

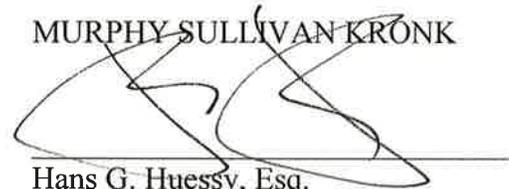
5. Those third parties include David Arnold of South Burlington, Vermont, Stanley and Susan Stenger of Underhill, Vermont, and Carl and Carol Menard of Underhill, Vermont (the “Abutting Landowners”).
6. A person who can be served must be joined as a party if “the person claims an interest relating to the subject of the action and is so situated that the disposition of the action in the person's absence may (i) as a practical matter impair or impede the person's ability to protect that interest or (ii) leave any of the persons already parties subject to a substantial risk of incurring double, multiple, or otherwise inconsistent obligations by reason of the person's claimed interest.” V.R.C.P 19(a)(2).
7. If such a person has not been joined, the Court must order that person be made a party. *Id.*
8. The Abutting Landowners have an interest in the outcome of this proceeding, as any determination as to the scope of the ROW and subsequent improvement and use of the Trail as a road will have an impact on the Abutting Landowners.
9. The Abutting Landowners could bring their own action contending that the proposed use of the Trail was inconsistent with the scope of Plaintiff's ROW, leading to “double, multiple, or otherwise inconsistent obligations.”
10. Therefore, the Court must determine whether the Abutting Landowners can be joined, and, if not, whether the case must be dismissed.
11. As noted above, if the Court determines that these Abutting Landowners cannot be joined, it must “determine whether in equity and good conscience the action should proceed among the parties before it, or should be dismissed, the absent person being thus regarded as indispensable.” V.R.C.P. 19(b).

12. In making its determination, the Court must consider the following factors: (1) “to what extent a judgment rendered in the person's absence might be prejudicial to the person or those already parties”; (2) “the extent to which, by protective provisions in the judgment, by the shaping of relief, or other measures, the prejudice can be lessened or avoided”; (3) “whether a judgment rendered in the person's absence will be adequate”; and (4) “whether the plaintiff will have an adequate remedy if the action is dismissed for nonjoinder.” *Id.*

Accordingly, the Court should grant the forgoing Motion to Require Joinder and or Dismiss.

Dated at Burlington, Vermont this 28th day of December, 2015.

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