

State of New Hampshire
Supreme Court

NO. 2007-0572

2007 TERM

DECEMBER SESSION

Saraswati Mandiram, Inc. & Pandit Ramadheen Ramsamooj
Plaintiff/Appellant

v.

G&G, LLC, & G&G, Epping, LLC
Defendant/Appellee

RULE 7 APPEAL OF FINAL DECISION OF
ROCKINGHAM COUNTY SUPERIOR COURT

BRIEF OF AMICUS CURIAE HINDU AMERICAN FOUNDATION

**In support of the Plaintiff/Appellants*

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INTEREST OF AMICUS CURIAE

The issues before this Honorable Court have profound implications for Hindu Americans in the state of New Hampshire who worship at, attend, patronize, support and depend upon Saraswati Mandiram and the religious and spiritual guidance of Pandit Ramadheen Ramsamooj (“Saraswati Mandiram”). Saraswati Mandiram is the only Hindu temple or *mandir* in the State of New Hampshire and among only a handful of traditional Hindu *ashrams* or monasteries in the United States. The loss of this essential sacred ground stands to disenfranchise not only Hindus in New Hampshire and neighboring states, but the greater Hindu American community by significantly hindering the immediate community’s ability to practice their religion and depriving Hindu Americans at large of a rare sanctuary for spiritual knowledge and growth. The Hindu American Foundation as amicus curiae herein submits this brief to provide vital information with regard to the purpose and function of traditional Hindu *mandirs* as well as *ashrams*.

The Hindu American Foundation (HAF) is an advocacy and human rights group whose purpose is to provide a voice for approximately two million Hindu Americans. HAF interacts with and educates media, academia and those in a position to shape public policy about Hinduism and issues of concern to Hindus locally and globally. Promoting the Hindu and American ideals of tolerance and pluralism, HAF advocates for the right to free exercise and strongly opposes hate, discrimination, defamation and terror. HAF is not affiliated with any religious or political organizations or entities. HAF seeks to serve Hindu Americans across all *sampradayas* (Hindu religious traditions).

A central function of the HAF is to represent the interests of its members in important matters before the courts as amicus curiae. See Hindu Temple Society of America v. Supreme

Court of New York, 335 F. Supp. 369 (E.D.N.Y. 2004) (letter supporting a petition for preliminary injunction against the State of New York's interference with the temple's religious autonomy); Van Orden v. Perry, 545 U.S. 677 (2005) (brief challenging a Ten Commandments display on Texas state capitol grounds); Simpson v. Chesterfield County, 126 S.Ct. 426 (2005) (brief on behalf of Hindus, Jains, Buddhists and Native Americans supporting Petition for Writ of Certiorari in case dealing with discriminatory action of county board disallowing non-Judeo-Christians to lead prayer); Cutter v. Wilkinson, 423 F.3d 579 (6th Cir. 2005) (brief arguing for the constitutionality of the Religious Land Use and Institutionalized Persons Act, requiring state prisons receiving federal funds to reasonably accommodate inmates' religious practices); Gonzales v. O Espirito Centro Uniao Do Vegetal (10th Cir. 2005) (brief defending the constitutionality of the Religious Freedom Restoration Act); Borden v. East Brunswick School District, et al, decision pending, (3rd Cir.) (brief supporting a school district's ability to prohibit a coach from participating in student-initiated prayer because his participation implies the prayer is school or state-endorsed); Town of Foxfield, CO v. The Archdiocese of Denver, et al, decision pending, (CO S.Ct.) (brief defending the constitutionality of the Religious Land Use and Institutionalized Persons Act).

This brief is filed with a concurrent Motion for Leave to File and Pro Hac Vice. See Supreme Court Rule 30 (providing that absent the consent of a party to the case, a brief may be conditionally filed with the motion for leave) and Supreme Court Rule 33 (providing requirements for an out-of-state attorney).

INTRODUCTION

Hinduism dates back at least 5000 years and is acknowledged as the oldest of the five major world religions, which include Buddhism, Christianity, Hinduism, Islam and Judaism. J. Gordon Melton, *Encyclopedia of American Religions* 195 (Jolen Marya Gedridge ed., 7th ed. 2005). Hinduism is unique in that it does not have an identifiable beginning in history nor a single founder, central religious establishment or sole authoritative scripture. Hindu American Foundation, Introduction to Hinduism, *Tolerance and Pluralism: The Essence of Hinduism*, available at http://hafsite.org/hintro_pluralism.htm (last checked December 10, 2007).

Hinduism has been described as a diverse family of hundreds of religious and spiritual traditions encompassing a broad range of philosophical frameworks from pluralistic theism to absolute monism. Religion Newswriters Association, Religion Style Book, available at <http://www.religionstylebook.org/styleH.php> (last visited on December 10, 2007). Despite this inherent diversity in both belief and practice, Hinduism undeniably has certain shared, core principles. Hindu American Foundation, supra, available at http://hafsite.org/hintro_pluralism.htm (last checked on December 10, 2007. For purposes of this brief, the HAF will not provide an exhaustive discussion of all the core beliefs but will highlight those key principles which are relevant.

Among these core beliefs, is first, the belief in an all-pervasive God. Satguru Sivaya Subramuniyaswami, *Dancing with Siva: Hinduism's Contemporary Catechism*, xx (4th ed. 1993). Most Hindus believe God to be both immanent and transcendent and able to manifest in infinite forms. Satguru, supra. Thus Hindus celebrate and worship God's various attributes through different representations. Religion Newswriters, supra, available at <http://www.religionstylebook.org/styleH.php> (last visited on December 10, 2007). The belief in

multiple forms or manifestations of God also extends to multiple paths to God as embodied in Hindu scripture, “The Truth is One, the paths are many.” Diane L. Eck, *A New Religious America: How a “Christian Country” Has Become the World’s Most Religiously Diverse Nation.*” 80 (1st ed. 2002). Hindus have interpreted and practiced these teachings of pluralism to mean that no particular religious path is superior to others and that man is free to pursue the belief system or religion best suited for him or her in order to attain spiritual liberation or salvation. Eck, *supra*; See also Bramchar Siddheswar Shai v. State of West Bengal, 1995 A.I.R.(SC) 2089, 2099 at ¶28 (identifying the following as among the defining characteristics of Hinduism to legally distinguish Hindu denominations from other religions in India: “Recognition of the fact that the means or ways to salvation are many. . .”) (citing Shastri Vagnapurushdasji v. Muldas Bhundaras Vaishya, 1966 A.I.R. 1966 (SC) 1119, 1180 at ¶¶ 35-37).

Second, many Hindus believe in the divinely revealed nature of the *Vedas*. Satguru, *supra* at xx. The *Vedas* are among Hinduism’s most ancient scripture and contain over 100,000 verses expounding the realized wisdom of the ancient saints. Satguru, *supra*. Third, Hindus espouse a belief in *karma* or the universal law of cause and effect in which each and every action results in a reaction. The cycle of cause and effect is believed to be infinite, thus if one sows virtuous action, one reaps goodness and conversely, if one sows immorality, one will reap bad results and this universal accounting of checks and balances so to speak, may occur over various lifetimes. However, an individual may escape this cycle if and when the individual is able to remain completely unattached to the fruits of her virtuous action in thought, word or deed. Hindu American Foundation, Introduction to Hinduism, Tolerance and Pluralism: The Essence of Hinduism, available at http://hafsite.org/hintro_questions.htm (last visited on December 10,

2007). For example, completing a task to the best of one's ability for the sake of completing the task, all the while having only God in both heart and mind and no personal desire for or attraction to the results of the task is the means, if practiced continuously, by which one would break the cycle.

A discussion of the law of *karma* immediately leads to the fourth belief, and that is a belief in reincarnation by which each soul spiritually evolves through a cycle of countless births until all actions, both virtuous and non-virtuous, have been accounted for and spiritual liberation from the cycle of birth and death or *moksha* has been attained. Each and every soul has the potential to achieve spiritual liberation. Satguru, *supra* at xxi.

Lastly, and especially in light of the issues before this Honorable Court, Hindus believe in the existence of the Divine, both in all things living in this world and in unseen worlds. Satguru, *supra*. Thus temple worship, sacraments and rituals as well as personal religious practice and spiritual training under the tutelage of a knowledgeable master or *guru* are expected if not required for spiritual growth and one's eventual spiritual union with God. Satguru, *supra*. In the same vein, due to this belief in the sacredness of all things, Hindus practice *ahimsa* or non-injury in which to the best of an individual's ability, nature and its laws are not only respected but venerated. Satguru, *supra*.

ARGUMENT

I. A TEMPLE OR *MANDIR* IS ESSENTIAL TO THE PRACTICE OF THE HINDU RELIGION BECAUSE OF ITS INHERENT SANCTITY AND SETTING AS A PLACE OF WORSHIP.

A. A *mandir* is built, managed and maintained by strict scriptural directives making it and the ground upon which it is built sanctified; and once sanctified, is considered a house for the physical manifestations of God.

Sacred architecture has been a central feature of the South Asian landscape for thousands of years. And though for centuries these ancient relics appeared at first glance to be mere architectural feasts for the eyes, recent research in the field of *vastu shastra* or sacred architecture has revealed Hindu temples to be architectural marvels with a much deeper symbolic and purposeful construction and design of function. Mahalingam Kolapen, *Hindu Temples in North America: A Celebration of Life*, 45 (1st Ed. 2002).

The science of *vastu shastra* dates to at least 3000 B.C.E. and, continues in modern times, to guide both sacred and secular architecture in India as well as in the United States, the latter in which especially with regard to the establishment, design and construction of North American Hindu *mandirs*. Kolapen, *supra*. *Vastu shastra* provides guidance from the selection, geographic position and composition of the property to the direction, physical placement, dimensions, design and embellishment of the actual structure and surrounding grounds, all with the ultimate purpose of creating a hallowed place conducive to communion with God. *Supra*. Interesting to note, *vastu shastra* specifically suggests that a temple should be situated on land in a beautiful place where “rivers flow, on the banks of a lake, or by the sea shore.” Kolapen, *supra*.

The land which Saraswati Mandiram occupies is a luscious 100 acres of rolling pastures and woodland, bordered by the Lamphrey River, in a serene natural state that was selected by

Saraswati Mandiram for the very reason of being the ideal peaceful atmosphere for meditation, contemplation and spiritual awakening. It has several buildings, including a temple, residential dormitories comprising 10 living units, an auditorium, a dining facility and a barn. The land has been organically farmed for approximately 50 years. Living at the *ashram* are four resident priests, their immediate families and children, and three students of divinity or individuals having chosen monastic life. AM.PET. ¶¶ 3-4, *appx* at 254. The tranquil setting in which Ashram residents live consists of an unusually simple life with few to no amenities, and where worshipers come to pay respects and homage to the temple deity, *Saraswati*, the Goddess of Knowledge.

Even if the existing buildings are not designed, situated or constructed according to the detailed specifications of *vastu shastra*, during the various phases of pre-construction and construction, special ceremonies and rituals to purify and consecrate the grounds and new and existing structures are performed for each and every temple so that the property's vibrations shift from secular and mundane to sacred, making it a holy place in which a devotee may attain communion with God. Satguru, *supra* at 301. In accordance with traditional Hindu practice, Saraswati Mandiram has conducted land and structure sanctification ceremonies numerous times, first on its initial acquisition of the property in 1997 with the *Bhoomi Puja* or ceremonial ground breaking, in 2004 with *Jal Vas Rajan*, another sanctifying ritual (after the fire at Saraswati Mandiram), and every year since its inception in October for *Navatri*, a nine day festival honoring the feminine Divine.

In addition to sanctified land and structures, every *mandir* houses deities or *murtis* in Sanskrit and most Indic languages, which are central to Hindu worship as the physical representation of a particular manifestation of God. Even the *murtis* are carved, adorned and

installed according to strict scriptural guidelines, thus further sanctifying every aspect of a *mandir*. *Supra*. Sacred sculpture, be it stone, metal, wood or clay, is directed by *shilpi shastra* or the enlightened knowledge of the art of sculpting. Kolapen, *supra* at 45. Both *vastu shastra* and *shilpi shastra* are collectively referred to as *Sthapatya Veda*. Kolapen, *supra*. Finally, once sanctified, the *mandir* “is believed to be the earthly seat of the deity and the place where the deity awaits his or her devotees.” Kolapen, *supra* at 13.

As an active Hindu *mandir*, Saraswati Mandiram has an eight-foot tall, ornately carved, solid black marble *murti* of *Saraswati* (for whom the *mandir* is incidentally named). Saraswati Mandiram’s *murti* was carved in India according to the directives elaborated above. It has also been installed according to scriptural guidelines with several other *murtis* of other forms of God associated with *Saraswati* having been placed in a specific geometric configuration for further sanctification.

In terms of the continuing hallowed nature of the *mandir* and grounds upon which it rests, its establishment as a *mandir*, priests, monks, residents, members, worshippers and visitors follow strict protocols to maintain and respect the sacredness of the space. These practices include, but are not limited to, entering the *mandir* only after having bathed or showered, on other words, clean; removing shoes before entering the *mandir*; dressing appropriately; performing rituals and ceremonies with only the right hand which is considered more pure; drinking of holy water; reciting of prayers and spiritual songs; performing of daily ritual ceremonies; the offering of wholesome, strictly vegetarian foods; fasting; and meditating in silence. Satguru, *supra* at 274-277. Moreover, in the spirit of acknowledging the sacredness or Divine in nature and fulfilling vows of simple living, the residents of Saraswati Mandiram also continue to farm the land organically for the sustenance of its residents and implement animal-

friendly care for its livestock. These practices, especially with the Hindu view of the cow, in particular, as a symbol of the Earth and selfless provider, exemplify and put into practice the principle of non-injury or *ahimsa*.

B. Hindus are required to perform certain rites, worship and make offerings at a *mandir*.

An essential element of Hindu practice is worship and the performance of certain rites and ceremonial rituals. Satguru, *supra* at 269-277. While attendance at a *mandir* is by no means congregational nor prescribed for a particular day of the week, it is recommended that Hindus visit a *mandir* of choice at least once a week and especially during certain days of the month which are considered auspicious, annual festivals and for certain rites of passage. Satguru, *supra* at 303. Particularly because of the sanctity of a *mandir*, Hindus, especially in the U.S., perform several rites of passage and ceremonial rituals in a temple or on the grounds, including but not limited to, *yagnas* or sacred fire ceremonies, weddings, pre-birth/pregnancy, first head-shaving and commencement of religious education training ceremonies and last rites. Satguru, *supra* at 269.

II. A HINDU MONASTERY OR *ASHRAM* IS A SPIRITUAL SANCTUARY THAT PLAYS A CENTRAL ROLE IN THE PRACTICE AND PRESERVATION OF HINDUISM.

A. An ashram is a sacred and hallowed space at which seekers may gain spiritual knowledge, guidance and counsel, and solace and quietude for meditative practice and those individuals who have chosen a monastic life may reside.

An ashram is most commonly understood to be a place of retreat, far from both the internal and external stresses of everyday life, in which seekers may gain spiritual knowledge, guidance and counsel as well as solace and quietude for meditative practices. Encyclopedia Britannica Online, *available at* <http://www.britannica.com/eb/article-9009845/ashrama> (last visited on December 10, 2007). Generally an *ashram* is the permanent residence of a central

spiritual or religious authoritative figure who is the *guru* or enlightened teacher whom visitors and residents of an *ashram* have accepted as their personal spiritual guide. Encyclopedia Britannica, *supra*. Seekers are not obligated to take any vows or necessarily make a commitment to monastic life, but are still required to abide by certain disciplined schedules and routines while staying at an *ashram*.

A simple internet search of *ashrams*, most of which are located in India, and the respective rules for those individuals living or visiting the *ashram* show similar routines which include, but are not limited to waking up before sunrise; mandatory activities such as meditation, yoga practice, chanting and spiritual discourse, and periods of silence; consumption of simple and nutritious vegetarian meals; and basic chores to help in the maintenance of the *ashram* including cleaning, making repairs and food preparation. Eg. Bihar School of Yoga Ashram, *available at* <http://www.yogavision.net/bsy/routine.htm> (last visited on December 10, 2007).

Indeed the expectations and obligations of those individuals who have chosen a renunciant or monastic life are greater than those of visitors in terms of discipline and renunciation. Renunciation has been a respected, yet arduous, religious path in Hinduism since its earliest days. Satguru, *supra* at 345. While considered a path to be taken or aspired to at the last phase of one's life, many from a younger age heed to their "calling" for the quest for the Higher. Wikipedia, Sannyasa, *available at* <http://en.wikipedia.org/wiki/Sannyasa> (last visited on December 10, 2007). With dual objectives of making personal spiritual progress and preserving and propagating Hindu philosophy and teachings, the renunciant or in a collective residential environment, the monastic, renounce all worldly possessions and attachments including material objects, relationships with birth families and social standings and commit to a life of vigorous spiritual studies, meditation, introspection, truth, chastity, austerity and control

of the senses. *Id.* An *ashram*, similar to a *mandir*, has been sanctified through prayer and meditation and thus provides the ideal atmosphere and vibrations for Higher learning.

B. An *ashram* is a sacred and hallowed space at which Hindus may seek holistic or *ayurvedic* health services and other religion-based services including the performing arts without the *ashram* compromising its religious, educational or charitable purpose.

Ashrams, as places of retreat, far from both the internal and external stresses of urban life, have also widely been accepted as repositories of other religion-based or religion-related education and services, including yoga, classical music and dance and *ayurvedic* or the ancient holistic Hindu system of medicine and treatment. Traditionally such ashrams run on donations in India, but in the U.S. because of higher costs of acquisition and maintenance, nominal rates are charged by the few ashrams in existence in the U.S. Though these ashrams charge fees, they are still able to maintain the ashram's religious, educational or charitable tax purpose. Eg. Sivananda Yoga Ranch, Rate, *available at* <http://www.sivananda.org/ranch/rates.html> (last visited on December 10, 2007); see also The Centre for Yoga Research and Education, Yoganjali Natyalayam, *available at* <http://www.icyer.com/> (for example of traditional Hindu ashram in India offering, in addition to spiritual and yoga training, classical dance and musical training) (last visited on December 10, 2007).

Similarly, Saraswati Mandiram offers many of the educational and training opportunities as well as services of other traditional Hindu *ashrams*, including classical music and dance classes, religious and spiritual. It is still, however, a nonprofit tax-exempt religious and educational institution, AM.PET. ¶¶ 1, 7, organized under the laws of Massachusetts and registered in New Hampshire. The corporation's sole executive director is Mr. Ramadheen Ramsamooj. AM.PET. ¶ 6.

III. THE PRESERVATION OF SARASWATI MANDIRAM IS CRUCIAL TO THE HINDU AMERICAN COMMUNITY'S ABILITY TO PRACTICE ITS RELIGION.

A. The Hindu population in the United States has seen remarkable growth over the past seven years.

Worldwide, there are close to 900 million Hindus, 2005 Annual Megacensus of Religions, In Britannica Book of the Year 2006, *available at* <http://www.britannica.com/eb/article-9432655> (last visited December 10, 2007), of which approximately 2 million live in the United States. "So, How Many Hindus Are There in the U.S.?" Hinduism Today, January 2008, pg. 61. The rate of growth for the Hindu American community is substantial given the population of Hindus in the U.S. in 2001 was only 766,000. Statistical Abstract of the United States: Population 55, *available at* <http://www.census.gov/prod/2004pubs/04statab/pop/pdf> (last visited on December 10, 2007). With this exponential and continuing growth has come the increasing need for houses of worship to meet the religious and spiritual needs of the Hindu American community.

B. There are relatively few traditional Hindu temples serving the Hindu American community's religious and spiritual needs.

According to Harvard University's Pluralism Project, one of the most comprehensive information clearinghouses on data on the various faith communities existing in the U.S., there are currently close to 700 Hindu temples or organizations throughout the United States. The Pluralism Project at Harvard University, Statistics by Faith Tradition, *available at* <http://pluralism.org/resources/statistics/tradition.php#Hinduism> (last checked on December 10, 2007).

The first introduction of Hindu philosophy to West was not by Hindus of Indic origin, but by two American literary giants of the early 19th Century. Both Ralph Waldo Emerson and

Henry David Thoreau were profoundly influenced by translations of Hindu scripture, including the *Bhagavad Gita*, and wrote prolifically about their impressions of Hinduism's ancient teachings. Kolapen, *supra* at 14. Close to the end of that century at the Parliament of Religions, a young and dynamic monk named Swami Vivekananda addressed those in attendance and began the first broad-based surge of interest in the philosophies of the east by the west. *Supra*. The Vedanta Society of San Francisco, which was established by disciples influenced by Vivekananda in 1906, is touted as the first-ever Hindu temple. It wasn't until 1938 and 1956 that two additional Hindu temples, in Hollywood and Santa Barbara respectively, were established. *Supra*.

Any expansion of Indic religions, including Buddhism, Jainism and Sikhism, came to a near standstill during and after World War I because of significant anti-Asian sentiment. J. Gordon Melton, *Encyclopedia of American Religion* 197-98 (Jolen Marya Gedridge ed., 7th ed. 2003). This bigotry led to the passage of the Asian Exclusion Act of 1917, Immigration Act of 1917, ch. 29, 39 Stat. 874 (1917) (repealed 1952); *see also* J. Gordon Melton, *Encyclopedia of American Religion* 198 (Jolen Marya Gedridge ed., 7th ed. 2003), which severely limited Asian immigration for almost fifty years through the use of strict quota systems. It wasn't until the passage of the Immigration and Nationality Act of 1965 that quotas restricting immigration from Asian countries were lifted. Immigration and Nationality Act (INA), 8 U.S.C. § 1101 (2003) (originally enacted as Act of 1965, ch. 79 Stat. 911 (1965)); *see* J. Gordon Melton, *Encyclopedia of American Religion* 198 (Jolen Marya Gedridge ed., 7th ed. 2003). Finally in the early to mid 1960s, Hindus of Indic origin were able to immigrate to the U.S. Sometime thereafter, they began establishing traditional Hindu temples in the early to mid 1970s. Kolapen, *supra* at 14.

Today, with the continued arrival of Hindu immigrants to the U.S. in addition to first, second and third generation Hindu Americans, Hindus have established some 700 traditional *mandirs* to preserve their religious and cultural heritage. Kolapen, *supra*. See also The Pluralism Project, *supra*, available at <http://pluralism.org/resources/statistics/tradition.php#Hinduism> (last checked on December 10, 2007).

Some regions in the U.S. have a higher concentration of Hindu Americans and so the number of temples available to those respective communities has been commensurate. Though state-specific statistics are not available in terms of the religious make of the populace, New Hampshire's two immediately neighboring states have no Hindu Temples (Vermont has none and Maine has only one Hindu center listed, but it is not a temple, but a yoga studio) and again Saraswati Mandiram is the only traditional Hindu *mandir* and *ashram* in the State of New Hampshire. The Pluralism Project, available at http://www.pluralism.org/resources/statistics/august2006_hinduism_distribution.gif. (last checked on December 10, 2007).

The number of worshipers, regular attendees, full-time priests and monastic residents at Saraswati Mandiram's *ashram* facilities is indicative of the demand for religious and spiritual services in New Hampshire and surrounding areas. With 1,500 registered worshipers of whom 400 regularly attend, the *mandir's* four resident priests, their immediate families and children and three monastic residents, AM.PET. ¶¶ 3-4, *appx* at 254, Saraswati Mandiram is filling a critical need of the New Hampshire Hindu American community and preservation of this property as a sacred and hallowed grounds is paramount. Furthermore, since 1997, Pandit Ramadheen Ramsamooj, as the head priest and knowledgeable repository of spiritual and

religious knowledge, has played a key role in meeting the religious, spiritual and educational needs of not only Hindus in New Hampshire, but Hindus from all across the U.S. and internationally who have benefited from the tranquil sanctity and serene setting of this unique Hindu American *ashram*. AM.PET. ¶ 6.

CONCLUSION

The Hindu American Foundation as *amicus curiae* urges this Court to recognize the vital importance of Saraswati Mandiram to the Hindu community coupled with the significance of the hallowed ground on which Saraswati Mandiram is located and what that means to the Hindu religious community. HAF asks this Honorable Court to preserve this rare house of worship and the only Hindu *mandir* and *ashram* in New Hampshire. To that end, we respectfully request that this Court reinstate Saraswati Mandiram and Pandit Ramadheen Ramsamooj's causes of action, or in the alternative, to order damages, rescission of the contract and reinstatement of Saraswati Mandiram's title to the property.

Respectfully Submitted,

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I _____, certify that two copies of this amicus curiae brief have been forwarded to Christopher T. Hilson, Esq. at Donahue, Tucker & Ciandella. Two copies have been forwarded to Joshua L. Gordon at the Law Offices of Joshua L. Gordon. A copy has also been forwarded to the Exeter District Court and the Rockingham County Superior Court.

Suhag A. Shukla, Esq.