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FILED
SAN MATEO COUNTY

OCT 29 2012

Clerk of the Superior Court

By 
DEPUTY CLERK

Attorneys for Plaintiff

**IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF SAN MATEO**

FRIENDS OF MARTIN'S BEACH, a
California unincorporated association
organized and existing under Corporation
Code sections 21000 et seq.;

Plaintiff,

vs.

MARTINS BEACH 1, LLC; MARTINS
BEACH 2, LLC; all persons unknown,
claiming any legal or equitable right, title,
estate, lien or interest in the property
described in the complaint adverse to
plaintiffs' title or any cloud on plaintiffs'
title thereto; and Does 1 to 100 inclusive,

Defendants.

Case No. **CIV 517684**

**VERIFIED COMPLAINT FOR QUIET
TITLE, DECLARATORY RELIEF AND
PERMANENT INJUNCTION**

BY FAX

Plaintiff alleges:

1. Plaintiff, Friends of Martin's Beach, is a California unincorporated association organized
and existing under Corporation Code section 21000 et seq. and is principally located in the
County of San Mateo, California.

**VERIFIED COMPLAINT FOR QUIET TITLE, DECLARATORY RELIEF AND
PERMANENT INJUNCTION**

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2. Plaintiff brings this suit on behalf of the general public whom it represents. It asserts the nonexclusive rights and interests acquired by the general public in the beach to high tide at Martin's Beach, the dry sand inland, an inland area historically used for parking and access along Martin's Beach Road, the foregoing located in San Mateo County.

3. Defendants Martins Beach 1, LLC and Martins Beach 2, LLC are the owners of real property including, but not limited to, that property inland of the high tide at Martin's Beach including, but not limited to, the dry sand inland, an inland area historically used for parking and Martin's Beach Road.

4. Martins Beach 1, LLC is a California limited liability company with its principal place of business unknown.

5. Martins Beach 2, LLC is a California limited liability company with its principal place of business unknown.

6. The defendants named herein as "all person unknown, claiming any legal or equitable right, title, estate, lien, or interest in the property described in the complaint adverse to plaintiffs' title, or any cloud on plaintiffs' title thereto" are unknown to plaintiffs. These unknown defendants, and each of them, claim some right, title, estate, lien, or interest in the above described property that is adverse to the public's rights and interests asserted by plaintiffs, or that is or may be a cloud on said rights and interests.

7. Plaintiffs are ignorant of the true names and capacities of defendants sued as Does 1 to 100, and therefore sue these defendants by such fictitious names. Plaintiffs will amend this complaint to allege their true names and capacities when ascertained. Plaintiffs are informed and believe and thereon allege that each of the fictitiously named defendants claims some right, title estate, lien, or interest in the above described property that is adverse to the public's rights and interest asserted by plaintiffs, or that is or may be a cloud on these rights and interest.

8. The plaintiffs bring this action to quiet the title of the public to its rights against the defendants, and in the defendants' property, to wit: the right to use and access without

VERIFIED COMPLAINT FOR QUIET TITLE, DECLARATORY RELIEF AND PERMANENT INJUNCTION

1 interference the beach to high tide at Martin's Beach ("the Tidelands"); the right to use,
2 without interference, the inland dry sand at Martin's Beach; the right to park, without
3 interference, in the area historically used for parking at Martin's Beach; and the right to
4 access, without interference, the foregoing via Martin's Beach Road (Collectively, "the
5 Beach").

6 9. The Tidelands and the Beach are hereafter referred to collectively as "Martin's Beach."

7 10. For decades, Martin's Beach, situated about 10 minutes south of Half Moon Bay, was a
8 popular community beach where generations of people picknicked, stoked barbeques, netted
9 smelt, rode waves, watched sea lions, collected seashells and relaxed with family and friends.
10 The Beach's former owners, the Deeney family, welcomed all "with open arms," not to
11 mention a general store, public bathrooms and, to our grandparents, a \$.25 entry fee.
12 Postcards from the '50s show hundreds of people enjoying idyllic days at a beach that at
13 times had the feel of a Mediterranean escape. In more recent years, surfers, in particular,
14 enjoyed what the website Surfpulse refers to as a "mystical and multi-faceted playground"
15 and what Save the Waves' program director called "a natural theme park with sand."
16 Martin's Beach is, indeed, unique. Unlike the majority of beaches in California, or, for that
17 matter, the United States, Martin's Beach is a crescent-shaped strip of sand that is surrounded
18 by seventy-five foot cliffs extending into the water north and south of the beach. Horizontal
19 access along the coast is impossible unless one wishes to rappel down a cliff or come in by
20 boat. Vertical access, or westerly travel from the nearest public roadway to the shoreline, is
21 only possible via Martins Beach Road, which belongs to defendants, and which owns the
22 parcels to the east of the Tidelands.

23 11. Defendants, whose principal owner is allegedly billionaire venture capitalist Venod
24 Khosla, gated up Martin's Beach. We are informed and allege that the owners are criminally
25 prosecuting those who attempt to reach the Tidelands via Martins Beach Road.

26 12. In permanently closing Martin's Beach, a group of citizens, some of whom visited
27 Martin's Beach for over 50 years, have worked countless hours staging rallies, generating
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**VERIFIED COMPLAINT FOR QUIET TITLE, DECLARATORY RELIEF AND
PERMANENT INJUNCTION**

1 press coverage, doing Internet outreach, and making every other effort short of resorting to
2 the courts to regain for the public access to Martin's Beach. Friends of Martin's Beach
3 brings the instant action to request that the Court do what defendants refuse to do, and
4 recognize public access to Martin's Beach.

5
6 **FIRST CAUSE OF ACTION FOR A PERMANENT INJUNCTION AGAINST**
7 **INTERFERENCE WITH ACCESS TO AND USE OF MARTIN'S BEACH**

8 13. Plaintiff realleges and incorporates all previous allegations as necessary to support this
9 cause of action.

10 14. Unless and until enjoined and restrained by order of this court, defendants' obstruction
11 of Martin's Beach Road will cause great and irreparable injury to Plaintiff in that there is no
12 other route from the public highway or any other public property to the Tidelands.

13 15. Unless and until enjoined and restrained by order of this court, defendants' obstruction
14 of the Beach by the public will cause great and irreparable injury to the public as it
15 effectively denies each citizen of California his or her Constitutional right to use and access
16 the Tidelands.

17 16. Unless and until enjoined and restrained by order of this court, defendants' obstruction
18 of the Beach used by the public will cause great and irreparable injury to the public as it
19 effectively denies every citizen of California his or her right to use and access the Tidelands
20 guaranteed by the Public Trust Doctrine.

21 17. Unless and until enjoined and restrained by order of this court, defendants' obstruction
22 of the Beach used by the public will cause great and irreparable injury to the public as it
23 denies every citizen of California the use of the Beach as expressly dedicated to the public by
24 defendants' predecessors in interest.

25 18. Unless and until enjoined and restrained by order of this court, defendants' obstruction
26 of Martin's Beach will cause great and irreparable injury to the public as it denies every
27 citizen of California their right to use of the beach above high tide under the theory of
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VERIFIED COMPLAINT FOR QUIET TITLE, DECLARATORY RELIEF AND
PERMANENT INJUNCTION

1 Custom whereby the public asserts ownership or use of the beach above high tide under a
2 claim so ancient that it antedates any memory to the contrary.

3 19. Plaintiff has no adequate remedy at law for the injuries being suffered as a result of
4 defendants' obstruction of Martin's Beach in that plaintiff or other members of the public
5 would be forced to institute a multiplicity of suits every time defendants decided to block
6 plaintiff's or the public's use of their non-exclusive easements.

7 20. Beginning on or about Fall 2009, and continuing to the present time, defendants have
8 unreasonably obstructed the public's right to use its easements causing great and irreparable
9 injury to the public.

10 21. Demand has been made for defendants to cease in their obstruction of the public's right
11 to use their easements but defendants have refused to do so.

12 22. As a proximate result of defendants' obstruction of Martin's Beach, the public has been
13 unable to use the Tidelands, to Plaintiff's damage in the nominal sum of \$5 per person per
14 day from the date of closing Martin's Beach Road, and continuing to the present. Plaintiff
15 will be further damaged in like manner as long as defendants' obstruction of Martin's Beach
16 continues. The full amount of the damages is not now known to Plaintiff, and Plaintiff will
17 amend this complaint to state such amount when the same becomes known or on proof
18 thereof.

19 23. Defendants have deliberately, oppressively, and maliciously obstructed Plaintiff's use of
20 Martin's Beach for the purpose of injuring Plaintiff. Therefore, Plaintiff is entitled to
21 exemplary or punitive damages.

22 24. Plaintiff alleges that all such damages should be deposited into a trust for the
23 preservation and maintenance of Martin's Beach and the public easements.

24
25 **SECOND CAUSE OF ACTION FOR QUIET TITLE FOR A PUBLIC EASEMENT TO THE**
26 **BEACH AND FOR USE OF THE INLAND DRY SAND AND PARKING AREA UNDER**
27 **CALIFORNIA CONSTITUTION ARTICLE X SECTION 4**

28
VERIFIED COMPLAINT FOR QUIET TITLE, DECLARATORY RELIEF AND
PERMANENT INJUNCTION

- 1 25. Plaintiff realleges and incorporates all previous allegations as necessary to support this
- 2 cause of action.
- 3 26. Under California Constitution Article X Section 4, no individual, partnership, or
- 4 corporation, claiming or possessing the frontage or tidal lands of a harbor, bay, inlet, estuary,
- 5 or other navigable water in California is permitted to exclude the right of way to such water
- 6 whenever it is required for any public purpose.
- 7 27. Defendants possess the frontage along the Tidelands.
- 8 28. The public has historically utilized the Tidelands for fishing and recreation.
- 9 29. The only right of way to the Tidelands is along Martin's Beach Road.
- 10 30. Defendants have intentionally excluded the public from the right of way in direct
- 11 violation of the Constitutional mandate.
- 12 31. The public is entitled to an easement for ingress and egress on Martin's Beach Road.
- 13 32. The public is entitled to an easement for recreational use of the inland dry sand and
- 14 parking area historically used by the public without which the Constitutional right of access
- 15 to the Tidelands is meaningless.

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18 **THIRD CAUSE OF ACTION FOR QUIET TITLE FOR A PUBLIC EASEMENT TO**
19 **MARTIN'S BEACH ROAD AND FOR RECREATIONAL USE OF THE INLAND DRY**
SAND AND PARKING AREA BY EXPRESS DEDICATION

- 20 33. Plaintiff realleges and incorporates all previous allegations as necessary to support this
- 21 cause of action.
- 22 34. Defendants' predecessors in interest expressly offered and through their actions offered
- 23 to the public access to the Tidelands via Martin's Beach Road over a period of decades.
- 24 35. Defendants' predecessors in interest through their actions offered to the public use of the
- 25 dry sand inland and the area historically used for parking over a period of decades.
- 26 36. Defendants' predecessors expressly offered use of Martin's Beach Road to the public to
- 27 access the Tidelands by a writing on a large billboard along a public road for many decades.

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VERIFIED COMPLAINT FOR QUIET TITLE, DECLARATORY RELIEF AND
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- 1 37. Defendants' predecessors offered use of the Beach to the public by, amongst other
2 actions, constructing a parking lot, providing toilets, and opening a convenience store at the
3 beach that catered almost exclusively to the public that came to use the Tidelands.
- 4 38. The public accepted the foregoing offer of use of Martin's Beach by using the Beach for
5 many decades.
- 6 39. Defendants took possession of the property with all rights that had previously accrued
7 including the public's right via express dedication to use the Beach for recreational and
8 fishing purposes.
- 9 40. The public, through express dedication, is entitled to quiet title to an easement for ingress
10 and egress along Martin's Beach Road and for an easement to use the historical parking area
11 and the dry sand inland for recreational use and fishing.

12
13 **FOURTH CAUSE OF ACTION FOR QUIET TITLE TO THE TIDELANDS AND THE**
14 **INLAND DRY SAND VIA THE PUBLIC TRUST DOCTRINE**

- 15 41. Plaintiff realleges and incorporates all previous allegations as necessary to support this
16 cause of action.
- 17 42. The Tidelands are held in trust by the state of California for the public to use for
18 recreation, commerce or otherwise.
- 19 43. No actions can be taken by either private individuals or the State that substantially
20 impairs the public's right to use this land/water.
- 21 44. In effectuating the public trust, the state of California has the implied power to do
22 everything necessary to the execution and administration of the trust.
- 23 45. There exists in the public a right of use and access to the Tidelands and the beach above
24 high tide that pre-exists any private ownership under the Public Trust Doctrine.
- 25 46. Under the Public Trust Doctrine, the public has an easement for access to the Tidelands
26 via Martin's Beach Road and use of the inland dry sand.
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FIFTH CAUSE OF ACTION FOR QUIET TITLE ON BEHALF OF THE PUBLIC TO THE INLAND DRY SAND ABOVE HIGH TIDE UNDER A CLAIM OF A PRE-EXISTING RIGHT OF USE AND OR OWNERSHIP

47. Plaintiff realleges and incorporates all previous allegations as necessary to support this cause of action.

48. The public has a right of ownership or use of the dry sand above high tide under a claim so ancient that it antedates any memory of private ownership.

49. The public has an easement for use of the dry sand above high tide.

SIXTH CAUSE OF ACTION FOR DECLARATORY RELIEF

50. Plaintiff realleges and incorporates all previous allegations as necessary to support this cause of action.

51. An actual controversy has arisen and now exists between plaintiff and the defendants concerning their respective rights and duties in that plaintiff contends the public is the owner of a non-exclusive easement referenced above to traverse Martin's Beach Road, use the inland dry sand and use the parking area for recreational and/or fishing purposes while the defendants deny that the public is the owner of any such easements.

52. A judicial declaration is necessary and appropriate at this time in order that plaintiffs may ascertain their rights and duties as members of the public, because the defendants have erected a barricade across Martin's Beach Road that interferes with the public's use of its easement.

WHEREFORE, plaintiffs pray for:

53. Under the First Cause of Action for a permanent injunction against defendants, their agents, servants and employees and all persons acting under, in concert with, or for them, from interfering with the public's right to access Martin's Beach via Martin's Beach Road and the public's right to use the inland dry sand and parking area.

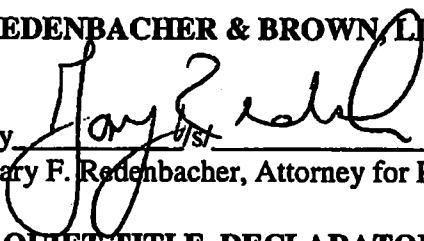
VERIFIED COMPLAINT FOR QUIET TITLE, DECLARATORY RELIEF AND PERMANENT INJUNCTION

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- 54. For nominal damages of \$5 per person per day since obstruction of Martin's Beach Road and for punitive damages with such damages to be deposited into a trust for the maintenance and preservation of the public easements and Martin's Beach.
- 55. Under the Second Cause of Action for Quiet Title via California Constitution Article X section 4, a non-exclusive public easement over Martin's Beach Road, a non-exclusive easement for parking in the area historically provided for parking and a non-exclusive easement for recreational use of the inland dry sand along Martin's Beach.
- 56. Under the Third Cause of Action for Quiet Title via express dedication, a non-exclusive public easement over Martin's Beach Road, an easement for parking in the area historically provided for parking and an easement for recreational use of the inland dry sand along Martin's Beach.
- 57. Under the Fourth Cause of Action for Quiet Title via the Public Trust Doctrine, a non-exclusive public easement over Martin's Beach Road, and an easement for recreational use of the inland dry sand along Martin's Beach.
- 58. Under the Fifth Cause of Action for Quiet Title via pre-existing claim of right, a non-exclusive public easement for recreational use of the inland dry sand above high tide at Martin's Beach.
- 59. Under the sixth cause of action, a judicial declaration that the public is the owner of a non-exclusive easement to traverse Martin's Beach Road to access the Tidelands, use the inland dry sand and use the parking area for recreational or purposes not in conflict with the Public Trust Doctrine.
- 60. For costs of suit.
- 61. For attorney's fees under the Private Attorney General doctrine.
- 62. For such other relief as the court may deem fitting and just.

Dated: October 25, 2012

REDENBACHER & BROWN, LLP

By 
 Gary F. Redenbacher, Attorney for Plaintiff

VERIFIED COMPLAINT FOR QUIET TITLE, DECLARATORY RELIEF AND PERMANENT INJUNCTION

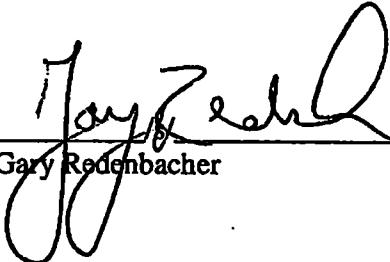
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VERIFICATION

I am Gary Redenbacher, attorney for the plaintiff in the above entitled action. This party is absent from the county where I have my office. I have read the foregoing complaint and know the contents thereof. The same is true of my own knowledge, except as to those matters which are alleged on information and belief, and as to those matters, I believe them to be true.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date: 10/25/2012



Gary Redenbacher

**VERIFIED COMPLAINT FOR QUIET TITLE, DECLARATORY RELIEF AND
PERMANENT INJUNCTION**