unprecedented participation in this year's AoA election reflects the great passion alumni have for Dartmouth and their strong commitment to doing what's best for its students."

The following alumni were elected. Their vote totals are in parentheses. (N) designates candidates nominated by the AoA Nominating Committee. (P) represents petition candidates.

Executive Committee Officers

President:
John H. Mathias Jr. '69 (N) (14,919) – 22 percent margin of victory
J. Michael Murphy '61 (P) (9,705)

First Vice President:
Cheryl A. Bascomb '82 (N) (14,908)
Bert Boles '80 (P) (9,704)

Second Vice President:
Douglas H. Keare '56, '57Th, '57Tu (N) (14,909)
Paul Mirengoff '71 (P) (9,659)

Secretary-Treasurer:

David P. Spalding '76 (N) (14,502)
F. Marian Chambers '76 (P) (9,913)

Executive Committee Members

Marian Zischke Baldauf '84 (N) (14,504)
Veree Hawkins Brown '93 (N) (14,286)
John S. Engelman '68, Hanover (N) (14,414)
Ronald G. Harris '71 (N) (14,183)
Kaitlin Jaxheimer '05 (N) (14,221)
Otho E. Kerr, III '79 (N) (14,361)
Ronald B. Schram '64 (N) (14,560)

Other Executive Committee candidates and vote totals included:

Frank Gado '58 (P) (9,474)
Zach Hafer '99 (P) (9,486)
Alexander X. Mooney '93 (9,453)
Richard Roberts '83 (9,452)
Marjory Grant Ross '81 (9,397)
John Steel '54 (9,829)
Charles J. Urdstadt '49, '51Tu (9,568)

Alumni voted to accept the proposed change to the association constitution that was included on the election ballot by a vote of 19,821 "yes" to 3,017 "no", an 86 percent margin of victory. The amendment required a two-thirds supermajority of voting alumni to pass. The amendment includes a provision for all-media voting in the association constitution. This provision formerly appears in variable association voting guidelines.

Approximately 16,397 ballots were cast online (66 percent), 8,543 ballots (34 percent) were cast by paper, including 65 cast in-person today. Balloting began April 28, 2008, and closed at midnight June 5 for receipt of online and mailed ballots.

The vote count was administered by TrueBallot Inc., (TBI), an independent election administration company that ensures the security, accuracy, and impartiality of association and other types of elections. TBI was contracted by the Association of Alumni and Dartmouth College to manage all balloting, ballot counting, personal email reminders, and in-person voting.

For more information about the 2008 Dartmouth Association of Alumni election please visit www.oxthevote.org

The Dartmouth Association of Alumni's primary role is to run the annual meeting of the Association and related elections. The organization is distinct from the Alumni Council, which has a much broader role to act as principal communications vehicle between alumni and the College. The Council is made up of nearly 120 representatives of Dartmouth's alumni classes, clubs, and affiliated groups, as well as faculty and undergraduate student members. On a 6-3 vote, the prior leadership
of the Association voted to bring a lawsuit in October 2007 against the College to block measures the Board of Trustees approved in September 2007 to strengthen the governance of the College.

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Exhibit J
June 10, 2008, Conference Call

Present: John Mathias, Doug Keare, Cheryl Bascomb, Ron Schram, David Spalding, Otho Kerr, Kaitlin Jaxheimer, Veree Brown, Marian Baldauf, Ron Harris

Present by proxy: Marian to John Mathias; John Engelman to John Mathias; Otho Kerr to John Mathias; Ron Harris votes yes, or to John Mathias

Ron Harris was on briefly, but had to drop off.

The meeting convened at 6:05 pm.

John Mathias congratulated the group for their efforts and proposed the following two resolutions:

RESOLVED, that effective immediately any and all authority previously delegated to Frank Gado to act in any manner for the Association of Alumni of Dartmouth College ("Association of Alumni") as Liaison for Legal Affairs ("Liaison") or in any other capacity in connection with (a) the lawsuit filed by the Association of Alumni in New Hampshire Superior Court (Docket No. 07-E-0289) against the Trustees of Dartmouth College ("the Lawsuit"); or (b) the law firm of Williams & Connolly and/or Hatem & Donovan, including but not limited to all authority delegated by the resolutions of the Executive Committee of August 23, 2007 and October 2, 2007, is hereby revoked and rescinded.

RESOLVED, that effective immediately the Executive Committee hereby designates the President of the Association of Alumni of Dartmouth College ("Association of Alumni"), John Mathias '69, as its Liaison for Legal Affairs, and delegates to him full power and authority (1) to oversee and direct the work of Williams & Connolly and Hatem & Donovan; (2) to take any and all actions necessary to obtain the prompt dismissal of the lawsuit filed by the Association of Alumni in New Hampshire Superior Court (Docket No. 07-E-0289) against the Trustees of Dartmouth College ("the Lawsuit"); and (3) at his discretion, to engage new or additional counsel to represent the Association of Alumni in the Lawsuit.

John Mathias stated these are important resolutions and we should act immediately. Ron Schram moved the first motion, which was seconded by Otho Kerr. Approval was unanimous.

John Mathias is pleased to take on the role of legal liaison. Ron Schram moved the second motion, which Kaitlin seconded. The motion was approved unanimously.

Doug Keare made a motion to adjourn the meeting. The motion was
seconded by Ron Schram and was approved unanimously. The time of adjournment was 6:13 pm.

Respectfully submitted,

David Spalding
Secretary-Treasurer for the Association of Alumni
Exhibit K
STATE OF NEW HAMPSHIRE

GRAFTON, SS.

SUPERIOR COURT

Docket No. 07-E-0289

Association of Alumni of Dartmouth College

v.

Trustees of Dartmouth College

STIPULATION

NOW COME the parties in the above-captioned case and stipulate and agree that the

Docket shall be marked and the disposition of this case shall be:

"Voluntarily dismissed with prejudice."

Date: June 20, 2008

Association of Alumni of Dartmouth College
By Its Attorneys

By: ____________________________
Russell F. Hilliard, Bar No. 1159
Upton & Hatfield, LLP
159 Middle Street
Portsmouth, NH 03801
(603) 436–7046

Trustees of Dartmouth College
By Its Attorneys

By: ____________________________
Bruce W. Felmy, Bar No. 787
McLane, Graf, Raulerson &
Middleton, Professional Association
900 Elm Street, P.O. Box 326
Manchester, NH 03105-0326
(603) 625–6464

Richard C. Pepperman, II
Sullivan & Cromwell LLP
125 Broad Street
New York, NY 10004
(212) 558–4000
Exhibit L
NOTICE OF DECISION

07-E-0289 Asn. of Alumni of Dartmouth College vs. Trustees of Dartmouth

Enclosed please find a copy of the Court's Order dated 6/27/2008 relative to:

Stipulation

06/30/2008

Robert B. Muh
Clerk of Court

cc:  Bruce W. Felmly, Esq.
     Richard C. Pepperman, II, Esq.
     David H. Bradley, Esq.
     Stephen F. Smith
     Thurman J. Rodgers
     Peter M. Robinson
     Todd J. Zywicki
     Philip L. Graham, Jr., Esq.
     Richard J. Urowsky, Esq.
ORDER ON DOCUMENT NO. 38 (Stipulation - Docket Markings)

TELEPHONIC ORDER ENTERED BY ASSOCIATE JUSTICE
TIMOTHY J. VAUGHAN AT 10:25 A.M. ON JUNE 27, 2008
PURSUANT TO SUPERIOR COURT ANN. R. 1-7:

Stipulation approved; docket shall be marked in accordance therewith.

June 27, 2008

[Signature]

Justice's Confirmatory Signature

[Signature] Timothy J. Vaughan

Date: 6/30/08

[Signature] Timothy J. Vaughan

Presiding Justice

ORDER
STATE OF NEW HAMPSHIRE

GRAFTON, SS.

SUPERIOR COURT

Docket No. 07-E-0289

Association of Alumni of Dartmouth College

v.

Trustees of Dartmouth College

STIPULATION

NOW COME the parties in the above-captioned case and stipulate and agree that the Docket shall be marked and the disposition of this case shall be:

"Voluntarily dismissed with prejudice."

Date: June 20, 2008

Association of Alumni of Dartmouth College

By Its Attorneys

By: ____________________________

Russell F. Hilliard, Bar No. 1159
Upton & Hatfield, LLP
159 Middle Street
Portsmouth, NH 03801
(603) 436-7046

Trustees of Dartmouth College

By Its Attorneys

By: ____________________________

Bruce W. Felmy, Bar No. 787
McLane, Graf, Raulerson & Middleton, Professional Association
900 Elm Street, P.O. Box 326
Manchester, NH 03105-0326
(603) 625-6464

Richard C. Pepperman, II
Sullivan & Cromwell LLP
125 Broad Street
New York, NY 10004
(212) 558-4000
Exhibit M
June 27, 2008

Robert Muh, Clerk
Grafton Superior Court
3785 Dartmouth College Highway
North Haverhill, NH 03774

Re: Association of Alumni of Dartmouth College v. Trustees of Dartmouth College
Docket No. 07-E-0289

Dear Mr. Muh:

I am a member of the former Executive Committee of the Association of Alumni which voted to file this suit. I ask that the Court stay approval of the Stipulation for Voluntary Dismissal with Prejudice, which I understand was filed on June 24, 2008, or any other action which would be adverse to the original plaintiff.

We understand all former counsel, Robert Cary, Charles Davant IV, Jonathan Kravis, Williams & Connolly LLP, Patrick Donovan, and Hatem & Donovan, whom we engaged to protect the Association Membership’s contractual rights, have been dismissed by the current Executive Committee of the Association of Alumni. We also understand their former relationship with the Association bars them from advising us as to our options in the case. We need a reasonable amount of time to continue to seek and engage new counsel and to discuss with new counsel the courses of action which may be available to us. Thank you.

Respectfully,

Frank Gado

I certify that a copy of the foregoing was served by United States mail to Richard C. Pepperman, II, Sullivan Cromwell LLP, 125 Broad Street, New York, NY 10004-2498; Bruce Felmy, McLane, Graf, Rauterson & Middleton, PO Box 326, Manchester, NH 03105; and Russell Hilliard, Upton & Hatfield, 159 Midder Street, Portsmouth, NH 03801.
Exhibit N
MOTION OF FRANK GADO TO INTERVENE AS A PARTY PLAINTIFF

NOW COMES Frank Gado (hereinafter "Intervenor"), through counsel, and respectfully states as follows:

1. Intervenor resides at 1424 Neal Road, White River Junction, Vermont.

2. Intervenor is a graduate of Dartmouth College (hereinafter the "College"), having received his degree in 1958.

3. As an alumnus of Dartmouth College, Intervenor is a lifetime voting member of the Plaintiff Association of Alumni of Dartmouth College (hereinafter the "Association").

4. Most recently, until the election of the new slate of officers of the Association, the results of which were officially announced on June 10, 2008, Intervenor was a member of the Executive Committee of the Association.

5. Intervenor and other like-minded alumni were defeated in the aforesaid election.

6. In his former capacity as a member of the Executive Committee of the Association, Intervenor was instrumental in the filing and prosecution of the instant lawsuit, which was brought for purposes of enforcing the 1891 Agreement providing for parity between the so-called Alumni Trustees and Charter Trustees on the Board of Trustees of the College.

7. Intervenor continues to be a member of the Association and, as such, is a

8. This Court has ruled that the Association has stated a facially valid claim that the 1891 Agreement is contractually binding upon the College and, therefore, if the Association were to have been successful in proving its claim, the College’s pending proposal to increase the number of Charter Trustees so as to destroy the historical parity between Alumni Trustees and Charter Trustees would be in breach of the 1891 Agreement.

9. If the 1891 Agreement is not enforced against the College, the Intervenor’s rights under the Agreement to participate in elections for Alumni Trustees equal in number to Charter Trustees will be adversely affected.

10. On or about June 20, 2008, a written stipulation (hereinafter the “Stipulation”) was executed by Attorney Russell F. Hilliard on behalf of the Association and by Attorney Bruce W. Felmy on behalf of the Board of Trustees of the College. See attached Exhibit A. The stipulation provided that the docket in this case should be marked: “Voluntarily dismissed with prejudice.”

11. Upon information and belief, the Stipulation was executed at the behest of the newly-elected Executive Committee of the Association.

12. Notwithstanding the aforesaid, Intervenor is without knowledge or information as to whether the Association’s new Executive Committee merely directed that the Association take a voluntary dismissal or whether it further directed that such dismissal be “with prejudice”.

2
13. The Stipulation was filed with this Court at 1:33 p.m., Tuesday, June 24, 2008.

(See Exhibit A).

14. At 10:25 a.m., Friday, June 27, 2008, a telephonic Order was entered by
Presiding Justice Timothy J. Vaughn as follows: "Stipulation approved; docket shall be
marked in accordance therewith." (See attached Exhibit B).

15. Also on Friday, June 27, 2008, but apparently sometime after 10:25 a.m., a
person acting in behalf of the Intervenor presented a letter to the Clerk of Court which
requested that the Court not rule on the Stipulation while the Intervenor and other former
members of the Executive Committee of the Association attempt to engage new legal
counsel and discuss options which might be available to them to prevent the foreclosure of
their rights under the 1891 Agreement. See attached Exhibit C.

16. In the course of presenting this letter to the Clerk of Court, the person
delivering it in behalf of the Intervenor was informed by Court personnel that he was too late
because Judge Vaughn had already approved the Stipulation.

17. Intervenor has acted expeditiously in obtaining new counsel and in filing this
Motion to Intervene.

18. Superior Court Rule 139 provides that "[a]ny person shown to be interested
may become a party to a proceeding in equity on his petition briefly setting forth his relation
to the cause."

19. "The right of a party to intervene in pending litigation in this state has been
rather freely allowed as a matter of practice." Brzica v. Trustees of Dartmouth College, 147

19. Although a motion to intervene is ordinarily untimely if filed after a stipulation
for dismissal has been entered on the docket, a trial court’s exercise of its discretion to
entertain such a motion is not necessarily fatal error. *Town of Merrimack v. McCray*, 150 N.H. 811 (2004) (ruling that the trial court which granted such a motion "erred", but nevertheless going on to discuss and decide the merits of the intervenor's claims); see *Bennett v. Town of Hampstead*, ___ N. H. ___ (July 11, 2008) (after commenting that the trial court which granted a party's untimely motion for reconsideration "could have" denied it, going on to discuss and decide the merits of the party's claims).

21. This Court has the authority to waive the application of any rule "as good cause appears and as justice may require". *Preface to the Rules of the Superior Court of the State of New Hampshire*.

22. For the reasons stated herein and as more fully stated in the Intervenor's accompanying Motion to Disallow Docket Marking, good cause does appear and justice does require that this Motion to Intervene be granted.

WHEREFORE, Frank Gado respectfully prays that he be granted Intervenor-Plaintiff status in this matter. Mr. Gado further requests that, when ruling upon this motion, the Court make findings of fact and rulings of law.

Respectfully submitted,

Frank Gado
By His Attorneys:
Wadleigh, Starr & Peters, P.L.L.C.

Dated: July 12, 2008

By: [Signature]
Eugene M. Van Loan III, #2610
95 Market Street
Manchester, NH 03101
Certification of Service

I, Eugene M. Van Loan, III, do hereby certify that I have this date mailed a copy of the foregoing Motion by U.S. mail, postage prepaid to Russell F. Hilliard, Esquire, counsel for the Plaintiff, and to Bruce W. Felmy, Esquire, and Richard C. Pepperman, II, Esquire, counsel for the Defendant.

[Signature]
Eugene M. Van Loan III

RULE 57-A CERTIFICATION

I, Eugene M. Van Loan III, Esquire, do hereby certify that I did not attempt to secure the consent of opposing counsel to this motion because it can be reasonably assumed that concurrence would not be forthcoming and because the delay in attempting to secure it would not be warranted.

[Signature]
Eugene M. Van Loan III
Exhibit O
THE STATE OF NEW HAMPSHIRE

GRAFTON, SS

Association of Alumni of Dartmouth College

v.

Trustees of Dartmouth College

No. 07-E-2289

SUPERIOR COURT

RECEIVED

JUL 16 2008

BRUCE W. FELMLY

MOTION TO DISALLOW DOCKET MARKING IN ITS PRESENT FORM

NOW COMES Frank Gado (hereinafter "Intervenor"), through counsel, and respectfully states as follows:

1. Intervenor hereby incorporates by reference and restates all of his statements and allegations in his Motion to Intervene of even date.

2. In the recent election held by the Association to select the new members of its Executive Committee, the successful candidates (hereinafter the "Unity Slate") had pledged that, if elected, they would withdraw the instant lawsuit. Therefore, although other issues were also involved in the election, in some sense the election of the Unity Slate could arguably be said to have implicitly authorized the current Executive Committee to take such action.

3. Notwithstanding the aforesaid, the said election did not constitute an authorization for the new Executive Committee to attempt to rescind the 1891 Agreement and/or to forever foreclose the Association’s and/or its members’ rights to challenge a governance system for the College which might fail to provide for parity between Alumni Trustees and Charter Trustees.

4. On the contrary, numerous campaign statements made by members of the Unity Slate and their supporters were designed to lead the voting membership of the
Association to believe that, if elected, the Unity Slate would merely withdraw the current lawsuit, but would otherwise preserve and pursue the rights of the Association and/or its members with respect to parity on the College’s Board of Trustees. For example,

a. In an undated letter jointly authored by the Unity Slate and mailed prior to the election to the voting membership of the Association (attached hereto as Exhibit A), the candidates described the lawsuit as “diverting money and resources from undergraduate education ... [and] creating instability and disunity which will hamper Dartmouth’s ability to attract the best candidates in the upcoming search for its next President”. The letter goes on to say that, “Unlike our opponents, we believe that suing each other is no way to resolve differences of alumni opinion about college governance. We believe that the Dartmouth family can address its issues without intervention by the courts and without intervention by the New Hampshire legislature....” Finally, the candidates pledged that, “Our slate is fully committed to working constructively with the Trustees [of the College] to address the issue of alumni governance and ‘parity’ in true dialogue and not in the New Hampshire state courts or legislature.”

b. Similarly, in an email written by Unity Slate member Ron Harris to his classmates on May 2, 2008 and posted on the Unity Slate website (www.daaus.org), Mr. Harris stated that, “Our slate is fully committed to working constructively with the Trustees to address the issue of alumni governance in true dialogue.... The Trustees, all of whom are our fellow Dartmouth Alumni except the President and the Governor of New Hampshire, welcome such dialogue.”

c. Similarly, in an undated letter mailed to all alumni by “Dartmouth Undying”, PO Box 5037, Hanover, NH 03755, the following statements were made:
"While some Unity Slate members disagree with the Trustees’ decision, they all agree that it is for Dartmouth to decide Dartmouth’s future, not judges who have no relationship to the College we love. The Trustees have said they will carefully consider the continuing issues related to their governance decision. Civil and constructive dialogue, not litigation, is the only way to make that happen."

d. Similarly, in an undated letter entitled "AoA Unity Slate - Why a Lawsuit Hurts Us All", authored by John Mathias, another member of the Unity Slate, which was also posted on the Unity Slate’s website prior to the election, the Unity Slate candidates pledged to work to preserve parity, saying “what the Trustees have done yesterday, they can undo tomorrow if a suitably persuasive case can be made for them."

5. In summary, the campaign statements by the members of the Unity Slate and their supporters challenged the lawsuit essentially on the grounds that negotiation rather than litigation was more appropriate in an academic environment, that the litigation could have potential adverse effects upon the College’s ability to attract new students and to secure a new president, that the litigation was causing the College to incur great expense, etc. - not on grounds that the preservation of trusteeship parity was inappropriate.

6. On information and belief, such statements by the Unity Slate candidates and their supporters had their intended effect upon the voting membership of the Association. For example, in an open letter published in The Dartmouth, the College’s daily campus newspaper, on June 24, 2008 (coincidentally the day on which the Stipulation was filed in the Grafton County Superior Court) the author (Mr. Phil Aubart ’10) stated that, "[T]he slate that won the election has consistently claimed that the lawsuit was in fact not a last resort, but a rash, misguided action that has divided the College. Well, now is the time to demand
performance from the so-called "Unity" slate of candidates. The power is theirs; they had
better uphold their promises to the alumni of this fine institution. Now that we can no longer
fight against their election, the supporters of parity on the Board of Trustees must insure that
this new committee does what it has said it will. More importantly, we must make sure that
they engage the trustees about the issue of parity as they have said they will." (See attached
Exhibit B.)

7. More important, the campaign pronouncements by the Unity Slate candidates
and their supporters did not state that, if elected, they would attempt to forever relinquish
the legal rights of the Association and/or its members under the 1891 Agreement or
otherwise. Again as reflected in the letter of Mr. Aubart, the voting membership of the
Association was led to believe that the purpose of dismissing the lawsuit was - at least for
now - to substitute negotiation for litigation: "The first thing the new Executive Committee
should do is to send a survey to all alumni and determine whether alumni want parity....
Once it has officially been determined that Dartmouth Alumni fully support parity, the
"unity" slate must be fully prepared to engage in hardball discussions with the trustees. If
these talks again prove fruitless, the new committee - yes, the same one that withdrew this
lawsuit - must be prepared to file a new one to get what the alumni want. They are, after all,
the elected representatives of the alumni." (See Exhibit B.) (Emphasis supplied)

8. Accordingly, to the extent that the Stipulation's dismissal of the lawsuit "with
prejudice" purports to relinquish the rights of the Association and/or its members to parity,
the Stipulation was not authorized by the Association and/or its members and, in light of the
campaign statements of the Unity Slate which led to the reasonably anticipatable
understandings of those statements by the voting membership of the Association, the act of
the current Executive Committee in authorizing the execution of such a Stipulation
(assuming that they did, in fact, intentionally and knowledgeably do so) would constitute a breach of their fiduciary duties as officers and directors of the Association.\(^1\)

9. Moreover, even if the 1891 Agreement was not a legally binding contract which conferred judicially enforceable rights upon the Association and/or its members, neither the officers and directors of the Association nor the Board of Trustees of the College would be authorized to unilaterally or jointly abrogate the parity between Alumni Trustees and Charter Trustees which currently characterizes the governance system for the College’s Board of Trustees. The reasons are as follows:

a. Under the law of New Hampshire, Dartmouth College is a so-called “charitable trust” which operates through the corporate form of organization. NEW HAMPSHIRE ATTORNEY GENERAL’S REPORT ON OPTIMA HEALTH (March 10, 1998), http://doj.nh.gov/publications/optima1.html, p. 7 (hereinafter the “AG Report”),

b. Matters concerning the supervision, administration and enforcement of charitable trusts are subject to the powers of the New Hampshire Attorney General or the Director of Charitable Trusts as his representative. RSA 7:20.

c. “A charitable institution may not properly exclude the community, or the Director of Charitable Trusts, either by design or in advertence, from having a voice in fundamental decisions affecting the continuing capacity of the institution to fulfill its historic charitable mission.” AG Report, p. 2.

d. This Court has determined that the parity provisions of the 1891 agreement have been incorporated into the governance documents and practices of

\(^1\) It is interesting to note that none of the public announcements which have recently been issued by the new Executive Committee of the Association and by the Board of Trustees of the College with respect to the dismissal of the lawsuit have mentioned that the Stipulation stated that the dismissal was “with prejudice.”
the College for the last 116 years since the Agreement was entered into by the
College and the Association. See generally ORDER ON THE MOTION TO DISMISS
(February 1, 2008).

e. The parity provisions of the 1891 Agreement constitute a fundamental
attribute of the governance structure of the College.

f. A significant change in the governance of a charitable corporation
requires the approval of at least the Director of Charitable Trusts and, in appropriate
cases, the applicable Probate Court pursuant to RSA 547:3-d or RSA 547:3-h. See
generally, AG Report.

g. "The Director of Charitable Trusts ... is an indispensable party in any
judicial proceeding involving the enforcement and supervision of charitable trusts."

10. To the extent, therefore, that the "with prejudice" portion of the Stipulation
could be construed as something which legally bars the Association and/or any of its
members from hereafter seeking to challenge some action by the Board of Trustees of the
College implementing its proposed reorganization of the Board so as to eliminate the parity
between Alumni Trustees and Charter Trustees, the filing of the Stipulation would be
tantamount to the successful conclusion of a proceeding in which the College had secured
consent to such action by the Director of Charitable Trusts and the Probate Court (where,
obviously, no such events have occurred). 2

WHEREFORE, the Intervenor respectfully prays as follows:

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2 The fact that this Court (Vaughn, J.) issued a telephonic order purporting to approve the Stipulation on June 27, 2006 clearly does not constitute the type of judicial consent which is necessary in such matters. Besides the fact that docket
markings dismissing a lawsuit are generally self-executing and do not require or usually obtain judicial approval [5 R.
Weibusch, NEW HAMPSHIRE PRACTICE, CIVIL PRACTICE AND PROCEDURE § 34.06a, p. 113 (1998)], since no pleadings,
memoranda or other supporting documentation were filed by the parties and no hearing was held thereon, there is no reason
to assume that the Court’s perfunctory approval of the Stipulation represented its considered judgment on the propriety of
altering a fundamental aspect of the College’s governance system.
A. That the Plaintiff and Defendant be directed to advise this Court within ten (10) days whether they agree to strike the words "with prejudice" from the Stipulation and to substitute therefor the words "without prejudice" and, if so, that the Court enter an order to that effect and, accordingly, that the Court then dismiss this case without prejudice.

B. If the Plaintiff and/or the Defendant decline to so amend the Stipulation, that the Court order the Plaintiff to show cause how its new Executive Committee had the requisite authority to file a "with prejudice" stipulation for dismissal and to hold a hearing on such issue.

1. If the Court is not then satisfied that the Association's new Executive Committee did have the requisite authority to so act, the Court should enter an order rescinding its prior acceptance of the Stipulation and should dismiss this action "without prejudice";

2. Even if the Court should find that the new Executive Committee did have such authority, the Court should rescind its order accepting the Stipulation, issue a new order disallowing the marking of the docket in accordance with the Stipulation and stay all further proceedings in this matter for a reasonable period of time to give the Defendant the opportunity, if it so chooses, to apply to the Director of Charitable Trusts and the Grafton County Probate Court pursuant to RSA 547 for approval of the Defendant's proposed change in the governance system of the College abrogating the current parity between Alumni Trustees and Charter Trustees; and

C. Grant such other and further relief as may be just and reasonable.
D. Intervenor further requests that, when ruling upon this motion, the Court make all necessary findings of fact and rulings of law.

Respectfully submitted,

Frank Gado

By His Attorneys:
Wadleigh, Starr & Peters, P.L.L.C.

By:  
Eugene M. Van Loan III, #2610
95 Market Street
Manchester, NH  03101

Dated:  July 14, 2008

Certification of Service

I, Eugene M. Van Loan, III, do hereby certify that I have this date mailed a copy of the foregoing Motion by U.S. mail, postage prepaid to Russell F. Hilliard, Esquire, counsel for the Plaintiff, and to Bruce W. Felmy, Esquire, and Richard C. Pepperman, Esquire, counsel for the Defendant.

Eugene M. Van Loan III

RULE 57-A CERTIFICATION

I, Eugene M. Van Loan III, Esquire, do hereby certify that I did not attempt to secure the consent of opposing counsel to this motion because it can be reasonably assumed that concurrence would not be forthcoming and because the delay in attempting to secure it would not be warranted.

Eugene M. Van Loan III