

**STATE OF NEW HAMPSHIRE**

**HILLSBOROUGH, SS  
NORTHERN DISTRICT**

**SUPERIOR COURT**

Pamela D. Kelly, et al.

v.

Town of Nottingham

Docket No. 218-2020-CV-00008

**ORDER**

Plaintiffs seek declaratory relief, alleging that the municipality improperly classified the roads by which the plaintiffs access their properties as emergency lanes. Plaintiffs filed this case as a class action pursuant to Super. Ct. R. 16. The parties appeared today to pick dates for a hearing on certification of the class.

Before the scheduling issue was addressed, the parties brought to the Court's attention that Marguerite Wageling, a Superior Court Associate Justice, owns property that would be impacted by the Court's ultimate decision in this case. She is not a named plaintiff, but has contributed financially to support the class action. If a class is not certified, it is possible the plaintiffs may seek to amend the Complaint to include other effected property owners, including Judge Wageling, as named parties.

The relationship between the undersigned and Judge Wageling is a professional one only. They have never socialized outside of a work context, which has always involved other judges. They have never been assigned to the same county courthouse, nor have they ever worked closely on any long-term committee or in any other capacity. The undersigned is confident that she can and will be fair and impartial in deciding this

case. Based on this disclosure, no party sought recusal or objected to the undersigned judge continuing to preside over the matter.


There are four justices assigned to Hillsborough County. Judge Anderson had previously been recused. Judge Delker and Judge Wageling served together for many years at the Rockingham County Superior Court. The Clerk's office shall ensure that Judges Anderson and Delker have no involvement in this case. Judge Messer was temporarily assigned to Rockingham County for some months at the end of 2018, beginning of 2019. The parties did not object to her involvement in the case if her relationship was not beyond an ordinary and professional one. She shall give notice to the parties if it was otherwise and she becomes involved. By copy of this Order, the four judges are apprised of Judge Wageling's interest in this case. The file shall be clearly marked so that any judge who is presented with a motion or asked to rule will be put on notice.

The parties anticipate they may need an afternoon for a certification hearing. They will communicate with the Clerk's office to arrange a mutually acceptable date.

**SO ORDERED.**

January 8, 2021

Date

  
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Judge Diane M. Nicolosi

Clerk's Notice of Decision  
Document Sent to Parties  
on 01/11/2021