

CPM Continues to Defend Ruling to Open Martins Beach on Behalf of Client Surfrider Foundation

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Today, the Surfrider Foundation, represented by Cotchett, Pitre & McCarthy and the California Appellate Law Group, responded in its five-year-long legal fight over the public's access to Martins Beach. After Surfrider prevailed in California trial court, the property owner asked the U.S. Supreme Court to review the case, claiming the requirement that he apply for a permit under the Coastal Act is a violation of his constitutional rights.

California's courts have already rejected the owner's arguments, and have unanimously determined that the public must be able to access Martins Beach in the same manner as it has for 100 years, until the owner completes the permit process before the California Coastal Commission.

In the brief, Surfrider's attorneys, Eric Buescher and Joe Cotchett of Cotchett, Pitre & McCarthy, and Anna-Rose Mathieson and Bill Hancock of the California Appellate Law Group, argue:

This case involves a fact-specific application of a California statute to a property where public access has existed for a century. The public access rights over that property remain in dispute in pending state court litigation, and the state has yet to take final action. The Court of Appeal took its responsibility seriously and issued a lengthy opinion carefully considering all the arguments petitioners made. The California Supreme Court saw no need to review the holding. There is no split of authority on this issue, and no need for this Court's review.

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Practice Areas

Environmental Law

Land Use and Coastal Public Access

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“The Surfrider Foundation fights to protect everyone’s right to visit, enjoy and conserve coastal areas,” said Angela Howe, Surfrider’s Legal Director. “Our local volunteers in San Mateo have been inspirational in their campaign for access at Martins Beach. Today is another step toward a victory for the people of California, as we are pleased to be able to present this strong brief to the U.S. Supreme Court.”

“For five years, the owner has promised to take this case to the Supreme Court, and today, we had the opportunity to provide our perspective on that case,” said Joe Cotchett of Cotchett, Pitre & McCarthy. “This is not about a land owner being forced to run a business by an oppressive government. It is about a billionaire, who refuses to acknowledge that the law applies to him, attempting to create a private beach through great wealth. But beaches are public in California, and the ability to purchase exclusivity does not place anyone above the law.”

As Eric Buescher of Cotchett, Pitre & McCarthy stated: “The appellate court’s decision was not new, novel or inconsistent with other law, and does not demand Supreme Court review.” Mr. Buescher went on to explain, “Martins Beach is a vital and important part of the fabric of the San Mateo community. California’s courts painstakingly reviewed the unique history of the property

and the abrupt termination of coastal access, and enjoined the owner from ending a century of access until he submitted a permit application to the Coastal Commission.”

Rob Caughlan, the former President of Surfrider and a long-time surfer at Martins Beach, is looking forward to the end of the litigation and the return of the historical access. “The reason that access to Martins Beach is important is the same reason that access to Yosemite is important. Martins Beach is a California treasure.”

“We view protecting public access as one of our highest priorities,” said John Claussen, the chair of the Surfrider Foundation San Mateo County Chapter. “It is important that public access is protected and preserved, and that threats to access are challenged. Martins Beach is just one example of that struggle, and we are glad to work to preserve the public’s right to use the coast throughout San Mateo County and California.”

“Surfrider and Cotchett, Pitre & McCarthy’s victory in 2014 affirmed that Californians have the right to access and enjoy the coast and that all landowners must comply with the Coastal Act,” said Pete McCloskey, a long time environmentalist and advocate, and Of Counsel at Cotchett, Pitre & McCarthy. “California’s court of appeal affirmed that in a lengthy and detailed opinion that carefully considered all of the arguments. The Supreme Court does not need to review that decision.”

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Surfrider's brief also argues:

This case involves two companies that bought prime beachfront property with full knowledge that the public had accessed the beach across that land for nearly a century, . . . [and then] completely cut off public access to the coast in the fall of 2009.

(Pgs. 3, 5.)

The trial court's injunction simply preserves the status quo until petitioners apply for a permit and the government issues its decision on that application. After that, either the permit will be approved and there will be no government restriction, or the Coastal Commission's determination on the permit will apply. That determination, along with the factual record created before the Coastal Commission, will provide the basis for analyzing any future takings claim at Martins Beach.

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To make their situation appear compelling, petitioners mischaracterize the opinions below. Despite their assertions, the injunction does not require petitioners to run a business. It simply requires that the gate across Martins Beach Road must be un-locked and open to the same extent that it was unlocked and open at the time petitioners purchased the property.

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A full copy of the brief filed today is available [HERE](#).