

RETURN DATE: JANUARY 10, 2006 : SUPERIOR COURT  
C. R. KLEWIN NORTHEAST, LLC, : J.D. OF HARTFORD  
VS. : AT HARTFORD  
JAMES T. FLEMING, COMMISSIONER, :  
DEPARTMENT OF PUBLIC WORKS FOR :  
THE STATE OF CONNECTICUT, M. :  
JODI RELL, GOVERNOR OF THE STATE :  
OF CONNECTICUT and NANCY WYMAN, :  
COMPTROLLER OF THE STATE OF :  
CONNECTICUT : DECEMBER 13, 2005

## **COMPLAINT**

### **INTRODUCTION :**

1. Plaintiff, C. R. Klewin Northeast, LLC (“Klewin”), is a Connecticut limited liability company with offices located in Norwich, Connecticut.

2. Defendant, James T. Fleming (the “Commissioner”) is and was, at all times herein mentioned acting individually and as Commissioner of the State of Connecticut Department of Public Works (“DPW”), and has so served since at least 2003. Pursuant to C.G.S. §4b-1 “The Commissioner of Public Works shall (1) be responsible for the administrative functions of construction and planning of all capital improvements undertaken by the state... Notwithstanding any other provision of the general statutes, except for the property of The University of Connecticut, the

commissioner may supervise the care and control of (1) any state-owned or leased office building, and related buildings and grounds, outside the city of Hartford, used as district offices, except any state-owned or leased office building, and related buildings and grounds, used by the Judicial Department, and (2) any other state-owned or leased property, on a temporary or permanent basis, if the commissioner, the Secretary of the Office of Policy and Management and the executive head of the department or agency supervising the care and control of such property agree, in writing, to such supervision.

3. Defendant Governor M. Jodi Rell (“Rell”) is and was, at all times herein mentioned acting individually and as the agent and Governor of the State of Connecticut. Pursuant to C.G.S. §3-7(c) “upon the recommendation of the Attorney General, the Governor may authorize the Compromise of any disputed claim by or against the state or any department or agency thereof, and shall certify to the proper officer or department or agency of the state the amount to be received or paid under such Compromise. Such certificate shall constitute sufficient authority to such officer or department or agency to pay or receive the amount therein specified in full settlement of such claim. The record of any Compromise effected pursuant to the provisions of this section shall be open to public inspection in accordance with section 1-210.”

4. Defendant Nancy Wyman (“Wyman”) is and was, at all times herein mentioned acting individually and as the agent and Comptroller of the State of Connecticut. According to Article Fourth, Section 24 of the State Constitution, the State Comptroller “shall adjust and settle all public accounts and demands, except grants and orders of the general assembly. He shall prescribe the mode of keeping and rendering all public accounts.” In addition, state law charges the office to adjust and/or settle all demands against the state not first adjusted and settled by the General Assembly; to prepare all accounting statements relating to the financial condition of the state; to pay all wages and salaries of state employees; to develop and implement new computerized payroll, personnel, accounting and budgeting systems; and to administer miscellaneous appropriations for employee taxes, health services and insurance, as well as grants to police, firefighters and municipalities.”

**COUNT ONE (Mandamus to Enforce a Public Duty, Conn. Gen. Stat. Section 52-485 )**

5. By a contract dated October 6, 1998, as amended (the “Contract”), Exhibit A (See Practice Book §10-29), between the Department and Klewin, Klewin agreed to construct the New Resource Learning Center and Lowe Building at Manchester Community College (the “Project”).

6. DPW certified the Project as complete and accepted as of December 23, 2004. Exhibit B (See Practice Book §10-29).

7. During the construction of the Project, various disputed claims arose between Klewin and the DPW.

8. Klewin and the DPW entered into negotiations to resolve these claims.

9. Ultimately, a Compromise (the “Compromise”) was agreed upon.

10. Pursuant to that Compromise, DPW became obligated to pay Klewin \$1,200,000.00 to resolve all disputed claims.

11. The Commissioner recommended the Compromise to the Governor.

12. Pursuant to Conn. Gen. Stat. §3-7, the Attorney General recommended acceptance of the compromise.

13. The Governor, also acting pursuant to Conn. Gen. Stat. Section 3-7, accepted the Compromise and certified that the Commissioner pay Klewin the amount of \$1,200,000.00 under such Compromise. Exhibit C (See Practice Book §10-29).

14. Klewin has a clear, immediate right to the Compromise and the payment of the certified amount.

15. The Defendants’ implementation of the Compromise and payment to Klewin are purely ministerial and non-discretionary legal duties.

16. Despite demand, the defendants has failed and refused to pay the compromise.

17. Klewin has no other adequate remedy at law.

**WHEREFORE**, Klewin requests this court to enter relief as follows:

1. To enter a judgment ordering that Defendants issue funds necessary to perform the Compromise effected pursuant to Conn. Gen. Stat. §3-7 ;
2. Any further legal or equitable relief this court deems just and proper.

PLAINTIFF  
C. R. KLEWIN NORTHEAST, LLC,

By: \_\_\_\_\_

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**STATEMENT OF AMOUNT IN DEMAND**

The amount in demand in the above-captioned action is greater than  
\$15,000.00, exclusive of interest, costs and attorneys= fees.

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