

KENDALL AND LINDA BURFORD

November 1, 2010

Amy K. Tchao, Esq.  
DRUMMOND WOODSUM & MacMAHON  
84 Marginal Way, Suite 600  
Portland, Maine 04101-2480

Re: Robert F. Almeder et al v. Town of Kennebunkport et al  
Docket No: RE-09-111

Dear Attorney Tchao:

Enclosed please find a copy of our Answer, Defenses and Cross Complaint in the above referenced matter, which was filed with the York County Clerk's Office on October 27, 2010.

Sincerely,

  
Kendall Burford

KB/ps

1 STATE OF MAINE  
2 YORK, ss.

SUPERIOR COURT  
CIVIL ACTION  
DOCKET NO. RE-09-111

3  
4  
5 ROBERT F. ALMEDER and VIRGINIA S. ALMEDER )

6 et al., )

7 Plaintiff, )

8 vs. )

9 TOWN OF KENNEBUNKPORT and ALL PERSONS WHO )

10 ARE UNASCERTAINED, )

11 Defendant

Answer, Defenses and Cross Complaint of  
Defendants Linda W. Burford and  
Kendall Burford

12  
13  
14 NOW COME Defendants, Linda W. Burford (also known as Linda Doe) and Kendall  
15 Burford (hereinafter referred to as "Defendants") hereby answers the Plaintiff's  
16 Complaint as follows:

17 1. Defendants admit the allegations contained in Paragraph 1 of Plaintiffs'  
18 Complaint.

19 2. Defendants neither admit nor deny the allegations contained in Paragraph  
20 2 of Plaintiffs' Complaint and calls upon the Plaintiff to prove same.

21 3. Defendants deny the allegations contained in Paragraph 3 and calls upon  
22 the Plaintiff to prove same.

23 4. Defendants deny the allegations contained in Paragraph 4 and calls upon  
24 the Plaintiff to prove same.

25 5. Defendants neither admit nor deny the allegations contained in Paragraph  
26 5 of Plaintiffs' Complaint and calls upon the Plaintiff to prove same.

27 6. Through 27. Defendants neither admit nor deny the allegations contained  
28 in Paragraphs 6 through 27 of Plaintiffs' Complaint which allege they are owners of  
29 certain properties and calls upon the Plaintiff to prove the same.

30 28. Defendants admit the allegations of Paragraph 28 of Plaintiffs'  
31 Complaint.

1           29.     Defendants are without knowledge of all unknown people who might have a  
2 claim to the use of the beach.

3           30.     Defendants deny the allegations of Paragraph 30 of Plaintiffs' Complaint.

4           31.     Defendants deny the allegations of Paragraph 31 of Plaintiffs' Complaint  
5 but do acknowledge there are high and low tides at Goose Rocks Beach.

6           32.     Defendants neither admit nor deny the allegations in Paragraph 32 of  
7 Plaintiffs' Complaint and calls upon the Plaintiff to prove same.

8           33.     Defendants neither admit nor deny the allegations in Paragraph 33 of  
9 Plaintiffs' Complaint and calls upon the Plaintiff to prove same.

10          34.     Defendants deny the allegations of Paragraph 34 of Plaintiffs' Complaint.

11          35.     Defendants deny the allegations of Paragraph 35 of Plaintiffs' Complaint.

12          36.     Defendants neither admit nor deny the allegations of Paragraph 36 of  
13 Plaintiffs' Complaint and call upon the Plaintiff to prove same.

14          37.     Defendants neither admit nor deny the allegations of Paragraph 37 of  
15 Plaintiffs' Complaint and call upon the Plaintiff to prove same.

16          38.     Defendants agree that the Kennebunkport Conservation Trust owns lots;  
17 Defendants further claim that the entire beach and areas are open for public use.

18          39.     Defendants deny the allegations of Paragraph 39 of Plaintiffs' Complaint  
19 and calls upon the Plaintiff to prove same.

20          40.     Defendants deny the allegations of Paragraph 40 of Plaintiffs' Complaint  
21 and calls upon the Plaintiff to prove same.

22          41.     Defendants deny the allegations of Paragraph 41 of Plaintiffs' Complaint  
23 and calls upon the Plaintiff to prove same.

24          (a.)    Defendants deny the allegations of Paragraph 41 (a) of Plaintiffs'  
25 Complaint and calls upon the Plaintiff to prove same.

26          (b.)    Defendants deny the allegations of Paragraph 41 (b) of Plaintiffs'  
27 Complaint and calls upon the Plaintiff to prove same.

28          (c.)    Defendants deny the allegations of Paragraph 41 (c) of Plaintiffs'  
29 Complaint and calls upon the Plaintiff to prove same.

30          (d.)    Defendants deny the allegations of Paragraph 41 (d) of Plaintiffs'  
31 Complaint and calls upon the Plaintiff to prove same.

1 (e.) In reference to Exhibit 24 the Defendants deny any inference that the  
2 Town has refused to act properly in support of the beach in accordance with the law.

3 42. Defendants deny the allegations of Paragraph 42 of Plaintiffs' Complaint  
4 and calls upon the Plaintiff to prove same.

5 43. Defendants deny the allegations of Paragraph 43 of Plaintiffs' Complaint  
6 and further state that they have obtained the right to use all portions of the Upper  
7 Beach, Dry Sand and the Intertidal Zone by open and notorious use for over 20 years  
8 and that it was a beach open to the public use.

9 44. Defendants deny the allegations of Paragraph 44 of Plaintiffs' Complaint  
10 and further state that the town has established a right to use the Intertidal and Dry  
11 Sand area of the beach by use consistent with and not separate from the private use by  
12 the individuals.

13 Complaint of Linda W. Burford

14 45. Plaintiff Linda W. Burford re-affirms all answers in Paragraphs 1 through  
15 46 and incorporates them by reference herein.

16 46. Plaintiff Linda W. Burford is without knowledge of what the Selectmen  
17 have said. Plaintiff further states that the public has established an Easement By  
18 Prescription over the Intertidal and Upper (Dry Sand) area by walking, sitting,  
19 picnicking, etc. on said Dry Sand and use of said area for over 20 years.

20 47. Plaintiff Linda W. Burford says that she has achieved an Easement by  
21 Prescription by using the Intertidal Area and Dry Sand area for over 20 years.

22 48. Plaintiff Linda W. Burford denies the allegations of Paragraph 50 of  
23 Plaintiffs' Complaint and calls upon the Plaintiff to prove same.

24 49. Plaintiffs Linda W. Burford and Kendall Burford deny the allegations of  
25 Paragraph 51 of Plaintiffs' Complaint and further state that the use of Goose Rocks  
26 Beach by her family for over 100 years beginning with the purchase of the property in  
27 1903 by Mabel Doe and Judge Orestes T. Doe.

28 50. The Plaintiff Linda W. Burford has used the Dry Sand and intertidal area  
29 of the beach since 1942.

30 51. The Plaintiff Linda W. Burford lives at Goose Rocks Beach at 1 New  
31 Biddeford Road.

1           52.     This property has been used by the Dow family since 1903 and this  
2 includes all areas of the beach from the Little River to Batson River without  
3 interruption.

4           WHEREFORE, Linda Doe claims that she has established an Easement By Prescription  
5 over the Dry Sand and the Intertidal Area by open and notorious use without permission  
6 for over 20 years believing that it was a public beach.

7  
8   Complaint of Kendall Burford

9           53.     Now comes Kendall Burford and states that he first came to Goose Rocks  
10 Beach in the Fall of 1961 when Linda Burford's father Kenneth Doe took them from Colby  
11 College to the home at Goose Rocks Beach in October of 1961.

12           54.     Plaintiff Kendall Burford has used the beach every year since then  
13 including when he was in Law School by working for the Attorney General's Office  
14 during the summer searching deeds and lived in a Doe cottage now owned by John Dalton  
15 for the years 1965, 1966, and 1967.

16           55.     Plaintiff Kendall Burford has used the beach since then every year  
17 including but not limited to playing football, softball, sunbathing, visiting in-laws,  
18 taking walks, etc. This includes all areas of the beach from river to river and dry  
19 sand.

20           56.     Plaintiffs Linda W. and Kendall Burford now live at 1 New Biddeford Road  
21 in Goose Rocks Beach which is part of the 1903 deed.

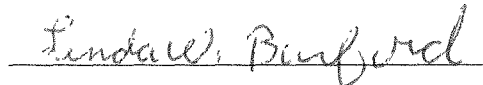
22           WHEREFORE, Linda Doe claims that she has established an Easement By Prescription  
23 over the Dry Sand and the Intertidal Area by open and notorious use without permission  
24 for over 20 years believing that it was a public beach.

25  
26  
27           Plaintiffs Linda W. and Kendall Burford demand judgments against the Plaintiffs  
28 Robert F. and Virginia S. Almeder, et al as follows:

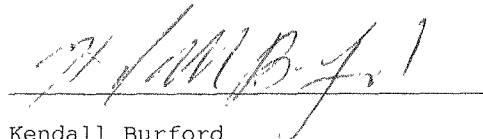
- 29           a) Plaintiffs Linda W. and Kendall Burford have established an Easement By  
30                 Prescription over the Intertidal and Dry Sand area over Goose Rocks  
31                 Beach and have established the right to walk, sit, sunbathe, and use the  
32                 beach for all recreational activities including picnics, etc.

- 1 b) The establishment of an Easement By Prescription over the entire Dry Sand  
2 and Intertidal area by use under claim of right for over 20 years.  
3 c) Plaintiffs Almeder, et al be dismissed as against Kendall and Linda W.  
4 Burford.  
5 d) Plaintiffs Almeder, et al be restrained from bothering, harassing, and in  
6 otherwise interfering with the public's use of the beach.  
7

8 Dated:

9 

10 Linda W. Burford  
11 Property Owner of  
12 5 New Biddeford Road and  
13 1 New Biddeford Road,  
14 Kennebunkport, Maine

15 

16 Kendall Burford  
17 Property Owner of  
18 5 New Biddeford Road and  
19 1 New Biddeford Road,  
20 Kennebunkport, Maine

21 We certify that on this 27<sup>th</sup> day of October, 2010 a copy of the foregoing answer was  
22 forwarded to all counsel of record.

23 Kendall and Linda W. Burford  
24 1 New Biddeford Road  
25 Kennebunkport, Maine 04046  
26 (207) 967-3826  
27  
28  
29  
30  
31  
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