

**THE STATE OF NEW HAMPSHIRE
JUDICIAL BRANCH
SUPERIOR COURT**

Carroll Superior Court
96 Water Village Rd., Box 3
Ossipee NH 03864

Telephone: 1-855-212-1234
TTY/TDD Relay: (800) 735-2964
<http://www.courts.state.nh.us>

NOTICE OF DECISION

File Copy

Case Name: **Theodore Steinman, M.D. & Carol Steinman v Town of Tuftonboro**
Case Number: **212-2017-CV-00075**

Enclosed please find a copy of the court's order of December 07, 2017 relative to:

Stipulation on Preliminary Injunctive Relief

December 07, 2017

Abigail Albee
Clerk of Court

(406)

C: Jeremy D. Eggleton, ESQ; Richard Dean Sager, ESQ

THE STATE OF NEW HAMPSHIRE

CARROLL SS

SUPERIOR COURT

Docket No. 212-2017-CV-00075

Theodore Steinman, M.D. & Carol Steinman

v.

Town of Tuftonboro

STIPULATION ON PRELIMINARY INJUNCTIVE RELIEF

Ted and Carol Steinman, Plaintiffs and the Defendant Town of Tuftonboro, stipulate and agree to the following, and request that it be entered as an Order of the Court:

1. For the purposes of this temporary order, the parties will concur with the location of the 1842 layout as determined by Mr. Bemis in his report (the "Bemis Report") (including the September 25, 2017 Addendum thereto), as shown in the attached "20 scale plan" prepared by Mr. Bemis on August 29, 2017. See "20 scale plan" attached as Exhibit 1. This stipulation is temporary for the duration of this action or until otherwise amended by Court order, and does not constitute a waiver of any argument concerning the legal location of the Right of Way, in particular any arguments arising from the attachments to Mr. Bemis' September 25, 2017 Addendum suggesting that the original center line may actually have been located south of the present travelled way.

2. The Steinmans may maintain the stonewall in its present location (shown on the Bemis Plan as "LOCATION OF LARGE STONES - AUGUST 2017") on a temporary basis during the pendency of this action, subject to confirmation by their surveyor (by or before December 20, 2017) that the said stonewall does not encroach into the Town's ROW as that right of way is temporarily stipulated to exist on the "20 scale plan" attached hereto as Exhibit 1.

3. The Steinmans may extend the said stonewall along the temporarily stipulated right of way boundary line so as not to encroach within the Town's ROW to the water's edge in compliance with all Town and State regulations, but subject to any court order to be rendered in the future in this case.

4. Until a final order is issued in this case, the town will take reasonable steps to ensure that the stones currently or hereafter placed, as provided for in paragraphs 2 and 3 hereof, shall be secured against any third party removing such stones, including but not limited to the following:

- a. Notice this Order publicly in Town records;
- b. Authorize and encourage the police to investigate and prosecute the removal by a third party of any stones, including the stonewall in question, or any stones placed by the Steinmans pursuant hereto, from the Steinmans' private property.
- c. Town counsel will request in writing that the Tuftonboro police reasonably monitor the location by periodic vehicle drive-bys.
- d. Notify individuals known to the Town or police who may have information about the removal of the stone wall placed by the Steinmans in or around December 2016 of the nature of this Order and the Town's intention to investigate and prosecute violations of private property.

5. This stipulation does not create, extinguish, or limit any right for any member of the public to use any right of way which may or may not exist in this location. (It is noted from a historical perspective the Steinmans allowed members of the public to access the water across their property in the location in question, adjacent to the bridge and culvert on Brown Road, by foot using watercraft that can be transported by car top and carried to the water.) However, if any member of the public uses the public right of way in a manner that encroaches upon or damages property of the Steinmans (or the Town), that is a separate civil or criminal matter, and the Town

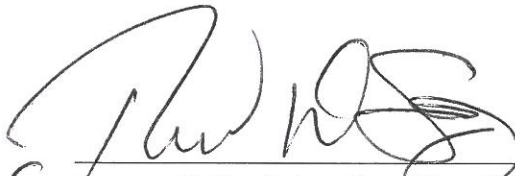
and the Steinmans reserve their rights to proceed against any person whose actions are in disregard of the several rights of the parties hereto.


6. The parties will agree to cooperate to get this case scheduled for a final hearing on the merits as soon as is practical given the demands of discovery, etc.

Respectfully submitted,

Theodore Steinman, M.D. & Carol Steinman,
By their Attorney,

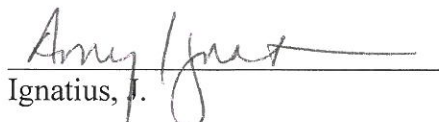
Town of Tuftonboro
By its Attorney,


For Jeremy D. Eggleton, Esq. (Bar #18170) Date 12-5-2017
ORR & RENO, P.A.
PO Box 3550
Concord, NH 03302
(603) 224-2381
jeggleton@orr-reno.com


Richard D. Sager, Esq. (Bar # 2236) Date 12-5-2017
SAGER & SMITH, PLLC
P.O. Box 385
Ossipee, New Hampshire 03864
(603) 539-8188
rick@sagersmith.com

SO ORDERED,

Date: 12/7/2017


Ignatius, J.
Amy L. Ignatius
Presiding Justice