

THE STATE OF NEW HAMPSHIRE

HILLSBOROUGH, SS.
NORTHERN DISTRICT

SUPERIOR COURT

PAMELA D. KELLY, MATTHEW H. EATON, KEVIN E. JORDAN
JEROME F. LAPHAM, JR., JAMES P. ROSBOROUGH, PETER W. LYLE, MICHAEL
HERRON, AMEDE A. BAILLARGEON, JR., SHANE CAREY, & ROGER FRIEDEN,
CHERYL LEBLANC, THOMAS DUFFY, AND
JOHN DOES #1 THROUGH #5 AND JANE DOES #1 THROUGH #5,
AS GENERAL CLASS OF RESIDENTS ALONG CAMP ROADS
IN THE TOWN OF NOTTINGHAM

v.

TOWN OF NOTTINGHAM


Docket #: 218-2020-CV-0008

PETITIONERS' ASSENTED-TO MOTION
TO CANCEL HEARING

NOW COME, the Petitioners, Pamela D. Kelly ("Petitioner Kelly"), Matthew H. Eaton, Kevin E. Jordan, Jerome F. Lapham, Jr., James P. Rosborough, Peter W. Lyle, Michael Herron, Amede A. Baillargeon, Jr., Shane Carey, and Roger Frieden, Cheryl Leblanc, Thomas Duffy, John Does #1 through #5, and Jane Does #1 through #5, by and through their attorneys, Alfano Law Office, PLLC, stating as follows:

1. By Clerk's Notice of Telephonic Hearing, dated July 117, 2020, a hearing is scheduled for Monday, August 31, 2020, at 8:30am, in connection with setting litigation dates and deadlines for this action.
2. Undersigned counsel for the Petitioners has communicated with Attorney Susan Lowry, a counsel-of-record for the Respondent who had authority to discuss and agree upon such dates and deadlines for all Respondents' counsel. See: Affidavit, at **Exhibit 1**.
3. Undersigned counsel and Attorney Lowry reached an agreement as to such dates and deadlines for a Case Structuring and ADR Order for this action, but prior to Attorney Lowry being able to sign said Case Structuring and ADR Order or provide undersigned

Moot. Parties appeared for hearing.


Honorable Diane M. Nicolosi
August 31, 2020

1

Clerk's Notice of Decision
Document Sent to Parties

counsel with authority to electronically sign and file it, Attorney Lowry emailed undersigned counsel, that she received notification of a family emergency and needed to immediately travel out of state “for about a week.” **Id.**

4. It is undersigned counsel’s understanding that the other counsel representing the Respondent are out of their offices, on vacation. **Id.**
5. Although Attorney Lowry stated in her email that she would make an effort to check her email while traveling, very understandably, undersigned counsel has not received confirmation of authority to sign said Case Structuring and ADR Order on behalf of the Respondent. **Id.**
6. Therefore, said Case Structuring and ADR Order is only in the “proposed” state or status only.
7. Immediately prior to filing this Assented-To Motion, undersigned counsel signed and electronically filed the “proposed” Case Structuring and ADR Order and will follow up with counsel for the Respondent to obtain signatures or obtain authority from Respondent’s counsel to sign and file a fully-executed Case Structuring and ADR Order. **Id.**
8. Therefore, the Petitioners seek to have the August 31st hearing continued to provide Attorney Lowry and/or the other attorneys-of-record to return and be able to sign said “proposed” Case Structuring and ADR Order, which will remove the need for a hearing and conserve judicial resources.
9. In addition, undersigned counsel also has a hearing in another action pending in this Court, via WebEx video conference, which also is scheduled to begin at 8:30am, in

Docket # 218-2019-CV-1516, in which undersigned counsel just recently filed a limited appearance. **Id.**

WHEREFORE, the Petitioner respectfully requests that this Honorable Court:

- A. Grant the foregoing Assented-To Motion to Cancel 8/31 hearing;
- B. Issue an Order confirming the cancellation of the 8/31 hearing; and
- C. Grant such other and further relief as may be required.

Respectfully submitted,
Pamela D. Kelly, et. al.
By and through their attorneys,
Alfano Law Office, PLLC

Dated:

8/28/20


James L. Soucy, Esquire (NH Bar #14937)
4 Park Street, Suite #405
Concord, NH 03301
(603) 856-8348
jim@alfanolawoffice.com

CERTIFICATE OF COMPLIANCE WITH RULE 11 (c)

I, hereby, certify that I have obtained the concurrence of opposing counsel-of-record, via email from Susan A. Lowry, Esquire, to the relief requested in the foregoing Assented-To Cancel Hearing.

Dated:

8/28/20


James L. Soucy, Esquire

CERTIFICATE OF SERVICE

I, hereby, certify that a copy of the foregoing has been forwarded, via the Court's electronic filing system, on this date, to Barton Mayer, Esquire, Susan A. Lowry, Esquire, and Robert Dietel, Esquire, opposing counsel-of-record.

Dated:

8/28/20


James L. Soucy, Esquire

EXHIBIT 1

THE STATE OF NEW HAMPSHIRE

HILLSBOROUGH, SS.
NORTHERN DISTRICT

SUPERIOR COURT

PAMELA D. KELLY, ET AL.
v.

TOWN OF NOTTINGHAM

Docket No.: 218-2020-CV-0008

ASSENTED-TO MOTION TO CANCEL AUGUST 31st HEARING

AFFIDAVIT OF JAMES L. SOUCY, ESQ.

I, James L. Soucy, Esq., after having been duly-sworn, hereby, state and affirm:

1. Each fact set forth in paragraphs #2 through and including #5, #7, and #9 of the Petitioners' Assented-To Motion To Cancel August 31st Hearing, is true to the best of my information, knowledge, and belief.
2. **FURTHER, THE AFFIANT SAYETH NOT.**

Dated: 8/28/20

James L. Soucy
James L. Soucy, Esquire

STATE OF NEW HAMPSHIRE
COUNTY OF MERRIMACK

I, hereby, certify that the above-named James L. Soucy, Esq., proven to be or known to me to be said individual, has made oath that the foregoing Affidavit is true to the best of his information, knowledge, and belief, and signed herein above.



Before me,

Marissa Schuetz
Notary Public / Justice of the Peace

My Commission Expires: 10/23/24