

STATE OF NEW YORK  
SUPREME COURT

COUNTY OF MONROE

TRACY K. HICKMOTT,

Plaintiff,

2012/12940  
Index #: ~~2016/0021~~

vs.

**AMENDED DECISION  
AND ORDER**

GEORGE STUCK and KAREN STUCK,

Defendants.

This action for having come before the Court upon the complaint of Tracy K. Hickmott ("Plaintiff"); this Court having set down a Decision and Order on November 19, 2015; defendants George Stuck and Karen Stuck ("Stucks") having made application to this Court by Order to Show Cause, submitted June 14, 2016, for amendment of such Decision and Order and for civil contempt sanctions against Plaintiff; and in support thereof, having submitted the Affidavit of Stucks, dated June 14, 2016; and in opposition thereto Plaintiff having submitted opposition papers, dated July 15, 2016; and this Court having set the matter down for a hearing before it on July 29, 2016; and in support thereof Defendants having appeared by their attorney Derrick A. Spatorico, Esq., and Plaintiff having appeared by her attorney Lawrence Krieger, Esq., and upon all papers and proceedings had heretofore, it is accordingly

ORDERED that the instant Amended Decision and Order repeats the provisions of the Decision and Order rendered by this Court on November 19, 2015, attached hereto as Exhibit "A". To whatever extent that the two orders conflict, the provisions of the instant Amended Decision and Order are to take precedence.

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ORDERED that Stucks may enter upon the land of Plaintiff for the limited purpose of painting the entire length of their existing wooden fence, once per year in any even numbered year, with the following limitations:

1. Painting shall be done on either August 15 or August 20 at the option of Stucks.
2. Stucks shall review the weather reports and provide written notice of his to Plaintiff, certified mail return receipt requested, at least fourteen days prior to Stucks' chosen "painting day." Notice shall be deemed sent when deposited with sufficient postage in an official depository of the U.S. Postal Service.
3. Stucks shall have a total of three hours of work time on such "painting day" commencing at 9:00 a.m. and concluding at 12:00 p.m.
4. Once Stucks make their selection of the "painting day," that shall be the only day for painting in each two-year period. Stucks will not get any further relief from this court should the weather impede or prevent their work.
5. Plaintiff may not impede or prevent Stucks' painting in any way, shape or form.
6. In the event this Court or another court of competent jurisdiction should find one of the parties in contempt of this Order after notice and a hearing, the offending party shall be charged with payment of the non-offending party's reasonable legal fees and costs related to such contempt, as the Court shall determine.

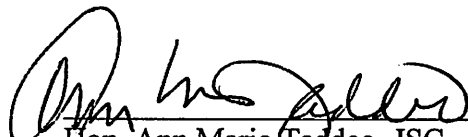
7. The portion of this Order relating to Stucks' limited right to enter Plaintiff's lands once every two years shall not "run with the land" and shall terminate when Stucks convey their fee simple interest in their real property to a third party. It is further

ORDERED that Stucks and their agents shall use reasonable care when entering upon Plaintiff's land, shall indemnify Plaintiff for any damage to Plaintiff's real and personal property proximately caused by Stucks, shall hold Plaintiff harmless for any injury, damage, or loss incurred by Stucks on the land of Plaintiff, and Stucks shall maintain homeowners' insurance in an amount sufficient to cover any loss Stucks or Plaintiff may incur while Stucks are upon Plaintiff's land.

**Dated:** Rochester, New York,

this 11<sup>th</sup> day of August, 2016

ENTER:

  
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Hon. Ann Marie Taddeo, JSC

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MONTGOMERY COUNTY CLERK

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