

STATE OF MAINE
KENNEBEC, ss.

SUPERIOR COURT
CIVIL ACTION
DOCKET NO. RE-06-33
D.M. - RE - 5/1/2008

PEGGY and WALTER WINCHESTER,

Plaintiffs

v.

DECISION AND ORDERS

GARDNER STOVER,

Defendant

Pursuant to scheduling order dated July 2, 2007, the bench trial was completed and decision issued December 18, 2007, declaring the location of the right-of-way in question. The matter is now in order for trial on all causes of action sounding in tort. In order to facilitate this matter proceeding in an orderly fashion to trial, this court will rule on the various preliminary motions. However, given the uncertainty of scheduling of jury matters presided by an active retired justice, this court concludes no reasonable basis for requiring that it be the trial justice on the jury trial and, therefore, will direct the clerk to assign this matter to a single justice for completion of the proceedings.¹

The plaintiffs' motion for preliminary injunction prohibiting the defendant from interfering with the plaintiffs' use of their right-of-way and the defendant's motion for entry of final judgment or, in the alternative, for stay of the court's order of recording of the survey plan are related to the extent that they both address the potential for further tortious conduct awaiting final judgment from the jury issues. Accordingly, it is hereby ORDERED: Plaintiffs' motion for preliminary injunction is GRANTED.

¹ The undersigned court retired as an active justice of the Maine Superior Court on December 31, 2007. He was subsequently appointed and took the oath of office as an active retired justice of the Superior Court on March 3, 2008. Unfortunately, this has resulted in delays in rulings on many matters which this decision is designed to resolve.

(1) Until such time as final judgment is issued in this matter, all persons living on Divided Lane may use the portion of the destroyed roadway that defendant has prohibited them from using;

(2) the usage of this road will not be a trespass;

(3) costs and expenses of maintenance of the roadway during the period of this preliminary injunction are to be shared, and an account of expenses is to be provided to the court for order of allocation in the event agreement cannot be reached by the parties by their own resources;

(4) no requirement of security is ordered; and

(5) this preliminary injunction shall remain in full force and effect until final judgment in this docket number.

Defendant's motion for entry of final judgment on decision of December 18, 2007, is DENIED. Defendant's motion in the alternative for stay of the court's order of that date is GRANTED. Parties are advised that any activity contrary to this court's order during the pendency of these proceedings, including appeal to the Law Court, if any, are at their risk.

Defendant's motion to dissolve ex parte attachment filed August 2, 2007, is DENIED.

Defendant's motion to amend counterclaim is DENIED. The motion was brought after the bench trial on the location of the right-of-way. The evidence establishing that location is so abundantly clear that any reasonable person making a reasonable attempt to determine its location would have refrained from expending large sums of money and considerable effort to interfere with and make major modifications to the gravel road. While this decision denies the ability of the defendant to obtain a money judgment for unjust enrichment, it should not be interpreted as a

ruling preventing the defendant from seeking mitigation of damages based upon whatever reasonable theories he may present as to his reasons for the expenditure of sums and undertaking of effort.

Defendant's motion for late designation of experts by defendant is GRANTED without determination as to qualifications of any expert and otherwise entitlement of the defendant to call such witness at trial; this decision reserved to the trial justice.

Plaintiffs' objection to and motion to strike defendant's motion for late designation of expert is DENIED.

Defendant's motion for new trial is DENIED. Defendant is concerned that by its decision of December 18, 2007, the court found and therefore established as law of the case the defendant's trespass and damage. The full sentence of which defendant is concerned reads: "By the use of computer-assisted plans of survey, it is clear that the defendant has damaged plaintiffs' rights to the right-of-way and where he has not done damage to the roadway itself, he has constructed obstacles and a ditch within the right-of-way, a right to which he is not entitled." Defendant is absolutely correct that he is entitled to a jury consideration of the issues presented in that statement. For that reason, the court specifically disavows those conclusions to the extent they comprise findings of fact but may consider this statement only an observation in support of the computer-assisted plan of survey. This court affirms that its scheduling order of July 2, 2007, to which there will be a "trial on all causes of action sounding in tort" is not to be affected by this statement.


The court has determined the boundaries of the right-of-way in question between the parties by its bench trial and decision. As such, the decision becomes the law of the case to provide the basis for a jury trial on the underlying claims of tort for

damages. Inasmuch as this places this case for appropriate day-to-day management by a single justice, it is hereby ORDERED:

The clerk shall place this case in the regular order for assignment to a single justice and placement on the civil jury trial list.

Dated:

MAY 1, 2008



Donald H. Marden
Active Retired Justice, Superior Court

WALTER WINCHESTER - PLAINTIFF
52 DIVIDED LANE
AUGUSTA ME 04330
Attorney for: WALTER WINCHESTER
JUDITH A PLANO - RETAINED 05/17/2006
PINE TREE LEGAL ASSISTANCE
PO BOX 2429
39 GREEN STREET
AUGUSTA ME 04338-2429

SUPERIOR COURT
KENNEBEC, ss.
Docket No AUGSC-RE-2006-00033

DOCKET RECORD

PEGGY WINCHESTER - PLAINTIFF
52 DIVIDED LANE
AUGUSTA ME 04330
Attorney for: PEGGY WINCHESTER
JUDITH A PLANO - RETAINED 05/17/2006
PINE TREE LEGAL ASSISTANCE
PO BOX 2429
39 GREEN STREET
AUGUSTA ME 04338-2429

vs

GARDNER STOVER - DEFENDANT
51 DIVIDED LANE
AUGUSTA ME 04330
Attorney for: GARDNER STOVER
ANDREWS B CAMPBELL - RETAINED
CAMPBELL LAW OFFICE
919 RIDGE ROAD

BOWDOINHAM ME 04008

Filing Document: COMPLAINT
Filing Date: 12/13/2005

Minor Case Type: EASEMENTS

Docket Events:

05/05/2006 TRANSFER - REMOVAL TO SUPERIOR COURT EDI ON 05/05/2006 @ 18:00
TRANSFERRED CASE: SENDING COURT CASEID AUGDCRE200500110

FILING DOCUMENT - COMPLAINT FILED ON 12/13/2005

Party(s): WALTER WINCHESTER
ATTORNEY - RETAINED ENTERED ON 12/13/2005

Party(s): PEGGY WINCHESTER
ATTORNEY - RETAINED ENTERED ON 12/13/2005

Party(s): WALTER WINCHESTER, PEGGY WINCHESTER
MOTION - MOTION PROCEED W/O FEE FILED ON 12/13/2005
Plaintiff's Attorney: DANIEL C BUCK

Party(s): WALTER WINCHESTER, PEGGY WINCHESTER
MOTION - MOTION PROCEED W/O FEE DENIED ON 12/23/2005
COURTLAND D PERRY II, JUDGE

Party(s): WALTER WINCHESTER, PEGGY WINCHESTER
MOTION - TEMP RESTRAINING ORDER FILED ON 12/13/2005
Plaintiff's Attorney: DANIEL C BUCK
WITH MEMORANDUM OF LAW, DRAFT ORDER, NOTICE OF HEARING

Party(s): WALTER WINCHESTER, PEGGY WINCHESTER
MOTION - TEMP RESTRAINING ORDER DENIED ON 01/04/2006
PATRICIA WORTH, JUDGE
COPIES TO ATTY BUCK

ORDER - COURT ORDER ENTERED ON 12/23/2005
COURTLAND D PERRY II, JUDGE
ORDERED INCORPORATED BY REFERENCE AT THE SPECIFIC DIRECTION OF THE COURT. ORDER ON MOTION
TO PROCEED WITHOUT FEES DENIED. COPY TO ATTY BUCK

ORDER - COURT ORDER ENTERED ON 01/04/2006
PATRICIA WORTH, JUDGE
TRO DENIED W/O PREJUDICE; NO COMPLIANCE W/ RULE 65 A 2. MOTION FOR PRELIM INJUNCTION
REQUIRES NOTICE, THEN MAY BE SET FOR HEARING. COPY TO ATTY BUCK

Party(s): GARDNER STOVER
SUMMONS/SERVICE - CIVIL SUMMONS SERVED ON 04/03/2006

Party(s): GARDNER STOVER
ATTORNEY - RETAINED ENTERED ON 04/24/2006
Defendant's Attorney: ANDREWS B CAMPBELL

Party(s): GARDNER STOVER
RESPONSIVE PLEADING - ANSWER & COUNTERCLAIM FILED ON 04/24/2006
Defendant's Attorney: ANDREWS B CAMPBELL
AND DEFENSES

Party(s): GARDNER STOVER
RESPONSIVE PLEADING - RESPONSE FILED ON 04/24/2006
Defendant's Attorney: ANDREWS B CAMPBELL
OPPOSITION TO REQUEST FOR INJUNCTIVE AND RELATED RELIEF

Party(s): GARDNER STOVER
SUPPLEMENTAL FILING - NOTICE OF REMOVAL FILED ON 04/24/2006
Defendant's Attorney: ANDREWS B CAMPBELL

FINDING - REMOVAL TO SUPERIOR COURT SENT ON 05/05/2006
AUGSC

FINDING - REMOVAL TO SUPERIOR COURT ENTERED ON 05/05/2006
AUGSC

FINDING - FINAL JUDGMENT CASE CLOSED ON 05/05/2006

05/09/2006 TRANSFER - PERMANENT TRANSFER RECVD BY COURT ON 05/08/2006

05/09/2006 Party(s): WALTER WINCHESTER, PEGGY WINCHESTER
RESPONSIVE PLEADING - REPLY/ANSWER TO COUNTERCLAIM FILED ON 05/08/2006

Plaintiff's Attorney: JUDITH A PLANO

- 05/15/2006 ORDER - SCHEDULING ORDER ENTERED ON 05/15/2006
DONALD H MARDEN , JUSTICE
ORDERED INCORPORATED BY REFERENCE AT THE SPECIFIC DIRECTION OF THE COURT. COPIES TO
PARTIES/COUNSEL
- 05/15/2006 DISCOVERY FILING - DISCOVERY DEADLINE ENTERED ON 01/15/2007
- 05/15/2006 ASSIGNMENT - SINGLE JUDGE/JUSTICE ASSIGNED TO JUSTICE ON 05/15/2006
DONALD H MARDEN , JUSTICE
- 05/17/2006 Party(s): WALTER WINCHESTER
ATTORNEY - RETAINED ENTERED ON 05/17/2006
Plaintiff's Attorney: JUDITH A PLANO
- 05/17/2006 Party(s): PEGGY WINCHESTER
ATTORNEY - RETAINED ENTERED ON 05/17/2006
Plaintiff's Attorney: JUDITH A PLANO
- 05/22/2006 Party(s): WALTER WINCHESTER, PEGGY WINCHESTER
OTHER FILING - ENTRY OF APPEARANCE FILED ON 05/22/2006
Plaintiff's Attorney: JUDITH A PLANO
- 06/05/2006 Party(s): GARDNER STOVER
MOTION - MOTION ALTER/AMEND ORDER/JUDG FILED ON 06/05/2006
Defendant's Attorney: ANDREWS B CAMPBELL
WITH MEMORANDUM OF LAW, DRAFT ORDER, NOTICE OF HEARING
- 06/05/2006 Party(s): GARDNER STOVER
MOTION - OTHER MOTION FILED ON 06/05/2006
Defendant's Attorney: ANDREWS B CAMPBELL
MOTION TO DISQUALIFY COUNSEL
- 06/05/2006 Party(s): GARDNER STOVER
MOTION - MOTION TO STRIKE FILED ON 06/05/2006
Defendant's Attorney: ANDREWS B CAMPBELL
WITH MEMORANDUM OF LAW, DRAFT ORDER, NOTICE OF HEARING
- 06/13/2006 Party(s): WALTER WINCHESTER, PEGGY WINCHESTER
OTHER FILING - OPPOSING MEMORANDUM FILED ON 06/13/2006
Plaintiff's Attorney: JUDITH A PLANO
PLAINTIFFS' OBJECTION TO DEFENDANT'S MOTION TO AMEND SCHEDULING ORDER.
- 06/13/2006 Party(s): WALTER WINCHESTER, PEGGY WINCHESTER
OTHER FILING - OPPOSING MEMORANDUM FILED ON 06/13/2006
Plaintiff's Attorney: JUDITH A PLANO
PLAINTIFFS' OBJECTION TO DEFENDANT'S MOTION TO DISQUALIFY COUNSEL.
- 06/13/2006 Party(s): WALTER WINCHESTER, PEGGY WINCHESTER
OTHER FILING - OPPOSING MEMORANDUM FILED ON 06/13/2006
Plaintiff's Attorney: JUDITH A PLANO
PLAINTIFFS' OBJECTION TO DEFENDANT'S MOTION TO STRIKE

07/13/2006 Party(s): GARDNER STOVER
DISCOVERY FILING - NOTIFICATION DISCOVERY SERVICE FILED ON 07/13/2006
Defendant's Attorney: ANDREWS B CAMPBELL
DEF. GARDNER STOVER'S INTERROGATORIES TO PLTS. SERVED ON JUDITH PLANO, ESQ. ON 07-11-06.

07/18/2006 Party(s): GARDNER STOVER
DISCOVERY FILING - NOTIFICATION DISCOVERY SERVICE FILED ON 07/18/2006
Defendant's Attorney: ANDREWS B CAMPBELL
DEFENDANT GARDNER STOVER'S INTERROGATORIES TO PLAINTIFFS AND DEFENDANTS FIRST REQUEST FOR DOCUMENTS TO PLAINTIFFS SERVED ON JUDITH PLANO, ESQ. ON 7/14/06

09/15/2006 Party(s): WALTER WINCHESTER, PEGGY WINCHESTER
MOTION - MOTION TO AMEND PLEADING FILED ON 09/15/2006
Plaintiff's Attorney: JUDITH A PLANO
MOTION TO AMEND COMPLAINT & JOIN ADDITIONAL PARTIES AS PLAINTIFFS WITH PROPOSED ORDER.

11/20/06 MEMORANDUM OF LAW IN SUPPORT OF
MOTION TO AMEND AND JOIN ADDITIONAL PARTIES.

09/15/2006 Party(s): WALTER WINCHESTER, PEGGY WINCHESTER
SUPPLEMENTAL FILING - AMENDED COMPLAINT FILED ON 09/15/2006
Plaintiff's Attorney: JUDITH A PLANO

09/29/2006 Party(s): GARDNER STOVER
OTHER FILING - OPPOSING MEMORANDUM FILED ON 09/29/2006
Defendant's Attorney: ANDREWS B CAMPBELL
OPPOSITION TO MOTION TO AMEND COMPLAINT & RENEWED MOTION TO DISQUALIFY PINETREE LEGAL ASSISTANCE

11/09/2006 Party(s): GARDNER STOVER
MOTION - MOTION FOR RELIEF FILED ON 11/08/2006
Defendant's Attorney: ANDREWS B CAMPBELL
ANCILLARY RELIEF IN THE NATURE OF STAY OF PROCEEDINGS IN LIEU OF OPPOSITION TO MOTION FOR JOINDER.

11/20/2006 Party(s): WALTER WINCHESTER
OTHER FILING - OPPOSING MEMORANDUM FILED ON 11/20/2006
Plaintiff's Attorney: JUDITH A PLANO
PLAINTIFF'S MEMORANDUM OF LAW IN OPPOSITION TO DEFENDANT'S MOTION TO DISQUALIFY COUNSEL, FILED.

11/22/2006 HEARING - MOTION TO JOIN HELD ON 11/21/2006
DONALD H MARDEN , JUSTICE
Defendant's Attorney: ANDREWS B CAMPBELL
Plaintiff's Attorney: JUDITH A PLANO
AND MOTION FOR AMEND COMPLAINT

11/22/2006 Party(s): WALTER WINCHESTER, PEGGY WINCHESTER
MOTION - MOTION TO AMEND PLEADING GRANTED ON 11/21/2006
DONALD H MARDEN , JUSTICE
COPIES TO PARTIES/COUNSEL
TO JOIN PARTIES

GRANTS MOTION

11/22/2006 Party(s): GARDNER STOVER
MOTION - MOTION ALTER/AMEND ORDER/JUDG GRANTED ON 11/21/2006
DONALD H MARDEN , JUSTICE
COPIES TO PARTIES/COUNSEL

11/22/2006 Party(s): GARDNER STOVER
MOTION - OTHER MOTION GRANTED ON 11/21/2006
DONALD H MARDEN , JUSTICE
MOTION TO DISQUALIFY COUNSEL
ATTYS. OF RECORD
COPIES TO

11/28/2006 Party(s): GARDNER STOVER
MOTION - MOTION TO STRIKE MOOT ON 11/21/2006

11/28/2006 Party(s): GARDNER STOVER
MOTION - MOTION FOR RELIEF MOOT ON 11/21/2006

11/28/2006 ORDER - SCHEDULING ORDER ENTERED ON 11/21/2006
DONALD H MARDEN , JUSTICE
AMENDED SCHEDULING ORDER
PARTIES/COUNSEL
COPIES TO

11/28/2006 DISCOVERY FILING - DISCOVERY DEADLINE ENTERED ON 04/01/2007

12/28/2006 Party(s): GARDNER STOVER
RESPONSIVE PLEADING - ANSWER & COUNTERCLAIM FILED ON 12/28/2006
Defendant's Attorney: ANDREWS B CAMPBELL

01/05/2007 Party(s): WALTER WINCHESTER, PEGGY WINCHESTER
MOTION - MOTION PRELIMINARY INJUNCTION FILED WITH AFFIDAVIT ON 01/05/2007
Plaintiff's Attorney: JUDITH A PLANO
AFFIDAVITS OF PEGGY L. WINCHESTER, WALTER A. WINCHESTER, SHIRLIE ORTIZ, ACKNOWLEDGEMENT OF
NOTICE (UNSIGNED), AFFIDAVIT OF JUDITH A. PLANO, ESQ. CERTIFYING NOTICE TO DEFT, PROPOSED
ORDER

01/08/2007 Party(s): GARDNER STOVER
LETTER - FROM PARTY FILED ON 01/08/2007
Defendant's Attorney: ANDREWS B CAMPBELL
LETTER ADVISING COURT THAT MOTION FOR PRELIMINARY INJUNCTION IS OPPOSED AND AFFIDAVITS
WILL BE FILED WITHIN 10 DAYS.

01/19/2007 Party(s): GARDNER STOVER
OTHER FILING - OPPOSING MEMORANDUM FILED ON 01/18/2007
Defendant's Attorney: ANDREWS B CAMPBELL
SUPPLEMENTAL OPPOSITION TO SECOND REQUEST FOR INJUNCTIVE RELIEF AND AFFIDAVIT OF GARDNER
STOVER, FILED.

03/07/2007 HEARING - MOTION PRELIMINARY INJUNCTION SCHEDULED FOR 03/27/2007 @ 9:00
DONALD H MARDEN , JUSTICE

03/07/2007 HEARING - MOTION PRELIMINARY INJUNCTION NOTICE SENT ON 03/07/2007

03/19/2007 Party(s): WALTER WINCHESTER, PEGGY WINCHESTER
MOTION - MOTION TO CONTINUE FILED ON 03/19/2007
Plaintiff's Attorney: JUDITH A PLANO

03/20/2007 Party(s): GARDNER STOVER
MOTION - MOTION TO CONTINUE FILED ON 03/20/2007
Defendant's Attorney: ANDREWS B CAMPBELL

03/22/2007 Party(s): WALTER WINCHESTER, PEGGY WINCHESTER
MOTION - MOTION TO CONTINUE GRANTED ON 03/21/2007
DONALD H MARDEN , JUSTICE
COPIES TO PARTIES/COUNSEL
STATUS CONFERENCE TO BE HELD APRIL 30, 2007 AT 8:30AM

GRANTED-ORDERED

03/22/2007 Party(s): GARDNER STOVER
MOTION - MOTION TO CONTINUE GRANTED ON 03/21/2007
DONALD H MARDEN , JUSTICE
COPIES TO PARTIES/COUNSEL
CONFERENCE ORDERED FOR APRIL 30, 2007 AT 8:30AM

GRANTED-STATUS

03/22/2007 HEARING - PRETRIAL/STATUS SCHEDULED FOR 04/30/2007 @ 8:30
DONALD H MARDEN , JUSTICE
NOTICE TO PARTIES/COUNSEL

03/26/2007 Party(s): GARDNER STOVER
MOTION - MOTION TO CONTINUE FILED ON 03/26/2007
Defendant's Attorney: ANDREWS B CAMPBELL
AND OPPOSITION TO APRIL DATE

04/05/2007 Party(s): GARDNER STOVER
DISCOVERY FILING - NOTIFICATION DISCOVERY SERVICE FILED ON 04/05/2007
Defendant's Attorney: ANDREWS B CAMPBELL
DEFT'S INTERROGATORIES TO PLTF WILLIAM ROCQUE; DEFT'S INTERROGATORIES TO PLFTS GILBERTO
AND SHIRLEY ORTIZ, SERVED ON J. PLANO, ESQ. ON 03/30/07.

04/11/2007 Party(s): GARDNER STOVER
MOTION - MOTION TO CONTINUE MOOT ON 04/11/2007

04/11/2007 HEARING - MOTION PRELIMINARY INJUNCTION CONTINUED ON 04/11/2007

04/11/2007 Party(s): GARDNER STOVER
JURY FILING - DEMAND FOR JURY TRIAL FILED ON 04/11/2007
JURY TRIAL FEE PAID

04/11/2007 Party(s): GARDNER STOVER
DISCOVERY FILING - NOTIFICATION DISCOVERY SERVICE FILED ON 04/11/2007
Defendant's Attorney: ANDREWS B CAMPBELL
DEFENDANT GARDNER STOVER'S INTERROGATORIES TO PLAINTIFFS SERVED ON PLAINTIFF ON 3/29/07.

04/12/2007 Party(s): WALTER WINCHESTER, PEGGY WINCHESTER
OTHER FILING - REPLY MEMORANDUM FILED ON 04/12/2007
Plaintiff's Attorney: JUDITH A PLANO
PLTFS' ANSWER TO DEFT'S OPPOSITION TO APRIL DATE

04/18/2007 Party(s): GARDNER STOVER
OTHER FILING - DESIGNATION OF EXPERT WITNESS FILED ON 04/18/2007
Defendant's Attorney: ANDREWS B CAMPBELL

04/18/2007 Party(s): GARDNER STOVER
OTHER FILING - WITNESS & EXHIBIT LIST FILED ON 04/18/2007
Defendant's Attorney: ANDREWS B CAMPBELL

04/19/2007 Party(s): GARDNER STOVER
MOTION - MOTION TO CONTINUE DENIED ON 04/18/2007
DONALD H MARDEN , JUSTICE
APRIL 30, 2007 @ 8:30 IS STATUS CONFERENCE. COPIES MAILED TO ATTYS.

04/26/2007 Party(s): WALTER WINCHESTER, PEGGY WINCHESTER
LETTER - FROM PARTY FILED ON 04/26/2007
Plaintiff's Attorney: JUDITH A PLANO
LETTER REGARDING PRELIMINARY INJUNCTION.

04/27/2007 Party(s): WALTER WINCHESTER, PEGGY WINCHESTER
MOTION - MOTION FOR ENLARGEMENT OF TIME FILED ON 04/27/2007
Plaintiff's Attorney: JUDITH A PLANO
TO DESIGNATE AN EXPERT AND FILE A WITNESS AND EXHIBIT LIST.

05/07/2007 Party(s): GARDNER STOVER
LETTER - FROM PARTY FILED ON 05/07/2007
Defendant's Attorney: ANDREWS B CAMPBELL
LETTER INFORMING THE COURT THERE IS NO OBJECTION TO MOTION FOR ENLARGMENT OF TIME.

05/09/2007 ORDER - COURT ORDER ENTERED ON 05/07/2007
DONALD H MARDEN , JUSTICE
DISCOVERY EXTENDED TO 6/1/07. TRIAL SET FOR JULY 12 & 13, 2007. COPIES TO
PARTIES/COUNSEL

05/09/2007 Party(s): WALTER WINCHESTER, PEGGY WINCHESTER
MOTION - MOTION FOR ENLARGEMENT OF TIME GRANTED ON 05/07/2007
DONALD H MARDEN , JUSTICE
COPIES TO PARTIES/COUNSEL SEE ORDER OF
5/7/07

05/09/2007 DISCOVERY FILING - DISCOVERY DEADLINE ENTERED ON 06/01/2007

05/09/2007 TRIAL - JURY TRIAL SCHEDULED FOR 07/12/2007 @ 9:00

05/15/2007 Party(s): GARDNER STOVER
MOTION - MOTION TO CONTINUE FILED ON 05/15/2007
Defendant's Attorney: ANDREWS B CAMPBELL

05/18/2007 Party(s): GARDNER STOVER
MOTION - MOTION TO CONTINUE FILED ON 05/18/2007
Defendant's Attorney: ANDREWS B CAMPBELL

05/31/2007 Party(s): GARDNER STOVER

MOTION - MOTION TO CONTINUE DENIED ON 05/30/2007
DONALD H MARDEN , JUSTICE
COPIES TO PARTIES/COUNSEL
MEDIATION REMAINS.

DENIED;

06/01/2007 Party(s): GARDNER STOVER
DISCOVERY FILING - NOTIFICATION DISCOVERY SERVICE FILED ON 06/01/2007
Defendant's Attorney: ANDREWS B CAMPBELL
DEPOSITION OF WALTER WINCHESTER, SERVED ON J. PLANO, ESQ. ON 05/31/07.

06/01/2007 Party(s): WALTER WINCHESTER, PEGGY WINCHESTER
DISCOVERY FILING - NOTIFICATION DISCOVERY SERVICE FILED ON 05/31/2007
Plaintiff's Attorney: JUDITH A PLANO
NOTICE TO TAKE ORAL DEPOSITION OF GARDNER STOVER SERVED ON ANDREWS CAMPBELL, ESQ. ON
5/29/07

06/15/2007 Party(s): GARDNER STOVER
MOTION - MOTION TO CONTINUE FILED ON 06/13/2007
Defendant's Attorney: ANDREWS B CAMPBELL
MOTION TO CONTINUE AND FOR PROTECTION

06/20/2007 Party(s): GARDNER STOVER
MOTION - MOTION FOR ENLARGEMENT OF TIME FILED ON 06/20/2007
Defendant's Attorney: ANDREWS B CAMPBELL
OF EXPERT BY DEFENDANT.

06/20/2007 ORDER - REPORT OF ADR CONF/ORDER FILED ON 06/20/2007
Defendant's Attorney: ANDREWS B CAMPBELL
Plaintiff's Attorney: JUDITH A PLANO

06/20/2007 ORDER - REPORT OF ADR CONF/ORDER UNRESOLVED ON 06/20/2007

06/20/2007 Party(s): WALTER WINCHESTER, PEGGY WINCHESTER
OTHER FILING - DESIGNATION OF EXPERT WITNESS FILED ON 06/14/2007
Plaintiff's Attorney: JUDITH A PLANO

06/20/2007 Party(s): WALTER WINCHESTER, PEGGY WINCHESTER
OTHER FILING - WITNESS & EXHIBIT LIST FILED ON 06/14/2007
Plaintiff's Attorney: JUDITH A PLANO

06/22/2007 Party(s): GARDNER STOVER
DISCOVERY FILING - RULE 26(G) LETTER FILED ON 06/22/2007
Defendant's Attorney: ANDREWS B CAMPBELL
NEED NOT BE DEALT WITH BEFORE 07/12/07.

06/25/2007 Party(s): WALTER WINCHESTER, PEGGY WINCHESTER
DISCOVERY FILING - RULE 26(G) LETTER FILED ON 06/25/2007
Plaintiff's Attorney: JUDITH A PLANO
WITH COPY OF 06/23/07 LETTER TO A. CAMPBELL, ESQ.

06/27/2007 Party(s): GARDNER STOVER
MOTION - MOTION TO STRIKE FILED ON 06/25/2007
Defendant's Attorney: ANDREWS B CAMPBELL

MOTION TO STRIKE EXPERT WITNESS DESIGNATION, RENEWED MOTION FOR CONTINUANCE AND DISCOVERY
CONFERENCE

06/30/2007 Party(s): GARDNER STOVER
LETTER - FROM PARTY FILED ON 06/28/2007
Defendant's Attorney: ANDREWS B CAMPBELL
IN RESPONSE TO LETTER FILED BY PLTF.

06/30/2007 Party(s): GARDNER STOVER
MOTION - MOTION TO STRIKE FILED ON 06/28/2007
Defendant's Attorney: ANDREWS B CAMPBELL
MOTION TO STRIKE EXPERT DESIGNATION, RENEWED MOTION FOR CONTINUANCE AND DISCOVERY
CONFERENCE.

06/30/2007 Party(s): WALTER WINCHESTER
OTHER FILING - OPPOSING MEMORANDUM FILED ON 06/28/2007
Plaintiff's Attorney: JUDITH A PLANO
PLAINTIFFS' OBJECTION TO DEFENDANT'S MOTION TO STRIKE AND RENEWED MOTION FOR CONTINUANCE.

07/02/2007 Party(s): GARDNER STOVER
OTHER FILING - REPLY MEMORANDUM FILED ON 07/02/2007
Defendant's Attorney: ANDREWS B CAMPBELL
REPLY TO PLAINTIFF'S OPPOSITION TO MOTION TO STRIKE, FILED.

07/05/2007 TRIAL - JURY TRIAL CONTINUED ON 07/02/2007
DONALD H MARDEN , JUSTICE

07/05/2007 HEARING - PRETRIAL/STATUS NOT HELD ON 07/02/2007

07/05/2007 Party(s): GARDNER STOVER
MOTION - MOTION TO CONTINUE GRANTED ON 07/02/2007
DONALD H MARDEN , JUSTICE
COPIES TO PARTIES/COUNSEL
AUGUST 2, 2007

07/05/2007 Party(s): GARDNER STOVER
MOTION - MOTION TO CONTINUE MOOT ON 07/02/2007

07/05/2007 HEARING - PRETRIAL/STATUS HELD ON 07/02/2007
DONALD H MARDEN , JUSTICE

07/05/2007 TRIAL - BENCH SCHEDULED FOR 08/02/2007 @ 9:00

07/05/2007 ORDER - SCHEDULING ORDER ENTERED ON 07/02/2007
DONALD H MARDEN , JUSTICE
ORDERED INCORPORATED BY REFERENCE AT THE SPECIFIC DIRECTION OF THE COURT. COPIES TO
PARTIES/COUNSEL

07/05/2007 TRIAL - BENCH NOTICE SENT ON 07/05/2007 @ 9:00

07/05/2007 Party(s): GARDNER STOVER
OTHER FILING - WITNESS LIST FILED ON 07/03/2007
Defendant's Attorney: ANDREWS B CAMPBELL

CONTINUED TO

LETTER INDICATING ADDITION TO WITNESS LIST

- 07/13/2007 Party(s): WALTER WINCHESTER, PEGGY WINCHESTER
DISCOVERY FILING - DEPOSITION TRANSCRIPT FILED ON 07/11/2007
Plaintiff's Attorney: JUDITH A PLANO
OF GARDNER STOVER
- 07/27/2007 Party(s): WALTER WINCHESTER, PEGGY WINCHESTER
MOTION - EX PARTE ATTACH/TRUSTEE PROC FILED WITH AFFIDAVIT ON 07/26/2007
Plaintiff's Attorney: JUDITH A PLANO
AND INCORPORATED MEMORANDUM OF LAW, AFFIDAVIT OF MARK A DENSMORE, PEGGY L WINCHESTER, WILLIAM
ROCQUE. EXHIBIT - UNCLE HENRY'S.
- 07/27/2007 Party(s): WALTER WINCHESTER, PEGGY WINCHESTER
OTHER FILING - OTHER DOCUMENT FILED ON 07/26/2007
EXHIBITS, PLAN REFERENCE BY THAYER COMPANY, PROPERTY SURVEY.
- 07/31/2007 Party(s): GARDNER STOVER
MOTION - OTHER MOTION FILED ON 07/31/2007
Defendant's Attorney: ANDREWS B CAMPBELL
MOTION TO DISQUALIFY JUDITH PLANO ESQ. AND OR STAY OF PROCEEDINGS
- 07/31/2007 Party(s): GARDNER STOVER
NOTE - OTHER CASE NOTE ENTERED ON 07/31/2007
Defendant's Attorney: ANDREWS B CAMPBELL
LETTER FROM A.CAMPBELL
- 08/01/2007 NOTE - OTHER CASE NOTE ENTERED ON 08/01/2007
ANDREWS CAMPBELL FILED EXHIBITS FOR NON-JURY TRIAL SCHEDULED FOR 8/2/07.
- 08/01/2007 Party(s): WALTER WINCHESTER, PEGGY WINCHESTER
MOTION - EX PARTE ATTACH/TRUSTEE PROC GRANTED ON 08/01/2007
DONALD H MARDEN , JUSTICE
COPIES TO PARTIES/COUNSEL
THAT ATTACHMENT OF SPECIFIC REAL PROPERTY AS DESCRIBED ABOVE BE MADE AGAINST THE DEFENDANT
IN THE AMOUNT OF \$200,000. IT IS ORDERED
- 08/02/2007 Party(s): WALTER WINCHESTER, PEGGY WINCHESTER
MOTION - EX PARTE ATTACH/TRUSTEE PROC FILED ON 08/02/2007
Plaintiff's Attorney: JUDITH A PLANO
AMENDED MOTION FOR APPROVAL OF EX PARTE ATTACHMENT WITH PROPOSED ORDER.
- 08/02/2007 Party(s): GARDNER STOVER
OTHER FILING - TRIAL BRIEF FILED ON 08/02/2007
Defendant's Attorney: ANDREWS B CAMPBELL
- 08/02/2007 Party(s): GARDNER STOVER
MOTION - DISSOLVE ATTACH/TRUSTEE PROC FILED ON 08/02/2007
Defendant's Attorney: ANDREWS B CAMPBELL
WITH MEMORANDUM OF LAW.
- 08/03/2007 Party(s): GARDNER STOVER
OTHER FILING - OPPOSING MEMORANDUM FILED ON 08/03/2007

Defendant's Attorney: ANDREWS B CAMPBELL
TO MOTION TO AMEND EX PARTE ATTACHMENT.
OPPOSITION TO EX PARTE ATTACHMENT.

AFFIDAVIT IN

08/03/2007 Party(s): WALTER WINCHESTER, PEGGY WINCHESTER
OTHER FILING - WITNESS & EXHIBIT LIST FILED ON 07/30/2007
Plaintiff's Attorney: JUDITH A PLANO

08/06/2007 TRIAL - BENCH HELD ON 08/02/2007
DONALD H MARDEN , JUSTICE
Defendant's Attorney: ANDREWS B CAMPBELL
Plaintiff's Attorney: JUDITH A PLANO Reporter: LESLIE GILMORE
ATTYS. PRESENT OPENING STATEMENTS TO THE COURT. TRIAL RECESSES TO TAKE A VIEW OF THE
PROPERTY. PLAINTIFF CALLS ELLIOTT THAYER AS A WITNESSES. TRIAL RECESSES AT 3:40 P.M. TO
RESUME AT 9:00 A.M. ON 8/3/07.

08/14/2007 Party(s): GARDNER STOVER
MOTION - OTHER MOTION DENIED ON 08/02/2007
DONALD H MARDEN , JUSTICE
MOTION TO DISQUALIFY JUDITH PLANO ESQ. AND OR STAY OF PROCEEDINGS ON THE RECORD
DENIED

08/14/2007 Party(s): WALTER WINCHESTER, PEGGY WINCHESTER
MOTION - EX PARTE ATTACH/TRUSTEE PROC MOOT ON 08/14/2007

08/14/2007 Party(s): GARDNER STOVER
MOTION - MOTION TO STRIKE DENIED ON 08/02/2007
DONALD H MARDEN , JUSTICE
COPIES TO PARTIES/COUNSEL

08/14/2007 Party(s): GARDNER STOVER
MOTION - MOTION TO STRIKE DENIED ON 08/02/2007
DONALD H MARDEN , JUSTICE
COPIES TO PARTIES/COUNSEL

08/14/2007 Party(s): GARDNER STOVER
MOTION - MOTION FOR ENLARGEMENT OF TIME WITHDRAWN ON 08/02/2007
DONALD H MARDEN , JUSTICE

08/14/2007 OTHER FILING - TRANSCRIPT FILED ON 08/08/2007
Defendant's Attorney: ANDREWS B CAMPBELL
TRANSCRIPT ORDER, FILED. COPY MAILED TO
LESLIE GILMORE, CR

08/20/2007 Party(s): WALTER WINCHESTER, PEGGY WINCHESTER
OTHER FILING - OPPOSING MEMORANDUM FILED ON 08/17/2007
Plaintiff's Attorney: JUDITH A PLANO
PLTFS' MEMORANDUM OF LAW IN OPPOSITION TO DEFT'S SECOND MOTION TO DISQUALIFY COUNSEL.

08/20/2007 Party(s): WALTER WINCHESTER, PEGGY WINCHESTER
OTHER FILING - TRIAL BRIEF FILED ON 08/17/2007
Plaintiff's Attorney: JUDITH A PLANO

08/23/2007 Party(s): GARDNER STOVER
LETTER - FROM PARTY FILED ON 08/22/2007
Defendant's Attorney: ANDREWS B CAMPBELL
REGARDING MOTION TO DISQUALIFY COUNSEL.

08/23/2007 Party(s): WALTER WINCHESTER, PEGGY WINCHESTER
OTHER FILING - TRIAL BRIEF FILED ON 08/23/2007
Plaintiff's Attorney: JUDITH A PLANO
PLAINTIFF'S CLOSING ARGUMENTS.

08/29/2007 Party(s): GARDNER STOVER
MOTION - OTHER MOTION FILED ON 08/27/2007
Defendant's Attorney: ANDREWS B CAMPBELL
AMEND COUNTERCLAIM AND DRAFT ORDER, RULE 7(B) NOTICE AND SAMENDED ANSER AND COUNTERCLAIMS

08/29/2007 Party(s): GARDNER STOVER
MOTION - MOTION FOR ENLARGEMENT OF TIME FILED ON 08/29/2007
Defendant's Attorney: ANDREWS B CAMPBELL
MOTION FOR LATE DESIGNATION OF EXPERTS BY DEFT. PROPOSED ORDER.

09/06/2007 Party(s): GARDNER STOVER
OTHER FILING - TRIAL BRIEF FILED ON 09/04/2007
Defendant's Attorney: ANDREWS B CAMPBELL

09/11/2007 Party(s): WALTER WINCHESTER, PEGGY WINCHESTER
RESPONSIVE PLEADING - RESPONSE FILED ON 09/10/2007
Plaintiff's Attorney: JUDITH A PLANO
TO DEFENDANT'S CLOSING ARGUMENT

09/11/2007 Party(s): WALTER WINCHESTER, PEGGY WINCHESTER
OTHER FILING - OPPOSING MEMORANDUM FILED ON 09/10/2007
Plaintiff's Attorney: JUDITH A PLANO
TO DEFENDANT'S MOTION TO AMEND COUNTERCLAIM WITH PROPOSED ORDER.

09/11/2007 Party(s): WALTER WINCHESTER, PEGGY WINCHESTER
OTHER FILING - OPPOSING MEMORANDUM FILED ON 09/10/2007
Plaintiff's Attorney: JUDITH A PLANO
TO DEFANDANT'S MOTION FOR LATE DESIGNATION OF EXPERTS.

09/11/2007 Party(s): WALTER WINCHESTER, PEGGY WINCHESTER
MOTION - MOTION TO STRIKE FILED ON 09/10/2007
Plaintiff's Attorney: JUDITH A PLANO
WITH PROPOSED ORDER. G

12/18/2007 Party(s): WALTER WINCHESTER, PEGGY WINCHESTER
OTHER FILING - SUGGESTION OF DEATH FILED ON 10/24/2007
Plaintiff's Attorney: JUDITH A PLANO

12/18/2007 ORDER - COURT ORDER ENTERED ON 12/18/2007
DONALD H MARDEN , JUSTICE
IT IS HEREBY ADJUDGED AND DECLARED THAT THE RIGHT-OF-WAY EXCEPTED AND RESERVED BY BON-
VENTURA ROCQUE SR. AND SHIRLEY G.ROCQUE IN THEIR DEED TO DAVID W. SMITH AND SHIRLEY A
SMITH DESCRIBED AS THE GRAVEL ROAD AS PRESENTLY ESTABLISHED AND DELINEATED BY INSTRUMENT

DATED JUNE 28, 1979, AND REFERENCED AS A PLAN ENTITLED PROPERTY SURVEY, ROCQUE AND SMITH, MUD MILL ROAD, AUGUSTA, MAINE DATED 5/31/1979 RECORDED IN KENNEBEC COUNTY REGISTRY OF DEEDS PLOT PLAN NO. C-79091 IS AS REPRESENTED BY PLAN OF THAYER ENGINEERING COMPANY ENTITLED "PLAN OF DIVIDED LANE-EXISTING CONDITIONS" DATED JUNE 29, 2007, FOUND AS PLAINTIFFS' EXHIBIT NO. 1 IN THIS LITIGATION AS THE TRUE RIGHT-OF-WAY TO WHICH THE PLAINTIFFS ARE ENTITLED BY PROPERLY RECORDED INSTRUMENTS; IT IS ORDERED THAT PLAINTIFFS RECORD IN THE KENNEBEC COUNTY REGISTRY OF DEEDS THE PLAN OF JUNE 29, 2007, BY THAYER ENGINEERING COMPANY, PROJECT NO. 070620; THIS MATTER CONTINUED CONSISTENT WITH THE SCHEDULING ORDER. COPIES TO ATTYS. OF RECORD.

- 12/28/2007 Party(s): GARDNER STOVER
MOTION - MOTION FOR NEW TRIAL FILED ON 12/26/2007
Defendant's Attorney: ANDREWS B CAMPBELL
AND CERTIFICATE OF SERVICE.
- 12/28/2007 Party(s): GARDNER STOVER
MOTION - MOTION ENTRY FINAL JUDGMENT FILED ON 12/26/2007
Defendant's Attorney: ANDREWS B CAMPBELL
ON DECISION OF DECEMBER 18, 2007 OR, IN THE ALTERNATIVE, FOR STAY OF ORDER.
- 01/16/2008 ASSIGNMENT - SINGLE JUDGE/JUSTICE ASSIGNED TO JUSTICE ON 01/16/2008
JOSEPH M JABAR , JUSTICE
- 01/16/2008 Party(s): WALTER WINCHESTER
OTHER FILING - OPPOSING MEMORANDUM FILED ON 01/15/2008
Plaintiff's Attorney: JUDITH A PLANO
PLAINTIFF'S OBJECTION TO DEFENDANT'S MOTION FOR A NEW TRIAL.
- 01/16/2008 Party(s): WALTER WINCHESTER
OTHER FILING - OPPOSING MEMORANDUM FILED ON 01/15/2008
Plaintiff's Attorney: JUDITH A PLANO
PLAINTIFF'S OBJECTION TO DEFENDANT'S MOTION FOR ENTRY OF FINAL JUDGMENT.
- 04/25/2008 Party(s): WALTER WINCHESTER, PEGGY WINCHESTER
LETTER - FROM PARTY FILED ON 04/25/2008
Plaintiff's Attorney: JUDITH A PLANO
LETTER REGARDING UNRESOLVED MATTERS.
- 05/01/2008 Party(s): WALTER WINCHESTER, PEGGY WINCHESTER
MOTION - MOTION PRELIMINARY INJUNCTION GRANTED ON 05/01/2008
DONALD H MARDEN , JUSTICE
COPIES TO PARTIES/COUNSEL
- 05/01/2008 Party(s): GARDNER STOVER
MOTION - MOTION ENTRY FINAL JUDGMENT DENIED ON 05/01/2008
DONALD H MARDEN , JUSTICE
COPIES TO PARTIES/COUNSEL
- 05/01/2008 Party(s): GARDNER STOVER
MOTION - OTHER MOTION DENIED ON 05/01/2008
DONALD H MARDEN , JUSTICE
AMEND COUNTERCLAIM AND DRAFT ORDER, RULE 7(B) NOTICE AND SAMENDED ANSER AND COUNTERCLAIMS

05/01/2008 Party(s): GARDNER STOVER
MOTION - MOTION ENTRY FINAL JUDGMENT GRANTED ON 05/01/2008
DONALD H MARDEN , JUSTICE
COPIES TO PARTIES/COUNSEL
ALTERNATIVE FOR STAY OF COURT'S ORDER IS GRANTED.

MOTION FOR

05/01/2008 Party(s): GARDNER STOVER
MOTION - DISSOLVE ATTACH/TRUSTEE PROC DENIED ON 05/01/2008
DONALD H MARDEN , JUSTICE
COPIES TO PARTIES/COUNSEL

05/01/2008 Party(s): GARDNER STOVER
MOTION - MOTION FOR NEW TRIAL DENIED ON 05/01/2008
DONALD H MARDEN , JUSTICE
COPIES TO PARTIES/COUNSEL

05/01/2008 Party(s): WALTER WINCHESTER, PEGGY WINCHESTER
MOTION - MOTION TO STRIKE DENIED ON 05/01/2008
DONALD H MARDEN , JUSTICE
COPIES TO PARTIES/COUNSEL

A TRUE COPY

ATTEST: _____

Clerk