

STATE OF MAINE  
YORK, ss.

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

<b>ROBERT F. ALMEDER et al.,</b>	)	
	)	<b>JOINT MOTION FOR DISMISSAL AS</b>
<b>Plaintiffs,</b>	)	<b>TO PLAINTIFFS ROBERT B.</b>
	)	<b>EISENBERG AND LESLIE A.</b>
<b>v.</b>	)	<b>EISENBERG WITH INCORPORATED</b>
	)	<b>MEMORDANDUM OF LAW</b>
<b>TOWN OF KENNEBUNKPORT et</b>	)	<b>(M.R. Civ. P. 41(a)(2), (c))</b>
<b>al.,</b>	)	
	)	
<b>Defendants.</b>	)	<b>(Title to Real Estate Involved)</b>

Pursuant to M. R. Civ. P. 41(a)(2) and 41(c), plaintiffs Robert B. Eisenberg and Leslie A. Eisenberg (collectively, "Eisenberg") and defendants Town of Kennebunkport ("Town"), John Michie Harris and Sharon Eon-Harris (collectively, "Harris"), Alexander M. Lachiatto and Judith A. Lachiatto (collectively, "Lachiatto"), and Richard J. Driver and Margarete K. M. Driver (collectively, "Driver") (the Town, Harris, Lachiatto and Driver are collectively referred to as "defendants") jointly move this Court for an order voluntarily dismissing plaintiff Eisenberg's claims and defendants' respective counterclaims as to Eisenberg without prejudice and without costs. In support of this joint motion, the parties represent as follows:

1. Eisenberg is one of 23 plaintiffs who filed a complaint against the Town of Kennebunkport on October 23, 2009, seeking to quiet title to their property on Goose Rocks Beach in Kennebunkport, Maine (the "Beach"), and a declaration that they owned title to their respective property on the Beach free and clear from any claims asserted to the contrary by the Town.

2. Since the filing of plaintiffs' complaint, defendants asserted counterclaims against the plaintiffs, including plaintiff Eisenberg. Surfrider Foundation sought and was granted intervenor status in the action.

3. During the course of this lawsuit, Eisenberg has decided that his interests can best be served by withdrawing from this lawsuit and pursuing his own goals of using his property on the Beach cooperatively with the public.

4. The Town, through counsel, consents to the dismissal of Eisenberg's claims without prejudice and without costs. The Town, through counsel, moves to dismiss all nine counts of its counterclaim as to Eisenberg without prejudice and without costs.

5. Harris consents to the dismissal of Eisenberg's claims without prejudice and without costs. Harris moves to dismiss all twelve counts of their counterclaim as to Eisenberg without prejudice and without costs.

6. Lachiatto consents to the dismissal of Eisenberg's claims without prejudice and without costs. Lachiatto moves to dismiss all eight counts of their counterclaim as to Eisenberg without prejudice and without costs.

7. Driver consents to the dismissal of Eisenberg's claims without prejudice and without costs. Driver moves to dismiss all two counts of his counterclaim as to Eisenberg without prejudice and without costs.

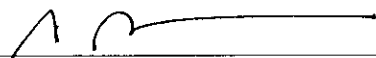
8. Counsel for intervenor Surfrider Foundation consents to the dismissal of Eisenberg's claims and the dismissal of the defendants' respective counterclaims as to Eisenberg without prejudice and without costs.

9. This Joint Motion and the relief sought herein by each party are unopposed.


Based on the foregoing representations, plaintiff Eisenberg and defendants the Town, Harris, Lachiatto, and Driver respectfully request that this Court grant this joint motion and dismiss:

- a. the claims of plaintiffs Robert B. Eisenberg and Leslie A. Eisenberg without prejudice and without costs;
- b. the Town's counterclaims asserted as to plaintiffs Robert B. Eisenberg and Leslie A. Eisenberg without prejudice and without costs;
- c. Harris' counterclaims asserted as to plaintiffs Robert B. Eisenberg and Leslie A. Eisenberg without prejudice and without costs;
- d. Lachiattos' counterclaims asserted as to plaintiffs Robert B. Eisenberg and Leslie A. Eisenberg without prejudice and without costs; and
- e. Drivers' counterclaims asserted as to plaintiffs Robert B. Eisenberg and Leslie A. Eisenberg without prejudice and without costs.

Dated: May 25, 2010

  
\_\_\_\_\_  
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Eisenberg and Leslie A. Eisenberg

Dated: May 14, 2010



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Dated: May \_\_, 2010

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Dated: May \_\_, 2010

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Dated: May \_\_, 2010

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Dated: May \_\_, 2010

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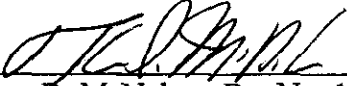
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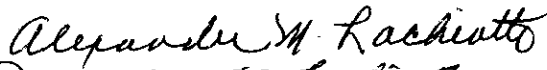
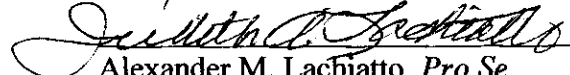
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Dated: May \_\_, 2010

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Dated: May \_\_, 2010

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Dated: May \_\_, 2010

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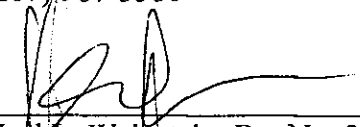
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Dated: May 2, 2010

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**NOTICE**

Pursuant to Rule 7 of the Maine Rules of Civil Procedure, opposition to this Motion must be filed not later than 21 days after the filing of the Motion, unless another time is provided by the Rules of Court. Failure to file a timely objection will be deemed a waiver of all objections to this Motion which may be granted without further notice or hearing.

**STATE OF MAINE  
YORK, ss.**

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

**ROBERT F. ALMEDER et al.,** )  
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**Plaintiffs,** )  
)  
v. )  
)  
**TOWN OF KENNEBUNKPORT et** )  
**al.,** )  
)  
**Defendants.** )

**ORDER**

**(Title to Real Estate Involved)**

UPON CONSIDERATION of the parties' Joint Motion for Dismissal, the intervenor Surfrider Foundation having consented to the joint motion, WITH/WITHOUT objection, WITH/WITHOUT hearing, requesting dismissal of Plaintiffs Robert B. Eisenberg and Leslie A. Eisenberg's complaint against the Town of Kennebunkport ("Town") and defendants without prejudice and without costs; and dismissal of the respective counterclaims asserted by the Town of Kennebunkport, John Michie Harris and Sharon Eon-Harris, Alexander M. Lachiatto and Judith A. Lachiatto, and Richard and Margarete Driver as to Plaintiffs Robert B. Eisenberg and Leslie A. Eisenberg, only, without prejudice and without costs; the motion is hereby GRANTED.

IT IS SO ORDERED. The claims asserted by Plaintiffs Robert B. Eisenberg and Leslie A. Eisenberg against the Town of Kennebunkport and defendants are dismissed without prejudice and without costs. The respective counterclaims asserted by defendants as to Robert B. Eisenberg and Leslie A. Eisenberg, only, are dismissed without prejudice and without costs.

The clerk is directed to incorporate this Order into the docket by reference. M. R.  
Civ. P. 79(a).

Dated: \_\_\_\_\_

\_\_\_\_\_  
Justice, Superior Court