

STATE OF SOUTH CAROLINA)
)
COUNTY OF GEORGETOWN)

IN THE COURT OF COMMON PLEAS

FIFTEENTH JUDICIAL CIRCUIT

J. Bohannon and Marianna Mason, My Boy)
Blue, LLC, John J. and Robin D. Brienza;)
Robert W. Honeycutt; Kelly Odum Trust;)
Katherine A. Close; Michael C. and Susanne)
C. Eberhard; SDN Revocable Trust; Jeffery)
L. and Julie A. Dickerson; Robyn R. Barkin;)
James M. Lamont Qualified Residence)
Trust; Karen B. Lamont Qualified Residence)
Trust; JGS Properties, LLC; Jere A. and)
Patricia C. Drummond; Scott and Beth)
Henry; Caroline’s Hideaway, LLC, Prince)
George, LLC and Frances Close)

Plaintiffs,

vs.

Town of Pawleys Island; Coastal Science &)
Engineering, Inc.; Marinex Construction)
Company Inc.; South Carolina Department of)
Health & Environmental Control; and South)
Carolina Department of Parks, Recreation and)
Tourism,)

Defendants)

CASE NO. 2022-CP-_____

SUMMONS

(JURY TRIAL DEMANDED)

TO: THE DEFENDANTS ABOVE-NAMED:

YOU ARE HEREBY SUMMONED and required to answer the Complaint in this action, a copy of which is hereby served upon you, and to serve a copy of your Answer to the said Complaint upon the subscribers at 78 Ashley Point Dr., Suite 103, Charleston, SC, 29407, within thirty (30) days after service hereof, exclusive of the day of such service, and if you fail to answer the Complaint within the time aforesaid, judgment by default will be rendered against you for the relief demanded in the Complaint.

LENHARDT LAW FIRM, LLC

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Attorney for the Plaintiffs

June 13, 2022

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COMPLAINT

(JURY TRIAL DEMANDED)

Plaintiffs,

vs.

Town of Pawleys Island; Coastal Science &)
Engineering, Inc.; Marinex Construction)
Company Inc.; South Carolina Department of)
Health & Environmental Control; and South)
Carolina Department of Parks, Recreation and)
Tourism,)

Defendants

The Plaintiffs above-named (“Plaintiffs”), complaining of the Defendants herein (“Defendants”), would respectfully show as follows:

INTRODUCTION

This matter involves rapidly accelerating erosion caused by the Defendants’ beach renourishment projects on Pawleys Island, which has historically and is again rapidly washing away the public trust beach, public trust beach/dune system, private properties and beach access

on Debidue Island within the Prince George Community (“Prince George”). The erosion to Prince George is again threatening to undermine Beach Bridge Road, the sole means of access to the Plaintiffs’ properties, and to compromise the large freshwater wetland system located adjacent to the Plaintiffs’ properties and eliminate the Plaintiffs’ use and enjoyment of this unique geographic feature and its environmental and ecological value. Additionally, Pawleys Island renourishment projects have damaged and continue to damage individual Plaintiffs’ properties (as discussed below) and have impacted storm and flood protection provided by the dune system, maritime forest and wetlands in Prince George. Each of the Plaintiffs own and/or regularly use residential properties in the Prince George on the Atlantic Ocean in Georgetown County.

Pursuant to a dredge and spoil disposal permit approved by South Carolina Department of Health & Environmental Control (“SCDHEC”) and issued to the Town of Pawleys Island (“Town”), during the winter of 2007-2008, the Town undertook the dredging of Pawley’s Creek, which is located landward of Pawleys Island and separates Pawleys Island beach properties from the mainland portion of the Town. Through this dredging project, the Town had approximately 38,000 cubic yards of sand removed from the creek bed and placed on the public beach to renourish the eroding beach at Pawleys Island. After this project, littoral drift moved the newly added sands toward Pawleys Inlet at the south end of Pawleys Island (“Inlet”). The migration of the newly added sand contributed to the extension of the southern spit of Pawleys Island and contributed to the southerly migration of the Inlet. The southern migration of Pawleys Inlet caused the northern end of Prince George to erode. Erosion at the northern end of the island did threaten to undermine Beach Bridge Road. Because of this erosion, SCDHEC agreed that an erosion control project was required to protect Beach Bridge Road (“Road Revetment Project”). SCDHEC’s Office of Coastal Resource Management (“OCRM”) certified the Road Revetment Project as consistent with the

applicable Coastal Zone Management Policies and consistent with applicable laws and regulations. To fund the Road Revetment Project, the Plaintiffs, as well as other Prince George property owners, were subjected to supplemental assessments from the Prince George Community association to fund the project.

In 2009, Defendant Coastal Science & Engineering, Inc. (“CSE”) assessed the erosive activity on Prince George as it related to Pawleys Inlet, evaluated the potential impact on Prince George of groin installation on Pawleys Island, and recommended a plan be developed to manage the Inlet’s migration to avoid impacts to Prince George. See **Exhibit A**, *Opinion Letter from T.W. Kana to H. Faison, 9/4/2009* (“2009 Opinion Letter”). CSE determined that a plan to manage the Inlet’s migration was necessary and that a groin as proposed would provide little benefit to Pawleys Island or Prince George.

In 2010, CSE expanded its assessment and further addressed what impact any future renourishment project on Pawleys Island would have on the Plaintiffs and Prince George. See **Exhibit B**, *Technical Report, Historical Changes at Pawleys Inlet and a Conceptual Plan for an Inlet Management Zone Pawleys Island South Carolina* (“2010 CSE Report”). The 2010 CSE Report expressly warned that a significant beach renourishment project on Pawleys Island would cause rapid enlargement, including extension, widening and elevation, of the Pawleys Island spit, the southern migration of Pawleys Inlet and encroachment and erosion in Prince George. Similar to the 2009 Opinion Letter, CSE’s 2010 Report specifically recommended that a plan be developed in connection with any significant renourishment project on Pawleys Island to control the position of the Inlet to prevent the inevitable erosion and damage to the Plaintiffs and Prince George as a whole.

In 2018, a new beach renourishment permit was approved by SCDHEC and issued to the

Town. The Town and the South Carolina Department of Parks, Recreation and Tourism (“SCDPRT”) completed an unprecedented beach renourishment project on the southern end of Pawleys Island in 2020. The Town hired CSE and the general contractor Marinex Construction Company Inc. (“Marinex”) to perform the beach renourishment project.

The beach renourishment project placed more than 1 million cubic yards of sand on the Pawleys Island beach. Approximately half of this sand was placed along the southern shoreline of Pawleys Island, including directly on the southern spit just north of the Inlet.

Since completion of the project in 2020, littoral drift has moved an enormous amount of this new sand toward Pawleys Island Inlet. As anticipated and forewarned, the littoral drift of this massive amount of newly added sand is causing the Pawleys Island spit to lengthen and enlarge forcing the Inlet to rapidly migrate south and to erode the northern end of Prince George. One estimate provides that since April of 2021, the Inlet has moved nearly 300-400 feet south and lies well south of its historic location. Evidence supports that the Pawleys Island spit actually has grown well in excess of 400 feet since the renourishment project was completed. During the same time period, Prince George has lost significant acreage of dry beach, vegetated dune and maritime forest to erosion. Most astounding is the rate at which this erosion has occurred in the last 6 months. The rate of erosion being experienced in Prince George vastly exceeds any non-storm related erosion rates observed along the South Carolina coast. The erosion caused by the beach renourishment project has resulted in the loss of a significant amount of public trust property, loss of access to the beach, loss of private property and diminishment of the value of the property in Prince George. The ecologically unique freshwater wetland in Prince George is under imminent threat of compromise from saltwater intrusion and beachfront properties have lost significant protection from storm and flooding events.

Although it was widely understood what impacts would be forced upon the Plaintiffs and Prince George before the most recent renourishment project was designed, planned, permitted, and undertaken, the Defendants developed no plan to manage the location of the Inlet or to mitigate erosion impacts from the project on Prince George. Defendants' conduct has resulted in irreparable and ongoing damage to Plaintiffs as detailed below.

PARTIES

1. J. Bohannon and Marianna Mason are co-owners of Lot 8 in the Prince George Community.
2. My Boy Blue, LLC is a limited liability company organized under the laws of the State of South Carolina and is the owner of Lot 1 in the Prince George Community.
3. John J. and Robin D. Brienza are co-owners of Lot A in the Prince George Community.
4. Robert W. Honeycutt is the owner of Lot 25 in the Prince George Community.
5. Kelly B. Odum Trust is the owner of Lot 15 in the Prince George Community.
6. Katherine A. Close is the owner of Lot 9 the Prince George Community.
7. Michael C. and Suzanne C. Eberhard are co-owners of Lot 11 in the Prince George Community.
8. SDN Revocable Trust is the owner of Lot 7 in the Prince George Trust.
9. Jeffery L. and Julie A. Dickerson are co-owners of Lot 39 in the Prince George Community.
10. Robyn R. Barkin is an owner of Lot 12 in the Prince George Community.
11. James M. Lamont Qualified Residence Trust and Karen B. Lamont Qualified Residence Trust are co-owners of Lot 2 in the Prince George Community.

12. JGS Properties, LLC is a limited liability company organized under the laws of the State of South Carolina and is the owner of Lot 3 in the Prince George Community.

13. Jere A. and Patricia C. Drummond are the co-owners of Lot 18 in the Prince George Community.

14. Scott and Beth Henry are immediate family of the Drummonds and regularly access and use the public trust beach and areas of the Prince George Community.

15. Caroline's Hideaway, LLC is a limited liability company organized under the laws of the State of South Carolina and is the owner of Lot 16 in the Prince George Community.

16. Frances A. Close is the owner of Lot 17 in the Prince George Community.

17. Prince George, LLC is a limited liability company organized under the laws of the State of South Carolina and is the owner of Lot 37 in the Prince George Community.

18. The Town of Pawleys Island (the "Town") is a municipality located in Georgetown County, South Carolina.

19. Coastal Science & Engineering, Inc. ("CSE") is an engineering firm incorporated and doing business in the State of South Carolina.

20. Marinex is a general contracting firm incorporated and doing business in the State of South Carolina.

21. SCDHEC is an agency of the State of South Carolina. The Office of Coastal Management Resources ("OCRM") is a division of SCDHEC.

22. SCDPRT is an agency of the State of South Carolina.

JURISDICTION AND VENUE

23. This Court has jurisdiction over the parties, and the subject matter of the Complaint occurred entirely within the State of South Carolina.

24. Venue is proper in this Court pursuant to S.C. Code § 15-7-30.

FACTUAL BACKGROUND

25. The Prince George Community (“Prince George”) is an oceanfront residential community in Georgetown County that lies just south of Pawleys Island.

26. Prince George includes many private residential lots including but not limited to 21 oceanfront lots, most of which are developed with single family homes. All of the Plaintiffs’ either own homes located on the oceanfront in Prince George or regularly use the beach, use the freshwater wetlands in Prince George and are afforded protection from storm systems by the beach dune system in Prince George immediately south of the Pawleys Inlet.

27. The Inlet flows between the southern end of Pawleys Island and the northern end of Debidue Island, where Prince George is located. Pawleys Creek and marsh system tidal waters drain from behind Pawleys Island through the Inlet and into the Atlantic Ocean.

28. All of the homes in Prince George are sufficiently set back from the beachfront shoreline and OCRM jurisdictional lines. Historically, a large, decades-old dune field and/or maritime forest has separated the Plaintiffs’ properties from the ocean and provides a significant measure of protection to all of the Plaintiffs’ properties from storm and flooding events.

29. As sand from the Pawleys Island beach erodes, littoral drift moves the sand and sediment south toward the Inlet. The sand eroded from the beach accumulates on the spit at the southern end of Pawleys Island, building it up and extending its length to the south. The sand accumulation also widens the spit and raises its elevation making it less likely to breach naturally, thereby driving the Inlet further south and unlikely to naturally relocate to the north. These changes to the spit also create a higher risk to Pawleys Island properties due to the increased risk of a breach of Pawleys Island.

30. Pursuant to a dredge and spoil disposal permit approved by SCDHEC and issued to the Town, during the winter of 2007-2008 the Town undertook the dredging of Pawley's Creek, which is located landward of Pawleys Island and separates Pawleys Island beach properties from the mainland portion of the Town. Through this dredging project, the Town had approximately 38,000 cubic yards sand placed on the beach at Pawleys Island.

31. Upon information and belief, thereafter the spit on the southern end at Pawleys Island saw an increase in length and overall size, which was contributed to by the newly placed sand. This real growth of the spit as well as reports prepared by the United States Army, Corps of Engineers foreshadowed and informed how future renourishment at Pawleys Island would negatively impact Prince George.

32. In 2009, following the renourishment of 2008 and an analysis of a proposed terminal groin on Pawleys Island, CSE issued an opinion letter, which expressly recognized the need for an inlet migration plan for Pawleys Inlet to ensure Prince George did not face significant erosion due to inlet migration. See **Exhibit A**, *Opinion Letter from TW Kana to H. Faison, 9/4/2009* ("2009 Opinion Letter").

33. In 2010, CSE expanded upon its 2009 findings and issued a report in which the engineering firm expressly warned a significant beach renourishment project on Pawleys Island would cause the Inlet to migrate south and encroach on Prince George. See **Exhibit B**, *Technical Report, Historical Changes at Pawleys Inlet and a Conceptual Plan for an Inlet Management Zone Pawleys Island South Carolina* ("2010 Report"). CSE's 2010 Report again specifically recommended that an inlet management plan be developed to control the position of the Inlet to prevent this imminent outcome. The 2010 Report also warned in the absence of inlet relocation and management, following a renourishment event Pawleys Island itself would face a higher risk

of a breach through its beachfront.

34. On or about October 10, 2019, pursuant to a 2018 SCDHEC-issued beach renourishment permit, a massive beach renourishment project was commenced on Pawleys Island. The project was completed in early 2020. Approximately 1.1 million cubic yards of sand were placed on the beach on Pawleys Island, with more than half placed on or immediately adjacent to the spit at the southern end of the island, which is closest to the Inlet and Prince George. This project approximately doubled the amount of sand recommended by the United States Army Corps of Engineers in 2004 and was nearly three and one-half times larger than the 2007-2008 renourishment.

35. The SCDHEC did not require any plan as part of its permit to control or mitigate the known downdrift impacts that would occur to Prince George and the Plaintiffs.

36. The project was funded jointly by the Town and SCDPRT.

37. The Town hired the engineering firm CSE, which assisted the Town in obtaining and implementing the permit for the beach renourishment project, planned, designed and oversaw the performance of the project, and is monitoring the project annually.

38. The Town also hired Marinex to serve as general contractor for the project.

39. Plaintiffs did not receive any notice from Defendants or any regulatory agencies ahead of the permitting process for the beach renourishment project.

40. Although it was widely understood and documented and the Defendants were aware that a beach renourishment project of this scale would accelerate southerly migration of the Inlet and erosion in Prince George, Defendants ignored these documented impacts and developed no plans for management of the Inlet location or mitigation of erosion impacts from the project on Prince George.

41. In approving the renourishment project without any provision for management of the Inlet location or mitigation of erosion impacts on Prince George, SCDHEC violated South Carolina law and its own Coastal Zone Management Policies.

42. Since completion of the beach renourishment project, erosion of the Pawleys Island beach and littoral drift have moved massive amounts of sand toward the southern spit, causing the Inlet to rapidly migrate south, which in turn is causing extreme erosion along the Prince George shoreline. The rate of Inlet migration has rapidly accelerated over the past year with the most rapid erosion occurring in the last six months. Upon information and belief, between April 2021 and early 2022, the Inlet has moved several hundred feet south with the spit actually having increased significantly more in length. This rate of migration vastly exceeds any other documented rate of migration of the Inlet. As a result of this rapid inlet migration, the rate of erosion on Prince George is unprecedented and the Inlet is now well south of the historic inlet corridor.

43. The southern migration of the Inlet has already eroded much of the northern tip of Prince George. Over just the past year, Prince George lost significant acreage of wet and dry beach and vegetated dune. This erosion has resulted in the loss of a significant amount of the public trust property on Prince George, washing away dunes, destroying old growth flora previously far landward of the active beach, washing away previously high ground property behind the dunes and threatening the ecologically unique freshwater wetlands in Prince George. This severe erosion continues at an unprecedented rate.

44. The extreme erosion caused by the beach renourishment project also presents an imminent threat to the Plaintiffs' properties, the value of which has already been diminished. The existing damage to private property, including value, use and enjoyment continues as the erosion of Prince George continues.

45. Because of erosion, SCDHEC agreed that an erosion control project was required to protect Beach Bridge Road, the only road connecting Prince George to the mainland. Plaintiffs, in part, funded the costs of the Road Revetment Project through assessments. SCDHEC's OCRM certified the Road Revetment Project as consistent with the applicable Coastal Zone Management Policies and applicable laws and regulations.

46. Thus, SCDHEC has already acknowledged the seriousness of the Inlet migration and that it will encroach into Prince George and destroy property and infrastructure in that community, including the Plaintiffs' properties.

47. CSE has documented the seriousness of the Inlet migration and that it will encroach into Prince George and destroy property and infrastructure in that community, including the Plaintiffs' properties.

48. Since completion of the most recent renourishment project on Pawleys' Island, erosion caused by accelerated migration of the Inlet has proven to be even more severe than originally anticipated and is the most rapid erosion ever on the South Carolina coast not caused by a storm event.

**FOR A FIRST CAUSE OF ACTION
(Mandatory Injunction-All Defendants)**

49. The allegations set forth in the preceding paragraphs are incorporated as if fully restated herein.

50. In promulgating the Coastal Tidelands and Wetlands Act, as amended, S.C. Code Ann. § 48-39-10 et seq. ("Act"), the South Carolina General Assembly made findings recognizing the value and importance of the state's coastal resources, including the beaches and beach dune systems of South Carolina. The Act codified that "[t]he coastal zone is rich in a variety of natural, commercial, recreational and industrial resources of immediate and potential value to the present

and future well-being of the State...” and that “[t]he coastal zone and the fish, shellfish, other living marine resources and wildlife therein, may be ecologically fragile and consequently extremely vulnerable to destruction by man's alterations.” S.C. Code Ann. § 48-39-20.

51. SCDHEC is charged “to protect and, where possible, to restore or enhance the resources of the State's coastal zone for this and succeeding generations ...” and “[t]o direct and coordinate the beach and coastal shore erosion control activities...” S.C Code Ann. §§ 48-39-30 and 50.

52. SCDHEC through OCRM issues permits for all beach renourishment projects. These permits, when adequately drafted and issued, are intended to protect the state’s natural resources and private property interests.

53. In 2008, SCDHEC issued a permit authorizing renourishment on Pawleys Island with no requirement for mitigating downdrift impacts.

54. In 2009, CSE issued its 2009 Opinion Letter in which it acknowledged the addition of sand to Pawleys Island would facilitate further enlargement of the spit on Pawleys Island and drive the Inlet to migrate further south. The Opinion Letter specifically recommended the development of an inlet management plan.

55. In 2010, CSE again documented its opinions and warned that a significant beach renourishment project on Pawleys Island would cause the Inlet to migrate south and encroach on Prince George. The 2010 CSE Report recommended an inlet management plan be developed in connection with any renourishment project on Pawleys Island to manage the position of the Inlet and to prevent downdrift impacts.

56. In 2018, CSE, on behalf of the Town applied for and received from SCDHEC a permit for a major renourishment project on Pawleys Island. Despite understanding and

acknowledging that there would be downdrift impacts to Prince George, Defendants failed to require, develop, or implement plans for the management or mitigation of the beach renourishment project's accelerated impacts to Prince George. This failure violated industry standards, SCDHEC's own Coastal Zone Management Policies, and the regulations, laws and common law of the State of South Carolina.

57. As a result of Defendants' actions and omissions, the beach renourishment projects have caused and continue to cause extreme and severely accelerated erosion to the public trust property in Prince George, impacts to Plaintiffs' use and enjoyment of these lands, impacts to the Plaintiffs' private properties, imminent threat of further impacts to the Plaintiffs' properties and ecologically significant freshwater wetlands in Prince George, loss of beach access and tremendous environmental damage in Prince George.

58. Defendants' most recent beach renourishment project has also resulted in the loss of primary dunes and vegetation which provide the principal protection against storm surge and flooding events. These lost dunes have afforded the Plaintiffs and Prince George decades of protection against numerous storms, flooding events and hurricanes. Because these dunes and their attendant vegetation have been destroyed due to the Pawleys Island renourishment project and the Defendants acts and omissions, Plaintiffs now face the imminent threat of further damage.

59. As a result of the Defendants' actions and omissions, Plaintiffs have lost millions of dollars in property, property value, profits and face imminent further financial loss.

60. As a result of the Defendants' actions and omissions described hereinabove, Plaintiffs, as well as Prince George as a whole, face imminent and irreparable injury and harm, the nature of which is unprecedented and extraordinary. Plaintiffs and Prince George will continue to suffer the same unless the Court requires Defendants to immediately relocate the Inlet to an updrift

location at or north of its location in 2008 as identified by an expert for management of the Inlet, and to restore the primary oceanfront sand dune and its attendant vegetation and the access that was available pre-renourishment.

61. Plaintiffs, as well as the other residents of Prince George, have no adequate remedy at law for the imminent future loss of unique land and property, environmental damage, loss of protection against storm surge and flooding, and other substantial damages to the Plaintiffs' properties and to Prince George as a whole. Monetary damages could not sufficiently compensate the Plaintiffs and provide them with a complete remedy, thus this situation demands immediate injunctive relief.

62. A mandatory injunction requiring immediate affirmative action by Defendants is necessary to protect against irreparable harm in the rapidly worsening circumstances at Prince George, a situation and circumstances which are the direct result of the Defendants acts and omissions.

63. A balancing of equities and hardships weighs against the Defendants. The Defendants designed, planned, approved, permitted, constructed, undertook and performed the most recent beach renourishment project with full knowledge that the project would cause significant downdrift adverse impacts and severely damage Plaintiffs and others in Prince George. Despite having this knowledge, Defendants failed to take any steps to mitigate such damage. Requiring Defendants to prevent future irreparable harm to Plaintiffs' is consistent with justice and equity.

64. It is in the public's interest to require the Defendants to restore the Inlet to a location at or north of its 2008 pre-renourishment location to avoid continuing future loss and damages to Prince George and its residents, and to restore the public trust lands including the primary

oceanfront sand dune and its attendant vegetation to protect the Plaintiffs' properties and Prince George as a whole.

65. Plaintiffs are entitled to a mandatory injunction requiring Defendants to immediately restore the Inlet to a location at or north of its 2008 pre-renourishment location and to restore the primary oceanfront sand dune and its attendant vegetation in order to eliminate future continuing loss and damages to the Plaintiffs and Prince George as a whole. Defendants must also provide for the long-term maintenance of the Inlet location. In addition, Plaintiffs are entitled to a mandatory injunction order requiring Defendants to allow Plaintiffs to take reasonably necessary actions to protect their property until Defendants' restoration can be completed.

**FOR A SECOND CAUSE OF ACTION
(Negligence-All Defendants)**

66. The allegations set forth in the preceding paragraphs are incorporated as if fully restated herein.

67. It was reasonably foreseeable to the Defendants that their actions and omissions discussed above would result in damages and injury to Plaintiffs. Defendants had actual or constructive notice of the damaging nature of their actions and omissions. Thus, Defendants owed a duty to Plaintiffs to conduct themselves in a manner that would not cause injury or damage to Plaintiffs.

68. Following the 2007-2008 renourishment on Pawleys Island, Defendants knew or had substantial reason to know that any renourishment project on Pawleys Island would cause the Inlet to migrate south and encroach on Prince George.

69. In 2009, CSE recommended that an inlet management plan should be developed to control the position of the Inlet to prevent the injury and harms the Plaintiffs and Prince George now do and will continue to suffer.

70. In 2010, CSE confirmed that a significant beach renourishment project on Pawleys Island would cause the Inlet to migrate south and encroach on Prince George. CSE also recommended that an inlet management plan should be developed to control the position of the Inlet to prevent the injury and harms the Plaintiffs and Prince George now do and will continue to suffer.

71. Defendants had notice that a beach renourishment project would cause erosion on Prince George. Therefore, Defendants owed Plaintiffs a duty to exercise due care in performing the project and to take all necessary steps to prevent or mitigate the foreseeable damage to the Plaintiffs' properties caused by a renourishment project.

72. SCDHEC, as state agency empowered to carry out licensing of beach renourishment projects, owed a duty to Plaintiffs to exercise due care in reviewing the beach renourishment projects and to take all necessary steps to prevent or mitigate the foreseeable damage to the Plaintiffs' properties caused by the projects.

73. Defendants breached their duties to Plaintiffs by the following negligent and/or grossly negligent acts and omissions, without limitation:

- a. in developing and constructing the beach renourishment projects in a manner that resulted in the accelerated southerly migration of the Inlet causing injury to the Plaintiffs' properties;
- b. in failing to develop and implement plans for remediation or mitigation of the beach renourishment projects' accelerated erosion impacts to Prince George causing injury to the Plaintiffs' properties;
- c. in failing to take necessary and sufficient corrective action to remedy the ongoing accelerated erosion at Prince George caused by the beach

- renourishment projects and resulting in injury to the Plaintiffs' properties;
- d. in failing to take action as a reasonable and prudent person would do to prevent the accelerated erosion impacts to Prince George causing injury to the Plaintiffs' properties;
- e. in failing to take action as a reasonable and prudent person would do to mitigate the accelerated erosion impacts to Prince George causing injury to the Plaintiffs' properties;
- f. in all other particulars revealed during the discovery process and at trial.

74. SCDHEC breached its duties to Plaintiffs by the following negligent and grossly negligent acts and omissions, without limitation:

- a. in exercising its licensing powers to issue a permit for the Pawleys Island beach renourishment projects despite the fact that it was widely known and even reported by Defendant CSE that a beach renourishment project would accelerate southerly migration of the Inlet causing injury to the Plaintiffs' properties and Prince George as a whole;
- b. in failing to develop and/or require as a condition of the beach renourishment project permit the development and implementation of an inlet management plan and methods to mitigate erosion impacts to Prince George;
- c. in failing to require monitoring of impacts to Prince George as a condition of the permit for the beach renourishment projects;
- d. in failing to take and/or require necessary and sufficient corrective action for the accelerated erosion at Prince George caused by the beach

- renourishment projects and resulting in injury to the Plaintiffs' properties;
- e. in failing to take action as a reasonable and prudent person would to prevent the accelerated erosion impacts to Prince George causing injury to the Plaintiffs' properties;
- f. in failing to take action as a reasonable and prudent person would do to mitigate the accelerated erosion impacts to Prince George causing injury to the Plaintiffs' properties;
- g. in all other particulars revealed during the discovery process and/or resulting trial.

75. The above actions and omissions violated industry standards, SCDHEC's own Coastal Zone Management Policies and the regulations, laws and common law of the State of South Carolina.

76. As a direct and proximate result of the negligent and grossly negligent acts and omissions of Defendants, the beach renourishment projects were permitted and constructed, causing and continuing to cause injury and damage to the Plaintiffs' properties. Therefore, Plaintiffs are entitled to recover actual and consequential damages in the amount to be determined at trial, including, without limitation, the diminished value of the Plaintiffs' properties, the costs of the Road Revetment Project, the profits unrealized from lost sales of properties and costs associated therewith, the costs of required remediation or mitigation of the beach renourishment project's impacts to the Plaintiffs' properties, in addition to punitive damages.

**FOR A THIRD CAUSE OF ACTION
(Nuisance -All Defendants)**

77. The allegations set forth in the preceding paragraphs are incorporated as if fully restated herein.

78. By their acts and omissions set forth above, Defendants created conditions that caused and will continue to cause damage to the Plaintiffs' properties on a permanent, continuing, and reoccurring basis.

79. Defendants' interference with the Plaintiffs' properties is unlawful and unreasonable and constitutes a nuisance.

80. Defendants knew or had substantial reason to know their intentional affirmative acts set forth hereinabove would cause the accelerated southerly migration of the Inlet and would cause unprecedented erosion in Prince George, leading to Plaintiffs' damages. Defendants failed to require, develop, and implement plans for mitigating and/or remediating the beach renourishment project's accelerated erosion impacts to Prince George which have unquestionably caused damage and will continue to cause damage to the Plaintiffs' properties.

81. The accelerated erosion of Prince George caused by the beach renourishment project constitutes a substantial and unreasonable interference by Defendants with Plaintiffs' use, enjoyment and expectations of and in the Plaintiffs' properties.

82. Defendants' conduct in creating the conditions constituting a nuisance and in allowing these conditions to continue with full knowledge that they would severely damage Plaintiffs was willful and reckless.

83. Defendants' nuisance has resulted in the deterioration and devaluation of the Plaintiffs' properties.

84. Defendants' unreasonable interference directly and proximately caused Plaintiffs to suffer loss of full use, enjoyment and benefit of the Plaintiffs' properties, and Plaintiffs are entitled to recover actual and consequential damages in the amount to be determined at trial, including, without limitation, the diminished value of the Plaintiffs' properties, the lost profits from

unrealized sales of Plaintiffs' properties, the costs of the Road Revetment Project, and the costs of required remediation or mitigation of the beach renourishment project's accelerated erosion and its impacts to the Plaintiffs' properties, in addition to punitive damages.

FOR A FOURTH CAUSE OF ACTION
(South Carolina Unfair Trade Practices Act, S.C. Code Ann. § 39-5-10, et seq. -
All Defendants)

85. The allegations set forth in the preceding paragraphs are incorporated as if fully restated herein.

86. Defendants' actions constitute willful and knowingly unlawful trade practices in violation of the South Carolina Unfair Trade Practices Act, S.C. Code Ann. § 39-5-10, et seq. ("SCUTPA"), including, but not limited to, in performing the public beach renourishment project with full knowledge the project would severely damage Plaintiffs and in failing to take any steps to mitigate the damage to Plaintiffs and others on Prince George.

87. Plaintiffs have suffered actual, ascertainable damages as a result of Defendants' unfair trade practices, including, without limitation, the diminishment of their properties' value and the loss of profits which would have resulted from sales of certain Plaintiffs' properties.

88. Defendants' deceptive and unfair trade practices adversely affect the public interest, are capable of repetition and have the potential for repetition because Defendants are either responsible for planning, designing, approving, undertaking and/or constructing similar beach renourishment projects throughout the state of South Carolina, or are in the business of doing so.

89. Based on the foregoing, Plaintiffs are entitled to judgment against Defendants for actual damages, trebled pursuant to the SCUTP plus interest, attorney's fees, and other costs arising out of Defendants' unfair and deceptive trade practices.

DEMAND FOR JURY TRIAL

90. Plaintiffs demand a trial by jury on all issues so triable.

WHEREFORE, having set out the foregoing complaint against Defendants, Plaintiffs respectfully request this Honorable Court to grant the following relief to Plaintiffs:

- a. Judgment in favor of Plaintiffs against Defendants on all causes of action;
- b. Enter mandatory injunctive relief ordering Defendants to immediately restore the Inlet to a location at or north of its location in 2008 before the beach renourishment projects, to restore the primary oceanfront sand dune and its attendant native vegetation, to reinstate the protection it affords to the Plaintiffs, to restore all access that was available pre-renourishment, to provide for long term inlet management zone plan, including without limitation necessary maintenance, relocation and financing, and to allow Plaintiffs to take reasonably necessary actions to protect their property and the public trust property until Defendants restoration can be completed.
- c. Just compensation for the diminished value of the Plaintiffs' properties in the amount to be determined at trial;
- d. Actual damages in the amount to be determined at trial;
- e. Other actual and consequential damages in the amount to be determined at trial, including, without limitation, the diminished value of the Plaintiffs' properties, the loss of profits which would have resulted from sales of Plaintiffs' properties, the costs of the Road Revetment Project and the costs of required remediation or mitigation of the beach renourishment project's accelerated erosion impacts to the Plaintiffs' properties;
- f. Punitive damages in the amount to be determined at trial;

- g. Treble damages pursuant to the South Carolina Unfair Trade Practices Act, S.C. Code Ann. § 39-5-10, et seq.
- h. Reasonable costs and attorneys' fees in this action pursuant to S.C. Code Ann. § 28-11-30(3), South Carolina Unfair Trade Practices Act, S.C. Code Ann. § 39-5- 10, et seq., and any other common law or constitutional right or other basis;
- i. Prejudgment interest on all damages awarded; and
- j. Such other and further legal and equitable relief as this Court may deem just and proper.

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