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James M. Bowie
Twain Braden ^
Paul C. Catsos ^ *
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Rebecca H. Farnum
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Sarah Yantakosol Gayer
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Cathy Skeirik Roberts ^ *
Michael E. Saucier ^
Rosie M. Williams

Of Counsel
Leonard W. Langer
Elizabeth Knox Peck
Roy E. Thompson, Jr.

Also Admitted in:
^ New Hampshire
* Massachusetts
- Missouri

August 7, 2015

Susan Furbush
Clerk, Somerset County Superior Court
47 Court Street
Skowhegan, Maine 04976

Re: **The Town of Anson v. Claudia Viles**

Dear Ms. Furbush:

Enclosed please find a Complaint for filing in the above-referenced matter. Also enclosed is the Summary Sheet and \$150 filing fee.

Thank you for your attention to this matter.

Very truly yours,



Brendan R. O'Rourke

Enclosures

cc: Arnold Luce, Town of Anson Chairman of Board of Selectmen
Randa Veilleux, MMA, Claim No. 215P5741
Christopher McCauley, MMA, Claim No. 215P5741

SUMMARY SHEET

This summary sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by the Maine Rules of Court or by law. This form is required for the use of the Clerk of Court for the purpose of initiating or updating the civil docket sheet and attaching the appropriate party to the appropriate count or counts. (SEE INSTRUCTIONS ON REVERSE)

I. Court of Filing <u>or</u> District Court Jurisdiction: Somerset County Superior Court		
II. CAUSE OF ACTION (Cite the primary civil statutes under which you are filing, if any). <i>Pro se</i> plaintiffs: If unsure, leave blank. Conversion, Fraud		
III. NATURE OF FILING <input checked="" type="checkbox"/> Initial Complaint <input type="checkbox"/> Third-Party Complaint <input type="checkbox"/> Cross-Claim or Counterclaim <input type="checkbox"/> If Reinstated or Reopened case, give original Docket Number: _____ (If filing a second or subsequent Money Judgment Disclosure, give docket number of first disclosure)		
IV. <input type="checkbox"/> TITLE TO REAL ESTATE IS INVOLVED		
V. MOST DEFINITIVE NATURE OF ACTION (Place an X in one box only) <i>Pro se</i> plaintiffs: If unsure, leave blank.		
<u>GENERAL CIVIL (CV)</u>		
<input type="checkbox"/> Personal Injury Tort <input type="checkbox"/> Property Negligence <input type="checkbox"/> Auto Negligence <input type="checkbox"/> Medical Malpractice <input type="checkbox"/> Product Liability <input type="checkbox"/> Assault/Battery <input type="checkbox"/> Prelitigation Screening <input type="checkbox"/> Domestic Torts <input type="checkbox"/> Other Personal Injury Tort Non-Personal Injury Tort <input type="checkbox"/> Libel/Defamation <input type="checkbox"/> Auto Negligence <input type="checkbox"/> Other Negligence <input checked="" type="checkbox"/> Other Non-Personal Injury Tort	Contract <input type="checkbox"/> Contract Declaratory/Equitable Relief <input type="checkbox"/> General Injunctive <input type="checkbox"/> Declaratory Judgment <input type="checkbox"/> Other Equitable Relief Constitutional/Civil Rights <input type="checkbox"/> Constitutional/Civil Rights Statutory Actions <input type="checkbox"/> Unfair Trade Practices <input type="checkbox"/> Freedom of Access <input type="checkbox"/> Other Statutory Actions Miscellaneous Civil <input type="checkbox"/> Drug Forfeitures	<input type="checkbox"/> Other Forfeitures/Property Libels <input type="checkbox"/> Land Use Enforcement (80K) <input type="checkbox"/> HIV Testing <input type="checkbox"/> Arbitration Awards <input type="checkbox"/> Appointment of Receiver <input type="checkbox"/> Shareholders' Derivative Actions <input type="checkbox"/> Foreign Deposition <input type="checkbox"/> Pre-action Discovery <input type="checkbox"/> Common Law Habeas Corpus <input type="checkbox"/> Prisoner Transfers <input type="checkbox"/> Foreign Judgments <input type="checkbox"/> Minor Settlements <input type="checkbox"/> Other Civil
<u>CHILD PROTECTIVE CUSTODY (PC)</u>		
<input type="checkbox"/> Non-DHS Protective Custody		
<u>SPECIAL ACTIONS (SA)</u>		
<input type="checkbox"/> Money Judgments Money Judgment Request Disclosure		
<u>REAL ESTATE (RE)</u>		
Title Actions <input type="checkbox"/> Quiet Title <input type="checkbox"/> Eminent Domain <input type="checkbox"/> Easements <input type="checkbox"/> Boundaries	Foreclosure <input type="checkbox"/> Foreclosure for Non-PMT (ADR exempt) <input type="checkbox"/> Foreclosure - Other Trespass <input type="checkbox"/> Trespass	Misc. Real Estate <input type="checkbox"/> Equitable Remedies <input type="checkbox"/> Mechanics Liens <input type="checkbox"/> Partition <input type="checkbox"/> Adverse Possession <input type="checkbox"/> Nuisance <input type="checkbox"/> Abandoned Roads <input type="checkbox"/> Other Real Estate
<u>APPEALS (AP) (To be filed in Superior Court)</u>		
<input type="checkbox"/> Governmental Body (80C)	<input type="checkbox"/> Administrative Agency (80C)	<input type="checkbox"/> Other Appeals
VI. M.R.Civ.P. 16B Alternative Dispute Resolution (ADR):		
<input type="checkbox"/> I certify that pursuant to M.R.Civ.P. 16(B)(b), this case is exempt from a required ADR process because: <ul style="list-style-type: none"> <input type="checkbox"/> It falls within an exemption listed above (i.e., an appeal or an action for non-payment of a note in a secured transaction). <input type="checkbox"/> The plaintiff or defendant is incarcerated in a local, state or federal facility <input type="checkbox"/> The parties have participated in a statutory prelitigation screen process with _____ (name of neutral) on _____ (date). <input type="checkbox"/> The parties have participated in a formal ADR process with _____ (name of neutral) on _____ (date). <input type="checkbox"/> This is a personal injury action in which the plaintiff's likely damages will not exceed \$30,000, and the plaintiff requests an exemption from ADR. 		

VII. (a) PLAINTIFFS (Name & Address including county)
or Third-Party, Counterclaim or Cross-Claim Plaintiffs
 The plaintiff is a prisoner in a local, state or federal facility.

Town of Anson, P.O. Box 297, Anson, Maine 04911, County of Somerset

(b) Attorneys (Name, Bar number, Firm name, Address, Telephone number)
(If *pro se* plaintiff, leave blank)

If all counsel listed do NOT represent all plaintiffs, specify who the listed attorney(s) represent

Mark V. Franco, Bar # 2967
Brendan R. O'Rourke, Bar # 5278
Thompson & Bowie, LLP, There Canal Plaza, Portland, Maine 04112-4630

(207) 774-2500

VIII. (a) DEFENDANTS (Name & Address including county)
and/or Third-Party, Counterclaim or Cross-Claim Defendants
 The defendant is a prisoner in a local, state or federal facility

Claudia Viles
65 Elm Street
North Anson, Maine 04958

(b) Attorneys (Name, Bar number, Firm name, Address, Telephone Number)
(If known)

If all counsel listed do NOT represent all defendants, specify who the listed attorney (s) represent.

Walter F. McKee, Esq., Bar # 7848
McKee Billings, P.A.
133 State Street
Augusta, Maine 04330

207-620-8294

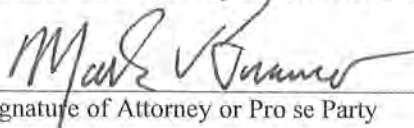
IX. RELATED CASE(S) IF ANY Search Warrant - Motion to Return Property

Judge/Justice _____

Docket number N/A

Date: August 7, 2015

Mark V. Franco, Esq. Bar No. 2967
Name of Lead Attorney of Record or Pro se Party


Signature of Attorney or Pro se Party

STATE OF MAINE
SOMERSET, SS

SUPERIOR COURT
CIVIL ACTION
DOCKET NO. _____

THE TOWN OF ANSON,)
)
 Plaintiff,)
)
 v.)
)
 CLAUDIA G. VILES,)
)
 Defendant.)

COMPLAINT

NOW COMES the Plaintiff, Town of Anson, by and through their undersigned counsel, Thompson & Bowie, LLP, and complains against Defendant Claudia G. Viles as follows:

THE PARTIES

1. Plaintiff Town of Anson is a municipality in the County of Somerset, State of Maine.
2. Defendant Claudia G. Viles was at all times relevant to this Complaint an elected official of the Town of Anson and is a resident of the Town of North Anson.

JURISDICTION AND VENUE

3. This Court has jurisdiction over this matter pursuant to the provisions of 4 M.R.S § 105.
4. Venue in this Court is proper pursuant to the provisions of 14 M.R.S § 501.

FACTS

5. At all relevant times hereto, Claudia G. Viles (hereinafter "Defendant") has served as the Town of Anson's (hereinafter the "Town") tax collector, a position that she has been seated in for the last forty-two years and received compensation for.

6. As the Town's tax collector, the Defendant's job responsibilities included, among other things, collecting taxes for the Town, preparing regular reports of collected monies, maintaining tax records and ledgers for tax-related accounts, and performing other clerical and bookkeeping work on behalf of the Town.

7. Among other taxes collected by Defendant were the Town's excise taxes, which were collected annually from Anson residents at the time they registered their motor vehicles.

UNCOVERING THE MISUSE OF TOWN FUNDS

8. In 2014, Triss Smith was hired by the Town as an administrative assistant in the town office.

9. After Ms. Triss's arrival and sometime in or around September 2014, the Town began using a new computer system for processing transactions by the Town—a system which automatically directs transactions conducted by the Town, including its processing of its excise taxes, into the appropriate accounts.

10. On or about that time, the Town also implemented a new policy requiring town office employees to perform daily deposits of funds collected by the Town.

11. Prior to that time it was customary for town employees, including Defendant, to deposit monies collected by the Town irregularly, and in certain instances, as infrequently as on a quarterly-basis.

12. Together, these changes provided the Town with a more reliable and comprehensive method for processing and tracking its financial transactions, including accounting for payments received from its residents related to their annual taxes.

13. At the end of the 2014 calendar year, Ms. Smith conducted a summary report of the Town's excise tax receipts based on the data provided to her by the Defendant.

14. In relation to that report, Defendant informed Ms. Smith that she collected \$354,355 in excise taxes during the 2014 calendar year.

15. Despite her representation as to the amount collected, the report showed that Defendant had only recorded and/or deposited \$275,710 in excise taxes that year, which in effect, resulted in a \$78,645 shortfall.

16. Due to this discrepancy, Defendant met with Ms. Smith and the Town's Chairman of the Board of Selectmen, Arnold Luce, to discuss the discrepancy in numbers and possible causes for the shortfall.

17. Following that meeting, the Town decided to retain outside auditors to assess the Town's tax records, and if possible, to determine the basis of the shortfall.

18. As part of that audit, Richard Emerson, an accountant from the Portland-based accounting firm Purdy Powers & Company, met with Chairman Luce and Defendant in the early part of 2015.

19. During that meeting, Emerson discovered certain irregularities with Defendant's accounting and recording methods, and confronted her about these issues.

20. Emerson also questioned Defendant about her adding tapes, and why the tapes did not amount to what had been reported.

21. Defendant informed Emerson that they were not reviewing the original tapes, and that she had reprinted the adding tapes to try to make the accounting numbers work.

22. At one point during the meeting, Defendant admitted that there were errors with her accounting and/or recording methods, and took responsibility for such as the tax collector.

23. When the differences between what had been collected and what had been deposited reached in excess of \$50,000, the meeting was ended and it was suggested to Defendant that she consult an attorney.

24. On or before the day of the meeting, the Town learned that Defendant had removed a portion of the its tax records from the town office.

25. Despite a request from the Town to have those files returned, Defendant did not return all of the files.

26. On April 15, 2015, Maine State Trooper Christopher Crawford applied for and was granted a search warrant for Defendant's home.

27. On April 16, 2015, Trooper Crawford searched Defendant's home, and seized, among other items, \$58,500 in cash.

28. After confirming the 2014 shortfall, Town officials requested Emerson and his firm to conduct a more extensive review of the Town's tax records for the previous years.

29. On June 9, 2015, and July 22, 2015, Emerson provided summaries to the Town of his analysis of the excise taxes processed by Defendant for the years 2011, 2012, 2013, and 2014.

30. His analysis revealed that in 2011 there was a shortfall of \$110,756 between the amount of excise tax "collected [and] processed by [Defendant]" and the amount that was actually "deposited and recorded."

31. Similarly in 2012, there was a shortfall of \$125,356; in 2013, there was a shortfall of \$112,491; and in 2014, prior to the implementation of the new software program in September of that year, there was a shortfall of \$90,109.

32. In total, according to Emerson's review, from 2011 to September 2014, there was a "shortfall between the amount of excise tax collected through registrations processed and the amount of excise tax deposited to the Town's checking account totaling \$438,712."

33. Each yearly audit of tax records costs the Town several thousand dollars.

34. Once it was determined that the accumulated shortfalls would exceed the Town's insurance coverage for this type of loss, the audit was stopped.

35. At this time, the Town is uncertain as to whether additional yearly audits will reveal similar shortfalls for the calendar years preceding and including 2010, and upon information and belief, the investigation is ongoing.

COUNT I: CONVERSION

36. Plaintiff repeats and realleges each of the allegations set forth in paragraphs 1 – 35 as if fully set forth herein.

37. The Plaintiff has, and has always had, a property interest in the excise taxes due and payable to the Town.

38. When the Defendant intentionally and knowingly misappropriated these funds intended for the Town for her own personal use, the Plaintiff had a right to possession of these funds.

39. When the Defendant intentionally and knowingly took the funds paid by the Town's residents for the purposes of paying their excise taxes, she did so unlawfully, dishonestly, and maliciously.

40. The Defendant's intentional and knowing actions, as aforementioned, constitute conversion.

WHEREFORE, Plaintiff demands judgment against the Defendant on Count I of the Complaint together with interest, costs and attorney fees, and for such other and further damages which this Court deems just and appropriate.

COUNT II: FRAUD

41. Plaintiff repeats and realleges each of the allegations set forth in paragraphs 1 – 40 as if fully set forth herein.

42. The Defendant intentionally and knowingly made false representations to the Plaintiff when she omitted amounts she collected in excise taxes from the Town's ledger and accounting system.

43. The Defendant intentionally and knowingly made false representations to the Plaintiff when she inaccurately recorded amounts she collected in excise taxes in the Town's ledger and accounting system.

44. The Defendant intentionally and knowingly made false representations to the Plaintiff when she reprinted calculator tapes with altered figures in order to make it appear that the amount of excise taxes that had been collected and deposited were consistent.

45. The Defendant made these representations with the knowledge that they were false.

46. The facts surrounding the amount of excise taxes collected by Defendant that were due and payable to the Town and the amount of excise taxes that were actually recorded and deposited, are material facts.

47. The Defendant had knowledge of the factual inaccuracies between what she had collected from the Town's residents for excise taxes and what she subsequently recorded and deposited, as well as knowledge of the circumstances and actions which led to the inaccuracies.

48. The Defendant intentionally sought to conceal the omissions and/or inaccuracies from the Town by recreating calculator tapes to make it appear that the amounts that had been collected and deposited were consistent with one another.

49. The Plaintiff justifiably relied on the Defendant's representations in, among other circumstances, formulating its budget, setting tax rates, assessing its financial condition, and in doing so, it accepted the records prepared by Defendant as substantiation of the administration of her duties as the Town's tax collector, and by doing so were damaged.

50. The Defendant's intentional and knowing actions, as aforementioned, constitute fraud.

WHEREFORE, Plaintiff demands judgment against the Defendant on Count II of the Complaint together with interest, costs and attorney fees, and for such other and further damages which this Court deems just and appropriate.

COUNT III: CONSEQUENTIAL DAMAGES

51. Plaintiff repeats and realleges each of the allegations set forth in paragraphs 1 – 50 as if fully set forth herein.

52. As a result of the Defendant's intentional, fraudulent, and dishonest actions complained of in Counts I and II, the Plaintiff engaged in an extensive investigation and audit of Plaintiff's financial records and accounts.

53. The investigation and audit required that the Plaintiff hire an outside accounting firm to determine how and by whom fraud and conversion were being committed.

54. These actions resulted in considerable expense to the Plaintiff in an amount expected to exceed several thousand dollars.

55. In addition to the expenses associated with the hiring of an outside accounting firm, the Town has had to conduct its own internal investigation to determine the extent of the Defendant's actions, which has resulted in considerable labor costs to the Plaintiff.

56. But for the Defendant's actions, the time required of the Plaintiff's employees to attend to its loss would have been spent on other town business and as a result damaged the Plaintiff.

57. The consequential damages were a foreseeable result of Defendant's actions.

WHEREFORE, Plaintiff demands judgment against the Defendant on Count III of the Complaint together with interest, costs and attorney fees, and for such other and further damages which this Court deems just and appropriate.

COUNT IV: PUNITIVE DAMAGES

58. Plaintiff repeats and realleges each of the allegations set forth in paragraphs 1 – 57 as if fully set forth herein.

59. Defendant acted intentionally and with ill will when she converted the Plaintiff's property for her own personal use and fraudulently concealed her actions from the Plaintiff despite being questioned about discrepancies in the Town's accounts.

60. Defendant's acts of conversion and fraud were committed with malice.

61. Defendant's conversion of the Town's accounts and concealment of her knowledge with respect to the discrepancies in the Town's accounts were deliberate.

62. These deliberate acts, coupled with Defendant's fiduciary responsibility to the Plaintiff, warrants that malice may be implied as to the Defendant's acts.

WHEREFORE, Plaintiff demands judgment against the Defendant on Count IV of the Complaint together with interest, costs and attorney fees, and for such other and further damages which this Court deems just and appropriate.

Dated at Portland, Maine, this 7th day of August, 2015.



Mark V. Franco, Esq., Bar No. 2967
Brendan R. O'Rourke, Esq., Bar No. 5278
Attorneys for Plaintiff Town of Anson

THOMPSON & BOWIE, LLP
Three Canal Plaza
Post Office Box 4630
Portland, Maine 04112
(207) 774-2500

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Of Counsel
Leonard W. Langer
Elizabeth Knox Peck
Roy E. Thompson, Jr.

Also Admitted in:
^ New Hampshire
* Massachusetts
† Missouri

August 7, 2015

Somerset County Sheriff's Office
131 East Madison Road
Madison, Maine 04950

RE: **Service of Process: Claudia G. Viles**

Dear Sheriff:

Enclosed please find an original and one copy of a Summons for the above-referenced defendant, and a copy of the Complaint filed in this matter. Please have the defendant served with the Summons and Complaint at the following address:

**Claudia G. Viles
65 Elm Street
North Anson, ME 04958**

Please forward the Return of Service to my attention so that I may file it with the Court. Your bill for services will be given prompt attention.

Thank you for your assistance in this matter. Please do not hesitate to contact me if you have any questions.

Very truly yours,


Brendan R. O'Rourke

Enclosures

cc: Arnold Luce, Town of Anson Chairman of Board of Selectmen
Randa Veilleux, MMA, Claim No. 215P5741
Christopher McCauley, MMA, Claim No. 215P5741

STATE OF MAINE

SUPERIOR COURT
Somerset

_____, ss.

Docket No. _____

DISTRICT COURT

Location _____

Docket No. _____

Town of Anson _____ Plaintiff

v.

SUMMONS

Claudia G. Viles _____ Defendant

65 Elm Street _____ Address

North Anson, ME 04958 _____

The Plaintiff has begun a lawsuit against you in the (~~District~~) (Superior) Court, which holds sessions at (street address) 41 Court Street, in the Town/City of Skowhegan, County of Somerset, Maine. If you wish to oppose this lawsuit, you or your attorney **MUST PREPARE AND SERVE A WRITTEN ANSWER** to the attached Complaint **WITHIN 20 DAYS** from the day this Summons was served upon you. You or your attorney must serve your Answer, by delivering a copy of it in person or by mail to the Plaintiff's attorney, or the Plaintiff, whose name and address appear below. You or your attorney must also file the original of your Answer with the court by mailing it to the following address: Clerk of (~~District~~) (Superior) Court, 47 Court Street, Skowhegan, Maine 04976
(Mailing Address) (Town, City) (Zip)

before, or within a reasonable time after, it is served.

IMPORTANT WARNING

IF YOU FAIL TO SERVE AN ANSWER WITHIN THE TIME STATED ABOVE, OR IF, AFTER YOU ANSWER, YOU FAIL TO APPEAR AT ANY TIME THE COURT NOTIFIES YOU TO DO SO, A JUDGMENT BY DEFAULT MAY BE ENTERED AGAINST YOU IN YOUR ABSENCE FOR THE MONEY DAMAGES OR OTHER RELIEF DEMANDED IN THE COMPLAINT. IF THIS OCCURS, YOUR EMPLOYER MAY BE ORDERED TO PAY PART OF YOUR WAGES TO THE PLAINTIFF OR YOUR PERSONAL PROPERTY, INCLUDING BANK ACCOUNTS AND YOUR REAL ESTATE MAY BE TAKEN TO SATISFY THE JUDGMENT. IF YOU INTEND TO OPPOSE THIS LAWSUIT, DO NOT FAIL TO ANSWER WITHIN THE REQUIRED TIME.

If you believe the plaintiff is not entitled to all or part of the claim set forth in the Complaint or if you believe you have a claim of your own against the Plaintiff, you should talk to a lawyer. If you feel you cannot afford to pay a fee to a lawyer, you may ask the clerk of court for information as to places where you may seek legal assistance.

Date: August 6, 2015

(Seal of Court)

Mark V. Franco, Esq.

(Attorney for) Plaintiff
Thompson & Bowie, LLP Address

Three Canal Plaza, Portland, ME 04112

207 774-2500 Telephone

Clerk