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STATE OF MAINE
YORK, ss

SUPERIOR COURT
Civil Action
Docket No. RE-09-111

ROBERT F. ALMEDER and)
VIRGINIA S. ALMEDER, et al.)
Plaintiffs)

v.)

TOWN OF KENNEBUNKPORT and)
ALL PERSONS WHO ARE)
UNASCERTAINED,)
Defendants)

DEPOSITION OF BARBARA L. RENCURREL, taken
before Colleen A. DiPierro, RMR, CRR, pursuant to
notice dated February 29, 2012, at the law offices of
Taylor, Frame & McCormack, 30 Milk Street, 5th Floor,
Portland, Maine, on March 20, 2012, commencing at
10:03 A.M.

APPEARANCES:

- ANDRE G. DUCHETTE, ESQ.
- GREGG R. FRAME, ESQ.
- DAVID P. SILK, ESQ.
- BENJAMIN M. LEONI, ESQ.
- PAUL STERN, ESQ.
- BRIAN G. WILLING, ESQ.
- AMY K. TCHAO, ESQ.

Also present:

- Alexander Lachiatto, pro se
- Richard Driver, pro se
- Robert F. Almeder

Colleen A. DiPierro
DiPierro Reporting, LLC
220 Pine Street
South Portland, ME 04106
207-767-5330

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1 you can ask me to repeat the question.

2 Let me finish my question and I'll -- and I'll
3 do the same when you answer so that we're not talking
4 over each other. That makes it difficult to take the
5 transcription of that.

6 I don't anticipate the deposition taking an
7 inordinate long time, but please, again, don't hesitate
8 to ask for a break if you need one.

9 I may ask you to repeat a response if you use
10 nonverbal responses, as the court reporter can't
11 transcribe a shrug or a shake of the head.

12 And your attorney may object to questions.
13 Once the objection is noted, you may still be required
14 to answer the question.

15 Any questions before we start?

16 A. Not at this point.

17 MR. DUCHETTE: Okay. I'm going to label the
18 deposition notice as Exhibit 1.

19 (Deposition Exhibit No. 1, Notice of
20 Deposition, marked for identification.)

21 BY MR. DUCHETTE:

22 Q. And have -- I'm going to show this to you. Have you
23 seen this document?

24 A. Yes, yes. Yes, I have seen it.

25 Q. Okay. And is that a true and accurate copy of the

1 original document which asked you to be here today?

2 MR. SILK: Do you have the original?

3 MR. DUCHETTE: Oh, is that the original?

4 MR. SILK: It has your signature on it.

5 MR. DUCHETTE: I think it's just a color copy
6 of the signature.

7 MR. SILK: It doesn't appear to have the same
8 certificate of service.

9 MR. DUCHETTE: I don't think I attached the
10 certificate. I'm just asking with respect to the
11 notice of the deposition.

12 A. Yes.

13 BY MR. DUCHETTE:

14 Q. Okay. And could you state your full name and address
15 for the record?

16 A. Barbara Lynde Rencurrel; L-Y-N-D-E is the middle name.
17 Last name is R-E-N-C-U-R-R-E-L. And my address?

18 Q. Please.

19 A. 251 Kings Highway, Kennebunkport, Maine.

20 Q. And are you currently on any medications that might
21 impact your ability to remember anything clearly today?

22 A. No.

23 Q. And would your judgment or your ability to testify
24 truthfully be impaired in any other -- in any other way
25 today?

1 A. To testify truthfully?

2 Q. Correct.

3 A. No.

4 Q. Okay. Have you -- you indicated you lived on Kings
5 Highway in Kennebunkport, Maine. Have you always lived
6 there?

7 A. No.

8 Q. Okay. Where -- where did you live prior to living
9 there?

10 A. You want just prior to living there --

11 Q. Yeah.

12 A. -- or everywhere I lived?

13 Q. Let's start with everywhere you've lived.

14 A. Everywhere I've lived, okay.

15 MR. SILK: More than a day?

16 MR. DUCHETTE: For more than a day.

17 MR. SILK: We'll be here all day.

18 A. Okay. I was brought up in Massachusetts, then I lived
19 in New York state, then I came back to Massachusetts,
20 then I went to New Jersey, and then I went to
21 California and I came back to Washington, D.C.,
22 Philadelphia, back to New Jersey, back to New York,
23 back to Pennsylvania and then here. Okay?

24 BY MR. DUCHETTE:

25 Q. Okay. That's a lot of moving around. Where --

1 where -- and you said you were in New Jersey before you
2 moved back to -- back to Maine?

3 A. No, I was in Pennsylvania.

4 Q. I'm sorry. How long were you in Pennsylvania at that
5 time?

6 A. About 16 years.

7 Q. Okay. And whereabouts in Pennsylvania did you live?

8 A. Doylestown, Pennsylvania.

9 Q. Okay. And is that -- where and when were you --
10 actually, before I go there -- and what was the level
11 of schooling that you -- that you completed?

12 A. Graduate.

13 Q. Graduate. And what was -- what was your degree?

14 A. My graduate degree?

15 Q. Uhm-uhm.

16 A. It was a one-year graduate program in business
17 administration at Radcliffe.

18 Q. And where did you go to college?

19 A. Cornell.

20 Q. And are you currently employed?

21 A. No.

22 Q. Okay. Retired?

23 A. Yes.

24 Q. Were you employed?

25 A. Briefly.

1 Q. And what did you -- what did you do?

2 A. I was in merchandising and then I did some substitute
3 teaching.

4 Q. And when was that?

5 A. Which?

6 Q. The merchandising.

7 A. The merchandising was back in 1951 or '2.

8 Q. And where were you -- where were you living then?

9 A. I was living in Massachusetts.

10 Q. Okay. And when did you do some substitute teaching?

11 A. Back in the '60s and '70s.

12 Q. And were you in Massachusetts then as well?

13 A. No, I was in Doylestown, Pennsylvania.

14 Q. Okay. Have you -- have you ever been involved in any
15 other litigation, have you ever been sued before?

16 A. No.

17 MR. SILK: I'm going to object to the form of
18 the question.

19 BY MR. DUCHETTE:

20 Q. Have you -- have you ever been sued before?

21 A. No.

22 Q. Okay. Have you ever sued anyone else before?

23 A. No. I'm hesitating because is a divorce a --

24 MR. SILK: If you don't understand the
25 question, just tell him you don't understand.

1 A. All right. I don't understand it.

2 BY MR. DUCHETTE:

3 Q. Okay. I think you alluded to the fact that -- so
4 you -- there was a divorce?

5 A. Yes.

6 Q. And so you were married? Obviously.

7 Well, what was -- what was your husband's name
8 at the time?

9 A. Roger Josselyn.

10 Q. Okay. And had you been married to anyone else?

11 A. Before that or since then?

12 Q. Was he your only husband?

13 A. No.

14 Q. Okay. Who are your other husbands?

15 A. Robert Rencurrel.

16 Q. Okay. And how long were you married to Mr. Josselyn
17 you said?

18 A. 27 years.

19 Q. Okay. And when were you divorced?

20 A. 1978 or '9. I'm not sure.

21 Q. And did you have any children with him?

22 A. Yes, I had children with him.

23 Q. And who -- what are their names?

24 A. Kenneth and Leslie.

25 MR. WILLING: I missed the name of your second

1 child's name.

2 THE DEPONENT: Leslie.

3 MR. WILLING: Leslie. Thank you.

4 BY MR. DUCHETTE:

5 Q. And -- and you indicated then you were married to a Mr.
6 Rencurrel. When did the two of you get married?

7 A. 1986.

8 Q. And is Mr. Rencurrel still alive?

9 A. No, he is not.

10 Q. When did he pass away?

11 A. 2009.

12 Q. How old is Kenneth?

13 A. Kenneth is 55 -- 57. Excuse me. 57.

14 Q. And is he married?

15 A. Yes.

16 Q. And does he have any children?

17 A. No.

18 Q. And how old is Leslie?

19 A. 50.

20 Q. And is she married?

21 A. Yes.

22 Q. And does she have any children?

23 A. Yes.

24 Q. How many grandchildren do you have?

25 A. Three.

1 Q. Three. How old are they?

2 A. Don't hold me to this, 25, 23 and 18.

3 Q. And where do -- where do your children live? Where
4 does Kenneth live?

5 A. Kenneth lives in New York City.

6 Q. And where does Leslie live?

7 A. Leslie lives in Pittsford, New York.

8 Q. And what -- what does Kenneth do for work?

9 A. Kenneth is an attorney.

10 Q. And what about Leslie?

11 A. Leslie is a mother and a wife.

12 Q. When -- and I've looked at some of the documents you've
13 produced, and it appears your family has been at Goose
14 Rocks Beach for quite some time.

15 When did you first start visiting Goose Rocks
16 Beach?

17 A. When did I first start?

18 Q. Yes.

19 A. 1938.

20 Q. And how -- forgive me for asking, how old were you at
21 that time?

22 A. Ten.

23 Q. And is that -- is that when -- when you first started
24 visiting Goose Rocks Beach, did your family own a piece
25 of property there or were you just visiting or renting?

1 MR. SILK: Object to the form of the question.

2 A. Just one question? What are you asking?

3 BY MR. DUCHETTE:

4 Q. Well, I'm asking when you first started visiting Goose
5 Rocks Beach in 1938 did your family own any property
6 there at the time?

7 A. No, they did not own any property there.

8 Q. Did they -- so when you did -- were you just visiting
9 for the day? Did you -- did you rent or --

10 MR. SILK: I object to the form of the
11 question.

12 BY MR. DUCHETTE:

13 Q. You can answer.

14 A. I rented. They rented.

15 Q. They rented.

16 A. My parents rented.

17 Q. What were your parents' names?

18 A. Leslie and Alberta Lynde.

19 Q. And Lynde is L-Y-N-D-E?

20 A. Correct.

21 Q. Now, where did they rent in Goose Rocks Beach?

22 A. Where did they rent?

23 Q. Yes.

24 A. They rented -- the first time they came?

25 Q. Yeah. In 1938?

1 A. In 19 -- that's the year you're asking me, 1938?

2 Q. Yes.

3 A. Well, they rented what was called the Whittemore
4 Cottage.

5 Q. Is the Whittemore Cottage still there?

6 A. Yes.

7 Q. And where is that?

8 A. The cottage is located on the beachfront. If you come
9 down the Dyke Road and turn east, it's the second
10 house.

11 Q. And how -- how long did they -- how many years did they
12 rent at Goose Rocks Beach?

13 A. Did they rent at Goose Rocks Beach or did they rent
14 that house?

15 Q. Let's just start with rent at Goose Rocks Beach.

16 A. They rented until 1946 or '7, whatever -- can I look at
17 the deeds? Whatever the deed says when they bought the
18 house.

19 MR. SILK: That's fine.

20 BY MR. DUCHETTE:

21 Q. So you think it was around 1947 when --

22 A. When was the fire? Probably '46. It was before the
23 fire.

24 Q. And so they rented -- did they rent other cottages
25 between the Whittemore Cottage?

1 A. Yes.

2 Q. And the Whittemore Cottage you indicated was beachfront
3 property. Did they always rent beachfront property?

4 A. Yes, they did.

5 Q. Do you recall when they rented beachfront property if
6 they were restricted in terms of where they could use
7 Goose Rocks Beach in terms of where you and your family
8 could go?

9 A. On the -- doing what? I don't understand your
10 question.

11 Q. Were you --

12 A. You mean could they go up the road, drive up the road?

13 Q. No, on Goose Rocks Beach.

14 A. On the beach?

15 Q. Or where they -- where they -- did they have to stay in
16 front of the property that they rented?

17 A. No.

18 Q. Okay.

19 A. But it was also understood that the beach was private.

20 Q. Okay. Where did that understanding come from in
21 between 1938 and 1947?

22 A. Well, it just was. Everybody knew it was. There was
23 no public part to Goose Rocks Beach until '74.

24 Q. Who was -- when it was private or at least during that
25 time frame from 1938 to 1947, who was allowed to use

1 Goose Rocks Beach?

2 A. I didn't say 1947.

3 Q. Well, I'm just -- that's the time frame I'm looking at,
4 when your parents were renting, and you indicated that
5 everybody understood that it was private.

6 Who was allowed to use Goose Rocks Beach?

7 A. Who was allowed to use Goose Rocks Beach?

8 Q. Yes.

9 A. People who lived there.

10 Q. And is that --

11 A. Friends.

12 Q. And were they, the people who lived there, were they
13 allowed to use all of Goose Rocks Beach or just the
14 property in front of their house?

15 A. No -- well, to begin with, there weren't many people
16 there. That's No. 1.

17 Q. Okay.

18 A. No. 2, it was a very close community and we were all
19 friends. However, I can never remember anybody in
20 front of our house, unless it was one of my friends or
21 my sisters or so forth.

22 Q. Okay. But going back -- going back to my question, so
23 were the people who lived at Goose Rocks Beach, were
24 they allowed to use all of Goose Rocks Beach?

25 A. No.

1 Q. Okay.

2 A. No.

3 Q. Who was not allowed to use -- let's go back.

4 Did your family use, between 1938 and 1947 when
5 you were renting, did your family use all of Goose
6 Rocks Beach?

7 A. To do what?

8 Q. Walk, swim, build sandcastles, general beachfront
9 activity.

10 A. My family never did any of those things except in front
11 of their own property.

12 Q. Okay. So they never -- they never rec -- so they
13 stayed within -- in front of the property they were
14 renting --

15 A. Correct.

16 Q. -- to recreate?

17 Did other -- did you observe other Goose Rocks
18 Beach residents using the beach?

19 MR. SILK: During this --

20 BY MR. DUCHETTE:

21 Q. During this period, from 1938 to 1947.

22 A. Using the beach?

23 Q. Recreating on the beach.

24 A. I would see them in front of their own houses.

25 Q. Okay. So going back then, so people during that time,

1 from 1938 to 1947 when people recreated on the beach,
2 they only recreated in front of their own house?

3 A. For those people that owned beachfront property. I
4 can't speak for where the others, I can really just
5 speak for those that lived near me and that I knew.

6 Q. Okay. And they stayed in front of their property to
7 recreate?

8 A. Yes. I mean if you were visiting a friend, you might
9 go to the friend's house.

10 Q. Okay. And then your -- and then your parents
11 purchased, you said, purchased property at Goose Rocks
12 Beach I think you said in 1947.

13 A. They purchased property, yes.

14 Q. Okay. Where -- and where was that?

15 A. Where they purchased the property?

16 Q. Uhm-uhm.

17 A. Do you know Goose Rocks Beach?

18 Q. I'm becoming more and more familiar.

19 MR. SILK: Do you want just an address?

20 MR. DUCHETTE: Yeah, that's fine.

21 A. 251 Kings Highway.

22 BY MR. DUCHETTE:

23 Q. Okay. And that's where you're currently residing now?

24 A. Correct.

25 Q. Did they -- did they own any other property at Goose

1 Rocks Beach, your parents?

2 A. Oh, yes.

3 Q. Where -- where were the other pieces of property
4 located?

5 A. Up at the east end across -- just across the Little
6 River.

7 Q. Okay. When did they purchase that piece of property?

8 A. I guess in sometime in the early '50s.

9 Q. Was that beachfront property or was that --

10 A. No, it was not beachfront property.

11 Q. Okay. And was that property ever -- was it ever sold?

12 A. Yes.

13 Q. When was it sold?

14 MR. SILK: By her parents?

15 MR. DUCHETTE: By her parents.

16 A. 1978 maybe.

17 BY MR. DUCHETTE:

18 Q. Who was -- do you remember who it was sold to?

19 And did your parents own any other property at
20 Goose Rocks Beach?

21 A. Yes. They owned a house on the west end, going towards
22 the west end, actually, on the right-hand side. And I
23 can't tell you -- my sister -- it was bought for my
24 sister. I cannot -- I don't know what the address is.

25 Q. Okay. When was that property purchased by your

1 parents?

2 A. I really can't -- I don't really know. It might be in
3 the '70s but I'm --

4 MR. SILK: Don't guess.

5 THE DEPONENT: Don't guess.

6 A. I don't know.

7 BY MR. DUCHETTE:

8 Q. After they purchased the east end property? Because
9 you indicated that the east end property was purchased
10 in the early '50s, so sometime after that?

11 A. It was after that.

12 Q. Okay. And I think you indicated that that was
13 purchased for your sister. Does -- who -- what's your
14 sister's name?

15 A. Louise. She used to -- Louise.

16 Q. Okay. Do you have any other siblings?

17 A. No.

18 Q. And I think you indicated Louise is now deceased I
19 think you were about to say?

20 A. Yes.

21 Q. Okay. When did she pass away?

22 A. I can't give you an exact date.

23 Q. Okay. Was it recently or some time ago?

24 A. 10 years.

25 Q. 10 years ago.

1 The property on the west end, who -- who owns
2 that now?

3 A. Her daughter.

4 Q. Louise's daughter?

5 A. My sister's daughter.

6 Q. Okay. What's her name?

7 A. Barbara Mazeika.

8 MR. SILK: Want to spell the last name.

9 THE DEPONENT: M-A-Z-E-I-K-A.

10 MR. SILK: Thank you. It's for her, not for
11 me. She has to transcribe --

12 THE DEPONENT: It's M-A-Z-E-I-K-A.

13 BY MR. DUCHETTE:

14 Q. And the property on the west end, was that -- is that
15 beachfront property?

16 A. No.

17 Q. Back lot property. When you would come to visit Goose
18 Rocks Beach, did you always stay at -- at 251 Kings
19 Highway?

20 A. That's -- what -- you'll have to be more explicit.
21 What years are you talking about?

22 Q. Well, I guess -- let me simplify my question. When you
23 came to Goose Rocks Beach, did you always, after your
24 parents purchased the property in 1947, did you always
25 stay at that -- at that location?

1 A. No.

2 Q. Okay. Where else did you stay?

3 A. I stayed sometimes at the property at the east end.

4 Q. Okay. And that would have -- when did you -- when
5 would you start staying at the property on the east
6 end? Right after it was purchased, some years after
7 that?

8 MR. SILK: Object to the form of the question.

9 BY MR. DUCHETTE:

10 Q. Is that a yes?

11 A. So what are you asking me?

12 Q. When did you start staying at the east end property?

13 A. Right after it was purchased.

14 Q. Right after it was purchased. And did you stay there
15 with your family?

16 A. Well, what do you mean?

17 Q. Your husband and children.

18 A. Yes.

19 Q. Did anybody else -- would anybody else, when you would
20 visit that east end property, would anybody else stay
21 there with you?

22 A. Nobody else did.

23 Q. Okay. When you were staying at the east end property
24 would you go down to Goose Rocks Beach?

25 A. Yes, I would go down to the beach.

1 Q. Okay. How would you access the beach when you were
2 staying at the east end property?

3 A. The east end property had a deeded right-of-way to the
4 beach, and I went on the deeded right-of-way to the
5 beach.

6 Q. Okay. And once you got down to the beach, did your
7 family ever recreate on the beach down on the east end?

8 A. My family recreated on the beach at the east end, but
9 every summer when we first got there, we always asked
10 the woman who was on the east end if it was all right
11 for us to sit there, and she would say yes. And that's
12 where I recreated.

13 Q. And that's where your family recreated as well?

14 A. My children?

15 Q. Yes.

16 A. Yes --

17 Q. And your husband?

18 A. -- the two of us, yes. When they were on the beach.

19 Q. Okay. And you never went left or right in terms of
20 recreating when you were staying on the east end?

21 A. I don't like to use the word, never, but if I did, I
22 went to be with somebody who was on the beach.

23 Q. Okay. And you never -- and so your testimony today is
24 that you and your family in terms of when you recreated
25 at the east end, it was always in front of this lady 's

1 house who you received permission from?

2 A. Uhm-uhm.

3 MR. SILK: You have to say yes or no.

4 THE DEPONENT: Oh, yes. Excuse me.

5 BY MR. DUCHETTE:

6 Q. Did you ever stay at the house on the west end?

7 A. Never.

8 Q. Okay. I think you've -- the property on the west end
9 you indicated was owned by your sister's daughter.

10 Do you -- do you have any other family members
11 who own property at Goose Rocks Beach?

12 A. Yes, I do.

13 Q. And who are they?

14 A. I have another niece.

15 Q. What's her name?

16 A. Linda Parrot.

17 Q. And where does she own property at Goose Rocks Beach?

18 A. Down at Kings Grant.

19 Q. Is that beachfront property?

20 A. No.

21 Q. Do you have any other family members who own property
22 at Goose Rocks Beach?

23 A. Yes. My daughter.

24 Q. And where is her property located?

25 A. It's up on -- No. 1 Prescott Drive.

1 Q. Is that beachfront?

2 A. No, it is not beachfront property.

3 Q. Are Barbara, Linda and your daughter allowed to use
4 Goose Rocks Beach?

5 A. Are Barbara, Linda and my daughter allowed to use Goose
6 Rocks Beach?

7 Q. Yes.

8 A. For what? You have to be more specific.

9 Q. Are they allowed to recreate on Goose Rocks Beach?

10 A. I have no idea about Linda and Barbara. My daughter,
11 yes, she -- there's a public beach right at the -- on
12 her access to the beach or she comes down in front of
13 the house.

14 Q. Okay. And she -- so she's only allowed to use the
15 public beach?

16 A. She can come down in front of the house.

17 Q. Naturally. Provided, you give her permission?

18 A. No, she does not need as a family member permission.

19 Q. Okay. Is your daughter allowed to use any other parts
20 of Goose Rocks Beach to recreate?

21 A. Well, she has a wide enough expanse right there where
22 the conservation is. I don't know where she is all the
23 time she's on the beach, except when she comes in front
24 of my house. I can't speak for where she is the rest
25 of the time. I'm not with her.

1 Q. My question is, is she allowed -- in your opinion is
2 she allowed to use other parts of Goose Rocks Beach,
3 other than the public portion, what you call the public
4 portion, and in front of your house?

5 A. The rest of the part is private. She would ask
6 permission before she used it.

7 Q. She would have to ask permission?

8 A. Right.

9 Q. Do your granddaughters recreate on Goose Rocks Beach?

10 A. Yes, in front of the house and the same thing. Their
11 road comes right down to where the Conservation Trust
12 is.

13 Q. Okay. And do they use any other parts of Goose Rocks
14 Beach?

15 A. I do not know. I am not with them all the time.

16 Q. Okay. You have been -- you have been visiting and also
17 living at Goose Rocks Beach for quite some time.

18 Are you friends with any back lot owners,
19 people who don't own beachfront property at Goose Rocks
20 Beach?

21 A. Well, the people that live behind me I know.

22 Q. And who are they?

23 A. McClouds, Mather and, gee, Fred and Charlene. I don't
24 know -- they're new owners. I don't know what their
25 last name is.

1 Q. Where do they -- where do they use Goose Rocks Beach?

2 A. They go down the street, I guess. They do not come in
3 front of my house.

4 Q. Okay.

5 A. Although they have had permission to come in front of
6 my house.

7 Q. So you gave them permission?

8 A. I gave them permission.

9 Q. Have you given anyone else permission to come in front
10 of your house?

11 A. Yes.

12 Q. Who?

13 A. Well, I give a lot of my friends who do not live at the
14 beach permission to come and park.

15 Q. When your -- when your parents owned that property did
16 they ever give any permission to others to use --

17 A. I do not know what my parents --

18 MR. SILK: Just make sure he finishes the
19 question because she has to --

20 THE DEPONENT: Okay. I'm sorry.

21 MR. SILK: Because if you jump in she can't get
22 both of you at once.

23 I'm sorry. Go ahead.

24 BY MR. DUCHETTE:

25 Q. My question was, do you know if your parents ever gave

1 permission to others to use the beach in front of your
2 house?

3 A. I do not know. I don't know.

4 Q. You don't know? Okay.

5 Your father Leslie, he was -- he was well-known
6 in Goose Rocks Beach, correct?

7 MR. SILK: Object to the form of the question.

8 A. Was my father well-known at Goose Rocks Beach, yes.
9 Goose Rocks Beach was very small. Everybody knew
10 everybody.

11 BY MR. DUCHETTE:

12 Q. And when you -- and when you say small, what do
13 you -- what do you mean by that?

14 A. I mean there weren't that many houses when we first
15 came there.

16 Q. And that was in the 1930s. Were there more houses in
17 the 1950s?

18 MR. SILK: Than?

19 BY MR. DUCHETTE:

20 Q. Than when you first moved there?

21 A. Yes.

22 Q. And I guess my -- I guess my question is, is you
23 indicated that Goose Rocks Beach was small, it was a
24 family community, everybody knew each other.

25 When did that change in your opinion?

1 A. After the fire in 1947.

2 Q. So since -- since the 1950s and afterwards, in your
3 opinion Goose Rocks Beach is no longer the family
4 community setting?

5 A. It is no longer as it was nine -- before 1947.

6 Q. Both -- let's start with as you were growing up and
7 when your parents owned the property at Goose Rocks
8 Beach.

9 What -- what kind of activities did you do on
10 the beach?

11 MR. SILK: Object to the form of the question.

12 BY MR. DUCHETTE:

13 Q. You can answer.

14 A. What kind of activities did I do on the beach?

15 Q. Yup.

16 A. I sunbathed.

17 Q. Anything else?

18 A. No, just sunbathed.

19 Q. Built sandcastles?

20 A. No.

21 Q. Collect seashells?

22 A. Is this --

23 Q. When you were -- when you were 10 years old when you
24 started visiting the beach --

25 A. Uhm-uhm.

1 Q. -- my question is when you were a kid growing up
2 hanging out at Goose Rocks Beach with your family, what
3 type of activities did you do on the beach?

4 A. Sunbathed.

5 Q. No other activities on the beach?

6 A. We may have collected sand-dollars.

7 Q. Did you ever go swimming?

8 A. But that's not on the beach. Excuse me.

9 Q. No, that's fine. Did you ever go swimming?

10 A. Yes, I went swimming.

11 Q. Is swimming a permitted activity at Goose Rocks Beach?

12 A. Yes.

13 Q. And let me now be a little bit more specific.

14 Who -- who is allowed to go swimming at Goose
15 Rocks Beach?

16 A. Could you narrow that down?

17 Q. Sure, certainly.

18 A. Are you talking about the whole beach?

19 Q. Could I go -- could I go swimming in front of your
20 house at Goose Rocks Beach?

21 A. It depended upon how you accessed it.

22 Q. Okay. If I accessed it via one of the -- via Dyke
23 Road, I think there's an access point there --

24 A. Uhm-uhm.

25 Q. -- and I got in the water, could I then -- could I swim

1 in front of your house?

2 A. Yes. If you went from the Dyke Road into the ocean,
3 yes.

4 Q. Yes. Okay. And could I come up on the wet sand in
5 front of your house?

6 A. Well, wet sand in front of my house, let's put it this
7 way: You would have my tacit permission to come up on
8 the wet sand. I would not prevent somebody from
9 swimming coming up on the wet sand. Technically do you
10 have a right? No, it's my private beach.

11 Q. Okay. When did you -- when did you acquire the
12 property at 251 Kings Highway?

13 A. When my -- when my -- when my mother died, 19 -- when
14 my mother died.

15 Q. When was that?

16 A. What does the deed say?

17 MR. SILK: Well, you can't -- you don't get to
18 ask questions, so if you just say it's on the deed, you
19 can say it's on the deed.

20 THE DEPONENT: Okay.

21 BY MR. DUCHETTE:

22 Q. I'm not going to mark this yet because I want to save
23 Brian some thunder.

24 MR. WILLING: You can mark it.

25 MR. SILK: Let's just see if it refreshes her

1 recollection.

2 A. 1993.

3 MR. SILK: So the question was -- what was your
4 question?

5 MR. DUCHETTE: I asked her when she had
6 acquired the property, and she had indicated after her
7 mother's -- her mother's passing.

8 MR. SILK: Right.

9 THE DEPONENT: Can I look at stuff?

10 MR. SILK: I'd rather have you just -- if you
11 don't know --

12 MR. WILLING: Do you need this stuff?

13 A. Whatever date the deed gave, that's when I acquired it.

14 BY MR. DUCHETTE:

15 Q. I'm going to show you one more. I think this might be
16 the one.

17 MR. SILK: This is a different one.

18 (Off the record.)

19 BY MR. DUCHETTE:

20 Q. And when the property was -- was conveyed to you in
21 August of 1986, I think the deed makes reference to a
22 life estate.

23 Who received that life estate?

24 A. My father.

25 Q. Okay. And he had that life estate until his passing?

1 A. Yes.

2 Q. Do you recall when that was?

3 A. 19 -- let me see, 19 -- not precisely.

4 Q. Okay. Would 1993 sound about right?

5 A. That would sound about right.

6 Q. Okay. And after his passing, you had title to that
7 property and fee simple, correct?

8 MR. SILK: Object.

9 BY MR. DUCHETTE:

10 Q. It wasn't encumbered by a life estate or --

11 MR. SILK: I object to the form of the
12 question.

13 BY MR. DUCHETTE:

14 Q. You can answer.

15 A. It wasn't -- you're correct.

16 Q. Okay. Have there been any subsequent conveyances of
17 the property since 1993?

18 A. Yes.

19 Q. What -- what were those?

20 A. It went into a QPRT.

21 Q. Is that a qualified personal residence trust?

22 A. Correct.

23 Q. And when was that do you recall?

24 A. Let's see, 19 -- I don't know exactly.

25 Q. Okay.

1 A. I'd have to go back -- I don't know exactly.

2 Q. Okay. Who -- who owns the property today?

3 A. The property today is in a trust.

4 Q. And what's the name of that trust?

5 A. The LAJR Family Trust.

6 MR. DUCHETTE: I am going to mark this one.

7 (Deposition Exhibit No. 2, Warranty Deed,
8 3/12/09, marked for identification.)

9 BY MR. DUCHETTE:

10 Q. I'm showing you a deed dated March 12, 2009. It's a
11 conveyance into the LAJR Trust.

12 A. LAJR Trust, correct.

13 Q. And is that the -- this is the current owner of the
14 property today?

15 A. The trust is the current owner of the property.

16 Q. Okay. And who is the trustee?

17 A. Leslie Josselyn-Rose.

18 Q. And is that your daughter?

19 A. That is my daughter.

20 Q. But you currently re -- reside there, correct?

21 A. Yes, I do.

22 Q. Do you rent the property?

23 A. Yes, I do.

24 Q. When -- when your parents -- when your parents were
25 alive, what types of activity did they do on Goose

1 Rocks Beach?

2 A. Well, my father would access his boat. Once in a great
3 while they might come down and sit in a chair. That's
4 about it.

5 Q. Did they ever play any sports on the beach, throw a
6 frisbee, throw a baseball?

7 A. My father played horseshoes.

8 Q. He played horseshoes on the beach?

9 A. Yes.

10 Q. Did he play horseshoes strictly in front of his
11 property?

12 A. Yes.

13 Q. Okay. Did your parents ever walk up and down Goose
14 Rocks Beach?

15 A. No, I don't think they ever did walk up and down Goose
16 Rocks Beach. I was not there all the time, so to the
17 best of my knowledge they did not --

18 Q. Okay.

19 A. -- when I was there.

20 Q. How -- how -- when -- after they purchased their
21 property, how frequently would -- would you go to Goose
22 Rocks -- would you go to Goose Rocks Beach, let's say,
23 in the 1950s?

24 MR. SILK: Are you talking about the Kings
25 Highway property?

1 MR. DUCHETTE: Correct.

2 A. And you're talking about the '50s?

3 BY MR. DUCHETTE:

4 Q. Yes.

5 A. In the '50s most of the time I would be at the east
6 end.

7 MR. SILK: That wasn't quite the question. The
8 question was how often would you --

9 A. Oh, excuse me. How often would I be at 251 Kings
10 Highway?

11 BY MR. DUCHETTE:

12 Q. Correct.

13 A. Is that what you're asking me?

14 Q. Yes.

15 A. Very seldom.

16 Q. Very seldom, okay.

17 A. Well, can I requalify that?

18 Q. Sure. Please.

19 A. Are you talking about overnight? I mean you've got to
20 be more explicit. Are you talking about overnight or
21 are you talking about on the beach in front of the
22 house or --

23 Q. I think you answered my question. I was getting to how
24 often did -- were you coming to 251 Kings Highway, but
25 it sounds like in the 1950s you were going to the east

1 end property?

2 A. Yes, but I spent most of the time in front of the beach
3 at 251 Kings Highway.

4 Q. Okay.

5 A. That's why I wanted you to be more explicit.

6 Q. Certainly. I'll try to be.

7 A. Thank you.

8 Q. I'm not making any promises, though.

9 So in the 1950s how often would you and your
10 family come to Goose Rocks?

11 A. For a part of every summer.

12 Q. And was that part of every summer, is that a week, two
13 weeks?

14 A. Month.

15 Q. So for one month?

16 And was that -- was it typically the same month
17 each year, did that change, was it always in the
18 summer?

19 A. It fluctuated.

20 Q. Was it always in the summer?

21 A. Yes.

22 Q. And you came -- you and your family would at least come
23 once a month every summer?

24 A. No. There was one summer when I lived in California
25 that I did not come.

1 Q. Okay. What -- what year was that, if you recall?

2 A. Probably --

3 MR. SILK: I don't want you to guess.

4 A. I don't know exactly which summer.

5 BY MR. DUCHETTE:

6 Q. Okay. And how often would you come with your family in
7 the 1960s?

8 A. I would come every summer.

9 Q. For about a month?

10 A. For about a month.

11 Q. Okay. And what about in the '70s?

12 A. The same, yes.

13 Q. Okay. Now, in --

14 A. Until I came to live all year long.

15 Q. When did -- when did that start?

16 A. 1979.

17 Q. And when you lived all year long, where were you
18 living?

19 A. 251 Kings Highway.

20 Q. Okay. When did you stop using the -- when did you and
21 your family stop using the east end cottage?

22 A. 1979.

23 Q. And when you started living -- when you started living
24 year-round, did your family live year-round with you at
25 that time as well?

1 A. No.

2 Q. Okay. Had they moved out of the house at that point?

3 A. No.

4 Q. Okay.

5 A. They lived but not year-round.

6 Q. Oh, Okay. But they -- but they would stay with you at
7 251 then when you would --

8 A. Correct, yes.

9 Q. And, again, your testimony today is that you, your
10 family, your children when you recreated on Goose Rocks
11 Beach would only be in front of either 251 or when you
12 were living on the east end in front of a lady who you
13 had permission from, correct?

14 A. Unless they were visiting with a friend on the beach.

15 Q. Okay. And if they were -- when they were visiting with
16 a friend, would that -- would that be a beachfront
17 owner?

18 A. Most likely.

19 Q. Okay. But you're not sure?

20 A. No, because I wasn't with them all the time.

21 Q. Okay. So they could have been -- they could have been
22 with friends who were not beachfront owners on other
23 areas of Goose Rocks Beach?

24 A. I cannot tell.

25 Q. Okay. In the period that you -- in the period that

1 you've been at Goose Rocks Beach, had -- have you
2 noticed any change in the use of Goose Rocks Beach over
3 time?

4 A. Yes.

5 Q. Can you tell me what you observed, what that change is?

6 A. You mean different uses?

7 Q. Yes.

8 A. No. Same uses.

9 Q. So the same use has occurred over -- since you've been
10 at Goose Rocks Beach?

11 A. As far as sunbathing, is that what --

12 Q. By other people -- people who use Goose Rocks Beach,
13 has that -- has the use changed at all over time, the
14 types of activities that have occurred on Goose Rocks
15 Beach?

16 A. Well, I suppose there's different kinds of games and
17 that sort of thing that, as they evolve, people use
18 them instead of something else. I won't say there
19 haven't been some changes.

20 Q. Okay. But I guess, but for the most part, people have
21 recreated on Goose Rocks Beach since you've -- at least
22 since you've been visiting Goose Rocks?

23 A. People have recreated where?

24 Q. On all -- on all of Goose Rocks Beach.

25 A. Well, I can't say whether they were on all of Goose

1 Rocks Beach. I can only talk about what's in front of
2 my house.

3 Q. Okay. Because you've only observed what's -- what's
4 occurred in front of your house?

5 A. That's the only one I'm qualified to talk about.

6 Q. And I'm assuming you can speak to what's occurred on
7 the -- on the east end of the beach as well, at least
8 from the 1950s to the 1970s?

9 A. From -- I did not spend a lot of time on the east end
10 at the beach.

11 Q. Okay.

12 A. Because I had children and it was much easier to come
13 down in front of my parents' property where I could
14 leave all their gear and just get in the car and come
15 down.

16 Q. Okay. Well, at least in front of that property, 251
17 Kings Highway, did the -- and other than use evolving,
18 I mean was the use on Goose Rocks Beach general
19 recreational use?

20 MR. SILK: Object to the form of the question.

21 BY MR. DUCHETTE:

22 Q. Would people only fish, fowl and navigate on Goose
23 Rocks Beach in front of your house when you --

24 A. People who were not from my family?

25 Q. Yes.

1 A. The general public are you talking about?

2 Q. Or other beachfront owners or Goose Rocks Beach back
3 lot owners.

4 A. Generally speaking, occasionally I get people who do
5 not belong who are trespassing, but for the most part,
6 everything has stayed the same.

7 Q. Okay. So there's been no -- so there's been no change
8 in the types of activities that have -- that you've
9 witnessed to occur --

10 A. That my family does in front of my house? I'm not
11 understanding your question.

12 Q. Well, I'm assuming other -- well, actually let's take a
13 step back. I'm going to get a general idea of where
14 you live. So I'm going to show you a packet of photos.

15 MR. WILLING: Are you going to mark this?

16 MR. DUCHETTE: Yes.

17 MR. SILK: Is this going to be No. 3?

18 MR. DUCHETTE: No. 3.

19 (Deposition Exhibit No. 3, Packet of Colored
20 Photos, marked for identification.)

21 A. What picture -- to what are you referring to?

22 BY MR. DUCHETTE:

23 Q. I'm just showing it to you.

24 MR. SILK: You can't ask him --

25 A. I can't ask a question. I'm sorry.

1 BY MR. DUCHETTE:

2 Q. I haven't asked one yet.

3 A. Okay.

4 Q. Do you recognize these photos?

5 A. Yes.

6 Q. And were these photos that you produced in response to
7 requests for production of documents by the defendants
8 in this case?

9 MR. SILK: I think it's fair to say she
10 produced them to the counsel.

11 THE DEPONENT: I think my daughter produced
12 them.

13 MR. SILK: Okay. Were they from a document
14 response?

15 MR. DUCHETTE: They were, but I will propose to
16 you that Pete Thaxter indicated that these were
17 documents produced by Barbara Rencurrel.

18 MR. SILK: Want to ask her if she's seen these
19 before?

20 BY MR. DUCHETTE:

21 Q. Well, do you recognize these photos?

22 A. I recognize the -- I recognize where the pictures are.

23 Q. Okay. Do you know who took these photos?

24 MR. SILK: Some of them are postcards.

25 MR. DUCHETTE: Okay.

1 A. I believe it's a combination of myself and my daughter.

2 BY MR. DUCHETTE:

3 Q. Okay. And is there -- is your house located in any of
4 these photos?

5 A. Uhm-uhm, yes.

6 Q. Okay. And we'll start on the first page of that
7 photograph.

8 A. Right there.

9 Q. You're pointing to a white house. Go ahead and
10 circle -- you can circle it.

11 Okay. And if you want to go ahead to the next
12 photo, the next page, there's three photos on this
13 page.

14 A. Uhm-uhm.

15 Q. And is your -- is your house located in any of these
16 photos?

17 A. Good question. It's not in that one. It's not in any
18 of those.

19 Q. Okay. Staying on that page, do you know whose dog that
20 is?

21 MR. SILK: This is on the second page of
22 Exhibit 3?

23 MR. DUCHETTE: The second page of Exhibit 3.

24 A. Is it a Cocker Spaniel?

25 MR. SILK: Not what kind of dog it is, whose

1 dog it is. The question is whose.

2 A. I cannot tell from the picture.

3 BY MR. DUCHETTE:

4 Q. Okay. There's a -- there's a man whose back is to us
5 in one of the photos. Do you know who that is?

6 A. Ahn-ahn.

7 MR. SILK: You have to say yes or no.

8 A. No.

9 BY MR. DUCHETTE:

10 Q. Did you take these photos?

11 A. No.

12 Q. Okay. Do you know what area of the beach these photos
13 are taken in?

14 MR. SILK: On the second page of Exhibit 3?

15 MR. DUCHETTE: On the second page of Exhibit 3.

16 A. The center of the beach.

17 BY MR. DUCHETTE:

18 Q. And when you say the center of the beach, is that near
19 a -- I believe some people refer to it as Dinghy Point?

20 A. Past that, up closer to the -- where the Conservation
21 Trust land is, where the public land is.

22 Q. And where -- where is that property?

23 A. Where is what property?

24 Q. That -- you referred to the public portion of the beach
25 or the Conservation Trust.

1 A. It is located in the land where the Town bought from
2 the people so they would have some beachfront for the
3 public.

4 Q. Is that west end, center?

5 A. Center.

6 Q. Center, okay.

7 A. Yeah.

8 Q. I'm going -- turning to the third page of photos, my
9 first question will be is your -- is your house located
10 in any of these photos?

11 A. No.

12 Q. Okay. Do you recognize any of the people --

13 A. Yes.

14 Q. -- in these photos?

15 So I'm looking at the -- so the first photo on
16 the top right there's a little girl in a pink T-shirt.
17 Who is that?

18 A. That's my granddaughter.

19 Q. Okay. And it looks like she's playing in the sand. Do
20 you know where she's playing?

21 A. Yes, in front of the house they rented.

22 Q. So they rented a house on Goose Rocks Beach?

23 A. Correct.

24 Q. And it was beachfront property?

25 A. Correct.

1 Q. And next to that photo, the top left-hand corner, it's
2 upside down, there's a girl in a white T-shirt. Who is
3 that?

4 A. My granddaughter.

5 Q. Okay. And it looks like she's flying a kite.

6 MR. SILK: There's a kite -- I'm looking for
7 the string.

8 THE DEPONENT: I can't find it.

9 MR. WILLING: You can kind of see it as you
10 look to the trees.

11 BY MR. DUCHETTE:

12 Q. She's holding the spool. Do you know where that
13 picture was taken?

14 A. In front of the house they rented.

15 Q. So that's in the same location?

16 A. Right.

17 Q. Where is that house?

18 A. The west end.

19 Q. On the west end.

20 And on the -- and on the bottom photo it looks
21 like there's three young girls in that -- in that
22 photo.

23 Do you recognize who those girls are?

24 A. The one in blue is my granddaughter.

25 MR. SILK: There's more than one in blue.

1 THE DEPONENT: Oh.

2 A. The one on the left in blue.

3 BY MR. DUCHETTE:

4 Q. Okay. Do you -- do you recognize the other two
5 children in that photograph?

6 A. No.

7 Q. Okay.

8 A. But I recognize the house they rented.

9 Q. And what house is that? Can you circle it?

10 I'm going to turn to the -- now we're on the
11 fourth page.

12 MR. SILK: Which way are you looking at it?

13 MR. DUCHETTE: This way. This is how they were
14 produced.

15 BY MR. DUCHETTE:

16 Q. And do you see your house located in any of these
17 photos?

18 MR. SILK: On the fourth page?

19 MR. DUCHETTE: On the fourth page.

20 A. Yes.

21 BY MR. DUCHETTE:

22 Q. Can you circle it?

23 MR. SILK: And when we say the house, we're
24 talking about 251 Kings Highway?

25 MR. DUCHETTE: 251 Kings Highway.

1 BY MR. DUCHETTE:

2 Q. Do you know approximately -- do you have any idea of
3 when these pictures might have been taken?

4 A. No.

5 MR. SILK: You mean the year?

6 MR. DUCHETTE: Yes.

7 MR. SILK: As opposed to summer, winter --

8 MR. DUCHETTE: Yes, the year.

9 A. No, I have no idea.

10 BY MR. DUCHETTE:

11 Q. And do you know who took these photos?

12 MR. SILK: On page 4?

13 MR. DUCHETTE: On page 4.

14 A. No.

15 BY MR. DUCHETTE:

16 Q. And they're hard to identify, but do you recognize any
17 of the people on page 4 in the top photo?

18 A. No.

19 Q. And so you have no way of knowing whether or not they
20 had the right to be --

21 A. No.

22 Q. -- to be where they are?

23 A. No.

24 Q. In this particular photo, again, I'm looking on -- I
25 know Dave is going to mention it -- looking at page 4

1 at the top. There's about half a dozen people in that
2 photo.

3 Would you -- would you consider that a high
4 level of use of Goose Rocks Beach in that photo?

5 MR. SILK: Object to the form of the question.

6 BY MR. DUCHETTE:

7 Q. You can answer.

8 A. For that section of the beach?

9 Q. Yes.

10 A. Where -- for the locale that's just shown in this
11 picture right here?

12 Q. Sure.

13 A. That's what we're talking about?

14 Q. Yes.

15 A. You know, I don't spend time down at that end of the
16 beach. I really cannot give you an answer.

17 MR. WILLING: What end is it?

18 THE DEPONENT: What?

19 MR. WILLING: What end is it?

20 MR. SILK: He asks the questions right now.

21 A. I'm unable to answer it.

22 BY MR. DUCHETTE:

23 Q. What end of the beach is that?

24 A. That is the west end.

25 Q. Okay. If -- would the -- would the same number of

1 people be considered a high level of use in front of
2 your property at 251 Kings Highway?

3 A. Yes.

4 Q. That would be considered a high level --

5 A. Yes.

6 Q. -- of use to you?

7 A. Yes.

8 Q. Okay. Would that be a -- in the summertime, number of
9 people in this photo, if this was in the summertime in
10 front of your house, would that be a normal amount of
11 people or -- that you would typically see? I know
12 you're saying it's a high level of use but on a nice
13 summer day?

14 A. Is your question specifically for in front of my house?

15 Q. Yes.

16 A. Four people in the water, is that what you're
17 asking?

18 Q. Yeah. There's four people in the water and it looks
19 like --

20 A. No, no, not in front of my house. Not four people in
21 the water, no, unless it was family.

22 Q. Okay. Now, on page 5 is your house located in that
23 photo at all?

24 A. No.

25 Q. Okay. Do you know what area of the beach this is?

1 A. Yes.

2 Q. What area is that?

3 A. The middle section. The Tides Inn.

4 Q. And which one is The Tides Inn, can you circle it?

5 And why don't you write on top of it Tides.

6 MR. SILK: On top of it or above it?

7 MR. DUCHETTE: Above it.

8 A. Right here?

9 BY MR. DUCHETTE:

10 Q. Or right above your circle if we have to reference it
11 later.

12 A. It may have changed its name.

13 Q. I know what it's in reference to, and I haven't nearly
14 been at the Goose Rocks Beach as long as you have, so I
15 think that will satisfy us for purposes of today.

16 Let's turn to page 6.

17 MR. SILK: Want to take a break, stretch your
18 legs? We've been going for over an hour.

19 MR. DUCHETTE: Oh, yeah.

20 (A short break was taken.)

21 BY MR. DUCHETTE:

22 Q. I think we were on page 6 of the photos. And do you
23 see your house located in either one of those photos?

24 A. Yes, both.

25 Q. Okay. And is it the white house that's in -- depicted

1 in both of those photos?

2 A. It is the white house.

3 Q. And in the top photo it looks like there's four people
4 in that photo. Do you recognize those people?

5 A. Yes.

6 Q. And who are they starting from -- going left to right?

7 A. My daughter, my son-in-law and friends of theirs that
8 were visiting.

9 Q. Okay. And there's a -- there's a -- it looks like
10 what's been painted on one of the rocks on the seawall
11 it says keep off?

12 A. Correct, yes.

13 Q. Do you know who painted that?

14 A. Yes.

15 Q. Who is that?

16 A. I painted it.

17 Q. You painted it. Do you know when you did that?

18 A. No.

19 Q. And is that sign still there today?

20 A. I don't know.

21 Q. Okay.

22 A. There's dunegrass -- there's dunes in front of it.

23 Q. What's that?

24 A. There are dunes in front of it now.

25 Q. Oh, okay. It looks like in the bottom photo there's

1 some -- there's some dunegrass there. Is that what
2 you're referring to?

3 A. Yes.

4 Q. Do you -- do you know when the top photo was taken?

5 A. No.

6 Q. Do you have a general idea of when it might have been
7 taken, looking at your daughter's age?

8 A. Maybe 10 years ago.

9 Q. And do you know when the bottom photo was taken?

10 A. No. No.

11 Q. In looking at -- if comparing the two photos, there's
12 no dunegrass in front of your house in the top photo
13 and there looks like there's dunegrass in the bottom
14 photo.

15 Did that change? Is that a natural
16 occurrence --

17 A. Yes.

18 Q. -- that happens?

19 MR. SILK: Make sure he finishes his question.

20 THE DEPONENT: Yes. I'm sorry.

21 BY MR. DUCHETTE:

22 Q. One year there may be dunegrass, other years there
23 might not be?

24 A. One year there -- yes.

25 Q. Okay. And has it been like that in front of -- in

1 front of 251 Kings Highway since yours parents started
2 renting there?

3 MR. SILK: Object to the form of the question.

4 BY MR. DUCHETTE:

5 Q. You can answer.

6 A. I don't quite -- you'll have to clarify. Been like
7 what?

8 Q. That the dunegrass comes and goes?

9 A. Yes.

10 Q. Now flipping to the next page, I don't see any houses
11 so I'm not going to ask you to circle, but do you know
12 what area of the beach this is?

13 A. In front of my house.

14 Q. This is in front of your house. And do you know when
15 this photo was taken?

16 A. No.

17 Q. And I note there aren't any -- do you know what -- do
18 you know the type of season that this photo was taken
19 in?

20 MR. SILK: Like winter, spring, fall?

21 MR. DUCHETTE: Those are the seasons.

22 A. Late summer.

23 BY MR. DUCHETTE:

24 Q. Okay. And I note there's -- there's nobody in --
25 there's no people represented in this photo.

1 Would this be an accurate description of what
2 it looks like in front of your -- in front of your
3 house in the summertime?

4 A. In late summer?

5 Q. Yes.

6 A. Yes.

7 Q. Okay. What about in early summer?

8 A. How do you define early summer?

9 Q. Let's say June.

10 A. Well, it varies by the days. It varies by the weekend
11 and it would vary by the days of the week as far as the
12 beach is concerned.

13 Q. Okay.

14 A. So I can't make a broad answer.

15 Q. Explain that to me.

16 A. Explain what?

17 Q. Well, is it -- it doesn't look like it's very busy
18 right now in this photo --

19 A. Right.

20 Q. -- late summer. Is it -- is it -- are there times when
21 it's busier?

22 MR. SILK: Object to the form of the question.

23 BY MR. DUCHETTE:

24 Q. You can answer.

25 A. Is there times when it's busier? Well, obviously there

1 are times when there's people there. This has nobody
2 there.

3 Q. Okay. And, again, I'm not talking about your -- you or
4 your family members.

5 What -- is it busier on -- you were alluding to
6 this earlier. Is it busier in early summer, midsummer
7 or late summer? Is it busier on the weekends?

8 A. Is this specifically --

9 MR. SILK: Object to the form of the question.
10 You can answer.

11 A. Is this specifically in front of my house we are
12 talking about?

13 BY MR. DUCHETTE:

14 Q. Well, I'm talking -- yes, in this general area that's
15 depicted in this photo. You've indicated that this is
16 in front of your house.

17 A. The area in front of my house, it can look like this,
18 yes.

19 Q. Okay.

20 A. There are -- yes.

21 Q. Are there times when it's busier than this?

22 A. Yes, there are times when it -- there could be people
23 there.

24 Q. Okay. Other than your family members?

25 A. Recreating? What is it you're asking me? Walking or

1 recreating or what are you talking about?

2 Q. I would submit to you that walking is a form of
3 recreation. But, yes, walking, recreating?

4 A. No.

5 Q. So no, it's --

6 A. Walking is not recreating in my opinion.

7 Q. Okay. Are there times when there are people recreating
8 in front of your house, other than your family members?

9 MR. SILK: As she -- I object to the form of
10 the question because there may be some -- why don't you
11 ask her what her understanding of recreation is so we
12 know what we're --

13 MR. DUCHETTE: Okay.

14 BY MR. DUCHETTE:

15 Q. Okay. What's your understanding of what recreation is?

16 A. It's relaxing and enjoying oneself.

17 Q. Okay. That works for me.

18 So are there times when people are relaxing and
19 enjoying themselves in front of your -- in front of
20 your property, other than your family members?

21 A. Other than the family, other than my friends and guests
22 that I have?

23 Q. Yes. That you've invited, yeah.

24 A. Rarely.

25 Q. Rarely?

1 A. Uhm-uhm.

2 Q. Okay.

3 MR. SILK: You have to say yes or no.

4 THE DEPONENT: Oh, I have to say yes or no?

5 MR. SILK: No. You gave a nonverbal response.

6 THE DEPONENT: Oh, excuse me.

7 MR. SILK: That's all.

8 MR. STERN: I think her answer was rarely.

9 BY MR. DUCHETTE:

10 Q. Do you see people -- and in this picture that we're
11 looking at the beach, is that all -- are there parts of
12 that area that are not in front of -- not in front of
13 your house?

14 MR. SILK: Object to the form of the question.

15 A. Yes.

16 BY MR. DUCHETTE:

17 Q. Okay. So with respect to areas not immediately in
18 front of your house, do you see people recreating in
19 those areas, not in this picture but do people often
20 recreate in those areas?

21 MR. SILK: Object to the form of the question.

22 A. Do I see people, yes.

23 BY MR. DUCHETTE:

24 Q. Okay. Does it -- does it ever get busy in those areas?

25 MR. SILK: Object to the form of the question.

1 A. Does it ever get busy, yes.

2 BY MR. DUCHETTE:

3 Q. Okay. I'm going to move on to the next photo. Do you
4 see your house depicted in that photo at all? This is
5 on page 8.

6 A. Not that I can tell, no.

7 Q. Do you know what area of the beach this is?

8 A. No. I'm trying to figure it out. The west end.

9 Q. The west end?

10 A. Uhm-uhm.

11 Q. Okay. Do you know who took this photo?

12 A. No.

13 Q. And do you know when this photo was taken?

14 A. No.

15 Q. Okay. And on page 9 do you see your house in page 9?

16 A. No.

17 Q. Do you know what area of the beach this is?

18 A. Yes.

19 Q. Where is that?

20 A. Right next-door to my house.

21 Q. And so the house depicted in this picture, this is your
22 neighbor?

23 A. Correct, yes.

24 Q. And do you know who that is?

25 A. Yes.

1 Q. Who is that?

2 A. It's owned by two people, one by the last name of
3 Bastos and the other the last name of Sandifer.

4 Q. Okay. And do you know who took this photo?

5 A. No.

6 Q. And do you know when it was taken?

7 A. No.

8 Q. Okay. And the last picture which is on page 10, is
9 this a picture of your house again?

10 A. Yes.

11 Q. And do you know who took this photo?

12 A. No.

13 Q. And do you know when this picture was taken?

14 A. No.

15 Q. Okay.

16 MR. SILK: Where are the other two original
17 exhibits? Do you have Exhibits 1 and 2?

18 MR. DUCHETTE: Yeah. I don't know where that
19 went.

20 MR. SILK: We'll get them later.

21 MR. DUCHETTE: Here's 1. We'll find 2 in a
22 little bit.

23 BY MR. DUCHETTE:

24 Q. Do you -- do you currently own any other property at
25 Goose Rocks Beach?

1 A. No.

2 Q. Okay. With respect to 251 Kings Highway, where
3 does -- where do you think the -- how far do you think
4 the boundary line goes to the --

5 A. To the sea.

6 Q. It goes all the way to the sea?

7 A. Correct.

8 Q. And your understanding of the ownership is that it runs
9 to the sea?

10 A. Correct.

11 Q. To the sea of the high water line or the low water
12 line?

13 A. To the sea.

14 Q. Okay.

15 A. Wherever the sea is.

16 Q. Well, the sea is constantly moving?

17 A. That's right.

18 Q. So when it's at low tide you own to the low water mark?

19 A. When it is low tide I own to where the sea is at low
20 tide. When it is at high tide, I own to where the sea
21 is at high tide.

22 Q. Okay. And so when it is high tide and if people are in
23 the water, are they allowed to be there?

24 A. Sure.

25 Q. They're not trespassing?

1 A. If they're in the water?

2 Q. Correct.

3 A. No.

4 Q. But if it's at low tide and somebody is standing at
5 that same spot, are they now trespassing?

6 A. In the intertidal zone?

7 Q. Correct.

8 A. Yes, they are trespassing.

9 Q. Do you ever walk on Goose Rocks Beach?

10 A. Yes.

11 Q. Where do you -- where do you typically walk?

12 A. You mean what direction? Be more specific.

13 Q. What direction do you typically walk in?

14 A. We're apt to walk east.

15 Q. Towards the east end of the beach?

16 A. Uhm-uhm.

17 Q. Do you walk in the dry sand or the wet sand?

18 A. Both.

19 Q. Okay. Do you get permission from any of the beachfront
20 owners in order to walk in front of their property?

21 A. No.

22 Q. Okay. Are you trespassing when you're walking in front
23 of their property?

24 A. Am I trespassing?

25 Q. Yes.

1 A. When I'm walking, well, I think there's a tacit
2 agreement that as long as people stay within certain
3 bounds, they can walk the beach.

4 Q. Who does that tacit agreement, who does that go to; is
5 it just beachfront owners?

6 A. No.

7 Q. Is it back lot owners?

8 A. Yes.

9 Q. Is it the general public?

10 A. Yes.

11 Q. Are they allowed to do anything else other than walk?

12 MR. SILK: Object to the form of the question.

13 A. Legally without tres -- without trespassing?

14 BY MR. DUCHETTE:

15 Q. Correct.

16 A. No. Well, in the public's part of the beach they can.

17 Q. Okay. And, again, where -- the public, where is the
18 public part of the beach?

19 A. The lots that the Town bought that have a public beach
20 and that they gave to the Conservation Trust.

21 Q. Do you know when that was?

22 A. 1974, I think, 1974.

23 Q. And so was it -- it was privately owned before then?

24 A. Correct.

25 MR. SILK: Object to the form of the question.

1 BY MR. DUCHETTE:

2 Q. You can answer. Is your testimony correct, it was
3 privately owned before the Town purchased it?

4 A. Correct.

5 MR. SILK: Object to the form of the question.

6 BY MR. DUCHETTE:

7 Q. Did anybody -- before the Town owned it, did the public
8 use Goose Rocks Beach?

9 A. Yes.

10 Q. Where would they -- where would they use Goose Rocks
11 Beach?

12 A. Mostly up there in the center section where the Town
13 purchased the land.

14 Q. Do you know who owned -- owned that property before the
15 Town owned it?

16 A. There were about -- I can't name all of them, no.

17 Q. Is there any access points to the beach near your
18 property?

19 A. No. Can I go back one?

20 Q. Certainly.

21 A. Would you please be more specific. How near?

22 Q. Is there any -- any access points bordering your
23 property?

24 A. No.

25 Q. Are there any access points bordering either your

1 direct neighbor to the left or the right?

2 A. No.

3 Q. Okay. Are there any access points two houses down from
4 your property, either to the left or the right?

5 A. There are not two houses down to the right.

6 Q. Okay.

7 A. So no.

8 Q. Is there an access point there where there's no longer
9 any houses?

10 A. Not right beside them, no. It's private property.

11 Q. Okay. Where is the nearest access point?

12 A. Where is the nearest public access point?

13 Q. No, just any access point. I'm on Kings Highway and
14 I'd like to get down to the beach, whether it's private
15 or public. Is -- are there any paths? Where is the
16 nearest path that leads to the beach?

17 A. Are you talking of a public path or are you talking
18 about a path you can trespass on to get onto the beach?

19 Q. I'm talking about any path that leads from Kings
20 Highway to the beach, whether it's private or public.
21 I don't know which -- what -- I don't want to speculate
22 with respect to the ownership of that.

23 A. All right. At the end of the Bartlett Avenue.

24 Q. And that would be the closest one to your property?

25 A. Closest one to my property, it might be equal distance

1 to the one that's -- oh, yes, that's the closest one.

2 Q. And is that -- is that path public or private?

3 A. According to the survey, the study that was done by the
4 Town, it's private.

5 Q. Okay. And who owns that?

6 MR. SILK: Object to the form.

7 BY MR. DUCHETTE:

8 Q. If you know?

9 MR. SILK: Object to the form of the question.

10 BY MR. DUCHETTE:

11 Q. Who owns that path?

12 A. Who owns the path? It is -- I'm not exactly sure. I
13 don't know definitely.

14 Q. Do you know who uses it?

15 A. The people who use it?

16 Q. Yes.

17 A. Their names?

18 Q. If you know them.

19 A. I knew a couple, I guess.

20 Q. Who are they?

21 A. John Harris uses it.

22 Q. Okay.

23 A. I guess the people -- I'm not really sure who they are.

24 Q. Is that -- is that pathway heavily used?

25 MR. SILK: Object to the form of the question.

1 A. What do you consider heavily used?

2 BY MR. DUCHETTE:

3 Q. Used every day?

4 A. No.

5 Q. Once a week?

6 A. What season of the year are we talking about?

7 Q. Summer.

8 A. Oh, every day.

9 Q. It's used every day in the summer?

10 Have you -- have you objected to people
11 rec -- have you ever objected to anybody using the
12 beach in front of your property?

13 A. Yes.

14 Q. Okay. When your parents owned the property did they
15 ever object to anybody using it?

16 A. Yes.

17 MR. SILK: Object to the form of the question.

18 BY MR. DUCHETTE:

19 Q. Yes?

20 A. Yes.

21 Q. When -- when have they objected to someone using the
22 beach in front of their property?

23 A. When have my parents objected?

24 Q. Yes.

25 A. When somebody was there using it.

1 Q. Do you recall any of those incidences?

2 A. Well, I can remember my father going down and telling
3 people that it was private property.

4 Q. Do you recall what they were doing when he did that?

5 A. Sunbathing or sitting or something.

6 Q. Okay. How often did that happen?

7 A. Well, you really have to understand the history of
8 Goose Rocks to give an answer that makes sense because
9 for a long time there was no use. I could sit in front
10 of my house and not see a person walk by. And it has
11 evolved since then with more and more people coming, so
12 you get more and more of an impact.

13 Q. When did that evolution start to begin?

14 A. Gradually after the fire and after Mr. Spang built his
15 motel.

16 Q. What motel is that?

17 A. Spang's Motel.

18 Q. Where is that located?

19 A. Beachwood Motel. Beachwood Motel I guess it is. Up on
20 Route 9.

21 Q. Up on Route 9. Were there other inns or hotels in
22 Goose Rocks as -- as you were growing up --

23 A. Yes.

24 Q. -- living there?

25 A. Yes.

1 Q. What were those?

2 A. Well, there was the Beachwood, The Tides, Aunt Jenny's
3 but it wasn't called that. That was it.

4 Q. And are all those hotels still there today?

5 A. No.

6 Q. Okay.

7 A. The Tides is still there. Beachwood is not there as
8 the Beachwood but the building itself is there.

9 Q. Okay.

10 A. And then Jenny's is gone.

11 Q. And how long -- how long -- when was the Beachwood
12 built; do you know?

13 A. I do believe it was there in the '30s or maybe before.

14 Q. Okay. And --

15 A. No. I should say no, I don't.

16 Q. And what about The Tides?

17 A. Same. Earlier perhaps.

18 Q. But it's your testimony today that the beach use didn't
19 really start to increase until the motel you're
20 speaking of on Route 9 was built?

21 A. Correct, yes.

22 Q. And there are less hotels today in Goose Rocks Beach
23 than there was in the 1930s and '40s; is that correct?

24 A. Well, it depends on whether or not you include the
25 motel on Route 9.

1 Q. Is the motel on Route 9 in Goose Rocks?

2 A. Goose Rocks zone?

3 Q. Yes.

4 A. Technically, no. Well -- no, I'm not sure about where
5 the boundary line is.

6 Q. In your opinion where is the Goose Rocks zone?

7 MR. SILK: Object to the form of the question.

8 A. In my opinion, the Goose Rocks zone, in my opinion the
9 Goose Rocks zone is bordered by Route 9 on the north
10 and the ocean on the south.

11 BY MR. DUCHETTE:

12 Q. Okay.

13 A. And the Little River on the Batson River.

14 Q. Okay. Do the people who live in Goose Rocks, do they
15 have the right to use Goose Rocks Beach?

16 A. They have the right to use the public section.

17 Q. Only the public section?

18 A. Legally.

19 Q. Okay. What about those living on the west end?

20 A. Those living on --

21 Q. Back lot owners living on the west end, they're only
22 allowed to use the public section of Goose Rocks Beach
23 in your opinion?

24 A. Legally.

25 Q. Okay. And the same thing for those people who live on

1 the east end?

2 A. Uhm-uhm.

3 Q. Okay. Did your -- did your children or grandchildren
4 ever take swimming lessons at Goose Rocks Beach?

5 A. I don't remember.

6 Q. Did you ever take swimming lessons at Goose Rocks
7 Beach?

8 A. No.

9 Q. Were there swimming lessons -- were there ever swimming
10 lessons at Goose Rocks Beach?

11 A. Yes.

12 Q. Okay. And who would put those on?

13 A. The community house, the Goose Rocks Beach Association.

14 Q. Okay. Were you ever a member of the Goose Rocks Beach
15 Association?

16 A. Yes.

17 Q. When was that?

18 A. The early times, '50s.

19 Q. '50s. What was the Goose Rocks Beach Association, what
20 sorts of things did they do?

21 A. They taught swimming lessons; they had arts and crafts;
22 they had a tennis court.

23 Q. They had a what?

24 A. A tennis court.

25 Q. Oh, okay. And where did those swimming lessons take

1 place?

2 A. In the middle section of the beach.

3 Q. Okay. Did they ever -- did they ever take place in
4 front of your house?

5 A. No.

6 Q. Was the -- I believe there was a raft that was -- that
7 was used for the swimming lessons, correct?

8 A. I think so.

9 Q. Where was that moored?

10 A. Up at the point.

11 Q. That was never moored in front of your house?

12 A. No.

13 Q. Okay. I think I was asking you about your father and
14 who he had asked -- who he had objected to.

15 Have you ever -- I think you already did --
16 you've objected to people --

17 A. Yes.

18 Q. -- recreating in front of your house?

19 A. Uhm-uhm.

20 Q. How often has that occurred, you objecting?

21 A. When I see somebody in front of the house.

22 Q. And how -- in the summertime how often is that?

23 A. Should we say last summer, should we talk about last
24 summer?

25 Q. Sure.

1 A. Okay. Maybe once a week.

2 Q. And typically what -- what are those people doing in
3 front of your house that you're objecting to?

4 A. They're trespassing.

5 Q. Are they walking across your property?

6 A. Are they walking across?

7 Q. Yes.

8 A. No.

9 Q. Okay. Are they --

10 A. Well, yes, they walk to get to where they were on the
11 property.

12 Q. Okay. But was there -- other than a general they're
13 trespassing, what were they doing on -- were they
14 on your --

15 A. Sunbathing or picnicking or something.

16 Q. Okay. And you object to that use in front of your
17 house?

18 A. I object to trespassing.

19 Q. Okay. And do you object to that use in front of your
20 house --

21 A. I object to trespassing.

22 Q. -- sunbathing?

23 (Deposition Exhibit No. 4, Trespassing Log,
24 1/4/09, marked for identification.)

25 BY MR. DUCHETTE:

1 Q. I'll show you what I've marked as Exhibit 4.

2 A. This is Mr. Harris.

3 Q. Do you recognize this document?

4 A. Yes.

5 Q. What is it?

6 A. It's sort of a diary I kept on some person who was
7 challenging my ownership.

8 Q. And what person is that?

9 A. John Harris.

10 Q. So this is a log strictly with respect to John Harris?

11 A. Correct. No, it isn't. Excuse me. It includes some
12 others.

13 Q. Do you know who those other people are?

14 A. No. One it says here is from Quebec in '05. I have no
15 idea who they were.

16 Q. Have you -- have you kept a log of every time you've
17 objected to someone trespassing on your property?

18 A. No, not every time.

19 Q. Okay. But -- but this log represents John Harris and
20 some other people?

21 A. Mainly, yes.

22 Q. Why did you -- why did you make this log?

23 A. Because I wanted to protect my private property rights.

24 Q. And what do you mean by that?

25 A. I mean that I wanted it to be apparent that I had

1 spoken to people and that they did not have free use of
2 my property.

3 Q. Okay. What do you -- what do you consider to be
4 trespassing?

5 A. What do I --

6 Q. How do you define trespassing?

7 A. I'm asking you that question.

8 Q. How do I define trespassing?

9 A. Yes. I define it as being on somebody's
10 property without -- being on private property without
11 the owner's permission.

12 Q. Okay. But that doesn't include walking?

13 A. As I -- as I told you earlier, I have sort of a tacit
14 permission as far as I'm concerned. People who are
15 walking have my tacit permission to walk as long as
16 they stay within certain boundaries.

17 Q. And that's not trespassing?

18 MR. SILK: I object to the form of the
19 question.

20 A. If you have -- if you have given somebody permission,
21 whether it's in your own mind or orally, no, it's not
22 trespassing.

23 BY MR. DUCHETTE:

24 Q. And you feel you have -- you have been given that
25 tacit -- tacit permission to walk on other people's

1 property at Goose Rocks Beach?

2 A. Yes.

3 Q. Other than -- other than the incidents you've indicated
4 in this log, has there been other objections by you to
5 the use of your property?

6 A. Oh, there are other people to whom I have spoken that
7 are not listed here.

8 Q. Okay. And who are those people?

9 A. I don't know who they are.

10 Q. Okay. Have -- have the McAlweys ever used the property
11 in front of your house?

12 A. Have the who?

13 Q. McAlweys?

14 A. McClouds?

15 Q. No, the McAlweys.

16 A. I don't know who they are.

17 Q. Okay. Have the Archers ever used the property in front
18 of your house?

19 A. No, they use their own house.

20 Q. Okay. But they've never used -- they've never --

21 A. No, they have their own houses on the beach.

22 Q. Okay. What about Pete Smith?

23 A. I don't know Pete Smith.

24 Q. Okay. How about the Andersons, have the Andersons ever
25 used the property in front of your house?

1 A. I don't know the Andersons.

2 Q. How about the Queens?

3 A. The Queens were there years ago. No. I don't know
4 what Queens you're talking about. If you just throw
5 out a name, I don't know who it is.

6 Q. Did -- do you know -- have you known any Queens in
7 the --

8 A. I've known a Mary Jane Queen but she never sat in front
9 of the house.

10 Q. Did you know any other Queens?

11 A. No.

12 Q. What about Currence?

13 A. No. I don't know these names.

14 Q. Okay. What about Corbey or Painter?

15 A. Don't know the name.

16 Q. Okay. What about Ciarametaro?

17 A. No.

18 Q. Okay. Have you -- what about the Barwises?

19 A. No.

20 Q. And what about your nieces, Mazeika and the Parrotts?

21 A. What about what?

22 Q. Your nieces.

23 A. What about them?

24 Q. Have they ever used the property in front of your
25 house?

1 A. Of course; they're family.

2 Q. Okay. Have you ever -- have you ever called the police
3 when somebody has been trespassing on your property?

4 A. Yes.

5 Q. How many times have you called the police?

6 A. For trespass or for any reason?

7 Q. For trespass as you define it.

8 A. Just for trespass?

9 Q. Yes.

10 A. Three.

11 Q. Three times. When was the first time?

12 A. The first time was when I called on John Harris, the
13 first time I called on John Harris.

14 Q. Okay. Was there a second time you had called on John
15 Harris?

16 A. I do believe so.

17 Q. Okay. Was the first time in August of 2005?

18 A. Could I look at that?

19 Q. Certainly.

20 MR. DUCHETTE: We'll go ahead and mark it as
21 Exhibit 5.

22 (Deposition Exhibit No. 5, Kennebunkport PD
23 Complaints, 8/31/08, marked for identification.)

24 A. Yes, yes.

25 BY MR. DUCHETTE:

1 Q. And was the second time in August of 2008?

2 A. I don't know how --

3 Q. It's on the same --

4 A. Oh, it's on the same page?

5 MR. SILK: So there's two versions here.

6 A. 2005 will be the first time.

7 BY MR. DUCHETTE:

8 Q. And I think you had testified you had called the police
9 on him twice?

10 A. Yes. I called -- I have called on him twice, yes.

11 Q. Okay. And you said the first time was in 2005. Was
12 the second time in 2008?

13 A. Correct.

14 Q. Okay. And have you called the police for trespass any
15 other time?

16 A. Yes.

17 Q. When was that?

18 A. Later than that, I believe, there were -- do you have
19 another report there? You should have.

20 Q. I do not. There very well may be one, but I just don't
21 have it.

22 A. There was a third time.

23 Q. Was it more recently, was it around the same -- was it
24 in the 2000s?

25 A. Four or five years ago.

1 Q. Okay.

2 A. I'm not -- I'm not sure. Don't quote me on the time.

3 Q. Yes. Other than those three times, did you -- other
4 than those three times, did you ever -- did you ever
5 call the police department for trespassing on your
6 property?

7 A. I've called them for -- I have called them other times
8 but not for trespassing.

9 Q. Okay. Did your -- when your parents owned the property
10 did they ever call the police for anybody trespassing?

11 A. No.

12 Q. And did your parents have the same definition of
13 trespassing as you did?

14 A. I would not know what my parents thought. You'll have
15 to ask them.

16 Q. And -- and has your daughter who's the trustee of the
17 trust that currently owns the property, has she ever
18 called the police for anyone trespassing?

19 A. No, she has spoken to people but she has not called the
20 police.

21 Q. Okay. Does she have the same definition of trespassing
22 as you do?

23 A. You'll have to ask her.

24 Q. Okay. Have people trespassed on your property prior to
25 2005?

1 A. Yes. I told you my parents used to talk to people.

2 Q. Okay.

3 A. They weren't alive then.

4 Q. And was that a -- and I apologize if I've already
5 asked, was that a frequent occurrence?

6 MR. SILK: Object to the form of the question.

7 A. Was -- excuse me -- was what a frequent occurrence?

8 BY MR. DUCHETTE:

9 Q. People trespassing on the property.

10 A. I think I explained to you for years there was hardly
11 anybody there.

12 Q. And when you say anybody there, just in front of your
13 property or on Goose Rocks Beach?

14 MR. SILK: Object to the form of the question.

15 A. What time frame are we talking about?

16 BY MR. DUCHETTE:

17 Q. In the summertime.

18 A. In the summertime?

19 Q. Yes.

20 A. In the summertime when I was growing up, probably
21 through the late '40s there were very few people on
22 Goose Rocks Beach.

23 Q. And -- and then after the '40s --

24 A. After the fire and they rebuilt and the motels came, we
25 started to get more people.

1 Q. Okay. And those motels --

2 A. The Spang's Motel.

3 Q. Okay. And --

4 A. Well, also, you know, you have to think of a whole
5 picture. You have to think of automobiles coming in,
6 transportation. There are lots of factors. You can't
7 just take this in a totally isolated situation. You've
8 got to consider other factors when you start to ask
9 these questions.

10 Q. No, I know. I'm trying to get that feel from in your
11 mind how did -- how did the beach -- how did the use
12 expand?

13 A. As the beach became more accessible to people and
14 people got two cars instead of one car or one car,
15 obviously, they found different places to go.

16 Q. Has the -- has the, in terms of the Goose Rocks Beach
17 zone, has that -- has that area -- has that area
18 increased in terms of number of housing?

19 MR. SILK: Object to the form of the question.

20 A. Has that area increased? Do you mean landwise,
21 housewise or what?

22 BY MR. DUCHETTE:

23 Q. Housewise.

24 A. Housewise, yes.

25 Q. Okay. Do you recall any -- any estimate in terms of

1 how many houses were -- were in the Goose Rocks zone in
2 the 1930s?

3 A. No. Not many.

4 Q. What's not many?

5 A. Well, there were no houses at the west end.

6 Q. Okay.

7 A. And going back a street or so, there was no
8 developments back there at all.

9 Q. Okay. And when was the west end developed?

10 A. After the fire.

11 Q. So the 1950s?

12 A. There were houses on the oceanside but there weren't
13 houses across the street.

14 Q. Okay. When -- were those houses -- when -- so there
15 were houses on the oceanside up on --

16 A. A little way.

17 Q. -- the west end?

18 A. A little way.

19 MR. SILK: Excuse me. Let him finish asking
20 his question. Let him finish asking it, then --

21 THE DEPONENT: Okay.

22 BY MR. DUCHETTE:

23 Q. So there were houses on the west end back in the 1930s?

24 A. There were houses on the west end back in the 1930s, a
25 part of it.

1 Q. Okay. And then after the fire there were some houses
2 that were built on the -- on the -- across the street
3 on the back lots of the west end?

4 A. After the fire?

5 Q. Yes.

6 A. Yes.

7 Q. Do you ever rent your house?

8 A. No.

9 Q. Okay.

10 MR. SILK: Just so we're clear when you say
11 your house, you're talking about the Kings Highway
12 house, right?

13 MR. DUCHETTE: 251, right.

14 A. No.

15 BY MR. DUCHETTE:

16 Q. Okay. Why did -- why did you bring this lawsuit?

17 A. To protect my private property rights.

18 Q. And what -- what do you mean by that?

19 A. Excuse me. What do I mean by my private property
20 rights?

21 Q. Right. What are you trying to --

22 A. I mean -- excuse me.

23 THE DEPONENT: Let him finish?

24 MR. SILK: Right. Go ahead.

25 BY MR. DUCHETTE:

1 Q. What are you trying to prevent?

2 A. I'm trying to protect my private property rights, the
3 rights that go with any person who owns private
4 property.

5 Q. Can you expand on that?

6 A. Well, I think the law is fairly clear, that you do not
7 have to have people trespassing on your property and
8 that you have a right to determine what happens on your
9 property.

10 Q. Okay. So you brought this lawsuit to prevent people
11 from trespassing on your property?

12 A. And also the right to determine what happens on my
13 property.

14 Q. What -- what are you afraid of happening on your
15 property?

16 A. I'm not afraid of anything.

17 Q. What -- other than trespassing, what -- you're trying
18 to prevent something from happening on your property.
19 What's that?

20 A. I'm trying to be able to control what happens on my
21 property. If there's something that happens on my
22 property, I want to be able to get relief because it's
23 private property.

24 Q. Okay. What -- what type of -- what type of activities
25 would those be?

1 A. Whatever they're doing that's not -- if they're on my
2 property, they're trespassing. Whatever they're doing,
3 that's it. I don't know what they might be doing.

4 Q. And when you say they, who is they?

5 A. Someone who does not have my permission to be on the
6 property.

7 Q. Okay. And is that just the beach?

8 A. Just the beach what?

9 Q. Has anybody ever trespassed on your property, say, your
10 backyard, your lawn, the lawn portion of your house?

11 MR. SILK: Object to the form of the question.

12 A. Not that I've called them on.

13 BY MR. DUCHETTE:

14 Q. So people have -- people have trespassed on your
15 backyard, on your lawn?

16 A. Yes.

17 MR. SILK: I object to the form of the
18 question.

19 BY MR. DUCHETTE:

20 Q. When was that?

21 A. In the off-season.

22 Q. Okay. And is this something you had -- you've
23 witnessed?

24 A. No, it was something my parents were told about.

25 Q. Okay. And, again, I don't -- I don't mean to press it,

1 I guess I'm trying to get a sense of why you brought
2 this lawsuit. I certainly want to protect my property
3 rights, but I didn't file a lawsuit.

4 I guess I'm -- is it the -- because I'm nervous
5 about another objection coming from your attorney. Is
6 it the trespass that's been just on your beach, is it
7 because people have trespassed on other areas of your
8 property, are there other things you're objecting to
9 that is the reason for bringing this lawsuit?

10 MR. SILK: There is another objection, and if
11 I -- objection to the form of the question.

12 MR. DUCHETTE: Certainly.

13 MR. SILK: And to the -- to the extent you were
14 given any legal advice that you should bring the
15 lawsuit, I'm also going to object on the basis of
16 attorney-client privilege. So I've let you ask some
17 questions, kind of her own feelings of why she brought
18 it, but to the extent you're getting into the issue of
19 whether she was given legal advice and what that advice
20 was, there's an attorney-client privilege. We're not
21 waiving that privilege.

22 MR. DUCHETTE: Okay.

23 (Deposition Exhibit No. 6, Memo to Beachfront
24 Property Owners, 9/3/07, marked for identification.)

25 BY MR. DUCHETTE:

1 Q. I show you what I've marked Exhibit 6. Do you
2 recognize this document?

3 A. Yes.

4 Q. And what is this?

5 A. It's a document that was sent out to beachfront owners.

6 Q. Just beachfront owners?

7 A. Yes. I believe yes.

8 Q. And who is the ad hoc steering committee for the Goose
9 Rocks Beach Property Owners Association?

10 A. It's a group of people that discuss the situation and
11 makes decisions if they have to be made.

12 Q. What situation?

13 A. The lawsuit.

14 Q. Was the lawsuit -- was there a lawsuit back in
15 September of 2007?

16 A. I don't remember when the lawsuit was legally filed.

17 (Deposition Exhibit No. 7, Complaint and Quiet
18 Title, 10/23/09, marked for identification.)

19 BY MR. DUCHETTE:

20 Q. I'm going to show you what's marked as Exhibit 7. Do
21 you recognize this document?

22 MR. SILK: Are you talking about Exhibit 7?

23 MR. DUCHETTE: Exhibit 7, yes.

24 A. This one?

25 BY MR. DUCHETTE:

1 Q. Yes.

2 A. A long time ago but yes.

3 Q. Okay. Is this the complaint your attorney filed on
4 your behalf which is the lawsuit that we have before us
5 today?

6 A. Yes.

7 Q. And can you tell me when that was filed? I think it's
8 dated on the last page, page 15.

9 MR. SILK: You want to know the date it's
10 dated?

11 MR. DUCHETTE: Yes.

12 A. October 23, 2009.

13 BY MR. DUCHETTE:

14 Q. Okay. And now I'm going to refer your attention back
15 to Exhibit 6.

16 A. Uhm-uhm.

17 Q. You indicated that the ad hoc steering committee for
18 the Goose Rocks Beach Property Owners Association was
19 formed to talk about the situation. I asked what the
20 situation was, and I believe you said it was the
21 lawsuit. And I asked if the lawsuit was filed in
22 September of 2007.

23 And so is your answer now the lawsuit was
24 not -- that there was no lawsuit in September of 2007?

25 A. The lawsuit had not been filed, correct.

1 Q. Okay. So what was the situation that you were
2 discussing with the ad hoc steering committee for the
3 Goose Rocks Beach Property Owners Association in
4 September of 2007?

5 MR. SILK: Object --

6 A. We were discussing the things right here, increasing
7 number of people, the A, B, C.

8 BY MR. DUCHETTE:

9 Q. Okay. And is this why you brought the lawsuit?

10 MR. SILK: Object to the form of the question.
11 And to the extent the question calls for you to reveal
12 any legal advice you've been given as to commencement
13 of a lawsuit or bringing a lawsuit, I'm going to
14 instruct you not to answer the question.

15 THE DEPONENT: Okay.

16 BY MR. DUCHETTE:

17 Q. What are -- what are you -- and actually let's go
18 through this. Is some of -- this particular document
19 has indicated that it's concerning beachfront property
20 issues; is that correct?

21 MR. SILK: Are you asking whether that's what
22 it states on it?

23 MR. DUCHETTE: Yes.

24 MR. SILK: He's just asking you if it states
25 that.

1 A. Yes.

2 BY MR. DUCHETTE:

3 Q. And is this a document you helped prepare?

4 A. I don't believe I helped prepare it.

5 Q. Okay.

6 A. I may have discussed it.

7 Q. Okay.

8 A. Quite frankly, it was a long time ago.

9 Q. Okay. The -- this letter to all beachfront property
10 owners indicates that it's from you. Is it not from
11 you?

12 A. Correct. I would have -- preparing it is not the same
13 as going over it and approving it being sent out.

14 Q. Okay. Did you go over it and approve for it to be sent
15 out?

16 A. Yes.

17 Q. And I think there's some what's in here are some of the
18 concerns: The ever increasing number of people using
19 the private beach?

20 A. Yes.

21 Q. And is that still a concern you have?

22 A. Would you say -- I didn't hear you.

23 MR. SILK: Have you read this in a while?

24 THE DEPONENT: No, I haven't looked at it in a
25 long time.

1 BY MR. DUCHETTE:

2 Q. Would you like a minute to read it over?

3 A. Yes, I would.

4 Okay.

5 Q. Okay. Are the concerns that you raised in this -- in
6 this letter still your concern today?

7 MR. SILK: Object to the form of the question.

8 A. Yes.

9 BY MR. DUCHETTE:

10 Q. Okay. Are there -- are there concerns that you have
11 today that aren't reflected in this -- in this letter?

12 MR. SILK: And to the extent you have concerns
13 that are concerns that have been raised or discussed
14 between legal counsel for you and you, I don't want you
15 to talk about those concerns because that's privileged
16 information.

17 THE DEPONENT: Okay.

18 MR. SILK: All right. So to the extent you can
19 separate that out, just make sure you're not revealing
20 any information or communications you've had with your
21 counsel in answering that question.

22 THE DEPONENT: Okay.

23 A. That -- this covers concerns that I have had that I
24 have not discussed with legal counsel.

25 BY MR. DUCHETTE:

1 Q. So -- so to the extent there are any other concerns,
2 those were only -- you've only had those discussions
3 with your -- with your counsel other than what's
4 reflected in this letter?

5 A. If they had a legal background to them, yeah.

6 Q. And you didn't -- you didn't have any other concerns
7 that are reflected in this letter prior to 2007
8 regarding --

9 A. I had a concern over the inaction of the Town to
10 protect my property rights.

11 Q. Okay. What -- and what -- what was the Town not doing
12 in order to protect your rights?

13 A. The Town was not doing anything.

14 Q. Could you be more specific than that?

15 A. Well, we can go back to the police report.

16 Q. Okay.

17 A. When I first called John Harris -- and you read at the
18 very end of it where it said Ms. Tchao said there is no
19 dispute at or above the high water mark. The property
20 is clearly private and the owner has the control over
21 it, as any other part of her property between the --

22 MR. SILK: Just read slowly because she's
23 writing down what you're saying.

24 THE DEPONENT: Excuse me.

25 A. Between the -- control over it, as any other part of

1 her property between the high and low water mark.

2 The land, although may be owned by the
3 landowner Rencurrel, the land is in the public trust
4 and it is unclear at this point who enforces any
5 trespass.

6 All right. I got no support from the Town as
7 far as keeping people off my property, even though they
8 were clearly told that it was private.

9 BY MR. DUCHETTE:

10 Q. And was that the -- and I think this, what you just
11 read, separated the -- above the high water mark from
12 the low water mark?

13 A. Only on enforcement.

14 Q. Okay. Correct. And is it -- is it your feeling that
15 they should have been enforcing with respect to
16 property below the high water mark to the low water
17 mark?

18 A. It was my feeling that they should be enforcing my
19 private property rights.

20 Q. And that's all of your property going down to the sea?

21 A. To the sea, right.

22 Q. Okay. Was there anything else that the Town wasn't
23 doing in your opinion?

24 MR. SILK: In 2005 or --

25 A. Oh, in 2005?

1 BY MR. DUCHETTE:

2 Q. Well, in --

3 A. Just lack of support in protecting my property rights.

4 Q. And, again, what -- other than not -- not removing
5 people who were sitting in the -- in the wet sand below
6 the high water mark, what else have they not done to
7 support your private property rights?

8 MR. SILK: Object to the form of the question.

9 A. Well, Mr. Harris challenged my ownership of the
10 beach --

11 BY MR. DUCHETTE:

12 Q. Okay.

13 A. -- all right?

14 Q. And how is the Town involved in that, the Town of
15 Kennebunkport?

16 A. It's involved because this is what progressively he
17 kept trespassing on my property.

18 Q. Okay.

19 A. And harassing me by doing it.

20 Q. Okay.

21 A. And I got no support from the Town.

22 Q. Okay. And my question again is, is there any other
23 support relative to your private property rights that
24 you're not getting from the Town?

25 A. No.

1 Q. Do -- are there any other concerns you have regarding
2 beachfront property issues, let's say, with respect to
3 back lot owners in the Goose Rocks Beach zone?

4 A. I really don't have much to do with the back lot
5 owners.

6 Q. Okay. Do you object to their use of Goose Rocks Beach?

7 A. I would object to their trespassing on my property.

8 Q. Okay. But you have no other -- no other concerns
9 relative to back lot owners living in the Goose Rocks
10 Beach zone?

11 A. I have -- no.

12 Q. Are beachfront owners allowed to recreate on -- in any
13 other area of Goose Rocks Beach other than in front of
14 their homes?

15 A. On the private -- on the public beach.

16 Q. Okay. And do you have any other specific -- any other
17 specific grievances in -- with respect to the use of
18 Goose Rocks Beach, whether in front of your property or
19 anywhere else?

20 A. I have grievances on things that have occurred in front
21 of my property.

22 Q. Such as, other than --

23 A. You want me to list them?

24 Q. -- trespassing?

25 A. Well, we have trespassing but there also have been --

1 I'm not there all the time, so people may come when I'm
2 not there and I come home and discover something is
3 going on.

4 Q. Okay.

5 A. Such as one day I was walking down onto my beach and
6 there's a man urinating underneath the stairs.

7 Q. Okay.

8 A. All right. I called the police on that.

9 Q. Was that -- you indicated you had contacted the police
10 three times.

11 MR. SILK: No.

12 Q. Is that a fourth time?

13 MR. SILK: Object to the form of the question.

14 A. Three times when I got a police report.

15 BY MR. DUCHETTE:

16 Q. Oh, for a police report. So this was another --
17 another time other than --

18 A. Yes.

19 Q. -- those three times?

20 Okay.

21 A. I've had two instances where I've had to ask couples to
22 cease making out on the beach.

23 Q. Okay.

24 A. I have had holes built or people having a picnic and
25 then digging a hole and then burying their paper plates

1 and stuff there. Oh, we had -- we have men that
2 sometimes come and change their clothes. I guess those
3 are the worst of them.

4 Q. Do you recall when these incidences took place?

5 A. Not specifically.

6 Q. Okay.

7 A. Oh, I also had -- excuse me, I also had an incident
8 where a woman sent her child up onto my dunes to take
9 care of herself.

10 Q. Go to the bathroom?

11 A. Yeah. And I have had -- I have had other instances
12 where guys come up and go to the bathroom on the
13 seawall.

14 Q. And this has been on your property?

15 A. This has all been on my property. And this is one
16 reason why I want to protect my property rights and
17 control what happens.

18 MR. DUCHETTE: I think I'm almost done. Can we
19 take a quick break? I just want to look at my notes.
20 I may have a couple follow-up questions.

21 (A lunch break was taken at 12:33 - 1:11 P.M.)

22 BY MR. DUCHETTE:

23 Q. Just a few more questions. Earlier today you had --
24 you made a reference with respect to people who do not
25 belong on the beach, and I just want to make sure I'm

1 clear with respect to where that is and who that is.

2 What are -- are there any restrictions with
3 respect to -- are there any use restrictions with
4 respects to the public beach that you referred to?

5 A. I don't really know. I'm not concerned with that, I'm
6 just concerned with my own property.

7 Q. Okay.

8 A. There would be a restriction on fires.

9 Q. Would or wouldn't?

10 A. There would.

11 Q. And that's because it's regulated by the Town?

12 MR. SILK: You have to -- remember you have to
13 give a verbal response.

14 THE DEPONENT: Yes. Okay.

15 MR. SILK: Because she can't record a nod or
16 shake of your head.

17 A. No, that's two part.

18 BY MR. DUCHETTE:

19 Q. Okay.

20 A. The way the public beach is treated and the way the
21 private beach is treated is totally different. You can
22 not have a fire on the private beach unless you have
23 the permission or a letter from the owner in order to
24 have, other than the family, in order to have a fire.
25 On the public beach you just need to go for a permit.

1 Q. Okay. And do you need a permit if you have a fire on
2 your beach in front of your house?

3 A. Everybody needs a permit.

4 Q. Okay.

5 A. But those that are not having it on their own property
6 or still are having it in front of a private residence
7 must have approval from the homeowner.

8 Q. But you're not aware of any use restriction relative to
9 recreational activity on the public beach?

10 A. I don't use the public beach. I don't know what --

11 Q. Okay. With respects to the beach in front of your
12 house at 251 Kings Highway, are there any use
13 restrictions with respects to fellow beachfront owners?

14 A. I don't understand that question at all. Would you
15 clarify what you're asking?

16 Q. Are fellow beachfront owners allowed to recreate in
17 front of -- in front of your house?

18 A. My friends. My friends can recreate in front of my
19 house, yes.

20 Q. Are all of the beachfront owners your friends?

21 A. I don't know all of them.

22 Q. Okay. Those who you do not know, are they allowed to
23 recreate in front of your house?

24 A. No.

25 Q. Only your friends who are beachfront owners are allowed

1 to recreate in front of your house?

2 A. Anybody that I says that can do it can do it.

3 Q. But they need your permission?

4 A. They need my permission, correct.

5 Q. And is that verbal permission or is that tacit
6 permission?

7 A. If it's an ongoing thing, it's tacit. If it's a
8 one-time thing that I have never told them before that
9 they can do it, then they have to have it.

10 Q. Okay. And in terms of back lot owners, are there use
11 restrictions with respect to the back lot owners who
12 live in the Goose Rocks Beach zone to recreate on your
13 property in front of yours house?

14 A. Yes.

15 MR. SILK: Object to the form of the question.
16 Go ahead and answer.

17 A. Yes, there are restrictions.

18 BY MR. DUCHETTE:

19 Q. And what are those restrictions?

20 A. They're trespassing.

21 Q. Okay. Are there any back lot owners who have -- who
22 are your friends and have permission like beachfront
23 owners do?

24 A. Now exactly do you -- clarify what you call a back.
25 Anybody behind my house?

1 Q. Anybody -- anybody who lives in the Goose Rocks Beach
2 zone that is not a beachfront owner.

3 A. Yes, there are some.

4 Q. Okay.

5 A. I think I already gave you the names.

6 Q. Okay. And with respects to those people like the
7 beachfront owners who are your -- who are your friends,
8 once they get permission your first time, then they
9 have your tacit permission --

10 A. Yes.

11 Q. -- thereafter?

12 A. They have it, yes.

13 Q. Okay. And what about the general public with respects
14 to recreational use in front of your property, are they
15 allowed to do that?

16 A. No.

17 Q. Okay. And have you given anybody from the general
18 public your permission?

19 A. Yes.

20 Q. And who is that?

21 A. Friends I have in town.

22 Q. And who are those people?

23 A. Well, the minister, my bridge buddies.

24 Q. And once -- and once they have your permission do they
25 have your tacit permission thereafter?

1 A. Yes.

2 Q. To use your property --

3 A. Yes.

4 Q. -- for recreational use?

5 A. But they normally call and tell me they're coming.

6 Q. And when we were referring to the beach and the use of
7 your property, that includes -- with respects to the
8 beach, does that include both the intertidal zone and
9 the upland, the dry sand portion of the beach below the
10 seawall?

11 A. It includes everything that's included on my deed.

12 Q. Well, how would you define the beach in front of your
13 property?

14 A. I would -- how would I define the beach?

15 Q. Yes.

16 A. I would define it as dunegrass, sand, dry sand, wet
17 sand and the ocean.

18 Q. Okay. But people have the right to be in the ocean,
19 correct?

20 A. Correct.

21 Q. And that's -- and that's not your property?

22 A. The ocean?

23 Q. Yes.

24 A. No.

25 Q. Okay. And so the question of -- would the question

1 relative to who is -- who is allowed to recreate just
2 in front of your property at 251 Kings Highway is a
3 question that -- is strictly with respects to your
4 approval?

5 A. Correct.

6 Q. Okay. And with respects to what they can do in terms
7 of recreating, again, that's strictly with your
8 approval, correct?

9 A. Yes.

10 MR. DUCHETTE: Okay. No further questions.

11 MR. DRIVER: Why don't we switch seats and make
12 it easier for the court reporter.

13 EXAMINATION-BY MR. DRIVER:

14 Q. Mrs. Rencurrel, my name is Richard Driver. I am one of
15 the defendants in the case and I'm pro se. We've met
16 before, haven't we?

17 A. What?

18 Q. We've met before, haven't we?

19 A. Yes, we have.

20 Q. You said you came to the beach the first time in 1938,
21 and then you made a number of references to the fire in
22 '47.

23 Were you there the summer of 1947?

24 A. Yes.

25 Q. How about the summer of 1946?

1 A. Yes.

2 Q. Did you by any chance work in The General Store?

3 A. No.

4 Q. Did you participate in any of the dances?

5 A. At the Community House?

6 Q. No, the Community House I don't think existed then.

7 The -- do you recall The General Store with the bowling
8 alley --

9 A. Yes.

10 Q. -- and a dance hall?

11 A. Yes.

12 MR. SILK: You have to let him -- let him
13 finish his question, take a breath and then give us a
14 response.

15 THE DEPONENT: Okay.

16 BY MR. DRIVER:

17 Q. The instructions that Mr. Silk gave you apply as well,
18 so yes, please let me finish the question. The court
19 reporter can't take both of us down at the same time.

20 But you do recall that General Store where they
21 had the bowling alley and the dance hall and the soda
22 fountain?

23 A. The bowling alley was not in The General Store, the
24 bowling alley was in a building out behind The General
25 Store.

1 Q. Okay. That all burnt down in '47?

2 A. Yes, it did.

3 Q. That was sort of a community meeting place, wasn't it,
4 back then?

5 MR. SILK: Object to the form of the question.

6 A. On Saturday night.

7 BY MR. DRIVER:

8 Q. Okay. And that involved the -- a lot of the community,
9 the renters, the people who owned property, their kids;
10 is that correct?

11 A. The dances on Saturday night?

12 Q. Yes.

13 A. It involved everybody.

14 Q. Okay. You -- you've made reference earlier that back
15 in those days, in the '40s, that there were only a few
16 people at the beach and that it was a close-knit
17 community.

18 Who was involved in that close-knit community?

19 MR. SILK: Object to the form of the question.

20 A. Who was involved in the community?

21 BY MR. DRIVER:

22 Q. Yeah. Was it just the beachfront property owners
23 or --

24 A. No.

25 Q. -- was it beachfront --

1 A. No.

2 MR. SILK: Let him finish. Go ahead.

3 BY MR. DRIVER:

4 Q. Was it just the beachfront property owners or was it
5 people at Goose Rocks, what we've referred to in the
6 case as back lot owners?

7 MR. SILK: Object to the form of the question.

8 A. Everyone.

9 BY MR. DRIVER:

10 Q. Everyone. And did that close-knit community, did all
11 of those people use the beach?

12 A. I have no way --

13 Q. Let me rephrase it. Did many of them use the beach?

14 A. Those on the beachfront did. I don't know what the
15 ones that -- I don't know what the others did.

16 Q. You said that everyone -- you testified earlier that
17 everyone knew the beach was private?

18 A. Correct.

19 Q. Were there any signs at any time that said Goose Rocks
20 Beach Private Beach?

21 A. Well, there was a sign out on the point that said
22 private beach in front of Mrs. Parrot's house.

23 Q. And when was that?

24 A. '40s, '40s.

25 Q. And how long was that sign there?

1 A. I couldn't possibly remember.

2 Q. You had made a reference to some change in the beach
3 starting in '74, and I wasn't quite sure whether you
4 meant '74 or you were going back to '47 when -- after
5 the fire.

6 Was there something that happened in '74 that
7 changed the use of the beach?

8 A. Yes.

9 Q. What was it?

10 A. The selectmen solicited and bought the beach property
11 across the street which has now been transferred to the
12 Conservation Trust.

13 Q. Okay. And how did that change the use of the beach?

14 A. Because we then had a public section -- a public
15 section of the beach where the public could come.

16 Q. So that part of the beach you're saying was private
17 prior to 1974?

18 A. Yes. The Town bought it from the people.

19 Q. Was the lifeguard -- was there a lifeguard on the
20 property prior to 1974, the property that you're saying
21 was acquired by the Town?

22 A. It was always -- I think, I don't know, there's one lot
23 that was always the Town's. I know the lifeguard got
24 positioned on the Town's property, on the one lot that
25 the Town owned.

1 Q. And do you know when the Town acquired that property?
2 Is this the '74 --

3 A. I don't --

4 Q. -- or is it -- or is it some earlier time that
5 the -- that the Town acquired a lot?

6 MR. SILK: Object to the form of the question.

7 A. I don't know. I don't remember.

8 BY MR. DRIVER:

9 Q. The sign in one of the exhibits that said keep off that
10 was on the rocks in front of your house, that was to
11 keep off the rocks, wasn't it?

12 A. Yes.

13 Q. Because climbing on those rocks can be dangerous?

14 A. Yes.

15 Q. It had nothing to do with keeping off the beach, did
16 it?

17 A. No.

18 Q. You said that walking is not recreation in your
19 definition?

20 A. In my definition.

21 Q. Is jogging recreation?

22 A. No, that's work. No.

23 Q. No, it's not --

24 A. It's not recreation.

25 Q. It's not recreation. Is sitting recreation?

1 A. Yes.

2 Q. So I'm recreating right now while I'm sitting here?

3 A. It depends upon where you're sitting.

4 Q. Did you -- Exhibit No. 7?

5 MR. DRIVER: Mr. Silk, do you have a copy of
6 that you could give the witness, please?

7 MR. SILK: Yes.

8 BY MR. DRIVER:

9 Q. Did you read this complaint before it was filed?

10 A. Yes.

11 Q. Did you discuss it with your attorneys?

12 A. I don't remember.

13 Q. You don't remember whether you read it or you don't
14 remember whether you discussed it with your --

15 A. I don't remember whether I discussed it.

16 Q. But you did read it?

17 A. Yes.

18 Q. Do you want to take a break? I assume you're looking
19 for a pair of glasses.

20 A. I'm looking for my glasses. I've got them.

21 Q. When you read it did you read it to make sure that
22 everything in the complaint was accurate as far as you
23 could tell?

24 MR. SILK: I'm going to object to the question,
25 and to the extent you were given any instructions by

1 your counsel when you read it, I don't want you to
2 answer the question because it would be subject to the
3 attorney-client privilege.

4 MR. DRIVER: I'm not asking her anything to do
5 with any discussion she had with her attorneys. I'm
6 talking about -- her testimony is I read it.

7 MR. SILK: Right.

8 MR. DRIVER: I don't remember whether I ever
9 discussed it with my attorneys. That was her testimony
10 just now.

11 MR. SILK: Right. But you don't know what
12 instruction she was given, if she was given any
13 instructions, when she read it.

14 MR. DRIVER: Okay. All I want to know is
15 whether she, when she read it, did she believe that
16 everything in there was accurate. Her belief, not what
17 you may have told her.

18 MR. SILK: Okay. You can ask that question.

19 MR. DRIVER: I just did.

20 A. Did I proofread it, no.

21 BY MR. DRIVER:

22 Q. I'm not talking about proofreading it for spelling.

23 A. No, I'm just --

24 MR. SILK: Let him ask the question.

25 BY MR. DRIVER:

1 Q. I'm asking you whether you proofread it for the
2 accuracy of the statements that were made?

3 A. I proofread it probably for the statements pertaining
4 to myself.

5 Q. Okay. Would you look at paragraph 42; it's on page 11.
6 And could you read that into the record, please?

7 MR. SILK: Which number?

8 MR. DRIVER: 42.

9 A. 42. It's on page 11.

10 MR. SILK: You want her to read that --

11 MR. DRIVER: Into the record. That's fine.

12 MR. SILK: That's fine. He wants you to read
13 that out loud slowly.

14 A. At various times plaintiffs have permitted individuals
15 to use their property for recreational purposes,
16 included but not limited, to walking, sunbathing and
17 picnicking. Plaintiffs have either explicitly granted
18 such permission, or due to the incidental nature of
19 such recreational use, have implicitly granted such
20 permission.

21 BY MR. DRIVER:

22 Q. Would you agree, Mrs. Rencurrel, that that paragraph
23 defines recreational uses to include walking?

24 A. It does include it.

25 Q. Okay. In your opinion, not what your attorneys have

1 told you, but in your opinion are you suing the
2 defendants to stop them from walking on your property?

3 A. No.

4 Q. No?

5 A. No. Excuse me. Can I amend that?

6 Q. If you think your answer was incorrect, certainly.

7 A. Well, my answer was not complete.

8 Q. Okay.

9 A. All right. I am not suing to stop people from walking,
10 as long as they stay within certain boundaries, which
11 means as long as they do not do -- pull up my seagrass
12 or damage my dunes or in any way damage or cause
13 problems to the critical habitat area out in the front
14 where the least terns and the migrating birds are.

15 Q. But if they're walking on the -- in the intertidal zone
16 or the dry sand or the wet sand, you do not believe
17 that this lawsuit is trying to prohibit that?

18 A. I do not believe that is the objective of this lawsuit.

19 Q. You said that on the public beach it's required to have
20 a permit to have a fire?

21 A. Correct.

22 Q. And if I wanted to have a fire in front of your
23 property, I'd have to have both a permit and your
24 permission; is that your testimony?

25 A. Correct.

1 Q. And is it the Town that's regulating the permit
2 practice for bonfires?

3 A. Yes.

4 Q. And for how long has the Town been doing that?

5 A. Well, that's two part. The Town has been requiring
6 permits for quite a while. The Town then added the
7 requirement that if you go in front of a person's
8 house, you must have their written or you can call on
9 the telephone for approval.

10 Q. So is it fair to say that for a considerable period of
11 time, you, as a beachfront property owner, were
12 required to obtain a permit from the Town in order to
13 have a fire in front of your property?

14 A. Yes. But that's for health and safety, which the Town
15 regulates.

16 Q. Mrs. Rencurrel, at any time from 1968 to the present
17 have you ever given me permission to recreate in front
18 of your house?

19 A. No.

20 Q. At any time from 1968 to the present have you ever told
21 me that I could not recreate in front of your house?

22 A. You have never asked.

23 MR. SILK: Just answer --

24 A. No.

25 MR. SILK: Just answer the question.

1 A. No.

2 BY MR. DRIVER:

3 Q. Have you ever given me a written notice that I would be
4 trespassing if I recreated in front of your house, from
5 1968 to the present?

6 A. Not given you a written notice but I have had signs up
7 there.

8 Q. And what signs have you had?

9 A. Signs that say private property, private beach.

10 Q. And where have you posted those?

11 A. Out on the property, out on the beach.

12 Q. Do you have any pictures of those?

13 A. Yes.

14 Q. Did you produce them to the Town?

15 A. They're somewhere.

16 Q. Yes, you produced them or --

17 MR. SILK: If you gave them -- if you don't
18 know, you don't know.

19 THE DEPONENT: I think I have some with me. I
20 don't know. You were sent them, Brian.

21 MR. WILLING: I've never ever once seen such a
22 picture.

23 A. Well, I don't know that I have them with me. I don't
24 have them with me. They were in the packet that Pete
25 sent you the other day. Excuse me. I keep --

1 MR. STERN: Does she have them in her little
2 valise there?

3 THE DEPONENT: No, I don't have them with me.

4 MR. DRIVER: She's still looking.

5 MR. WILLING: Can I put something in front of
6 her just for --

7 MR. SILK: No.

8 MR. WILLING: -- to refresh her -- she brought
9 up that she sent it to me the other day. I'm just
10 trying to help. We can make it super difficult or I
11 can get involved.

12 BY MR. DRIVER:

13 Q. Mrs. Rencurrel, when did you put the signs up?

14 A. I've had them up for years, 10, 15 years.

15 Q. Did you take them down at any point in time?

16 A. Yes.

17 Q. When?

18 A. After they had been up the obligatory amount of time.

19 Q. Can you put any time frame on it in years, when you put
20 them up, when you put them down?

21 A. I have some -- yes.

22 Q. Would you tell me what they are?

23 A. Normally they're at least 48 hours.

24 Q. I think we've got a disconnect. When did you -- what
25 years did you put the signs up, what year did you take

1 them down?

2 MR. SILK: Object to the form of the question.

3 A. You're asking me two questions?

4 BY MR. DRIVER:

5 Q. No. Take a step back. You just made reference to
6 48 hours.

7 A. Uhm-uhm.

8 Q. Did you put the signs up for a limited period of time
9 or were they up there permanently?

10 A. No, they were not up there permanently.

11 Q. They weren't. Okay. And when would you put them up?

12 A. In the summer.

13 Q. And they'd be up all summer?

14 A. Not necessarily. Sometimes they were stolen.

15 Q. Sometimes they were?

16 A. Stolen. I called the police.

17 Q. Can you remember what year you first put them up
18 approximately?

19 A. Early '80s.

20 Q. And did you discontinue putting them up at some point
21 in time?

22 A. Did I discontinue putting them up?

23 Q. Yes.

24 A. Yes.

25 Q. And when was that?

1 A. That was two years ago when we filed the lawsuit.

2 Q. What exactly did the signs say?

3 A. They said private beach, private property, private
4 beach, and the very latest ones were private beach to
5 the sea, private beach to the sea.

6 Q. I heard. Thank you.

7 MR. DRIVER: I don't have any further
8 questions. Thank you, Mrs. Rencurrel.

9 THE DEPONENT: You're welcome.

10 EXAMINATION-BY MR. LACHIATTO:

11 Q. Good afternoon, Mrs. Rencurrel.

12 A. Good afternoon.

13 Q. I'm Alex Lachiatto. I appear pro se in this lawsuit
14 along with my spouse, Judith.

15 Just a couple questions -- well, a few more
16 than a couple of questions.

17 A. You're going to have to speak louder.

18 Q. Yes, ma'am. A few questions. You were a selectwoman
19 for the Town of Kennebunkport for a number of years; is
20 that correct?

21 A. Correct, yes.

22 Q. And do you recall your term, what years?

23 A. About '85 to '90.

24 Q. And during that term, from 1985 to 1990, were you aware
25 of any restrictions that the Town placed on use of the

1 beach?

2 A. No.

3 Q. Okay. For that matter -- well, let's put it this way:
4 You don't recall any, but do you know for a fact that
5 there were not any restrictions?

6 A. No.

7 Q. Okay. Now, you indicated in your examination by
8 Attorney Duchette that the swimming lessons were
9 in -- down near the point; is that correct?

10 MR. SILK: Object to the form of the question.

11 A. Excuse me. He asked me if the swimming lessons were in
12 front of my house. They were not in front of my house.

13 BY MR. LACHIATTO:

14 Q. That, I understand. My question is did you indicate
15 they were in front of the point or near the point?

16 A. I indicated they were further up most of the time.

17 Q. When you say further up, you're going to the east?

18 A. I'm going to the east.

19 Q. Okay. And is it fair to say that these swimming
20 lessons took place in front of the Bastos, Sandifer and
21 DiCesare properties?

22 A. At one time they started to give them in front of the
23 Bastos house, and the Bastos asked them to move and
24 they were moved.

25 Q. And where were they moved to, if you recollect?

1 A. East, I guess.

2 Q. So would that be in front of The Anchorage which is
3 owned by the DiCesare and the Parrott residence now
4 owned by the Vincenzis?

5 A. I really didn't pay that much attention, as long as
6 they weren't in front of my house.

7 Q. But for some reason or other, you knew they were in
8 front of the Bastos Sandifer dwelling?

9 A. That's true.

10 Q. But they went east but you're not sure where?

11 A. It's my recollection -- I guess I shouldn't. They were
12 through the central area of the beach.

13 Q. And would you define the central area --

14 A. One --

15 MR. SILK: Let her finish.

16 BY MR. LACHIATTO:

17 Q. I'm sorry. Go ahead.

18 A. The central area, usually they were in front of the
19 Town-owned property.

20 Q. And where is the Town-owned property?

21 A. Well, it goes from Broadway down to is it Roberts, and
22 then there's one other lot that's sort of off.

23 Q. There's the Town right-of-way, is there not, at
24 Edgewood?

25 A. Yes.

1 Q. And you're saying that -- strike that. Does the Town
2 own from Edgewood east?

3 A. Yes.

4 Q. Or Edgewood west?

5 A. Owns from Edgewood east and I think a little west.

6 Q. And what you're saying is that the swimming lessons
7 occurred in front of that area?

8 A. Most of the time. I'm not saying they always occurred
9 there.

10 Q. Are these the swimming lessons that were given by
11 Vivian Fessenden or were they the swimming lessons that
12 were given by the Goose Rocks Community Association?

13 MR. SILK: Object to the form of the question.

14 BY MR. LACHIATTO:

15 Q. You may answer.

16 A. I'm not exactly sure.

17 Q. You want me to rephrase the question?

18 A. Yes, I wish you would be a little clearer as to where
19 you're talking about in relationship to the person that
20 was teaching them.

21 Q. All right. We've established, or at least you have
22 established, where the Town-owned beach was situated,
23 namely, a little west of Edgewood and east of Edgewood,
24 correct?

25 A. It's six or seven lots through there. Without a map

1 it's a little difficult for me to determine.

2 Q. Now, those six or seven lots are not owned by the Town?

3 A. At one time they were owned by the Town and then they
4 were given to the Conservation Trust.

5 Q. Okay. Does the Town have a piece of that property that
6 you just described, a small portion of that area?

7 MR. SILK: Today?

8 MR. LACHIATTO: Today.

9 A. The Town has one lot on the beach.

10 BY MR. LACHIATTO:

11 Q. Okay. Again, going back to the swimming lessons?

12 A. Uhm-uhm.

13 Q. It's your testimony, I think -- well, strike that.

14 You knew Vivian Fessenden, I presume?

15 A. Yes, I did.

16 Q. And you knew that she gave swimming instruction?

17 A. Yes, I do.

18 Q. And can you tell me where on the beach she gave the
19 swimming lessons?

20 A. You cannot locate her right here because she gave them
21 sometimes down nearer the point and sometimes up. A
22 lot depended upon the temperature of the water.

23 Q. And when you say down by the point, that's not part of
24 the Town-owned or the Conservation Trust-owned
25 property, right?

1 A. Right, but she was in the water.

2 Q. Now, did she give the lessons with the Goose Rocks
3 Beach Association?

4 A. I do not remember.

5 Q. When the Goose Rocks Beach Association began the
6 instructions, the swimming lessons, where did that
7 activity take place after it moved from in front of
8 Bastos Sandifer property?

9 A. I don't know. I had no one taking swimming lessons.

10 Q. Okay. Now I'm going to ask you a question that's got
11 about six or seven subparts to it.

12 Is it fair to say that beach -- that back lot
13 owners and renters at Goose Rocks Beach has been --
14 have been using Goose Rocks Beach, other than the
15 Conservation Trust-owned property and the Town
16 property, for the following purposes, and I'll give
17 them one by one and you can answer if you would each
18 specification: Walking?

19 A. You see, I don't know who is out there walking.

20 Q. No, but you --

21 A. I don't know who these people are that you're asking
22 me. I don't know whether they are a homeowner or a
23 beachfront owner from up the -- that I don't know or
24 who they are.

25 Q. Well, is it fair to say there are a number of people

1 walking that area on the beach during the year?

2 MR. SILK: I'm going to object to the form of
3 the question.

4 A. That they are what?

5 BY MR. LACHIATTO:

6 Q. Walking in that area that I mentioned?

7 A. Yes.

8 Q. In other words, nonTown owned and nonConservation
9 owned?

10 A. And repeat the question, again.

11 Q. Were the general public -- strike the general public.
12 Back lot owners and renters of property at Goose Rocks
13 Beach using that area that I mentioned, we'll say in
14 the summer months?

15 A. I cannot answer that because I don't know whether
16 somebody is a back lot owner or where they own
17 property.

18 Q. When you -- during the summer months in good weather
19 have you observed the activity at Goose Rocks Beach
20 east of your premises?

21 A. I cannot see east of my premises -- no. Occasionally,
22 I guess I will say.

23 Q. Okay. And how about west of your premises?

24 A. Occasionally.

25 Q. And would you say in the summer months that there are a

1 large number of people east of your premises occupying
2 the beach from -- we'll say from your premises all the
3 way to the Little River?

4 A. From my premises to the Little River?

5 Q. Or the Batson River, rather?

6 A. From my premises to the Little River, I cannot see from
7 my house. I cannot see where they are or not.

8 Q. No, but when you go out -- how about when you go out
9 onto the beach --

10 A. I have to --

11 Q. -- and look to the east?

12 A. I would have to go around the corner. It goes a sharp
13 edge.

14 Q. How about going to the Batson River?

15 A. To the Batson River, yes, I can see that way.

16 Q. And there are a substantial number of people --

17 A. No.

18 Q. -- using the beach?

19 A. No.

20 MR. SILK: Just let him finish the question.

21 THE DEPONENT: Yeah.

22 BY MR. LACHIATTO:

23 Q. There is not a substantial number of people using the
24 beach during the summer months?

25 MR. SILK: Object to the form of the question.

1 It's been asked and answered.

2 MR. LACHIATTO: No, it hasn't.

3 A. Not all along that entire section, no.

4 BY MR. LACHIATTO:

5 Q. Well, in what section is there a crowd to the east of
6 your premises?

7 A. Near the right-of-way, near one of the -- near the
8 right-of-ways, I guess.

9 Q. And a right-of-way being Bel Air Avenue for one?

10 A. Bel Air Avenue isn't anywhere near me. I mean I can't
11 see Bel Air Avenue from where I am.

12 Q. When you walk out of your premises and look down to the
13 east --

14 A. Yes.

15 Q. -- you can see, can you not, down to the beach in front
16 of Bel Air Avenue?

17 MR. SILK: You have to answer verbally.

18 BY MR. LACHIATTO:

19 Q. You have to answer --

20 A. No.

21 Q. You can't?

22 A. No.

23 Q. Do you ever walk out onto the beach in front of your
24 house and look to the east in the summer months?

25 A. Yes, but I cannot -- yes.

1 Q. And what do you observe when you look to the east on
2 the weekends during the summer months, good weather?

3 A. The ocean.

4 Q. I said you look to the east?

5 A. That's the ocean.

6 Q. All right. You look to the north?

7 A. I can't really see around the corner the way it's
8 configured.

9 Q. If you walk out onto your beach a hundred feet toward
10 the water and look to the north on a weekend in a good
11 summer day, what do you see?

12 A. To the east?

13 Q. Yeah.

14 A. By the public beach?

15 Q. By the public beach and by the rest of the beach that
16 is not owned by the Town or the Conservation Trust?

17 A. There are a lot of people on the public beach, there
18 are a lot of people in front of The Tides Inn --

19 Q. And are there a lot of people --

20 MR. SILK: Is that -- have you finished your
21 answer?

22 THE DEPONENT: Yeah.

23 BY MR. LACHIATTO:

24 Q. Are there a lot of people in front of the Vincenzi,
25 formerly the Parrott property?

1 A. You know, I don't go out and take a headcount.

2 Q. Well, if you could tell us how many there are on the
3 public in the Conservation Trust, would you not be able
4 to tell us in front of --

5 A. Yes.

6 Q. -- Parrott?

7 A. No.

8 Q. You wouldn't?

9 A. No, because it goes in like that.

10 Q. How about in front of the DiCesare property, are there
11 a number of people in good weather in the summer?

12 A. There are people there.

13 Q. And that isn't public-owned, is it?

14 A. The Decessas?

15 Q. In front of the Decessas.

16 A. No.

17 Q. Or is it public owned in front of the Parrott or now
18 Vincenzi property?

19 A. No.

20 Q. And when the Parrotts owned the property -- strike
21 that. Were you friendly with Nan Parrott?

22 A. I was friendly with Nan Parrott and Gussie Parrott.

23 Q. Okay. And during their ownership were a substantial
24 number of people using the beach during the summer
25 months in front of their premises?

1 A. During Gussie Parrot's life, no, there was hardly
2 anybody out there. There was Nan Parrot's house. Some
3 but I wouldn't say substantial.

4 Q. Gus Parrott died in approximately the early '80s; isn't
5 that correct?

6 A. Could be. I'm not sure when she died.

7 Q. No. Gus Parrott?

8 A. Gus Parrott was a woman.

9 Q. Well, how about Nan's husband?

10 A. Bud?

11 Q. Bud. Sorry. When did he -- didn't he pass away in the
12 '80s?

13 A. I don't -- I don't remember.

14 Q. Okay. Well, going back to the question I tried to
15 answer -- ask, is it -- are you telling me you have no
16 knowledge of the use of Goose Rocks Beach, other than
17 Conservation-owned and Town-owned by people -- the back
18 owners and the general public; is that what you're
19 telling us here today?

20 A. I'm telling you I have no way of knowing whether
21 somebody on the beach was a back owner or what their
22 status was.

23 Q. Well, how about just people?

24 MR. SILK: Okay. All right.

25 BY MR. LACHIATTO:

1 Q. How about just people?

2 A. There were people on the beach.

3 Q. And were they walking? Did you observe walking?

4 A. Yes.

5 Q. Did you observe sunbathing?

6 A. Are we talking in front of my house or --

7 Q. No. We're talking in front of property other than
8 owned by you, the Conservation Trust and Town-owned
9 property.

10 A. I would -- I observe people, but I have no way of
11 knowing whether they were the owners from across the
12 street or where they were from.

13 Q. I'm not asking that. I'm just saying people in
14 general. So you observed them?

15 A. I observe people.

16 Q. In that area. How about children playing and building
17 sandcastles, et cetera, in those areas that we talked
18 about?

19 A. Just in those areas?

20 Q. Yes.

21 A. Yes.

22 Q. And how about throwing a baseball or a football?

23 A. Yes, on the -- but only up on the --

24 Q. Right. Volleyball?

25 A. I don't know that I've seen volleyball.

1 Q. Okay. How about throwing a frisbee?

2 A. Yes.

3 Q. I'm not saying in front of your place.

4 A. Yes.

5 Q. Okay. And how about walking dogs during the proper
6 time?

7 A. Yes.

8 Q. And is it fair to say that that, what we've just talked
9 about and you've answered, existed from the time you
10 occupied the is it 251?

11 A. Uhm-uhm.

12 Q. 251 Kings Highway?

13 A. Uhm-uhm.

14 Q. Yes?

15 A. I'm saying yes to 251 Kings Highway.

16 Q. Right.

17 A. What are you asking me?

18 Q. Is it fair to say you observed all of that since your
19 family and you own 251 Kings Highway?

20 MR. SILK: Object to the form of the question.

21 A. I -- no, I've not -- for years when I first moved
22 there, there was nothing going on.

23 MR. LACHIATTO:

24 Q. Well, when did it start going on, in the '80s?

25 A. '60s or '70s or '80s.

1 Q. '60s or '70s?

2 A. Very slowly, very slowly.

3 Q. Right. And progressively?

4 A. Progressively, but I'm not sure it started -- I don't
5 think it started till the late '70s.

6 Q. So over 30 years, in other words?

7 A. Very slowly.

8 Q. Right. What's your opinion on this situation: Could I
9 sit in front of your house on the dry sand with my
10 fishing pole fishing in the ocean?

11 MR. SILK: Object.

12 A. No.

13 MR. SILK: Let me object to the form of the
14 question.

15 BY MR. LACHIATTO:

16 Q. And why do you say no?

17 MR. SILK: Object to the form of the question.

18 A. Why do I say you cannot sit on my --

19 BY MR. LACHIATTO:

20 Q. With a fishing pole fishing?

21 A. Because you're not in the intertidal zone so you're
22 trespassing.

23 Q. That's your opinion. And what is that based on?

24 A. It's based on my deed.

25 MR. SILK: To the extent that he's asking you

1 for an opinion that involves -- and what it's based on,
2 to the extent that it involves any advice, discussion
3 you've had with counsel --

4 THE DEPONENT: Okay.

5 MR. SILK: -- I don't want you to be
6 revealing --

7 THE DEPONENT: Okay.

8 MR. SILK: -- the substance of attorney-client
9 privilege information.

10 THE DEPONENT: Okay.

11 A. I decline to answer.

12 BY MR. LACHIATTO:

13 Q. Well, I don't think you can if it's not based on things
14 that you were told by your attorney or attorneys.

15 MR. SILK: You can ask the question. She can
16 answer it if she can answer it. Go ahead.

17 MR. LACHIATTO: Do you want to -- I'll ask it
18 again.

19 BY MR. LACHIATTO:

20 Q. Can I sit in a chair or stand on your beachfront we'll
21 call it dry sand --

22 A. Uhm-uhm.

23 Q. -- and fish in the ocean? Yes or no.

24 MR. SILK: Object to the form --

25 A. No.

1 MR. SILK: Object to the form of the question.

2 Q. Yes or no?

3 A. No.

4 Q. All right. Where is it allowed in front of your
5 property, that is, me fishing --

6 MR. SILK: Object to the --

7 Q. -- in the ocean?

8 MR. SILK: Object to the form of the question.

9 A. In the intertidal zone.

10 BY MR. LACHIATTO:

11 Q. Now, that intertidal zone varies from time to time;
12 does it not?

13 A. Uhm-uhm.

14 Q. Can I store my boat, my dinghy, on your dry sand in
15 order to access my boat that is moored in the ocean in
16 front of your premises?

17 MR. SILK: Object to the form of the question.

18 A. Can you store your boat on my private property?

19 BY MR. LACHIATTO:

20 Q. Right.

21 A. No.

22 Q. Can I store it anywhere in front of your premises in
23 order to access my moored boat in the ocean?

24 MR. SILK: Object to the form of the question.

25 A. No.

1 BY MR. LACHIATTO:

2 Q. Okay. You mentioned something in relation to questions
3 asked by Mr. Driver about the signs that you had
4 posted.

5 Would you generally post those signs for
6 protection of the least terns?

7 A. No, there were separate signs for the least terns.
8 Oh, but they weren't for the least terns, they were for
9 the piping plovers.

10 Q. But are there least terns that also habitat Goose Rocks
11 Beach?

12 A. Yes, but not in front of my house.

13 Q. Okay. And do you recollect sailing lessons being
14 offered by the Goose Rocks Beach Association?

15 A. I recollect there was sailing.

16 Q. Lessons?

17 A. Yes.

18 Q. And do you know how they accessed the beach for sailing
19 lessons?

20 A. Well, the ones that I am familiar with were given by
21 Alan Clark, and he kept the boat in front of his house.

22 Q. Which was where?

23 A. It was down past the Dyke Road extension one, two,
24 three -- about six houses west.

25 Q. Now, are you aware that the Goose Rocks Beach

1 Association gave sailing lessons at one time?

2 A. I was only aware of the lessons that Alan gave because
3 my son used to race with him.

4 Q. Are you familiar -- are you familiar with the path that
5 leads from Bartlett Avenue or street to the beach?

6 A. Yes.

7 Q. And on the east side is the former Fuller now Lewis
8 property?

9 A. Uhm-uhm.

10 Q. And on the west side is I think it was Steadman and now
11 it's Forest?

12 A. Yes.

13 Q. And do you recollect green -- two or one green box on
14 the right-hand side of that path as you head towards
15 the beach?

16 A. No.

17 Q. You don't remember that --

18 A. No.

19 Q. -- sailing paraphernalia was stored there?

20 A. No.

21 Q. So you never saw a green box, pretty large, in that
22 path?

23 A. I'm saying I don't remember ever seeing it.

24 Q. You don't remember, but you might have seen it?

25 A. I don't remember.

1 Q. Well, my question is --

2 MR. LACHIATTO: Never mind. I won't go any
3 further with it. I don't have anything else.

4 EXAMINATION-BY ATTY. WILLING:

5 Q. Good afternoon, Mrs. Rencurrel. My name is Brian
6 Willing. I'm the attorney for the Town of
7 Kennebunkport in this case. As -- and to the extent
8 that I'm going to be asking questions, I would hope
9 that both of us can try to abide by the rules that have
10 already been laid out by Andre at the beginning. I'll
11 try not to interrupt you if you try not to interrupt
12 me.

13 Can I ask you who -- who is your attorney? Is
14 Attorney Silk your attorney?

15 A. The law firm is our attorney.

16 Q. Are you here on behalf of the trust or are you here
17 individually?

18 A. Am I here? I'm here because --

19 MR. SILK: It's the depo notice.

20 MR. WILLING: That's the one.

21 A. I'm here individually but I'm not a plaintiff.

22 BY MR. WILLING:

23 Q. And I think that's what I'm getting at: Does the law
24 firm of Curtis Thaxter represent you individually even
25 though you're not a plaintiff?

1 MR. SILK: Yes.

2 BY MR. WILLING:

3 Q. Okay. The photographs that --

4 MR. WILLING: Can we mark that.

5 (Deposition Exhibit No. 8, Letter with
6 Attachments, 3/16/12, marked for identification.)

7 BY MR. WILLING:

8 Q. Mrs. Rencurrel, I'm showing you a letter with some
9 attached documents that I received recently from your
10 attorney and specifically Attorney Thaxter. You had
11 indicated in response to questioning by one of the
12 other attorneys that -- that Attorney Thaxter, you
13 thought, had sent me photographs the other day showing
14 some of these signs. I'm hoping you can, and I think
15 you're doing it, skim through there and point me to the
16 photographs that you're talking about.

17 A. They would be here.

18 Q. Could you, I don't know, put a big -- maybe write
19 photos with signs on that page or signs or just
20 something so that we can know those in the photographs?
21 There's no page number on it or I'd ask you to read the
22 page number.

23 And I'm going to ask you to take a look at
24 that.

25 MR. SILK: The sign picture?

1 MR. WILLING: This group of documents we've
2 marked as Exhibit 8 with the cover letter from Attorney
3 Thaxter dated March 16, 2012.

4 BY MR. WILLING:

5 Q. In addition, I'm showing you the photographs you've
6 already gone over with Attorney Duchette which were
7 marked as Exhibit 3.

8 Those are the only sets of photographs I've
9 received that I'm aware of in this case.

10 A. Okay.

11 Q. I'm just making that as a foundational point. Do you
12 have any other photographs?

13 A. Of signs? Of what?

14 Q. Do you have any other photographs at all in your
15 possession, photo albums, anything, depicting anything
16 showing Goose Rocks Beach, the sand and water and
17 seawall?

18 A. I probably do.

19 Q. Okay.

20 MR. WILLING: On the record and I've asked for
21 these --

22 A. Yes.

23 MR. WILLING: I'm sorry.

24 BY MR. WILLING:

25 Q. I'm not trying to be tough on you.

1 MR. WILLING: On the record, I've repeatedly
2 asked for those, and they've been the source of heated
3 discovery disputes in this; and I've made the point
4 again and again and again, and I don't think I'm
5 getting, amongst other things, all of the photographs.

6 To the extent that Ms. Rencurrel has
7 photographs, I'd like to have them so I'm hereby
8 requesting them again. I'll leave it at that. If
9 there's some kind of objection because she's not the
10 trust or something, I'd like to get at that issue and
11 figure it out so that we can stop bickering over things
12 like this and just get the information.

13 So, anyway --

14 MR. STERN: Are you leaving the deposition open
15 should those photographs be provided to you?

16 MR. WILLING: Yes. I'm going to reserve the
17 right. I would anticipate probably not needing to come
18 back, but yes, I'd like to get them.

19 MR. SILK: Well, she's here to be deposed. I'm
20 not going to deal with whatever statements you want to
21 make on the record about discovery or discovery issues.
22 She's here to be deposed. If you want to ask her
23 questions, you're entitled to ask her questions.

24 MR. WILLING: I'm still allowed to try to
25 reserve the right if --

1 MR. SILK: Fine. You can make whatever
2 statements you want on the record, but she's here to
3 answer questions.

4 MR. WILLING: Okay. Well, what does that mean?

5 MR. SILK: Do you have any more questions for
6 her?

7 MR. WILLING: I have plenty more questions.

8 MR. SILK: Then let's ask the questions.

9 MR. WILLING: David, I will try. There's no
10 reason to get heated about it.

11 MR. DRIVER: Can I see Exhibit 8, please.

12 MR. WILLING: Sure. I think I was, and I'm
13 entitled to do what I did.

14 MR. SILK: You're entitled to ask her
15 questions, you're not entitled to make statements on
16 the record. So ask your questions.

17 MR. WILLING: David, I am entitled to ask
18 questions about what I perceive is discovery violations
19 and ask for those documents to be produced on the
20 record.

21 MR. SILK: You're not entitled to make
22 statements on the record about what you think is a
23 violation. You can ask her questions, and if you want
24 to reserve the deposition at the end, you can reserve
25 the deposition at the end. I'm not going to sit here

1 for 10 minutes and have you make self-serving
2 statements on the record.

3 MR. WILLING: You're fighting with me, I'm not
4 fighting with you. You're picking a fight.

5 MR. SILK: I'm not picking a fight. I'm not
6 making self-severing statements on the record. That's
7 all.

8 MR. WILLING: I've done nothing inappropriate.

9 BY MR. WILLING:

10 Q. Mrs. Rencurrel, moving ahead with some of the other
11 issues -- I may come back to more document
12 issues -- you talked about a survey by the Town in
13 which the Bartlett Avenue access was deemed private.

14 Could you explain that?

15 A. Yes.

16 Q. Explain it.

17 A. Oh, okay. At one time they -- I don't know whether it
18 was a selectman or who -- asked somebody to do a study
19 of the right-of-ways to the beach, and they did a
20 study, and this was showing each right-of-way and that
21 was a public right-of-way or not a public right-of-way;
22 and on that study it was stated that the one from
23 Bartlett Avenue was not a public right-of-way.

24 Q. Do you have a copy of this -- I'll be using your
25 word -- survey?

1 A. Well, I probably saw it first when I was a selectman.

2 Q. Do you personally have a copy of it right now as we sit
3 here today somewhere?

4 A. I personally don't remember. I really -- I don't
5 remember.

6 Q. Could you -- I guess I'll ask that you look for that
7 document and provide it to me if you have it.

8 MR. SILK: He can ask questions.

9 THE DEPONENT: Okay.

10 MR. WILLING: I mean are you saying no --

11 MR. SILK: You can make requests to counsel if
12 you have a request for counsel.

13 MR. WILLING: I'm requesting it right now.
14 It's not inappropriate to --

15 MR. SILK: I'm not going to respond to it.
16 Right now I'm not being deposed, she's being deposed.

17 MR. WILLING: Okay, David. On the record I've
18 asked for it.

19 BY MR. WILLING:

20 Q. You spoke with I think both Mr. Lachiatto and Attorney
21 Duchette and perhaps Mr. Driver as well about your
22 definitions of recreating and trespassing.

23 Do you recall those discussions?

24 A. Yes.

25 Q. I'd like to, I guess, go over a few terms and just

1 understand whether or not, if the public were to do it
2 in the intertidal zone or the high dry sand, whether or
3 not it's permissible in your view.

4 Swimming, is that permissible?

5 MR. SILK: Object to the form of the question.

6 A. Swimming in the ocean?

7 BY MR. WILLING:

8 Q. Right. I'm assuming that the water has come in past
9 the low, low, low tide, yes. Is swimming permissible?

10 A. If they don't put their feet down on the ground.

11 Q. Okay. If they're in the water it's okay?

12 A. Uhm-uhm.

13 Q. But I think what you've said --

14 A. Go ahead.

15 Q. I'm sorry.

16 A. Go ahead.

17 Q. I think what you're also suggesting in your answer is
18 that they can't walk across your property for the
19 express purpose to go swimming?

20 A. Yes.

21 Q. Okay. But they can walk across your property to walk
22 across your property; they have your tacit permission
23 for that?

24 A. Tacit for that type of walking.

25 Q. Okay. Fishing, can I fish in the intertidal zone? I

1 think you told Attorney -- Mr. Lachiatto I could?

2 MR. SILK: Object to the form of the question.

3 A. I think we already answered that question.

4 BY MR. WILLING:

5 Q. And the answer is yes?

6 A. Yes.

7 Q. Okay. Sunbathing, no?

8 MR. SILK: Object to the form of the question.

9 A. No.

10 BY MR. WILLING:

11 Q. Okay. Kite-flying?

12 MR. SILK: Object to the form of the question.

13 A. No.

14 BY MR. WILLING:

15 Q. Sandcastle building?

16 A. No.

17 MR. SILK: Object to the form of the question.

18 Q. Dog walking?

19 MR. SILK: Object again.

20 A. No.

21 BY MR. WILLING:

22 Q. I can walk -- I'm just -- I can walk but I can't walk
23 my dog in front of your house?

24 A. Well, that is not on the list of things that I have not
25 given my tacit approval of.

1 Q. You haven't given your permission to walk dogs?

2 A. I'm saying I haven't orally given it, but I am not -- I
3 would not stop somebody from walking their dog.

4 Q. Does Mr. Almeder walk his dog occasionally in front of
5 your house?

6 A. I don't think Mr. Almeder has a dog.

7 Q. Maybe I'm mixing him up with somebody. Do people walk
8 their dogs in front of your house, even though they
9 don't have your permission sometimes?

10 A. Yes.

11 Q. Running, I think you told Mr. Driver that jogging is
12 okay. Is running, jogging okay?

13 MR. SILK: Object to the form of the question.

14 A. Running and jogging, I'm saying that's not recreation.

15 BY MR. WILLING:

16 Q. Right. So they, the general public, back lot owners
17 and public at large, have your tacit permission to run,
18 jog, and I think you've said walk in front of your
19 house?

20 A. Right.

21 Q. But not dog walk?

22 A. No, they can dog walk.

23 Q. Okay. Soccer games?

24 A. No.

25 Q. Softball?

1 A. No.

2 Q. Volleyball?

3 MR. SILK: Object to the form of the question.

4 A. No.

5 BY MR. WILLING:

6 Q. Horseshoes?

7 A. No.

8 Q. Bonfires?

9 MR. SILK: Object to the form of the question.

10 A. With my permission.

11 BY MR. WILLING:

12 Q. Have you given permission for someone just, say,

13 outside of your family --

14 A. Yes.

15 Q. -- to have a fire?

16 A. Yes, I've written a letter to the police department for
17 them.

18 Q. Who?

19 A. The Hannas.

20 Q. Who are the Hannas?

21 A. They live at Goose Rocks.

22 Q. Where do they live at Goose Rocks?

23 A. Crescent, I believe.

24 Q. Not immediately behind you or adjacent to you?

25 A. Behind. I mean they're --

1 Q. Immediately adjacent or behind?

2 A. They are not immediately behind me, no.

3 Q. They're back lot owners but at least back a few lots?

4 A. Well, they're down and back.

5 Q. Okay. Fair enough. Could you explain what tacit
6 permission means to you in your words, not --

7 A. In my words?

8 Q. I'm not asking you for what a legal definition of that
9 is.

10 A. It means that I have not orally given them permission
11 but that I myself feel that it's okay.

12 MR. WILLING: Okay. Can we mark this.

13 (Deposition Exhibit No. 9, Map, marked for
14 identification.)

15 BY MR. WILLING:

16 Q. Mrs. Rencurrel, I'm showing you a map. It's a map that
17 was readily handy to me today because it's been part of
18 this lawsuit, but I'm not -- I'm going to ask you a
19 series of questions and maybe ask you to put some marks
20 on the map.

21 I want to state on the record that I'm not
22 asking you to endorse this map or the findings of this
23 map. I understand this is the Town's surveyor's map.
24 So to the extent that you're uncomfortable just because
25 it's not your survey, it's the Town's, it's just the

1 one I have handy today. I'm not asking to agree with
2 the lines or anything drawn on it, I'm only asking for
3 purposes as it's a general picture of Goose Rocks
4 Beach.

5 Would you agree that it at least generally
6 depicts Goose Rocks Beach without endorsing any of the
7 specific lines?

8 A. It depicts the front property lines -- front property
9 lines. I can't say more than that.

10 Q. Right. And I mean it generally --

11 A. The contours of the beach it depicts.

12 Q. Correct. Can you find your property, 251 Kings
13 Highway? Again, I'm not asking for a surveyed location
14 of it, just a basic general location of it, and ask you
15 to put an X there?

16 A. I think it's right here.

17 MR. SILK: Put an X or a circle?

18 MR. WILLING: She can circle it. That's fine.

19 bY MR. WILLING:

20 Q. Do you want to circle it?

21 A. I think this is it.

22 Q. You have X'd it.

23 A. I X'd it.

24 Q. Okay. That's fine. That works. Could you -- how
25 about this time I'll be more explicit so there's no

1 confusion.

2 Can you put a circle in the approximate
3 location of the property you rented during the I think
4 you said '50s, '60s and '70s? I apologize. Let me go
5 back.

6 MR. SILK: The one that they rented before they
7 bought the house?

8 MR. WILLING: Yeah. Let me start again.

9 bY MR. WILLING:

10 Q. Strike all that.

11 A. Okay, good.

12 Q. You -- your parents bought property on the west end
13 which you stayed in for a number of years; is that
14 correct?

15 A. No.

16 Q. East end? Did I mix up the ends?

17 A. Yes.

18 Q. Sorry. My fault. Your parents bought property on the
19 east end which you stayed at --

20 A. Right.

21 Q. -- for a number of years up until the late '70s; am I
22 correct?

23 A. Yes.

24 Q. Okay. Can you put a circle in the approximate location
25 of that east end property?

1 A. It isn't on the map.

2 Q. It isn't. It's behind?

3 A. Probably up in here somewhere.

4 Q. Could you put an arrow maybe above in the direction at
5 least that it is?

6 Okay. Could you put -- now I'm going to ask
7 it, and since you didn't put a circle there, you put an
8 arrow, which I asked you to do, could you put a circle
9 on the west end where your parents owned the property
10 there that they then sold?

11 A. You couldn't get a map that showed some roads and stuff
12 on it?

13 Q. It's hard to get all of Goose Rocks Beach, I'll tell
14 you, on one single copyable map, paper.

15 A. You know, I really can't tell. I really can't tell.

16 Q. Again, just to be clear, I'm asking you to be
17 approximate, the location.

18 MR. SILK: Is it on this map?

19 THE DEPONENT: What street is?

20 MR. SILK: Do you know what street that is
21 right there?

22 MR. WILLING: Is that the Norwood --

23 MR. DUCHETTE: That's Norwood.

24 bY MR. WILLING:

25 Q. Norwood Lane?

1 A. I can't tell. I cannot tell.

2 Q. Okay. You indicated that you at least occasionally
3 recreated down on the east end in front of a woman's
4 property from whom --

5 A. Uhm-uhm.

6 Q. -- you got permission?

7 A. Uhm-uhm.

8 Q. I think you said that, by and large, you went down in
9 front of your parents' house. We're now talking about
10 '50s, '60s's, '70s?

11 A. Correct.

12 Q. Could you put a circle in front of that lady's
13 approximate location of her house.

14 She lived on Sand Point?

15 A. No. That's Sand Point?

16 Q. Yeah.

17 A. No.

18 Q. Just put a big X. There you go.

19 A. Are these names here?

20 Q. Yeah. I will say the one you had circled that you've
21 crossed out was Timberlane, the next one down is
22 Dwelley?

23 A. No, that's nowhere down here.

24 Q. I think Asland or Fund -- Aspen?

25 MR. SILK: That's not you?

1 THE DEPONENT: That's not me.

2 A. I really -- I really can't map that. I simply do
3 not -- cannot figure out where one thing is from
4 another.

5 BY MR. WILLING:

6 Q. Okay. Andre is going to see if he can get a bigger
7 copy and then maybe we can start afresh and get it
8 right.

9 A. And get the names.

10 Q. Why don't we just -- it's been marked but we understand
11 you have some concerns about where you've put your
12 marks on Exhibit 9 for the record. I'll move on and
13 we'll come back to it if we have time.

14 Can I walk across your -- your at least
15 intertidal part of your property?

16 MR. SILK: 251 Kings Highway?

17 MR. WILLING: 251 Kings Highway.

18 bY MR. WILLING:

19 Q. Can a member of the public walk on the intertidal
20 portion of your property in front of 251 Kings Highway
21 to go scuba-diving in light of recent decisions?

22 A. No.

23 MR. SILK: Let me just object to the form of
24 the question.

25 bY MR. WILLING:

1 Q. Go ahead.

2 A. No.

3 Q. Let me just ask you again, understanding you're not a
4 lawyer and --

5 A. That's --

6 Q. I know your son is. Are you aware that there was a
7 recent decision of the courts in Maine involving
8 scuba-diving?

9 A. As I said, that I recall that there was something about
10 scuba-diving, yes, up north somewhere.

11 Q. Okay. Again, my words -- you can say yay or nay to
12 them -- do you not at this point really have a clear
13 understanding what the implications of that are or do
14 you feel like you do understand what that case has
15 decided?

16 MR. SILK: Object to the form of the question.

17 A. The implications for what?

18 BY MR. WILLING:

19 Q. For your property?

20 A. For the scuba-diving?

21 Q. Yes.

22 A. No, I really haven't studied it.

23 Q. Okay. I'm going to show you what has already been
24 marked as Exhibit 4. I believe this is your list of
25 incidents relating to the beach in front of your

1 property?

2 A. Uhm-uhm.

3 Q. From 1999 to 2009; is that right?

4 A. Correct.

5 Q. Okay.

6 A. Yes.

7 Q. Is this a comprehensive list?

8 MR. SILK: Object.

9 A. Is this a comprehensive list?

10 MR. SILK: Object to the form of the question.

11 bY MR. WILLING:

12 Q. Let me -- I mean I will rephrase it. Maybe we can get
13 at it a different way.

14 When did you start creating this journal or
15 diary of the incidents reported here?

16 A. September 3, 1999.

17 Q. Okay. So this isn't something you compiled later on
18 and listed, you were doing this all along?

19 A. Correct.

20 Q. This is an ongoing list?

21 A. Correct.

22 Q. And then at some point you printed it off?

23 A. Correct.

24 Q. Presumably somewhere near the date of the last entry?

25 A. '09.

1 Q. Right. Which is September 7th, '09.

2 MR. SILK: Do you want to look at it?

3 MR. WILLING: No, there was another one that
4 I'm just going to have her clarify.

5 (Deposition Exhibit No. 10, Beach Incidents,
6 Summer of 2009, marked for identification.)

7 (Mr. Lachiatto leaves proceedings.)

8 BY MR. WILLING:

9 Q. I'm showing you what I've marked as Exhibit 10, and
10 although this will seem obvious, is this just the final
11 page of the exhibit that I already gave you?

12 MR. SILK: Is this the final page?

13 MR. WILLING: Yes.

14 MR. SILK: What do you mean?

15 MR. WILLING: It was produced to me separated
16 from the rest of it, so I'm wondering if there's -- I
17 don't think there's any differences between these two
18 documents.

19 MR. SILK: Oh, I see what you're asking. Is it
20 a duplicate?

21 MR. WILLING: Yes.

22 A. Yes, it looks like a duplicate.

23 BY MR. WILLING:

24 Q. I thought it was. I'm just making sure.

25 MR. SILK: Do you want to go back to the map?

1 MR. WILLING: I'll come back to it in a minute.

2 MR. DRIVER: Counsel, may I raise a question?
3 I need to leave. We have a deposition scheduled for
4 Friday at 10:00?

5 MR. FRAME: 9:00.

6 MR. DRIVER: It is 9:00?

7 MR. DUCHETTE: Yes.

8 MR. DRIVER: All right. See you then.

9 MR. WILLING: Can you mark the first page of
10 each of those.

11 (Deposition Exhibit No. 11, Incident Report,
12 8/10/03, marked for identification.)

13 (Deposition Exhibit No. 12, Incident Report,
14 9/24/08, marked for identification.)

15 (Deposition Exhibit No. 13, Incident Report,
16 10/28/09, marked for identification.)

17 (Deposition Exhibit No. 14, Incident Report,
18 9/1/08, marked for identification.)

19 (Deposition Exhibit No. 15, Report of Beach
20 Incident, 9/2/08, marked for identification.)

21 (Deposition Exhibit No. 16, Incident Report,
22 10/22/09, marked for identification.)

23 BY MR. WILLING:

24 Q. Are you all set?

25 A. Uhm-uhm. What do you want to discuss?

1 Q. Back on the record. I have marked Exhibits 11 through
2 16 which I believe are all police records or records
3 that relate to police records that I have marked.

4 With that in mind, Barbara, you had indicated,
5 I believe, in response to questions -- I'm sorry that I
6 called you Barbara. Is that okay? I apologize. I
7 didn't mean to be informal.

8 Mrs. Rencurrel, I believe you had indicated in
9 response to questions from Attorney Duchette that there
10 were three incidents, police incidents that you could
11 specifically remember?

12 A. Uhm-uhm.

13 Q. Could -- could you explain it? Do you just mean three
14 incidents relating to John Harris?

15 A. No, I meant three incidents relating to people
16 sitting -- trespassing --

17 Q. Okay.

18 A. -- on my property.

19 Q. Okay. I have shown you as I indicated some police
20 records I've been able to locate.

21 Do these police records contain all three of
22 the incidences that you were remembering or are we
23 still missing one?

24 A. For people that were -- calls that I made for
25 trespassing?

1 Q. Yes. You had indicated to Attorney Duchette that there
2 were three incidents that you could recall, and I just
3 want to know if we've got all three of them within the
4 police records I've provided you with?

5 A. Yes.

6 Q. Okay. Within those includes, for instance, an incident
7 report at least, this is Exhibit 12, that's dated
8 8/27/2005, and that appears to relate to you and John
9 Harris?

10 A. Yes.

11 Q. So that would be one of them, correct?

12 A. Uhm-uhm.

13 MR. STERN: Is that Exhibit 12?

14 MR. WILLING: There's another Exhibit 2 that
15 Andre marked.

16 MR. STERN: No, 12.

17 MR. WILLING: Yes.

18 MR. SILK: Exhibit 12 is three pages,
19 three pages. It's dated 9/24/2008 in the upper
20 right-hand corner.

21 MR. STERN: Great. Thank you.

22 BY MR. WILLING:

23 Q. And Exhibit 14 is an incident report dated August 31,
24 2008, and also, I believe, relates to you and Mr.
25 Harris?

1 MR. SILK: Yeah.

2 A. Uhm-uhm.

3 BY MR. WILLING:

4 Q. And I think you went over both of these for a few
5 questions with Attorney Duchette, right?

6 MR. SILK: Just --

7 MR. WILLING: Sorry. Go ahead.

8 MR. SILK: Exhibit 14 has also the one from
9 '05.

10 MR. WILLING: It does?

11 MR. SILK: Yes.

12 MR. WILLING: My mistake. I apologize.

13 MR. SILK: Let's just say it's five pages and
14 part of it incorporates or references or has part of
15 the '05 report. That's fine.

16 MR. WILLING: For whatever it's worth, and I am
17 guessing so I don't know this, but I know it came to me
18 packed like this, so I'm wondering if when the police
19 were assembling it they sort of associated the two.

20 BY MR. WILLING:

21 Q. All right. Okay. So in addition to those, we also
22 have a few other records. Which one is the third, if
23 it's within this packet of materials?

24 A. There's three here, two for John Harris and one for
25 another family, Adam Hoffman.

1 Q. And could you tell me which number that is?

2 A. No. 16 and then number is it 13 that has two in it?

3 Yes, 13 and 16. There will be three of them.

4 MR. STERN: Is 13 the one?

5 MR. SILK: He's just asking you about the third
6 one. The first one is '05, the second one is '08.

7 A. Are you asking for what, the year?

8 MR. WILLING: I think I can get to the bottom
9 of this by asking a few questions that are very
10 specific.

11 bY MR. WILLING:

12 Q. There are several, more than even three police reports
13 that I've put in front of you?

14 A. Yes.

15 Q. Okay. Were you -- were you counting the two different
16 John Harris incidents as one and then separately
17 counting two others --

18 A. No.

19 Q. -- when you said three?

20 A. No.

21 Q. Or there's just an extra one, there was one you had
22 forgotten about maybe?

23 A. We had one for '05.

24 Q. Yes.

25 A. '08.

1 Q. Yes.

2 A. And then we have one for -- there's not three on John
3 Harris.

4 Q. Right.

5 A. Then we have one for --

6 MR. DUCHETTE: The August 2, '09 one is for
7 Hoffman.

8 MR. WILLING: Right.

9 BY MR. WILLING:

10 Q. Hoffman, is that the name?

11 A. Right. That's three, one, two, three.

12 Q. Maybe there's four I guess is what I'm saying in total.

13 A. I don't think so.

14 MR. STERN: Can we go off the record?

15 MR. WILLING: Sure. Let's go off the record.

16 (Off the record.)

17 BY MR. WILLING:

18 Q. Let's look at Exhibit 11 which I think is first in the
19 chronology.

20 A. Uhm-uhm.

21 Q. And that's dated -- it's an incident report from the
22 Kennebunkport Police Department dated August 10, 2003?

23 A. Uhm-uhm, yes.

24 Q. It's talking about a complaint you made. Do you recall
25 this complaint or report?

1 A. Yes.

2 Q. And it appears to be a report about signs for
3 the -- the plovers?

4 A. Yes.

5 Q. And somebody had interfered or broken them; is that
6 right?

7 A. Yes.

8 Q. Is this on your property?

9 A. Yes.

10 Q. Had you put those signs up?

11 A. No.

12 Q. They had been put up by an official?

13 A. Audubon.

14 Q. Okay.

15 A. It might have been Field and -- I'm just correcting it.
16 I think it was Audubon but sometimes Fishery and
17 Wildlife came down, too.

18 Q. And posted them?

19 A. It could have been either one.

20 Q. Okay. Remembering the pictures that I showed you that
21 depicted the signs --

22 A. Yes.

23 Q. -- in Exhibit 8?

24 A. Yes.

25 Q. That's not the same signs we're talking about, is it?

1 A. We're talking about -- here, no. We're talking here
2 about the official Audubon signs.

3 Q. Okay. Looking at Exhibit 12, that's an incident report
4 dated 8/28/2005.

5 MR. SILK: Hold on, hold on.

6 A. Uhm-uhm.

7 MR. SILK: You have to say yes or no.

8 A. Yes.

9 BY MR. WILLING:

10 Q. That's the first incident with John Harris, correct?

11 A. Yes.

12 Q. We can move on to the next one. I'm just trying to
13 figure out what these are.

14 MR. SILK: There's three so it's --

15 A. This is the first one.

16 BY MR. WILLING:

17 Q. That's the first, chronologically, that's the first in
18 time incident with John Harris?

19 A. Correct.

20 Q. And you're agreeing with that, right?

21 A. Yeah, yes.

22 Q. Exhibit 13?

23 MR. SILK: Okay.

24 BY MR. WILLING:

25 Q. That's an incident report dated August 13, 2006?

1 MR. SILK: 13 is dated -- is dated October 28,
2 2009.

3 A. August 13th --

4 MR. SILK: Oh, the incident report. I'm
5 looking at the printed page.

6 A. Yes.

7 MR. WILLING: Okay. I see where you got that.
8 That makes it more complicated, doesn't it?

9 BY MR. WILLING:

10 Q. This appears to deal with some more damage to signs, is
11 that right, stolen signs?

12 A. Where are we now?

13 Q. Exhibit 13.

14 A. Yes.

15 Q. Does this relate to the signs that we're seeing in the
16 pictures from Exhibit --

17 A. It is similar to the signs that are in the pictures.
18 It was a private property sign, yes.

19 Q. Okay. In other words, the pictures depict a sign,
20 whether it's this particular sign or not, you don't
21 know, it might be a sign that preceded it, it might be
22 one from after it?

23 A. Yes.

24 Q. Okay. Exhibit 14?

25 MR. SILK: Here's 14.

1 Q. Are you all set? This incident report appears to be
2 dated August 31, 2008, and I believe it's -- the second
3 John Harris incident, although it has the -- also has
4 the 2005 report attached to it?

5 A. Right, right. Yes.

6 Q. Okay.

7 A. Yes.

8 Q. Okay. Looking at 15, is this basically a quick note or
9 letter that you gave to Joe Bruni following that second
10 incident involving John Harris?

11 A. Yes.

12 Q. Could you read me, to the extent you can -- well, let
13 me ask you, are these your notes at the bottom --

14 A. Yes.

15 Q. -- or somebody's -- they are your notes?

16 A. They are my notes.

17 Q. Okay. Can you read that to me?

18 MR. SILK: Slowly so she can --

19 A. Shea said he did not tell me that his superior said it
20 was public. To my question as to what they considered
21 it, he said private but refused to put it in writing.
22 They're having a conference call with Meade, Bruni and
23 I can't read my own writing.

24 BY MR. WILLING:

25 Q. And it looks like it gets cut off a little bit. Who is

1 Shea?

2 A. Kennebunkport police officer.

3 Q. Okay. And the first line is Joe Bruni called 9/2/08,
4 12:53 P.M.?

5 A. Correct, yes.

6 Q. Can we look at the final, Exhibit 16. This appears to
7 be the incident with the Hoffmans; is that right?

8 A. I did not know -- yes, according to the report, yes.

9 Q. Hoffmans and Moran it looks like?

10 A. That's what it says, yes.

11 Q. And that's dated August 16, 2009?

12 A. Uhm-uhm, yes. Yes.

13 Q. Have we covered -- we've gone now through the series of
14 police reports. I will tell you I have looked through
15 all of the police reports I'm aware of, both ones
16 produced by your attorney to me, as well as ones that
17 we've produced on behalf of the Town of Kennebunkport
18 to your attorneys. These are the only ones I can find
19 that seem to involve you.

20 Are you aware of other police reports or police
21 complaints that you have made to the Town that aren't
22 here?

23 A. Yes.

24 Q. Okay. Could you please --

25 A. I have one but I have no record of it.

1 Q. Okay. What one was it?

2 A. It was when I wrote a letter to the then police chief
3 asking him to please talk to Mr. Harris because Mr.
4 Harris persisted in going down into the habitat area,
5 the fooding -- the fooding -- I'm getting tired -- the
6 food area in the intertidal zone that the piping
7 plovers were using and they were not able to fly, and
8 he was running around with his frisbee and it was very
9 dangerous for the plovers.

10 Q. Okay. And this is -- so this is a separate letter than
11 the one we did find following the second of the
12 two --

13 A. It was not -- that letter was not to Joe Bruni.

14 Q. Okay, yeah. Do you know -- you said it was to the
15 police chief. Was it to Police Chief Bruni?

16 A. No, Police Chief Sullivan.

17 Q. And do you know approximately when that was?

18 A. No.

19 Q. Okay. Any other -- any other complaints or reports
20 that you've made to the police?

21 A. Not that I -- no.

22 Q. Okay. You indicated in I believe it was in response to
23 questions from Attorney Duchette that you once, and I'm
24 not -- you know, if this refreshes, you can supplement
25 what you just told me -- that you once called the

1 police relating to a man urinating on the beach?

2 A. Yes.

3 Q. I mean do you have any doc -- I'm not -- do you have
4 any documentation of that at this point?

5 A. No, I have no documentation.

6 Q. When was the report that you made to the police, do you
7 recall?

8 A. I don't know whether she made a report because when she
9 came, she said she could do nothing about it unless she
10 observed this happening.

11 Q. Who was the she?

12 A. It was some woman that was on the police department at
13 that time. I don't know what her name was. This was
14 quite a while ago.

15 Q. 10 years ago, 20 years ago, can you give a rough guess?

16 A. 20 maybe.

17 Q. Okay. So is this a single incident that you're
18 recalling?

19 A. That I called, the one I called on.

20 Q. Correct.

21 A. I've had it happen -- it's not the only time it's
22 happened, but it's the only incident in which I called.

23 Q. Okay. Thank you. You answered the question I was
24 trying to get at.

25 Did you call the police relating to the

1 ins -- you said there were two instances of couples
2 making out?

3 A. Uhm-uhm.

4 Q. Did you call the police?

5 A. No.

6 Q. When were these two instances, again, approximately?

7 A. Oh, it would have been back in the time when -- maybe
8 Amy can figure this out -- when Jane Duncan was town
9 manager, because she observed one of them with me.

10 Q. Is it -- is it prior to -- you started recording these
11 incidents, at least some of them, in 1999, right, on
12 your computer?

13 A. Yup.

14 Q. Okay.

15 A. Yes.

16 Q. Was it prior to that?

17 A. Probably.

18 Q. If not, is it safe to say that it would be somewhere on
19 here?

20 A. No.

21 Q. There might be incidents that happened that aren't on
22 here?

23 A. That is more trespassing type things.

24 Q. It would be trespassing to urinate?

25 A. Well, yes, but I didn't look upon it as the same type

1 of trespassing.

2 Q. Okay. You distinguish -- well, just explain that to
3 me. I don't want to -- public acts of indecency,
4 that's my word, but from --

5 A. I looked upon it as something that was extremely
6 inappropriate.

7 Q. Regardless of where it occurred?

8 A. Regardless of what time or anything else. It was
9 inappropriate.

10 Q. Okay. Whether it occurred on your property or even
11 public property. Is that the distinction, as opposed
12 to trespassing?

13 A. Whether it was trespassing?

14 Q. Well, what I'm saying is you've listed incidents of
15 trespass?

16 A. Right.

17 Q. Which actions would not be inappropriate if it were
18 public property?

19 A. Right.

20 Q. And then you're telling me about other incidents, and
21 I'm trying to help you craft a distinction to
22 understand what you're saying.

23 I'm saying are these the type of incidences,
24 whether it was public property or private property,
25 would be inappropriate?

1 MR. SILK: The making-out?

2 MR. WILLING: Yeah. Or the urinating.

3 A. Yeah.

4 bY MR. WILLING:

5 Q. And you don't refer to them as trespass?

6 A. I think of them mostly as inappropriate.

7 Q. Okay. And so they're not --

8 A. They were inappropriate trespassing.

9 Q. Right. So you didn't necessarily put those particular
10 incidents on your list?

11 A. I believe they occurred before I started my log.

12 Q. Okay. I'm just trying to understand the log. That's
13 all.

14 Is the holes the same thing? You talked about
15 people digging some holes that are dangerous?

16 A. Yes.

17 Q. Is that the same -- is that -- do you think of those in
18 the same way as the urinating and the making-out?

19 A. No.

20 Q. So would the incident with the holes be recorded on
21 that log that you put together?

22 A. No.

23 Q. Is that because it happened before?

24 A. Holes were sort of ongoing. This was -- the log was
25 made of John Harris and people that were sitting on my

1 property and trespassing.

2 MR. SILK: Do you need a break? Are you all
3 right?

4 THE DEPONENT: No, I'm all right. I'm getting
5 tired but.

6 MR. WILLING: We can take a five-minute break
7 it you want. It doesn't have to be a long break.

8 THE DEPONENT: No. Just go for another 15,
9 20 minutes, then we'll break it.

10 BY MR. WILLING:

11 Q. You tell me if you want to stop, no problem.

12 A. I'll just disappear.

13 Q. I hope not. I hope you totally don't disappear.

14 So you're not sure whether or not the holes
15 would be on your log?

16 A. They wouldn't be on my log.

17 Q. Did -- did --

18 A. These are mostly people I talked to --

19 Q. Sorry. Go ahead. Look at it. That's my copy of it
20 but it's the same.

21 A. This is mostly John Harris. 90 percent of this is John
22 Harris and the other people that I talked to and asked
23 to leave and had problems with.

24 Q. What --

25 A. They were all trespass. I just -- I just -- some

1 MR. WILLING: Yes.

2 MR. SILK: Is that what you're talking about?

3 MR. WILLING: Yes, from 1999 --

4 A. That I didn't put on here?

5 BY MR. WILLING:

6 Q. You said -- let me go back. You said you wouldn't have
7 put the urinating on here, but you think that man
8 urinating happened before 1999 anyway.

9 You indicated that you wouldn't have put the
10 instances of the couples making out on here. You think
11 at least one of them occurred when Jane Duncan was town
12 manager, right?

13 A. Uhm-uhm.

14 Q. Which may be before you started putting together this
15 log. Now we're up to the holes. I wrote sort of a
16 series of things that you were talking with Attorney
17 Duchette about, and so I'm asking you now are the
18 holes -- are the incidents of the holes on here?

19 A. They're not on here.

20 Q. Okay. Did those occur during this time frame, 1999,
21 2009?

22 A. I do not remember.

23 Q. How many incidents are we talking about with people
24 digging holes?

25 A. Probably two or three.

1 Q. And although you're not --

2 A. I'm not sure --

3 Q. You're not sure if it happened in that time frame?

4 A. I'm not really sure.

5 MR. SILK: Let him finish.

6 MR. WILLING: We're both doing it.

7 BY MR. WILLING:

8 Q. So it's my fault, too. I'm going to try to stop
9 interrupting you and you can do the same. We'll both
10 try.

11 You talked about at least one, I don't know, it
12 might have been more, instant of men changing clothes?

13 A. Uhm-uhm.

14 Q. Was that more than one or just one instance?

15 A. A couple.

16 Q. A couple. Did that occur during the 1999 to 2009 time
17 frame?

18 A. No, it was earlier.

19 Q. And then this possibly is connected back into the first
20 instance, I'm not sure, but you talked about a woman
21 sent her child up onto the -- I'm not sure, the rocks,
22 I'm not sure what it was -- to urinate?

23 A. Where are we?

24 MR. SILK: He's asking you this was a question
25 someone asked earlier about whether you -- he's asking

1 you recall about an instant about a woman had a child
2 go somewhere.

3 BY MR. WILLING:

4 Q. Oh, dunes. I didn't remember the word.

5 A. Up in the dunes?

6 Q. Yeah.

7 A. Yes, but it wasn't to urinate.

8 Q. It wasn't to urinate?

9 A. No.

10 Q. Is there any way you can politely tell me what it was?

11 Oh, okay. To do the other?

12 A. Correct.

13 Q. Got it. To go to the bathroom?

14 A. Correct.

15 Q. Okay.

16 A. Yes.

17 Q. When was that approximately?

18 A. A while ago. I cannot remember the date.

19 Q. Possibly before the list?

20 A. Definitely.

21 Q. Okay. Definitely before the list.

22 Are there any other instances that you can
23 think of, police report instances or others, that we
24 haven't covered?

25 A. No.

1 Q. Okay.

2 MR. WILLING: Now I'll take those maps.

3 (Deposition Exhibit No. 17A, Map, marked for
4 identification.)

5 (Deposition Exhibit No. 17B, Map, marked for
6 identification.)

7 (Deposition Exhibit No. 17C , Map, marked for
8 identification.)

9 MR. SILK: You're looking at Exhibit 17A, B and
10 C.

11 bY MR. WILLING:

12 Q. What I've essentially done is taken Exhibit 9 -- I
13 shouldn't say I, Gregg -- Gregg has broken Exhibit 9
14 into three separate 8-1/2 by 11 pages in hopes that you
15 will better be able to recognize the beach.

16 And so if we could, let's start again with your
17 property, and maybe you could put a big X on your
18 property. 251 Kings Highway is what I'm talking about.

19 A. Okay.

20 Q. And that's -- you've put an X on it. Its also appears
21 to say Josselyn-Rose on here, right?

22 A. Uhm-uhm.

23 Q. Okay. I think you told me when you were looking at the
24 other map, Exhibit 9, which we all agree was hard to
25 read because it's so small, that you think the east end

1 property that your parents owned where you stayed was
2 off the map.

3 Do you still think that?

4 A. No.

5 Q. You think it's on there?

6 A. Yes.

7 Q. Could you put -- sorry.

8 A. Go ahead.

9 MR. SILK: No. Don't put an X.

10 BY MR. WILLING:

11 Q. Yeah, you already did an X. How about an E for east
12 end where about you think that is.

13 And then could you put -- well, let me ask you
14 this: You said there was a woman who occasionally gave
15 you permission to recreate, you and your family, to
16 recreate in front of her house down there?

17 A. Every summer. Yes.

18 Q. You tell me if you need a break. What was her name, do
19 you remember?

20 A. Blanche Lavimodiere.

21 Q. Could you put BL, I think that it would be it, Blanch
22 for B and L for Lavimodiere, on her property.

23 A. Here you go. Here's the right-of-way.

24 Q. Okay. And could you spell her last name, if possible,
25 if you know?

1 A. L-A-V-I-M-O-D-I-E-R-E, but don't hold me to that
2 spelling.

3 Q. You did your best. Now, if you could, and you
4 couldn't, I think, remember when we were looking at
5 Exhibit 9, but, again, Exhibit 9 was hard to read,
6 could you put a W where you think your parents west end
7 property was.

8 Okay. Thank you. And I don't have very many
9 questions about this, but a few follow-up just to that
10 with those in mind.

11 What was the period of time roughly that you
12 lived at the east end property, '50s, '60s and '70s; is
13 that right?

14 MR. SILK: Object to the form of the question.

15 A. '50s, '60s and part of the '70s.

16 BY MR. WILLING:

17 Q. Okay. And during the time period that you lived there,
18 I think you've said you mostly still use the beach in
19 front of your parents, 251 Kings Highway, right?

20 A. Yes.

21 Q. You occasionally with your family used the beach in
22 front of Mrs. -- and I'll never pronounce it right --
23 BL, Blanche.

24 When you were going down to your parents, how
25 would you get there?

1 A. Drive the car.

2 Q. Would you ever walk out on the beach and then walk
3 down?

4 A. Not with two small kids.

5 Q. Okay. I think in response to questions by Attorney
6 Duchette you did indicate that occasionally you would
7 walk to and from friends' houses and go -- and recreate
8 in front of their houses with their permission?

9 A. I said I might go visit with a friend and recreate with
10 the friend in front of their house.

11 Q. Yes. With their permission?

12 A. Yeah, okay. I mean they don't say yes, Barbara, you
13 have permission to sit beside me and recreate.

14 Q. But they invite you over. Right. Right.

15 My question is when you would walk from your
16 house -- would you walk from your house to theirs?

17 A. We talked -- exactly which location are we talking?

18 Q. Well, give me an example of a friend whom you would
19 visit and recreate on the beach in front of their
20 house.

21 A. Well, it might be a friend up at this end, up at the
22 east end.

23 Q. Okay. And how would you get there?

24 A. If it was -- if they were on the beach? If they were
25 on the beach, I would walk over.

1 Q. Okay. In such circumstances where you did so, went to
2 recreate at a friend's house at the beach in front of
3 their house and you would walk across the beach, would
4 you get permission from the other beachfront owners to
5 walk across their property?

6 A. I'm not sure there were beachfront owners at that time.
7 This property was all part of the O'Hara art colony,
8 and it was a while before they built it back up again.

9 Q. But you would walk along the beach to get there --

10 A. Yeah.

11 Q. -- correct?

12 A. Yes.

13 Q. And that meant walking across other people's beach?

14 A. The O'Hara -- yeah, but nobody was there to ask.

15 Q. Okay. So I think the answer is no, you would not ask
16 permission --

17 A. Right.

18 Q. -- from each and every beachfront property owner?

19 A. No.

20 Q. Do you know whether your kids, when they would visit
21 friends who owned beachfront property, whose parents
22 owned beachfront property, would they ask permission
23 from the property owners in between your property and
24 that property?

25 A. I have no idea.

1 Q. Have you ever seen anyone do so?

2 A. Seen any?

3 Q. Let me ask you this. Sorry, my fault, bad question. I
4 object to that question.

5 Would -- has any beachfront owner ever asked
6 you for permission to walk across the beach in front of
7 your house?

8 A. No.

9 Q. Do -- does Mr. Almeder walk across the beach in front
10 of your house from time to time?

11 A. Yes.

12 Q. Do other beachfront owners walk across the beach in
13 front of your house?

14 A. Yes.

15 MR. WILLING: Let's go off the record for a
16 second.

17 (Deposition Exhibit No. 18, Goose Rocks Beach
18 Incidents Report, undated, marked for identification.)

19 BY MR. WILLING:

20 Q. I'm showing you what's been marked as Exhibit 18. Do
21 you recognize this document?

22 A. Yes.

23 Q. What is it?

24 A. Just a document of different things that have --
25 incidents that have happened at Goose Rocks Beach.

1 Q. Could you explain --

2 A. I --

3 Q. Go ahead. Could you explain to me the difference in
4 your words between this document and that -- that log
5 that you had from 1999 to 2009?

6 A. The first one is more comprehensive. It's the general
7 one from other than incidents that occurred other than
8 to myself. The second one is sort of a comprehensive
9 compilation of the different things that I had.

10 Q. Okay. Is this -- are these your notes?

11 A. No.

12 Q. No?

13 A. No.

14 Q. The handwriting is not yours?

15 A. No.

16 Q. Do you know whose it is?

17 A. No.

18 Q. Okay. Do you know where you got this document to
19 produce to us? This came from your production of
20 documents. You don't know?

21 A. No.

22 MR. SILK: Do you understand the question? The
23 question is do you know where this came from.

24 A. Where the extra writing? I'm not sure of the question.

25 BY MR. WILLING:

1 Q. Where the document, as -- as it is right now with both
2 typed writing and handwritten writing, where it came
3 from?

4 MR. SILK: Is that a no?

5 A. I don't know.

6 MR. SILK: Why don't we take a five-minute
7 break.

8 MR. WILLING: Sure, no problem.

9 MR. SILK: Let's take five.

10 (A short break was taken.)

11 BY MR. WILLING:

12 Q. Mrs. Rencurrel, we were talking about Exhibit 18, and I
13 believe what I've at least inferred from your testimony
14 is that this is something that you typed up, so the
15 typewritten language is yours?

16 A. Yes. The computer language is mine.

17 Q. All right. But the handwritten language you're not
18 sure about where that came from?

19 A. Correct.

20 Q. Okay. When did you put -- focusing on the typed
21 language which is the part that we know is yours, when
22 did you put that -- this document together? Let me ask
23 it a different way.

24 Is this something you did all at once or did
25 you do it over time like the log?

1 A. All at once.

2 Q. Do you think you did it more in connection with the
3 lawsuit or the buildup to it or do you think it was
4 something you did, you know, back in 1999 or --

5 MR. SILK: Object to the form of the question.
6 Go ahead.

7 A. Something I did to refresh my memory for the upcoming
8 lawsuit.

9 BY MR. WILLING:

10 Q. Okay. I am not going to go through all of these, but
11 I'm going to pick out a couple. Gray's dog incident,
12 that's the second thing under general?

13 A. Uhm-uhm.

14 Q. Is that the -- I'm aware of an incident involving the
15 dog catcher and Mr. Gray down in the 1970s and some
16 kind of warning or citation being issued.

17 Is that what you're talking about?

18 A. Yes, I'm talking --

19 Q. And then there was discussion after that about what
20 rights private property owners had on that.

21 Is that -- is that the same incident?

22 A. Yes.

23 Q. Okay. What's the issue of the refuse of the pickup
24 seaweed, could you just explain that to me? That's the
25 third item?

1 A. Yes. That was after a very severe storm, and at the
2 west end it was absolutely covered with seaweed and
3 they asked the Town to help get rid of it and the Town
4 told them that they would not because it was a private
5 beach.

6 Q. Do you know approximately how long ago that was?

7 A. 10, 15 years.

8 Q. Okay. Could -- on the fourth item is contract zoning,
9 Larry Meade on tape.

10 What does that mean to you?

11 A. That means that -- referring to the tape that Larry
12 Meade made on the contract zoning.

13 Q. Okay. Do you know when that was?

14 A. Five years ago maybe.

15 Q. Okay. Parker's boat incident?

16 A. Uhm-uhm.

17 Q. Do you -- could you just give me a brief explanation of
18 what that is?

19 A. I believe that's when some boats -- damaged boats came
20 up on the beach in front of his house, and he asked the
21 Town to take care of them and they wouldn't.

22 Q. Do you have any idea of the time frame of that, general
23 idea? And if you don't know, it's okay to say I don't
24 know.

25 A. Excuse me. What?

1 Q. Do you have any idea of the general time frame of that
2 call -- that incident, boat incident, and if
3 not --

4 A. The boat incident?

5 Q. Yeah, Parker's boat.

6 A. No.

7 Q. No?

8 A. I don't know.

9 Q. Okay. What did Parker call the police about for his
10 beach?

11 A. Could I suggest you ask Parker?

12 Q. Sure.

13 A. Yes, ask Parker.

14 Q. But you -- I guess to the extent you know anything, you
15 wrote it on your list, so I'm asking you to briefly
16 describe it if you know. If you don't, you can say I
17 can't remember.

18 A. Ask Parker.

19 MR. WILLING: I guess I'm asking her to tell me
20 what she knows.

21 BY MR. WILLING:

22 Q. Do you know anything about it?

23 A. Yes, I do, but I can't recall what I do.

24 Q. Okay. If you don't recall, that's fine. I will now
25 move on.

1 Dave Brown's complaint to me about being told
2 right-of-way by Ed Pingree it was private. Who is Ed
3 Pingree?

4 A. He's the one that owned the house that Jack Fleming
5 bought.

6 Q. Okay. And is there a path of some kind adjacent to
7 that property?

8 A. Yes.

9 Q. Okay. I take it there's some kind of disagreement as
10 to what rights people may or may not have in it?

11 A. Yes.

12 Q. Okay. So what did Dave Brown complain about?

13 A. Dave Brown complained that Ed Pingree told him that
14 his right -- the right-of-way by his house was private
15 and that he could not use it.

16 Q. Who is Dave Brown?

17 A. Well, he's since deceased.

18 Q. Yeah.

19 A. But he's a man that lived intown in Kennebunkport.

20 Q. Did he live in the Goose Rocks --

21 A. No.

22 Q. No? Okay. Was this -- is it fair to say this was some
23 time ago?

24 A. Yes.

25 Q. Okay. Edwina's police report, is that Edwina Hastings?

1 A. Yes.

2 Q. Do you know what the police report was about?

3 A. I think -- didn't you depose Mary? I think it's in her
4 records. Mary Davis?

5 Q. Yes.

6 A. It must be in her records.

7 Q. You don't have a memory of what that is?

8 A. I can't -- not really, no.

9 Q. Okay. What's the issue about Deb's permission letter
10 for her cousin; do you remember?

11 A. It was the fire permit. It was just to show that the
12 Town acknowledged that we were private property.

13 Q. Okay. Okay. Let's -- let's move -- skip down to -- do
14 you see where there's an underlined personal?

15 A. Yes.

16 Q. Is there anything on here, in this list of six or so
17 things, that we haven't talked about already?

18 A. No. No.

19 Q. Okay.

20 (Deposition Exhibit No. 19, Memo on Fire
21 Permits, 8/21/00, marked for identification.)

22 BY MR. WILLING:

23 Q. Mrs. Rencurrel, I'm showing you Exhibit 19 which is
24 something that came from your records that your
25 attorney produced.

1 A. We discussed it.

2 MR. SILK: Wait for a question.

3 BY MR. WILLING:

4 Q. Are you familiar with this document?

5 A. Yes.

6 Q. What is it?

7 A. It's a copy of the Town-owned -- it's one of the Town's
8 copies on the requirements for fire permits.

9 Q. Got it. And the significance of this is that the Town
10 is acknowledging that you have to get permission?

11 MR. SILK: Objection to the form of the
12 question.

13 A. The Town is acknowledging? No, the Town is requiring.

14 BY MR. WILLING:

15 Q. Correct. My mistake on the language.

16 Down at the bottom it says -- first it says in
17 typed writing: Bob, the above for your information.

18 Do you see that?

19 A. Yes.

20 Q. Do you -- is that -- did you type that?

21 A. No.

22 Q. Do you know what that is referring to? Do you know
23 what that's referring to?

24 MR. SILK: No.

25 BY MR. WILLING:

1 Q. Okay. At the bottom there's some handwritten writing.
2 Is that your writing?

3 A. Yes.

4 Q. Can you read what the note says?

5 A. I have written a letter as required for Linda and Steve
6 Hanna to have a fire in front of my house.

7 Q. And I believe you had mentioned that earlier, did you
8 not?

9 A. Yes, I have.

10 Q. Okay.

11 (Deposition Exhibit No. 20, Memo w/Enclosures
12 to GRB Beachfront Property Owners, 10/27/05, marked for
13 identification.)

14 BY MR. WILLING:

15 Q. Barbara, I've marked Exhibit 20, and it appears to be a
16 memo or note or a letter that you've written, and
17 attached to it is a letter dated October 27, 2005 that
18 Attorney Tchao wrote to former town manager Nathan
19 Poore.

20 Do you recognize this document?

21 A. Yes.

22 Q. Is this a letter or a note or memo that you wrote?

23 A. The very first page?

24 Q. Yes.

25 A. Yes.

1 Q. And it's entitled Goose Rocks Beach beachfront property
2 owners. Does that mean it went to beachfront property
3 owners?

4 A. Yes.

5 Q. Okay. The handwritten notes, do you know whose notes
6 those are?

7 A. No.

8 Q. Do you know about when you wrote this memo? Was it
9 shortly after Attorney Tchao's letter or was it --

10 MR. SILK: Object to the form of the question.

11 A. Sometime after.

12 BY MR. WILLING:

13 Q. Okay. And did you send it to all beachfront property
14 owners?

15 A. Correct.

16 Q. Did you send it by mail or by email, how did you send
17 it?

18 MR. SILK: Object to the form of the question.

19 A. I sent it by U.S. Postal Service.

20 BY MR. WILLING:

21 Q. Was this before the memo from you and Mr. Almeder and
22 others with the survey for beachfront property owners?

23 A. Yes.

24 Q. What was the purpose of this letter from your
25 perspective?

1 A. To alert people that the Town was not going to enforce
2 the private property laws for the beach, and it
3 appeared that they were trying to establish a basis for
4 claiming a prescriptive easement.

5 (Deposition Exhibit No. 21, Handwritten Note,
6 11/25/47, marked for identification.)

7 (Deposition Exhibit No. 22, Handwritten Bill Re
8 Seawall, marked for identification.)

9 BY MR. WILLING:

10 Q. Mrs. Rencurrel, I've marked two more handwritten
11 documents --

12 A. Uhm-uhm.

13 Q. -- that your attorney produced to me.

14 Do you recognize these documents, Exhibits 21
15 and 22?

16 A. Yes.

17 Q. What is Exhibit 21?

18 A. Exhibit 21, Exhibit 21 is a note from the man that
19 delivered some rocks for the seawall.

20 Q. Could you -- it's something Blais, Blair? Do you know
21 who that is?

22 A. It's the person who delivered the rocks.

23 Q. Yeah. I mean do you -- can you pronounce the name or
24 do you know? Can you say the name? I can't read it.

25 A. Uhn-uhn. No.

1 Q. And you don't remember?

2 A. No.

3 Q. You don't remember personally?

4 A. He's not a personal friend.

5 Q. Right. And this is quite some time ago, November 25,
6 1947?

7 A. Right.

8 Q. And Leslie Lynde, that's your grandfather?

9 A. Leslie Lynde is my father.

10 Q. Sorry. It says bill to grandfather of current owner.
11 Does that mean --

12 A. That's my --

13 Q. Sorry. Is that because your daughter is the trustee of
14 the trust?

15 A. Right.

16 Q. And therefore this is a letter to her grandfather?

17 A. Correct.

18 Q. Okay. And it appears that they are billing your father
19 for, you tell me, repairs to the seawall?

20 A. Correct.

21 Q. Exhibit 22, whose handwriting is that, if you know?

22 A. My father's.

23 Q. Okay. How about the one -- the handwriting at the top
24 that says: See page 2, rocks for seawall, do you know
25 whose handwriting that is?

1 A. Yeah, I see that. That's my handwriting.

2 Q. Okay. And on -- if I turn to page 2 it says, I
3 believe, you tell me if I'm reading this correctly:
4 Rocks -- I can't tell if it's on or for or what,
5 seawall, 6/13/64, \$75?

6 A. Correct.

7 Q. Does that mean your father spent another \$75 relating
8 to the seawall?

9 A. Correct.

10 Q. Okay. Do you remember that?

11 MR. SILK: Remember spending \$75?

12 MR. WILLING: Yeah.

13 A. Do I remember in 1964 that he spent -- I do -- we
14 didn't discuss --

15 BY MR. WILLING:

16 Q. No.

17 A. My father did not discuss what he spent for rocks and
18 stuff.

19 Q. And to be more specific about it, maybe you don't
20 remember the spending of the \$75, but you remember like
21 a repair being done at that time?

22 A. I remember the -- we had rocks on the seawall, had them
23 put on.

24 Q. You remember repairs being done to it?

25 A. Oh, yes, yes. They used to keep a steam shovel there

1 1938-1939, marked for identification.)

2 (Deposition Exhibit No. 24, Annual Report
3 1937-1938, marked for identification.)

4 (Deposition Exhibit No. 25, Annual Report
5 1932-1933, marked for identification.)

6 (Deposition Exhibit No. 26, Annual Report
7 1934-1935, marked for identification.)

8 BY MR. WILLING:

9 Q. Are you all set?

10 A. Yes.

11 Q. Mrs. Rencurrel, I've showed you what's been marked as
12 Exhibits 23, 24, 25 and 26. I have just noticed, in
13 going through them quickly like your attorney, that 26
14 seems to have mistakenly attached an extra meeting. I
15 think we can rip it right off.

16 MR. SILK: So 26 will just have 2 pages?

17 MR. WILLING: Yes.

18 BY MR. WILLING:

19 Q. Do you recognize these four documents?

20 A. Yes.

21 Q. I will tell you I received them in the document
22 production from your attorney. Is that why they look
23 familiar to you? Did you give them to your attorney?
24 Sorry.

25 A. I -- they look familiar to me because I've printed them

1 out.

2 Q. Okay. This is research you did in the town records?

3 A. Correct.

4 Q. And does this -- do these documents all relate to
5 expenditures by the Town for repairing the seawall?

6 A. They relate to expenditures for the Town when they did
7 the seawall by the -- by the midsection.

8 Q. By the middle section of the beach?

9 A. Yes, but you will notice that some of them weren't
10 funded.

11 Q. Which ones weren't funded?

12 A. Well, the first one says there was no funding listed.

13 MR. SILK: What number exhibit is that?

14 THE DEPONENT: 26.

15 BY MR. WILLING:

16 Q. Okay.

17 A. And No. 25 there was the appropriations showing no
18 funding for it.

19 Q. Okay.

20 A. And No. 23 is -- where the heck is that? No. 23 I
21 determined was not in front of beachfront properties.

22 Q. I'll let you go to 24, too, I'm not trying to cut you
23 off, but is it fair to say, because you've been going
24 through them, the handwritten language in each of these
25 is yours?

1 A. Yes.

2 Q. Okay.

3 A. Okay.

4 Q. That last one, do you have any comment to make about
5 the Exhibit 24, '37-'38 report?

6 A. What number are we on?

7 Q. Exhibit 24. That's the only one you just hadn't made a
8 comment on. You don't have to but --

9 A. I don't think I found an appropriation for them, but I
10 can't remember.

11 Q. You're not quite sure?

12 With No. 23, that's the one you write not in
13 front of beachfront properties, what do you mean
14 exactly by that?

15 A. I meant that it was not in front of any of the
16 properties that abutted the beach.

17 Q. Does -- just so I understand, does that mean it's in
18 the vicinity at least of the Conservation Trust
19 property or am I misunderstanding you?

20 A. It would be -- I don't remember 1938.

21 Q. If you don't remember, that's okay.

22 A. I don't remember.

23 Q. Okay.

24 A. I don't remember.

25 Q. With the ones you say -- sorry. Go ahead.

1 A. No.

2 Q. When you say they're not funded, could you just explain
3 how you came to that conclusion, what research you did
4 to come to that conclusion?

5 A. Well, I went through the annual reports, and back then
6 they would -- do you see --

7 MR. SILK: I'm showing her Exhibit 26, second
8 page.

9 MR. WILLING: Okay.

10 A. See, there's a whole list in the next report of what
11 was funded of the year before.

12 BY MR. WILLING:

13 Q. Okay.

14 A. So that's where I found not funded.

15 Q. Okay. All right. Could you go back to the -- I am
16 winding down now. We're getting to the last few.

17 Could you go back to the maps we had, the three
18 ones?

19 MR. SILK: All three pages?

20 MR. WILLING: Yeah. I want to -- I should have
21 asked her then, but I have a couple more questions.

22 MR. STERN: Exhibit 17?

23 MR. WILLING: Yeah, Exhibit 17A, B and C.

24 MR. SILK: There's C, B and A.

25 BY MR. WILLING:

1 Q. Could you -- could you place an F in the area of the
2 beach where Mrs. Fessenden did her swimming lessons?

3 A. I really don't -- I really can't honestly do it because
4 I don't know.

5 Q. Okay. If you don't know, you don't know.

6 A. I can't be that specific because my children did not
7 take swimming lessons from her.

8 Q. Okay. That's fine.

9 A. And Mr. Lachiatto did not seem to understand I cannot
10 see around the corner from my property.

11 Q. Fair enough. Can you, if you can, put the area of the
12 beach where the sailing lessons occurred and put an S?

13 A. Well, I thought they were done by -- I know they were
14 done by Alan Clark. I -- no, I --

15 Q. It's okay. If you can't, you can't.

16 A. I know where Alan lived, but I can't state for sure
17 that he gave the lessons right in front of his house.
18 My son did not participate in his lessons, he
19 participated in the racing.

20 Q. Fair enough. If you can, could you put an LG standing
21 for lifeguard in the place where you believe the
22 lifeguard chair was?

23 A. You would have to give me a map showing the Town-owned
24 property, because that's where they always placed the
25 lifeguard stand, was on the Town-owned -- one piece of

1 Town-owned property.

2 Q. So you can't do it in connection with --

3 A. I can't do it because you have Conservation Trust, then
4 there's a little break --

5 Q. Let me ask you --

6 A. -- and then somewhere in between there's one piece of
7 property that belongs to the Town.

8 Q. I interrupted you; I apologize. The lifeguard at the
9 beach predates the Town purchasing the property. Am I
10 not right?

11 A. Maybe, yes.

12 Q. So I guess then my question to you is I'm not saying
13 that it's not in the area where the Town owns the
14 beach, but I'm trying to understand why you would
15 connect it with that if the Town didn't own the beach
16 then?

17 A. Well, the lifeguard stand, the one that brings to my
18 mind, came after -- there was a lifeguard stand on the
19 beach after the Town purchased the property.

20 Q. Okay.

21 A. And it was always put on a piece of Town property.

22 Q. Do you know whether there was one before the Town owned
23 the property?

24 A. There may or may not. No.

25 Q. You don't know if there was?

1 A. I don't remember.

2 Q. Do you know -- do you know Stu Flavin?

3 A. I've met him.

4 Q. In connection with this lawsuit or otherwise?

5 A. In connection with the lawsuit. Well, no, I knew him
6 before. I guess I met him before that. He was at the
7 beach.

8 Q. Do you know -- do you have any personal knowledge about
9 whether he was a lifeguard at the beach way back, years
10 and years before the Town bought the property?

11 A. Yes, I believe he was.

12 Q. So I'll just ask you that for purposes of reference.
13 When Stu Flavin was the lifeguard at the beach back in
14 the '50s or '60s or whenever he was there, assuming
15 that guesstimate of mine is right, where was the
16 lifeguard chair, if you remember?

17 A. I do not remember.

18 Q. Okay.

19 A. Ask him.

20 Q. Do you know whether he patrolled the beach or the other
21 lifeguards?

22 A. Some of them once -- I think there was one or two that
23 went the length of the beach.

24 Q. That's river to river essentially?

25 A. Yes.

1 MR. WILLING: Thank you, Mrs. Rencurrel. I
2 think I might have been slightly over the 20 minutes
3 but not much.

4 THE DEPONENT: At least you're through.

5 EXAMINATION-BY ATTY. STERN:

6 Q. Good afternoon. My name is Paul Stern and I work in
7 the Attorney General's office, and I'm going to ask you
8 some very easy questions.

9 A. Okay. But you're going to have to speak up a little
10 bit.

11 Q. Okay.

12 A. I don't hear that well.

13 Q. I talk softly. How many times did you live in New
14 Jersey, different times, was it just once or twice?

15 A. Twice.

16 Q. Okay. Where did you live?

17 A. I lived in Elizabeth and I lived in Broomfield.

18 Q. The house at 251 Kings Highway, how old is that house?

19 A. 1921 or somewhere between 1919 and 1921. It took the
20 builder a great deal of time to build.

21 Q. And was it damaged in the fire of --

22 A. It's never been damaged.

23 Q. -- 19 -- I know the answer but was it damaged in the
24 big fire of 1946 or '47?

25 A. No.

1 Q. Okay. You mentioned having several signs over the
2 years in front of your property. Were they placed in
3 the dry sand area or the wet sand area?

4 MR. SILK: Object to the form of the question.

5 A. In the dry sand.

6 BY MR. WILLING:

7 Q. Okay. You also mentioned you -- the last sign you had
8 said private beach down to the sea; is that correct?

9 A. Correct.

10 Q. And --

11 A. Yes.

12 Q. And do you recall what years you put that sign up?

13 A. Maybe 200 -- somewhere in between '08 and '011 or '010.

14 Q. And just so I'm clear, that sign, too, was put in the
15 dry sand area?

16 A. Yes.

17 Q. It would have to be.

18 A. If I did not put them in the dry sand area they would
19 wash away when the tide came up.

20 Q. Exactly. I'm going to ask you just a few questions
21 about the intertidal area in front of your house, okay?

22 A. Uhm-uhm.

23 Q. And by intertidal area, I mean the area between high
24 and low water mark.

25 A. Uhm-uhm.

1 Q. Have you ever observed any fishing being done in the
2 intertidal area in front of your house?

3 A. Yes.

4 Q. Do you consider that to be trespassing?

5 A. No.

6 Q. Have you ever seen a boat beached in the intertidal
7 area in front of your house?

8 A. Well, when the tide goes out there are some boats that
9 are moored there that end up on the sand.

10 Q. Do you consider that to be trespassing?

11 MR. SILK: Are you just asking her personal
12 opinion, you're not asking her as a lawyer or --

13 MR. STERN: No, what her position is.

14 MR. SILK: Pardon?

15 MR. STERN: What her position is.

16 BY MR. STERN:

17 Q. Did you consider that to be trespassing?

18 MR. SILK: I object to the form of the
19 question.

20 A. The boat is trespassing?

21 BY MR. STERN:

22 Q. Yes.

23 A. I don't know that the boat could trespass.

24 Q. Well, do you consider that the owner the boat is
25 trespassing on your property by having his boat beached

1 on your wet sand?

2 A. No.

3 MR. SILK: Object to the form of the question.

4 Go ahead and answer.

5 A. Normally -- well --

6 BY MR. STERN:

7 Q. You should listen to your attorney.

8 A. The person isn't in the boat when it's beached.

9 Q. If the person was in the boat when it was beached on
10 the wet sand in front of your property, would you
11 consider that to be trespassing?

12 MR. SILK: I'm going to object to the form of
13 the question.

14 A. If the person was in the boat?

15 BY MR. STERN:

16 Q. Yeah.

17 A. While it was beached?

18 Q. Yes.

19 A. No. I think I would consider that my tacit approval.

20 Q. You would give him tacit approval --

21 A. I would give him --

22 Q. -- to be at his boat --

23 A. -- tacit approval to have his boat under those
24 circumstances, which normally was in the water and
25 because of tidal reasons, it went down.

1 Q. If you didn't give him tacit approval, would you
2 consider that to be trespass?

3 A. If I did not give him tacit approval?

4 MR. SILK: Object to the form of the question.

5 A. I really don't have enough of a legal mind to give that
6 a proper answer.

7 BY MR. STERN:

8 Q. Well, the answer to the prior question was you did not
9 consider it trespass because you gave him tacit
10 approval.

11 A. Right.

12 Q. So the converse of that is if you didn't give him tacit
13 approval, would you consider it to be trespass?

14 MR. SILK: I object to the form of the
15 question.

16 A. You know, I don't know.

17 BY MR. STERN:

18 Q. That's a fair answer.

19 You mentioned that people swimming in the water
20 when there was water over the intertidal zone is a
21 situation that you would not consider to be trespass;
22 is that correct?

23 A. Correct.

24 Q. Did you also state that if someone touched the
25 intertidal zone under the water while they were

1 swimming, you would have consider that to be trespass?

2 A. It could be, yes.

3 Q. And you have seen individuals who were not members of
4 your family and were not your invitees walking in the
5 intertidal zone in front of your house?

6 A. Yes.

7 Q. And you've never told them to leave?

8 A. No.

9 Q. And you've never told them they had permission?

10 A. No.

11 MR. STERN: No questions. I told you they were
12 easy.

13 THE DEPONENT: Well, excuse me. I did tell
14 one person to leave.

15 BY MR. STERN:

16 Q. Who was walking?

17 A. Well, frisbee playing.

18 Q. Oh, frisbee playing isn't walking, is it?

19 A. We're getting into semantics now. Technically, no.

20 MR. STERN: No further questions.

21 MR. WILLING: I have nothing further.

22 MR. DUCHETTE: I'm all done. We're done.

23 MR. SILK: Before we go off the record, I think
24 you wanted to reserve some rights; is that my
25 understanding?

1 MR. WILLING: Yes. I mean I think I stated on
2 the record that I'd like to have any photographs
3 that --

4 MR. SILK: Leaving aside what you stated, I
5 just want to -- you're leaving the deposition open?

6 MR. WILLING: I am leaving the deposition open,
7 to the extent that there are photographs that come into
8 my possession or other documents that require it. I'm
9 not anticipating the need to do that.

10 MR. SILK: I just want to make sure we're just
11 clear on the record that I'm not agreeing or
12 disagreeing with you.

13 MR. WILLING: I get it.

14 MR. SILK: I'm just putting on the record when
15 we read the end of it people understand.

16 And did we discuss read and sign at the
17 beginning?

18 MR. DUCHETTE: I don't think I did.

19 MR. SILK: We'll read and sign. I have no
20 questions.

21 (The deposition concluded at 3:57 P.M.)

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I, BARBARA L. RENCURREL, do hereby certify that the foregoing testimony taken on March 20, 2012, is true and accurate to the best of my knowledge and belief.

DATE

At _____ in said County of _____, this _____ day of _____, 2012, personally appeared BARBARA L. RENCURREL and she made oath to the truth of the foregoing answers by her subscribed.

Before me, _____, Notary Public.

My commission expires: _____

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STATE OF MAINE

I, Colleen A. DiPierro, RMR, CRR, a Notary Public in and for the State of Maine, do hereby certify that pursuant to notice there came before me on March 20, 2012 the following-named person to wit: BARBARA L. RENCURREL, was duly sworn to testify to the truth and nothing but the truth; that she was thereupon carefully examined upon her oath and her examination reduced to writing under my supervision; that this deposition is a true record of the testimony given by the witness.

I further certify that I am neither attorney nor counsel for, nor employed by any of the parties to the action in which this deposition is taken, and further, that I am not a relative or employee of any attorney or counsel employed by the parties hereto, or financially interested in this action.

IN WITNESS WHEREOF I have hereunto set my hand this ____ day of _____, 2012.

Colleen A. DiPierro, RMR, CRR

My Commission Expires
May 1, 2018

1 Colleen A. DiPierro
2 **DIPIERRO REPORTING, LLC**
3 220 Pine Street
4 South Portland, ME 04106
5 207-767-5330

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April 4, 2012

David P. Silk, Esq.
Curtis Thaxter Stevens Broder & Micoeau
One Canal Plaza, Suite 1000
P.O. Box 7320
Portland, ME 04112-7320

RE: Robert F. Almeder and Virginia S. Almeder, et
al. vs. Town of Kennebunkport, et al.

Enclosed please find your copy of this deposition of
BARBARA L. RENCURREL taken in the above-mentioned
action on March 20, 2012. Also enclosed is the
original signature page and a sheet for corrections.

Please have BARBARA L. RENCURREL read your copy of the
deposition and sign the original signature page before
a Notary Public. If there are any corrections she
wishes to make, they should be made on the enclosed
correction sheet. Do not mark on the deposition.

Please return the signed original signature page and
correction sheet to Andre G. Duchette, Esq. within 30
days.

Thank you.

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ERRATA SHEET OF: BARBARA L. RENCURREL

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BARBARA L. RENCURREL