

Judge tosses law firm suit

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BRANFORD — A Superior Court judge has dismissed The Marcus Law Firm's countersuit against the town with regard to the firm's representation of Branford in the Tabor eminent domain case, finding that Marcus filed its claim prematurely, before the issue was "ripe" for judicial review.

The Marcus Law Firm, headed by one-time state senator and Democratic State Central Committee Chairman Ed Marcus, was town attorney throughout the tenure of former First Selectwoman Cheryl Morris, 2005 to 2007. It led the legal efforts in the Tabor case during that time.

Branford sued Marcus for malpractice in August 2008, alleging that the law firm was negligent in the way it represented the town in the Tabor case. The town's three claims in that lawsuit involved legal malpractice, negligence, and breach of fiduciary duty. Superior Court Judge Richard E. Burke ruled Dec. 7, 2010, in favor of Marcus Law Firm, in a motion to strike the breach of fiduciary duty claim.

The other two counts are still being litigated.

Judge Linda A. Lager's decision this month that the countersuit is premature is "not a big deal. ... It really doesn't mean anything," Marcus said Monday. "The gist of it was that, ultimately, it could be taken up on appeal when the

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case terminates."

Nevertheless, "It doesn't affect the overall result or what we will do upon the town's case being dismissed," Marcus said.

"I hope the motion, even though it was ruled premature, will give the town something to think about and make them look at what they're doing."

Town Attorney William H. Clendenen Jr. was traveling Monday and could not be reached for comment.

Lager's decision is the latest in a long line of twists and turns in the tangled Tabor litigation. That stems from the town's 2003 decision, alleging pollution concerns, to take 77 acres on Tabor Drive, next to the town landfill, on which a developer was pro-

posing a large condominium project.

Developer New England Estates, as well as property owners Frank Perrotti and Thomas Santa Barbara, later sued the town.

New England Estates won a \$12.4 million Superior Court jury award, which the state Supreme Court later overturned.

The town and New England Estates later agreed to a settlement after the developer asked the U.S. Supreme Court to review the state Supreme Court's opinion.

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