

# ADAIR COUNTY COMMISSION MINUTES

## WEDNESDAY, JANUARY 11, 2017

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16. On information and belief, all District employees either became employed with Defendant Adair County or otherwise did not continue to be employed with the District or Defendant Adair County after dissolution of the District on April 6, 1993.

17. Currently, there are no active employees of the District and there are no individuals eligible to retire from the District, with the last eligible member having retired in 2006.

18. Since the District has been dissolved, the District cannot have any new employees. Additionally, all former, eligible employees of the District have retired, died, and/or received refunds or lump sum payouts.

19. To date, there remains an existing balance in the District's account in the MOLAGERS Trust, which balance should be paid to one of Defendants, pursuant to this Court's determination of the proper successor in interest to these funds. As of June, 2016, the balance of the District's account in the MOLAGERS Trust was \$358,056.

**DISPUTE OVER ENTITLEMENT TO THE BALANCE OF THE DISTRICT'S ACCOUNT**

20. Plaintiff MOLAGERS has met all of its obligations to the District employees by successfully investing the funds in the District's account and over-performing in the management of its investments. This over-performance has led to a balance that can be paid to the appropriate successor in interest in that even without this balance, Plaintiff MOLAGERS has sufficient funds to provide for all of the benefits due and owing to former District employees. On information and belief and as set out herein, Adair County is the most probable successor in interest since it purportedly absorbed the duties of the District, pursuant to the June 17, 1993 Judgment. *See Exhibit J.*

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21. However, on information and belief, the former District may have also encompassed part of the territorial boundaries of Defendant City of Kirksville, thereby potentially allowing Defendant City of Kirksville to allege entitlement to these funds.

22. Under these facts, Plaintiff MOLAGERS is subject to potential competing claims from Defendant City of Kirksville and Defendant Adair County.

23. Also under these facts, Defendant Adair County and Defendant City of Kirksville may have competing claims to the remaining proceeds of the District's account. Plaintiff MOLAGERS is thus subject to the prospect of double or multiple liability if MOLAGERS were to transfer such funds to one of the Defendants herein at the exclusion of the other.

24. On September 26, 2016, Plaintiff MOLAGERS, through counsel, notified Defendants by certified letter of the account proceeds of the District and of a forthcoming interpleader action for determination of the legal successor in interest to such proceeds. *See Exhibit S, September 26, 2016 Certified letter to Defendants. A true and accurate copy of Exhibit S is attached hereto and incorporated by reference herein.*

**COUNT I  
(Petition in Interpleader)**

25. Plaintiff hereby restates and incorporates paragraphs 1 through 24 as if set forth fully herein.

26. Under Section 507.060, RSMo., "Persons having claims against the plaintiff may be joined as defendants and required to interplead when their claims are such that the plaintiff is or may be exposed to double or multiple liability." *See also* Rule 52.07.

27. Here, the potential competing claims of Defendants may exceed the total balance available in the District Trust Fund account.

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28. Plaintiff MOLAGERS is under an obligation to pay the balance of the District's Trust Fund account to the appropriate successor in interest.

29. Due to the potential competing claims on the District balance held by Plaintiff MOLAGERS, Plaintiff MOLAGERS has a good faith belief that it may be subject to multiple claims because of the potential conflicting claims of the Defendants herein.

30. Plaintiff MOLAGERS has no other available and adequate remedy at law.

31. Plaintiff MOLAGERS shall continue to hold the approximate balance of \$358,056, to be held during the pendency of this action. If the Court should determine that either the Defendant City of Kirksville or Defendant Adair County is the appropriate successor in interest, then the balance can be transferred to either Defendant's employer account, which would increase assets therein and reduce future contributions of said employer.

WHEREFORE, Plaintiff MOLAGERS respectfully requests that this Court enter an Order as follows:

(a) That Defendant Adair County and Defendant City of Kirksville be required to appear, interplead, and submit for determination by this Court the issue of their right to the balance mentioned herein;

(b) That Plaintiff MOLAGERS be discharged from all liability to Defendants with regard to the proceeds of the District's Trust Fund account;

(c) That Plaintiff MOLAGERS be dismissed as a party to this action;

(d) That Plaintiff MOLAGERS be ordered to transfer the amount(s) directed by the Court as part of an interfund transfer of assets within the MOLAGERS trust;

(e) For such other and further relief as this Court deems just and proper.

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**COUNT II  
(Declaratory Judgment)**

32. Plaintiff hereby restates and incorporates paragraphs 1 through 31 as if set forth fully herein.

33. Under Section 527.010, RSMo., "The circuit courts of this state, within their respective jurisdictions shall have power to declare rights, status, and other legal relations whether or not further relief is or could be claimed.

34. Plaintiff MOLAGERS hereby seeks this Court's order declaring the proper successor in interest to the Trust Funds described herein.

35. For the reasons outlined herein, there exists a justiciable controversy in this matter.

36. Plaintiff MOLAGERS has a legally protected and/or pecuniary interest in transferring those funds to the legally appropriate successor in interest.

37. The issues presented herein are ripe for judicial determination and Plaintiff MOLAGERS does not otherwise have an adequate remedy at law.

WHEREFORE, Plaintiff MOLAGERS respectfully requests that this Court enter an order declaring:

(a) that Plaintiff MOLAGERS is discharged from all liability to Defendants with respect to the Trust proceeds; and

(b) the legal successor in interest to the Trust proceeds described herein.

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ATTEST:           Sandra Collop            
County Clerk

          Mark Thompson            
Presiding Commissioner