

STATE OF MAINE
PENOBSCOT, SS.

SUPERIOR COURT
CIVIL ACTION
DOCKET NO BANSC RE-09-080
WRA - PEN - 10/25/2011

BLAINE OLIVEIRA
And
JENNIFER OLIVEIRA,

Plaintiff,

v.

QUEEN CITY REAL ESTATE AND
INSURANCE AGENCY, INC.
And PELL-MULL, LLC,

ORDER

Defendant.

The defendant has filed a separate action for indemnification and or contribution against Pellscot, LLC and/or Pellscot Development Co. LLC, the entity that actually performed the work on the roadway that was adjacent to the plaintiffs' home at the time this cause of action arose. Additionally, the defendant has filed a supplemental memorandum on the issue of whether there shall be a new trial on the issue of damages only, or on both liability and damages. The Court decides these issues as follows:

1. The trial shall be on the issues of liability and damages. In this case the question of damages is so interwoven with the issue of liability that the former cannot be submitted fairly to the jury independently of the latter. *See 3 Harvey, Maine Civil Practice*, § 59:2 at 281-82 (3d ed. 2011).
2. The motion to consolidate is denied. Granting this motion could potentially delay the trial. More important, it was the Court's intent in granting the new trial to place the parties in the same position in which they were situated prior to the first trial, and it was not its intent to

provide either party an opportunity to engage in a maneuver to gain additional advantage.

The clerk is directed to incorporate this Order into the docket by reference.

Dated: October 25, 2011



WILLIAM ANDERSON
JUSTICE, SUPERIOR COURT

BLAINE OLIVEIRA - PLAINTIFF
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Attorney for: BLAINE OLIVEIRA
ARTHUR GREIF - RETAINED 04/22/2009
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SUPERIOR COURT
PENOBSCOT, ss.
Docket No BANS-RE-2009-00080

DOCKET RECORD

JENNIFER OLIVEIRA - PLAINTIFF
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*Re-Trial set
for 12/1, 12/2*

vs
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