

Cameron W. MacLeod, Esq.
Attorney ID No. 023402012
GIBBONS P.C.
50 W. State Street, Suite 1104
Trenton, New Jersey 08608
Ph: (973) 596-4500
E-mail: cmacleod@gibbonslaw.com
Attorneys for Interested Party,
68 Obre Owner, LLC

IN THE MATTER OF THE TOWNSHIP OF
COLTS NECK,

Petitioner.

SUPERIOR COURT OF NEW JERSEY

AFFORDABLE HOUSING DISPUTE
RESOLUTION PROGRAM

DOCKET NO. MON-L-422-25

ANSWER AND AFFIRMATIVE
DEFENSES OF INTERESTED PARTY,
68 OBRE OWNER, LLC

Now comes 68 Obre Owner, LLC (“Owner”), having a principal address of 601 Hamburg Turnpike, Suite 300, Wayne, NJ, 07470 by and through its counsel, Gibbons P.C., which does hereby answer the complaint filed by the Township of Colts Neck in the above-captioned matter as follows, by way of challenge pursuant to N.J.S.A. 52:27D-304.1(f)(2)(b):

NATURE OF ACTION

1. Paragraph 1 of the Complaint consists solely of legal argument; accordingly, Owner neither admits nor denies the allegations therein, as no answer is required. To the extent any factual assertions are made therein, they are denied.

JURISDICTION AND VENUE

2. Admitted.

3. Paragraph 3 of the Complaint consists solely of legal argument; accordingly, Owner neither admits nor denies the allegations therein, as no answer is required. The referenced statute and Directive speak for themselves.

FACTUAL AND PROCEDURAL BACKGROUND

4. Paragraph 4 of the Complaint consists solely of legal argument; accordingly, Owner neither admits nor denies the allegations therein, as no answer is required.
5. Paragraph 5 of the Complaint consists solely of legal argument; accordingly, Owner neither admits nor denies the allegations therein, as no answer is required.
6. Paragraph 6 of the Complaint consists solely of legal argument; accordingly, Owner neither admits nor denies the allegations therein, as no answer is required.
7. Paragraph 7 of the Complaint consists solely of legal argument; accordingly, Owner neither admits nor denies the allegations therein, as no answer is required.
8. Paragraph 8 of the Complaint consists solely of legal argument; accordingly, Owner neither admits nor denies the allegations therein, as no answer is required.
9. Paragraph 9 of the Complaint consists solely of legal argument; accordingly, Owner neither admits nor denies the allegations therein, as no answer is required.
10. Paragraph 10 of the Complaint consists solely of legal argument; accordingly, Owner neither admits nor denies the allegations therein, as no answer is required.
11. Paragraph 11 of the Complaint consists solely of legal argument; accordingly, Owner neither admits nor denies the allegations therein, as no answer is required.
12. Paragraph 12 of the Complaint consists solely of legal argument; accordingly, Owner neither admits nor denies the allegations therein, as no answer is required.

13. Paragraph 13 of the Complaint consists solely of legal argument; accordingly, Owner neither admits nor denies the allegations therein, as no answer is required.
14. Paragraph 14 of the Complaint consists solely of legal argument; accordingly, Owner neither admits nor denies the allegations therein, as no answer is required.
15. Paragraph 15 of the Complaint consists solely of legal argument; accordingly, Owner neither admits nor denies the allegations therein, as no answer is required.
16. Paragraph 16 of the Complaint consists solely of legal argument; accordingly, Owner neither admits nor denies the allegations therein, as no answer is required.
17. Paragraph 17 of the Complaint consists solely of legal argument; accordingly, Owner neither admits nor denies the allegations therein, as no answer is required.
18. Paragraph 18 of the Complaint consists solely of legal argument; accordingly, Owner neither admits nor denies the allegations therein, as no answer is required.
19. Paragraph 19 of the Complaint consists solely of legal argument; accordingly, Owner neither admits nor denies the allegations therein, as no answer is required.
20. Paragraph 20 of the Complaint consists solely of legal argument; accordingly, Owner neither admits nor denies the allegations therein, as no answer is required.
21. Paragraph 21 of the Complaint consists solely of legal argument; accordingly, Owner neither admits nor denies the allegations therein, as no answer is required.
22. Paragraph 22 of the Complaint consists solely of legal argument; accordingly, Owner neither admits nor denies the allegations therein, as no answer is required.
23. Paragraph 23 of the Complaint consists solely of legal argument; accordingly, Owner neither admits nor denies the allegations therein, as no answer is required.

24. Paragraph 24 of the Complaint consists solely of legal argument; accordingly, Owner neither admits nor denies the allegations therein, as no answer is required.
25. Paragraph 25 of the Complaint consists solely of legal argument; accordingly, Owner neither admits nor denies the allegations therein, as no answer is required.
26. Paragraph 26 of the Complaint consists solely of legal argument; accordingly, Owner neither admits nor denies the allegations therein, as no answer is required.
27. Admitted.
28. Admitted.
29. Paragraph 29 of the Complaint consists solely of legal argument; accordingly, Owner neither admits nor denies the allegations therein, as no answer is required.
30. Paragraph 30 of the Complaint consists solely of legal argument; accordingly, Owner neither admits nor denies the allegations therein, as no answer is required.
31. Paragraph 31 of the Complaint consists solely of legal argument; accordingly, Owner neither admits nor denies the allegations therein, as no answer is required.
32. Paragraph 32 of the Complaint consists solely of legal argument; accordingly, Owner neither admits nor denies the allegations therein, as no answer is required.
33. Paragraph 33 of the Complaint consists solely of legal argument; accordingly, Owner neither admits nor denies the allegations therein, as no answer is required.
34. Owner admits that the Township adopted the referenced resolution and that same is binding. The remainder of the paragraph states a legal conclusion, for which no answer is required.

35. Paragraph 35 of the Complaint consists solely of legal argument; accordingly, Owner neither admits nor denies the allegations therein, as no answer is required. The referenced resolution speaks for itself.
36. Paragraph 36 of the Complaint consists solely of legal argument; accordingly, Owner neither admits nor denies the allegations therein, as no answer is required. To the extent factual allegations exist, Owner is without sufficient knowledge as to the intentions of the Township, and leaves the Township to its proofs.
37. Paragraph 37 of the Complaint consists solely of legal argument; accordingly, Owner neither admits nor denies the allegations therein, as no answer is required.
38. Owner is without sufficient knowledge as to the Township's intentions, and leaves the Township to its proofs.
39. Paragraph 39 of the Complaint consists solely of legal argument; accordingly, Owner neither admits nor denies the allegations therein, as no answer is required.
40. Paragraph 40 of the Complaint consists solely of legal argument; accordingly, Owner neither admits nor denies the allegations therein, as no answer is required. The referenced resolution speaks for itself.
41. Paragraph 41 of the Complaint consists solely of legal argument; accordingly, Owner neither admits nor denies the allegations therein, as no answer is required.
42. Paragraph 42 of the Complaint consists solely of legal argument; accordingly, Owner neither admits nor denies the allegations therein, as no answer is required. The referenced resolution speaks for itself.
43. Paragraph 43 of the Complaint consists solely of legal argument; accordingly, Owner neither admits nor denies the allegations therein, as no answer is required. To the extent

any factual assertions are made, Owner is without sufficient knowledge, and leaves the Township to its proofs.

44. Paragraph 44 of the Complaint consists solely of legal argument; accordingly, Owner neither admits nor denies the allegations therein, as no answer is required. The referenced resolution speaks for itself.

COUNT ONE

45. Owner repeats and reincorporates its responses to the preceding paragraphs as if set forth more fully herein.

46. Paragraph 46 of the Complaint consists solely of legal argument; accordingly, Owner neither admits nor denies the allegations therein, as no answer is required.

47. Paragraph 47 of the Complaint consists solely of legal argument; accordingly, Owner neither admits nor denies the allegations therein, as no answer is required. The referenced resolution speaks for itself.

48. Paragraph 48 of the Complaint consists solely of legal argument; accordingly, Owner neither admits nor denies the allegations therein, as no answer is required.

49. Paragraph 49 of the Complaint consists solely of legal argument; accordingly, Owner neither admits nor denies the allegations therein, as no answer is required.

50. Paragraph 50 of the Complaint consists solely of legal argument; accordingly, Owner neither admits nor denies the allegations therein, as no answer is required. The referenced resolution speaks for itself.

COUNT TWO

51. Owner repeats and reincorporates its responses to the preceding paragraphs as if set forth more fully herein.

52. Admit.

53. Paragraph 53 of the Complaint consists solely of legal argument; accordingly, Owner neither admits nor denies the allegations therein, as no answer is required. .

COUNT TWO

54. Owner repeats and reincorporates its responses to the preceding paragraphs as if set forth more fully herein.

55. Paragraph 55 of the Complaint consists solely of legal argument; accordingly, Owner neither admits nor denies the allegations therein, as no answer is required.

56. Paragraph 56 of the Complaint consists solely of legal argument; accordingly, Owner neither admits nor denies the allegations therein, as no answer is required..

57. Paragraph 57 of the Complaint consists solely of legal argument; accordingly, Owner neither admits nor denies the allegations therein, as no answer is required.

AFFIRMATIVE DEFENSES

1. The Housing Plan Element and Fair Share Plan Element advanced by the Township fails to satisfy statutory criteria under the Fair Housing Act.
2. The Housing Plan Element and Fair Share Plan Element advanced by the Township violates the *Mt. Laurel* doctrine.
3. The Township's Housing Element and Fair Share Plan Element improperly relies on a durational adjustment, without any analysis or proffer as to infrastructure allocation in the Township.
4. The Borough's Housing Plan Element and Fair Share Plan Element fails to create realistic opportunities for the development of inclusionary housing by failing to create economically feasible zoning.
5. Owner incorporates by reference all affirmative defenses of other parties hereto as if set forth more fully herein.
6. Owner reserves its right to assert such additional affirmative defenses arising in fact or in law as may be ascertained during the course of the within proceedings.

WHEREFORE, Owner requests the following declaratory relief from the Program:

- (a) DECLARING the Program lacks jurisdiction over the Township's submission;
- (b) DECLARING the Housing Element and Fair Share Plan adopted by the Township is legally insufficient in violation of the Fair Housing Act;
- (c) DECLARING that the Township's immunity from exclusionary zoning and builder's remedy actions is revoked; and
- (d) ORDERING such additional relief as the Program may deem just and equitable.

GIBBONS P.C.

*Attorneys for Interested Party,
68 Obre Owner, LLC*

By: /s/ Cameron W. MacLeod, Esq.
Cameron W. MacLeod, Esq.

Dated: August 31, 2025

Designation of Trial Counsel

Pursuant to R. 4:5-1(c) and R. 4:25-4, Gibbons P.C. is hereby designated as counsel for 68 Obre Owner, LLC in this matter.

GIBBONS P.C.

*Attorneys for Interested Party,
68 Obre Owner, LLC*

By: /s/ Cameron W. MacLeod, Esq.
Cameron W. MacLeod, Esq.

Dated: August 31, 2025

R. 4:5-1 Certification

Pursuant to R. 4:5-1, I hereby certify that, to the best of my knowledge, the above-captioned matter is not the subject of any other action pending in any court or the subject of a pending arbitration proceeding. I further certify that I know of no other non-parties who should be joined in this action pursuant to R. 4:28 or who are subject to joinder pursuant to R. 4:29-1(b) because of potential liability to any party on the basis of the same transactional facts at this time.

GIBBONS P.C.

*Attorneys for Interested Party,
68 Obre Owner, LLC*

By: /s/ Cameron W. MacLeod, Esq.
Cameron W. MacLeod, Esq.

Dated: August 31, 2025

R. 1:38-7 Certification

Pursuant to R. 1:38-7, I hereby certify that all confidential identifies have been redacted from the documents submitted to the Program and will be redacted from any documents submitted in the future in accordance therewith.

GIBBONS P.C.

*Attorneys for Interested Party,
68 Obre Owner, LLC*

By: /s/ Cameron W. MacLeod, Esq.
Cameron W. MacLeod, Esq.

Dated: August 31, 2025

R. 4:6-1 Certification

Pursuant to R. 4:6-1, I hereby certify that the within Answer was filed within the time period permitted by N.J.S.A. 52:27D-304.1(f)(2)(b).

GIBBONS P.C.

*Attorneys for Interested Party,
68 Obre Owner, LLC*

By: /s/ Cameron W. MacLeod, Esq.
Cameron W. MacLeod, Esq.

Dated: August 31, 2025



New Jersey Judiciary
Civil Practice Division

Civil Case Information Statement (CIS)

Use for initial Law Division Civil Part pleadings (not motions) under Rule 4:5-1. Pleading will be rejected for filing, under Rule 1:5-6(c), if information above the black bar is not completed, or attorney's signature is not affixed.

For Use by Clerk's Office Only

Payment type <input type="checkbox"/> check <input type="checkbox"/> charge <input type="checkbox"/> cash	Charge/Check Number	Amount \$	Overpayment \$	Batch Number
Attorney/Pro Se Name Cameron W MacLeod, Esq.	Telephone Number (609) 858-2445 ext.	County of Venue Monmouth <input type="button" value="v"/>		
Firm Name (if applicable) Gibbons P.C.	Docket Number (when available) MON-L-422-25			
Office Address - Street 50 W. State Street, Suite 1104	City Trenton	State NJ	Zip 08608	
Document Type Challenge - Housing Element and Fair Share Plan	Jury Demand <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No			
Name of Party (e.g., John Doe, Plaintiff) 68 Obre Owner, LLC	Caption IMO Application of the Township of Colts Neck			
Case Type Number (See page 3 for listing)	816			
Are sexual abuse claims alleged?	<input type="checkbox"/> Yes		<input checked="" type="checkbox"/> No	
Does this case involve claims related to COVID-19?	<input type="checkbox"/> Yes		<input checked="" type="checkbox"/> No	
Is this a professional malpractice case?	<input type="checkbox"/> Yes		<input checked="" type="checkbox"/> No	
If "Yes," see N.J.S.A. 2A:53A-27 and applicable case law regarding your obligation to file an affidavit of merit.				
Related Cases Pending?	<input type="checkbox"/> Yes		<input checked="" type="checkbox"/> No	
If "Yes," list docket numbers				
Do you anticipate adding any parties (arising out of same transaction or occurrence)?	<input type="checkbox"/> Yes		<input checked="" type="checkbox"/> No	
Name of defendant's primary insurance company (if known)	<input type="checkbox"/> None		<input checked="" type="checkbox"/> Unknown	

The Information Provided on This Form Cannot be Introduced into Evidence.


Case Characteristics for Purposes of Determining if Case is Appropriate for Mediation

Do parties have a current, past or recurrent relationship? ☐ Yes ☒ No

If "Yes," is that relationship:

☐ Employer/Employee ☐ Friend/Neighbor ☐ Familial ☐ Business☐ Other (explain) _____Does the statute governing this case provide for payment of fees by the losing party? ☐ Yes ☒ No

Use this space to alert the court to any special case characteristics that may warrant individual management or accelerated disposition.

 Do you or your client need any disability accommodations? ☐ Yes ☒ No
If yes, please identify the requested accommodation:Will an interpreter be needed? ☐ Yes ☐ No
If yes, for what language?**I certify that confidential personal identifiers have been redacted from documents now submitted to the court and will be redacted from all documents submitted in the future in accordance with Rule 1:38-7(b).**Attorney/Self-Represented Litigant Signature: /s/ Cameron W. MacLeod, Esq.



Cameron W. MacLeod
Director

Gibbons P.C.
50 West State Street
Suite 1104
Trenton, NJ 08608-1220
Direct: 609-858-2445 Fax: +1 973-639-8341
cmacleod@gibbonslaw.com

August 31, 2025

VIA ECOURTS

Affordable Housing Dispute Resolution Program
Superior Court of New Jersey
Richard J. Hughes Justice Complex
P.O. Box 037
Trenton, New Jersey 08625

Re: IMO Township of Colts Neck, Docket No. MON-L-422-25

Dear Judge Miller and Members of the Program:

This office serves as counsel to 68 Obre Owner LLC (“Developer”), which is proposing the development of certain property located at 68 Obre Road, otherwise known on the tax maps of the Township of Colts Neck as Block 50, Lot 7 (the “Property”). The parcel is approximately 36 acres in size, and presently located within the AG zone in the Township of Colts Neck.

As with much of the Township, the Property is not presently located within a water quality management area designated by NJDEP, and will require a modification of same prior to its development with an inclusionary housing project. No public utilities presently service the Property; the Developer is proposing a development that will be serviced by a package treatment facility and well water. Consistent with N.J.A.C. 5:93-4.3, the Township of Colts Neck has previously secured durational adjustments relative to its prospective housing obligations for the Third Round, as confirmed most recently by the Court’s Nov. 21, 2024 Order in IMO Township of Colts Neck, Docket No. MON-L-2234-15¹. The Housing Element and Fair Share Plan (the

¹ A copy of this decision and Order is enclosed herewith as App’x A.

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IMO Township of Colts Neck, Docket No. MON-L-422-25
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“Plan”) advanced by the Township expressly relies on this concept of a durational adjustment to secure a temporary downward adjustment of its prospective need obligations in the Fourth Round. See Plan, p. 26.

Developer is in active discussions with the Township regarding a proposed inclusionary development on the Property. These discussion have not yet resulted in an agreement as to the intensity of such development. Notwithstanding same, any development on the Property would undoubtedly require an amendment to the water quality management plan, which will then render the Property available, approvable, developable, and suitable, and thus create significant and realistic development potential on the Property. Accordingly, Developer confirms its interest in the development of the Property as an inclusionary project.

Given that, however, a fundamental question exists as to how – notwithstanding the existing Plan – the Program intends to address durational adjustment projects, particularly in a municipality like Colts Neck that continues to litigate its Third Round obligations and compliance mechanisms. The process envisioned by the Second Round rules and the Court’s prior Orders relative to Colts Neck’s compliance with its affordable obligations for the prior round would suggest that a developer may apply directly to the Council or the Court for an order relative to the determination of site suitability predicate to any filing with NJDEP. See Order, Nov. 21, 2024, para. 3(b). Notably, the Plan does not include such provisions relative to its Fourth Round obligation, and expressly identifies that such obligation relative to the Third Round remains subject to a pending appeal. See Plan, p. 26. The Court’s order, similarly, relates to Third Round

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obligations, where the development of this Property would be subject to Fourth Round standards and compliance mechanisms.

The Fair Housing Act as revised by P.L. 2024 c. 2, neither expressly incorporates any standards relative to the durational adjustment, nor echoes any standards of N.J.A.C. 5:93-4.3 or the following parallel provisions of proposed regulations relative to durational adjustments. The closest it comes is permitting reliance on similar mechanisms of compliance and adjustment. N.J.S.A. 52:27D-311(m). To that end, the Developer is placed in a position where the only available method to preserve their right to compel development of a durational adjustment property would be either (i) through the process of a challenge to the municipal Plan, or (ii) a motion in the existing declaratory judgment action, which is on appeal. Accordingly, and out of such caution, Developer has filed its challenge to the complaint in this matter.

In the event that the Program is not anticipating applying the Second Round rules, or has envisioned an alternative process to protect the rights of similarly situated developers in municipalities seeking durational adjustments, Developer would request a conference with the Program and the Township pursuant to N.J.S.A. 52:27D-304.1f(2)(b), to confirm the Program's approach to preserving the interests of those developing inclusionary projects in communities relying on durational adjustments, whether by directed motion practice or otherwise. This is an issue of fundamental importance not only in the Township, but throughout the state, as the principal limiting factor in many municipalities is the availability of infrastructure to service inclusionary development.

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IMO Township of Colts Neck, Docket No. MON-L-422-25
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Until such guidance is confirmed, which is critical to assuring that the Plan adequately complies with the statutory and regulatory schemes advanced, and with the constitutional mandates of the *Mt. Laurel* doctrine, Developer and others similarly situated must reserve all rights to challenge the appropriateness of the Plan through the only mechanism which presently exists. Accordingly, a CIS and Challenge have been filed.

We look forward to the direction of the Program as to relates to the approach to durational adjustment projects, and to continuing to work with the Township towards the inclusionary development of the Property. We reserve any rights to supplement this challenge correspondence in a manner consistent with the Program's direction.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read "Cameron MacLeod", is positioned above the typed name and title.

Cameron W. MacLeod
Director

CWM:

cc: Counsel of Record (via eCourts)

FAIR SHARE HOUSING CENTER
510 Park Boulevard
Cherry Hill, New Jersey 08002
Phone: (856) 665-5444 ext. 12
Fax: (856) 663-8182
By: Zoey S. Chenitz, Esq. (014542010)
zoeychenitz@fairsharehousing.org

**IN THE MATTER OF THE TOWNSHIP
OF COLTS NECK FOR A JUDGMENT
OF COMPLIANCE AND REPOSE,
MONMOUTH COUNTY**

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION, MONMOUTH COUNTY
DOCKET NO. MON-L-2234-15

CIVIL ACTION
(MOUNT LAUREL)

**ORDER GRANTING FAIR SHARE
HOUSING CENTER'S MOTION TO
ENFORCE LITIGANT'S RIGHTS
AND DIRECTING MODIFICATION
OF COLTS NECK'S PROPOSED
HOUSING ELEMENT AND FAIR
SHARE PLAN AND SPENDING PLAN**

THIS MATTER having been opened to the Court upon the motion of Fair Share Housing Center, by Zoey S. Chenitz, Esq., on notice to Ronald L. Israel, Esq. and Thomas J. Trautner, Esq., Chiesa Shahinian & Giantomasi PC, attorneys for the Township of Colts Neck, and upon notice to all other counsel on the service list attached to the Notice of Motion; and the Court having considered the papers submitted by the parties in support of and in opposition to the application; and having heard the arguments of counsel, if any; and good cause having been shown therefor;

IT IS on this 21st day of November, ~~2022~~, ²⁰²⁴,

ORDERED as follows:

1. The motion to enforce litigant's rights, filed by Fair Share Housing Center under R. 1:10-3 is **GRANTED IN PART AND DENIED IN PART**.

2. Within ⁹⁰~~45~~ days of this Order, Colts Neck must revise its draft Housing Element and Fair Share Plan and Spending Plan to accord with the court-approved settlement of March 18, 2020 and court order of August 13, 2020 by:
 - a. Committing at least \$2 million toward extending water and/or sewer service to affordable housing in the Area 1 Overlay Zone; and
 - b. Clarifying that the Township will maintain the overlay zoning adopted in December 2020.
3. Within ⁹⁰~~45~~ days of this Order, Colts Neck must further revise its draft Housing Element and Fair Share Plan and Spending Plan to:
 - a. Clarify that the Township will support and, if necessary, endorse all applications that developers deem necessary to secure water and/or sewer service for affordable housing sites.
 - b. Specify that developers with proposals for affordable housing sites not already included in the Housing Element and Fair Share Plan and that seek to apply to the New Jersey Department of Environmental Protection (DEP) for water and/or sewer approvals for their sites may first file a motion with the Court, upon notice to and an opportunity to be heard by Colts Neck and Fair Share Housing Center, seeking an order finding their proposed developments suitable and requiring the municipality provide all approvals necessary to submit the application to DEP. Colts Neck shall bear the burden of proof to demonstrate that such proposed sites are not suitable.

- c. Clarify that Affordable Housing Trust Funds will be prioritized for water and/or sewer infrastructure but will not be used toward NWS Earle during the Third Round.
- d. Remove the market-to-affordable plan from the Spending Plan.
4. Within ⁹⁰~~50~~ days of this order, Colts Neck shall provide revised drafts of the amended Housing Element and Fair Share Plan and Spending Plan to the Court-appointed Special Master and to Fair Share Housing Center for review.
5. Within ¹⁰⁵~~65~~ days of this Order, the Special Master shall provide a report to the Court concerning Colts Neck's compliance with the terms of this Order.
A hearing on final compliance by Colts Neck will be held on March 7, 2024 beginning
6. ~~Failure by Colts Neck to comply with the terms of this Order will result in the prompt at 9:00 a.m. revocation of the Township's immunity from builders' remedy lawsuits.~~
7. A true copy of this Order shall be served upon all counsel of record within seven (7) days of receipt of same by counsel for Fair Share Housing Center as entered by the Court. For these purposes service by e-filing shall suffice.

/s/ Linda Grasso Jones, J.S.C.

Hon. Linda Grasso Jones, J.S.C.

☒ Opposed

☐ Unopposed

Motion is GRANTED IN PART and DENIED IN PART for the reasons set forth in the attached decision issued by the court.