

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 et al.,

Defendants

**ORDER
ADDRESSING SO-CALLED
"THIRD-PARTY DEFENDANTS"**

(Title to Real Estate Involved)

This action was initiated by twenty-six of the approximately ninety-one owners of beachfront property on Goose Rocks Beach. Briefly, these named plaintiffs were attempting to quiet title in portions of the beach extending to the low-water mark. The Town of Kennebunkport responded by alternately asserting ownership of, or a public easement over, both the intertidal zone and the dry sand up to the seawall. With the majority of the beachfront property owners absent, a successful claim by any party would have created "a checkerboard of uncertainty" regarding the public's and the Town of Kennebunkport's rights to use Goose Rocks Beach.

To avoid this outcome and clarify the public's rights in the whole of Goose Rocks Beach, the court ordered that all beachfront property owners be joined pursuant to Maine Rule of Civil Procedure 19. In its Order of August 30, 2010, the Court directed the named plaintiffs and the Town of Kennebunkport to

“jointly serve process on each owner of beachfront property on Goose Rocks Beach not already named as a party” according to the procedure specified in Rule 4. Mirroring the language of Rule 19(a), the court’s Order instructed that “[a]ny owner of beachfront property on Goose Rocks Beach who does not wish to join as a plaintiff shall be joined as a defendant.”

A number of beachfront property owners have since filed timely responses, but refuse to join as either plaintiffs or defendants. Generally, these property owners do not wish to exclude the public from their beach property, but also oppose the Town of Kennebunkport’s attempt to establish an easement or title interest in the beach. Some of these property owners have denominated themselves as “third-party defendants.” Though this matter was not set for hearing, it received considerable discussion and the court decides the question on the papers.

Beachfront property owners who were served pursuant to the court’s Order of August 30, 2010, and who filed timely responses but do not wish to be named among either the plaintiffs or the defendants, are parties in interest. As parties in interest, they may participate according to the rules of civil procedure.

DATE: 1/5/11



Arthur Brennan
Justice, Superior Court