

STATE OF MAINE

KENNEBEC, ss.

MICHAEL F. BECKER
and BEVERLY J. BECKER,
TRUSTEE,

Plaintiffs

v.

OWEN and BARBARA CRAIGHEAD,
d/b/a MOUNT DESERT
CAMPGROUND, INC.,

Defendants

SUPERIOR COURT
CIVIL ACTION
DOCKET NO. AP-02-19

Pratt v. Mount Desert Campground, Inc.

JUDGMENT

This matter comes before the court again for trial and disposition of the final remaining issue.¹ Earlier, the independent claim for private nuisance survived a motion for summary judgment since there remain contested relevant material facts. Trial of the facts then proceeded.² The court has considered all of the testimonial and other evidence presented, and makes the following findings of fact and conclusions.

Facts

Mount Desert Campground ("MDC") is located on property adjacent to a tidal cove at the head Somes Sound. A considerable part of the appeal of MDC to campers is access to the protected waters of the cove for swimming, fishing and boating. Since the cove is tidal, ever since 1950's or 1960's there has been an extensive float system to

¹ This action began as a petition under M.R. Civ. P. 80C, with independent claims for declaratory judgment that the defendants' acts constitute a trespass and/or nuisance. By order dated August 29, 2002, this court granted the defendants' motion to dismiss with regard to the independent claim for trespass. By order dated March 7, 2005, the Rule 80C appeal was denied, affirming the decision of the Bureau of Parks and Lands. The only remaining issue is the independent action for nuisance.

² The plaintiffs initially sought monetary damages for reduction in the value of their property as the result of a nuisance. Trial on the damage issue initially was to be a jury trial, but was changed to a bench trial when the plaintiffs withdrew their damage claim and sought only equitable action for abatement of the claimed nuisance.

allow campers access to the water at all tides. The floats are also where the campground owners have historically kept rental watercraft for the enjoyment of the campers.

Defendant Owen Craighead, Sr. began camping at MDC in 1964. In 1984, Mr. Craighead purchased the campground and during the period 1985 to 1986 he replaced the previous floats. The landward end of the 300+ foot float system has moved back and forth on the MDC property, but the seaward end has remained in place just off a rock formation known as The Lamb.

The floats have continued to be used by campers for swimming at high tide; rarely in June, some in July and more in August. The swimmers will occasionally use inner tubes or rafts. MDC has three canoes and 14 kayaks for rent and they are stored at the furthest water end floats. Campers also are allowed to use the more landward floats for tying up their own personal small watercraft. Boats are not to be tied off the end of the last float, which is at the side of the channel between The Lamb and the opposite mainland shore. Campers violating this rule will have their watercraft moved. The float system is as long as it is and is located where it is in order to reach some amount of water regardless of the tide. The tidal range can be as much as 9-10 feet. Wading in the mud at low tide could be dangerous to campers returning from boating activities, so the ability to return to the seaward float at any tide is an important safety factor.

In 1997, the Beckers purchased the property adjacent to MDC. The Beckers visited the property three times before their purchase, but at the first visit a tree blocked the drive, at the second visit hard rain prevented them from exploring the grounds, and the third visit occurred in October after the float system had been taken in for the winter. As a result, although the Beckers could have investigated further, it is possible that they were unaware of the float system extending into the cove until after the

property was purchased. In February of 2000, Mr. Becker wrote to the Craigheads expressing his concern about the floats and how they affected his view.

The Beckers had their own float installed in 1998 and used it to keep their kayaks and canoe. The Beckers had no problem with the MDC floats until 2002, when they purchased a 29-foot Hinckley jetboat with an 11-foot beam and 18 inch draft. The primary operator of this boat has been Mrs. Becker, who had little previous boating experience, at least on tidal waters. Although large, the boat is quite maneuverable, having the ability to turn around within its own length. Since the lack of water in the cove prevents the Beckers from taking the boat to their own float except during a four to five hour period around high tide, the boat is kept at a mooring in Somes Sound, where it can be accessed by a five-minute dingy ride. It apparently is the practice of the Beckers to take the dingy from their dock to the jetboat and then return in the much bigger boat to their float to pick up friends and guests for boating activities. Mrs. Becker testified that during July and August the MDC floats become congested with boaters and swimmers, causing her concern going to and from the family's float. The testimony was that the activities on the float have impeded bringing the jetboat into the dock, more frequently in the late afternoon and in August.

On the other hand, testimony by William Boddy, a 20-year Coast Guard veteran and former harbormaster at Mount Desert Island, contradicts that of Mrs. Becker. In Mr. Boddy's opinion, the campground floats pose no hazard to navigation, so long as proper caution is taken. Mr. Boddy noted that the seaward end of the floats was approximately 20 feet from The Lamb and 55 feet from the other side of the neck of the cove at mean low water. However, it is a reasonable inference from the shape of the bottom of the cove, as shown in Plaintiff's Exhibit 8, that as the tide rises to that point that a boat the size of the Becker's can be brought to their float, the width of the neck

would widen considerably. The witness testified to seeing swimmers and kayakers swimming in the area around The Lamb during the summer, that this activity would not be a hindrance to a “prudent mariner,” and that it would not create undue hardship for access to the Beckers’ dock assuming there was enough water to get there. It would be “prudent” to stop and wait for the way to be cleared before entering and proceeding slowly through the area to avoid swimmers and snorkelers, but this would only slow boat access, not prevent it entirely. A videotape of the plaintiffs’ boat moving slowly through the area in question while the MDC floats were in use by campers demonstrates the feasibility of this approach.

Discussion

Generally speaking, in order to prove a common law private nuisance, the plaintiff would have to prove, among other things, that the defendant’s actions have substantially and unreasonably interfered with the plaintiff’s use and enjoyment of his property. *Charleton v. Town of Oxford*, 2001 ME 104, ¶ 36, n.10, 774 A.2d 366, 377; citing *W. Page Keeton, et al., PROSSER & KEETON ON THE LAW OF TORTS*, § 87 at 622-23 (5th ed. 1984). As noted in a previous decision in this case, our Supreme Judicial Court has already recognized the availability of such common law private nuisance claims in a maritime situation involving the use of a wharf. *Gillson v. Farrin*, 632 A.2d 143 (Me. 1993). As stated by the Court, the central issue in the *Gillson* case was whether the use of the wharf was unreasonable.


Applying the law from *Charlton* and *Gillson* to the facts in the present case as found above, the plaintiffs have failed to prove by a preponderance of the evidence that use of the MDC floats is unreasonable or that the location or use of the system unreasonably interferes with the Beckers’ own access to their dock, provided the Beckers operate their boat as a prudent mariner would. Even if the Beckers had been

able to prove that access to their property by water using their Hinckley jetboat was somehow infringed by the use of the MDC floats, there is no evidence to indicate that access would be similarly restricted when using their dingy, which they must use in any event because the jetboat is moored in the deeper water of the Sound.

Since the court finds that there was a failure of proof on whether the defendants' use of the floats is unreasonable, it follows that the plaintiffs have failed to prove their remaining private nuisance claim. Therefore, the entry will be:

JUDGMENT for the defendants on the plaintiffs' independent claims.

Dated: May 3, 2007



S. Kirk Studstrup
Justice, Superior Court

Action Petition for Review
80C

J. STUDSTRUP

****independent claims remain**

Michael F. Becker vs. Bur. of Parks & Lands, State of Maine &

<p>Plaintiff's Attorney David P. Silk, Esq. One Canal Plaza P.O. Box 7320 Portland, Maine 04112-7320</p>	<p>Defendant's Attorney Owen & Barbara Craighead -Jeffrey Pidot AAG State House Sta. 6 Augusta Maine 04333 -Jonathan Huntington Esq. (Craighead) 77 Sewall St Augusta Maine 04330</p>
Date of Entry	

3/12/02	Rule 80C Petition (With Independant Claim), filed. s/Silk, Esq.
3/13/02	Plaintiff Michael F. Becker's Motion Requesting the Court Specify the Future Course of Proceedings, filed. s/Silk, Esq.
3/27/02	Original Summons with service made on the State of Maine on 3/13/03, along with Acknowledgment of Receipt of Summons and Complaint dated 3/19/02 signed by J. Pidot, filed.
4/9/02	Administrative Record, filed. s/Pidot, AAG
4/10/02	Notice of briefing schedule mailed to attys of record.
4/17/02	Letter regarding briefing schedule, filed. s/Silk, Esq. (filed 4/16/02)
4/23/02	Answer of Defendants Owen and Barbara Craighead with Motion to Dismiss, Affirmative Defenses and Demand for Jury Trial, filed. s/Huntington, Esq. Request for Hearing, filed.
4/24/02	Summons with Acknowledgment of Receipt of Summons and Complaint, filed. Jonathan Huntington, Esq. accepting service for Owen and Barbara Craighead.
5/8/02	Plaintiff Michael F. Becker's Opposition to Defendants Craighead's Motion to Dismiss, filed. s/Silk, Esq.
5/13/02	Defendant State of Maine's Memorandum in Support of Defendant Craighead's Motion to Dismiss Independent Claims, filed. s/Pidot, AAF (filed 5/10/02)
6/10/02	Motion to Amend with attached exhibit A, filed. s/Silk, Esq. Proposed Order, filed.
6/12/02	ORDER, Studstrup, J. (signed 6/11/02) IT IS SO ORDERED. Copies mailed to attys. of record.
7/12/02	Notice of setting for <u>8/14/02</u> sent to attorneys of record.

Date of Entry	Docket No. _____
8/14/02	Hearing had, on Motion to Dismiss, Studstrup, J. No courtroom clerk present. Court takes matter <u>under advisement</u> .
8/29/02	ORDER ON MOTIONS, Studstrup, J. (1) Defendant Craigheads' motion to dismiss is GRANTED insofar as it concerns independent claims for trespass. (2) Defendant Craigheads' motion to dismiss is DENIED insofar as it applies to claims of nuisance. Copies mailed to attys of record.
10/16/02	Notice of Discovery Service, filed. s/Silk, Esq. Plaintiff's First Request for Admissions served on Jonathan B. Huntington, Esq. on 10/11/02.
11/14/02	Notification of Discovery Service, filed. s/Huntington, Esq. Response to Plaintiffs' First Request for Admissions served on David P. Silk, Esq. on 11/12/02.
4/11/03	Notice of Discovery Service, filed. s/Silk, Esq. Plaintiffs' First Request for Admissions, served on Jeffrey R. Bidot, Esq. on 4/8/03.
4/17/03	Notification of Discovery Service, filed. s/Pidot, AAG Defendant Bureau of Parks and Lands' Response to Plaintiffs' First Request for Admissions Propounded to Defendant Bureau served on David Silk, Esq. on 4/16/03.
5/6/03	Notification of Discovery Service, filed. s/Huntington, Esq. Defendants' Owen and Barbara Craighead Response to Plaintiffs' First Request for Admissions Propounded to Defendant BPL served on David P. Silk, Esq. on 5/5/03.
5/12/04	Proposed Order on Motion to Specify, filed.
6/14/04	Notice of Discovery Service, filed. s/Silk, Esq. Plaintiffs' first set of Interrogatories and First Request for Admissions Propounded to Defendant Bureau of Parks and Lands, State of Maine, filed. s/Silk, Esq.
7/12/04	Notification of Discovery Service, filed. s/Pidot, AAG Bureau of Parks and Lands, State of Maine's Responses to Plaintiffs' First Set of Interrogatories Propounded to Defendant Bureau of Parks and Lands, State of Maine served on David P. Silk, Esq. on 6/30/04
8/5/04	Notification of Discovery Service, filed. s/Huntington, Esq. First Request for Production of Documents Propounded to Plaintiffs by Defendants Owen and Barbara Craighead, served on David P. Silk, Esq. on 8/4/04
8/11/04	Motion of Defendants Owen and Barbara Craighead for Leave to Amend Answer, filed. s/Huntington, Esq. Memorandum of Law in Support of Defendants' Motion to for Leave to Amend Answer, filed. s/Huntington, Esq. Proposed Order on Defendants' Motion for Leave to Amend, filed. Amended Answer of Defendants Owen and Barbara Craighead with Motion to Dismiss, Affirmative Defenses and Demand for Jury Trial, filed. s/Huntington, Esq.
8/12/04	Letter informing the court there is no objection to Motion to Amend Answer, filed. s/Silk, Esq.

Date of Entry	Docket No. <u>AP02-19</u> <u>Michael F. Becker v. Bureau of Parks and Lands, et al</u>
8/13/04	Notice of Discovery Service, filed. s/Silk, Esq. Plaintiffs' Response to Defendants Craighead's Request for Production of Documents served on Jonathan B. Huntington, Esq. on 8/12/04
8/17/04	ORDER ON MOTION FOR LEAVE TO AMEND, Studstrup, J. (Dated 8/13/04) Motion for leave to amend their answer is granted to the defendants. Copies mailed to attys of record.
9/17/04	Proposed Scheduling Order, filed.
9/20/04	SCHEDULING ORDER, STUDSTRUP, J. (Pltf. brief due 10/22/04, Dft. brief due 12/3/04, reply due 12/17/04. Discovery deadline is 1/31/05, motions to be filed by 3/1/05) Copies mailed to attys of record.
10/19/04	Demand for Jury Trial, filed. ***Jury Trial Fee Paid.
10/22/04	Petitioners' 80C Brief, filed. s/Silk, Esq.
11/1/04	Notice of Discovery Service, filed. s/Silk, Esq. Plaintiffs' Expert Witnesses Designation served on Jonathan B. Huntington, Esq. on 10/29/04
11/22/04	Notice of Discovery Service, filed. s/Silk, Esq. Plaintiffs' Interrogatories and For Production of Documents to Defendants Craighead served on Jonathan Huntington, Esq. on 11/20/04.
12/3/04	Respondent's Brief, filed. s/Mills, AAG
12/8/04	Motion for Extension of Time for Designation of Defendants' Expert Witnesses filed. s/Huntington, Esq. Proposed Order, filed.
12/13/04	ORDER, Studstrup, J. Time for defendant's designation is extended to January 1, 2005. Copies mailed to attys of record.
12/17/04	Petitioners' Reply Brief, filed. s/Silk, Esq.
12/21/04	Notification of Discovery Service, filed. s/Huntington, Esq. Answers of Defendants Owen and Barbara Craighead to Interrogatories Propounded by Plaintiff Michael F. Becker and Response of Defendants Owen Craighead and Barbara Craighead to Plaintiffs' Request for Production of Documents served on David P. Silk, Esq. on 12/20/04
1/3/05	Notification of Discovery Service, filed. s/Huntington, Esq. Notice of Taking Oral Deposition of Michael F. Becker served on David P. Silk, Esq. and Amy Mills, AAG on 12/30/04
1/5/05	Notification of Discovery Papers, filed. s/Huntington, Esq. Designation of Expert Witnesses V. Kelly Bellis, William J. Boddy and Robert C. Collier served on David P. Silk, Esq. on 1/3/05
1/13/05	Consented to Motion to Extend Discovery Deadline, filed. s/Silk, Esq. Proposed Order, filed.
1/26/05	Hearing had on 1/6/05, Hon. Kirk Studstrup Presiding. (No courtroom clerk) Matter taken <u>under advisement.</u>

Date of Entry	Docket No. _____
2/1/05	ORDER ON MOTION TO EXTEND DISCOVERY, Studstrup, J. Discovery deadline is extended to 3/21/05 and motion deadline extended to 4/22/05. Copies mailed to attys of record.
2/14/05	Notification of Discovery Service, filed. s/Huntington, Esq. Defendants Request for Admissions Propounded to Plaintiff served David P. Silk, Esq. on 2/11/05
2/18/05	Motion to Extend Discovery Deadline, filed. s/Silk, Esq. Proposed Order, filed. Motion to Join Real Parties in Interest, filed. s/Silk, Esq. Proposed Order, filed.
2/18/05	Notice of Discovery Service, filed. s/Silk, Esq. Notice to Take Oral Deposition of Owen Craighead, Sr. served on Jonathan B. Huntington, Esq. on 2/16/05 Notice of Discovery Service, filed. s/Silk, Esq. Notices to Take Oral Deposition of V. Kelly Bellis, Robert V. Collier and William J. Boddy served on Jonathan B. Huntington, Esq. on 2/17/05
2/18/05	Letter regarding discovery dispute, filed. s/Huntington, Esq.
3/9/05	DECISION ON APPEAL, Studstrup, J. Rule 80C Appeal is denied. Copies mailed to attys of record. Copies mailed to Deborah Firestone, Garbrecht Law Library and Goss. Notice of removal of record mailed.
3/11/05	Response of Defendants Owen and Barbara Craighead to Plaintiffs' Motion to Join Real Parties in Interest, filed. s/Huntington, Esq. Memorandum of Law of Defendants Owen and Barbara Craighead in Opposition to Plaintiffs' Motion to Extend Discovery Deadline, filed.
-----	Notice of Discovery Service, filed. s/Silk, Esq. Plaintiffs' Responses to Request for Admissions served on Jonathan B. Huntington, Esq. on 3/10/05
3/16/05	Letter regarding conference, filed. s/Huntington, Esq.
-----	Reply to Defendants Craighead's Opposition to Plaintiffs' Motion for Extension of Discovery Deadline, filed. s/Silk, Esq. Letter requesting a conference regarding a discovery dispute, filed. s/Silk, Esq.
3/18/05	Notice of Discovery Service, filed. s/Silk, Esq. Amended Notice to Take Deposition of Owen Craighead, Sr. served on Jonathan B. Huntington, Esq. on 3/16/05
3/25/05	HEARING/CONFERENCE RECORD, Studstrup, J. David Silk, Esq. and Jonathan Huntington, Esq. participating in conference call. The entry will be: Mr. Craighead's deposition will be taken in Augusta. Copies mailed to attys. ORDER ON MOTION TO EXTEND DISCOVERY, Studstrup, J. Discovery deadline extended to 4/29/05 and Motion deadline extended to 5/27/05. Copies mailed to attys.

Date of
Entry

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3/28/05	ORDER ON MOTION TO JOIN, Studstrup, J. This motion is granted on the representations of counsel that adding these parties will not add to formal pleadings or added discovery. Copies mailed to attys.
3/29/05	Motion for Entry of a Partial Final Judgment Pursuant to M.R.Civ.R. 54(b), filed. s/Hafener, Esq. Proposed Order, filed. Notice of Appeal, filed. s/Hafener, Esq. Statement of Issues on Appeal, filed. Attested copies of notice of appeal, docket sheets, statement of issues on appeal and receipt of \$120.00 filing fee mailed to James Chute, Clerk of the Law Court. Copies mailed to attys. of record.
4/4/05	Notice of Discovery Service, filed. s/Silk, Esq. 2nd Amended Notice to Take Deposition of Owen Craighead, Sr. served on Jonathan B. Huntington, Esq. on 3/31/05
4/6/05	Notice of Discovery Service, filed. s/Silk, Esq. Amended Notices to Take Depositions of V. Kelly Bellis, Robert Collier and William Boddy served on Jonathan B. Huntington, Esq. on 4/5/05
4/8/05	Notice from Law Court, filed. s/Chute, Clerk of the Law Court Case to transmitted by April 19, 2005, docket number assigned is KEN-05-173
5/3/05	ORDER ON PETITIONER'S MOTION FOR ENTRY OF A PARTIAL FINAL JUDGMENT PURSUANT TO M.R.CIV.R. 54(b), Studstrup, J. (dated 4/29/05) Copies mailed to attys of record.
5/6/05	Entire file mailed to Law Court. Attested copies of docket sheets and transmittal sheet mailed to James Chute, Clerk of the Law Court. Copies mailed to attys. of record
5/11/05	Receipt of Clerk's Record in Law Court, filed. s/Chute, Clerk
5/27/05	Motion for Summary Judgment, filed. s/Huntington, Esq. Memorandum of Law in Support of Defendants' Motion for Summary Judgment, Statement of Material Facts Not In Dispute, Affidavit of Owen Craighead, Affidavit of Mady Allen, Request for Hearing and Proposed Order, filed. Plaintiffs' Response to Defendants Owen & Barbara Craighead's First Request for Production of Documents, filed. Deposition of Michael Becker, filed. Deposition of Owen Craighead, filed. Deposition of William Boddy, filed.
6/7/05	Plaintiff's Motion to Extend Time for Filing Response with Proposed Order, filed. s/D. Silk, Esq. (unopposed)
6/8/05	ORDER ON MOTION FOR EXTENSION, Studstrup, J. Time extended to July 1, 2005. Copies mailed to attys.
7/1/05	Plaintiffs' Memorandum of Law in Opposition to Defendants' Motion for Summary Judgment, filed. s/Silk, Esq. Plaintiffs' Response to Defendants Statement of Material Facts not in Dispute Including Plaintiffs' Additional Facts not in Dispute, filed. (attached exhibits A-I)
7/7/05	Defendants' Motion to Enlarge Time for Filing Reply, filed. s/Huntington, Esq. Proposed Order, filed.

Date of Entry	Docket No.
7/11/05	ORDER, Studstrup, J. Time for filing reply memorandum enlarged to July 25, 2005. Copies mailed to attys of record.
7/13/05	Letter requesting discovery dispute conference regarding expert fees. s/Huntington, Esq.
7/18/05	Affidavit of Michael Becker with attached exhibit, filed. s/D. Silk, Esq.
7/19/05	Hearing/Conference, Hon. S. Studstrup. David Silk, Esq. and Jonathan Huntington, Esq. participating in conference call. No Order by the Court. Counsel will resolve issues with witness.
7/25/05	Copy of Transcript Deposition Transcript of V. Kelly Bellis dated April 29, 2005 and Deposition Exhibit 6, filed. J. Huntington, Esq. Defendants' Reply Memorandum with Reply Statement of Material Facts and Affidavit of Owen Craighead, filed. s/J. Huntington, Esq.
8/9/05	Letter from Amy Mills, AAG regarding September 7, 2005 hearing indicating the State will not be participating unless otherwise directed by the Court.
9/7/05	Hearing held with the Hon. Kirk Studstrup, presiding. Tape #694 Index 1956-4019 David Silk, Esq. for the Plaintiff and Jonathan Huntington, Esq. for the Defendant. Oral arguments made to the court. Parties to file briefs within 10 days. Court to take matter <u>under advisement</u> .
12/27/04	File with record returned from Law Court. (12/23/05)
12/29/05	MANDATE, filed. Judgment AFFIRMED.
1/25/06	DECISION ON MOTION FOR SUMMARY JUDGMENT, Studstrup, J. (dated 1/20/06) Motion for Summary Judgment DENIED. Copies mailed to attys of record. Copies mailed to Deborah Firestone, Garbrecht Library and Goss.
5/3/06	Letter from attorney Silk regarding ADR, filed.
5/8/06	Letter from attorney Huntington regarding ADR, filed.
5/30/06	ORDER ON REQUEST FOR ADR, Studstrup, J. In light of the exemption of Rule 16(b)(2) and the objection of respondent Craighead the request is denied. However, parties may use ADR on their own. Copies mailed to attys of record.
7/13/05	Letter regarding civil trial list, filed. s/Mills, AAG
7/22/06	Letter regarding civil trial list, filed. s/Huntington, Esq. Defendants' Motion for a Continuance Order, filed. s/Huntington, Esq. Affidavit of Jonathan B. Huntington, filed. s/Huntington, Esq. Proposed Continuance Order, filed.

Date of Entry	Docket No. <u>AP02-19</u> <u>Michael F. Becker vs. Bureau of Parks and Lands, et al</u>
8/2/06	Motion to Strike Jury Demand with Incorporated Memorandum of Law, filed. s/Silk, Esq. Proposed Order, filed. Plaintiff's Opposition to Defendants' Motion to Continue, filed. s/Silk, Esq.
8/9/06	CONTINUANCE ORDER, Studstrup, J. It is hereby ORDERED that trial is continued until November 1, 2006 or next available date and for reasons stated in the defendant's motion and the Court's schedule for August and September. Copies mailed to attys of record.
8/21/06	Defendants' Memorandum of Law in Opposition to Plaintiffs' Motion to Strike Jury Demand and in Support of Defendant's Motion for Reconsideration, filed. s/Huntington, Esq.
9/7/06	Defendants' Motion for Reconsideration, filed. s/Huntington, Esq. Hearing had, Studstrup, J. <u>Under advisement</u> . (no courtroom clerk)
9/12/06	Plaintiffs' Opposition to Motion to Reconsider, filed. s/Silk, Esq.
10/25/06	ORDER ON MOTION TO STRIKE, Studstrup, J. (dated 10/24/06) GRANTED. This case shall remain on the civil trial calendar as a nonjury trial. Copies mailed to attys of record. MOTION TO RECONSIDER, Studstrup, J. (dated 10/24/06) After hearing, motion DENIED. Copies mailed to attys of record.
11/29/06	Letter regarding the civil trial list, filed. s/Mills, AAG
12/15/06	Motion for Special Assignment, filed. s/Silk, Esq.
12/21/06	Letter from David Silk regarding requests for protection and special assignment.
12/28/06	Letter informing the court that the defendants do not oppose the motion for special assignment, filed. s/Huntington, Esq.
1/5/07	Notice of setting of nonjury trial on February 12 and 13 sent to attys of record.
1/31/07	Defendants' Exhibit List, filed. s/Huntington, Esq.
2/1/07	Plaintiffs' Witness and Exhibit List, filed. s/Silk, Esq.
2/5/07	Defendant's Witness List, filed. s/Huntington, Esq.
-----	Plaintiffs' Trial Brief, filed. s/Silk, Esq.
2/7/07	Original Deposition of Michael F. Becker, filed. s/Huntington, Esq.
-----	Defendants' Exhibit List, filed. s/Huntington, Esq. (Amended)
2/12/07	Defendant's Trial Brief, filed. s/Huntington, Esq.
2/12/07	Non-Jury trial held with the Hon. Justice Kirk Studstrup, presiding. David Silk, Esq. for the Petitioner and Jonathan Huntington, Esq. for the Respondents. Parties waive opening statements to the court. Petitioner calls John Schawnder, Beverly Becker, Owen Craighead and Michael Becker as witnesses. Defendant calls Frederick Fraley and Bill Everett as witnesses out of order.

Date of Entry	Docket No. _____
-----	<p>Trial recesses at 5:10 p.m. Trial resumes at 9:10 a.m. on 2/13/07. Petitioner rests. Defendant calls William Boddy, George Dresser, Paul Bartlett, Owen Craighead and Owen Craighead, Jr. as witnesses. Respondent rests at 12:47 p.m. Petitioner recalls Michael Becker as rebuttal witness. Record to remain open through 3/6/07 for submission of tide charts. Will be marked Joint Exhibit #1. See attached exhibit lists.</p>
2/15/07	<p>Transcript Order, filed. s/Raye Turcotte Copies of transcript order mailed to Janette Cook and Wendy Ambrose Copy mailed to Raye Turcotte.</p>
3/1/06	<p>Transcript of Trial Proceedings, filed. s/Janette Cook, CR</p>
3/6/07	<p>Letter regarding trial exhibits, filed. s/Huntington, Esq.</p>
3/9/07	<p>Transcript of Trial Proceedings, filed. s/Wendy Ambrose, CR</p>
3/14/07	<p>Joint exhibits 1 and 2, filed. s/Huntington, Esq.</p>
3/21/07	<p>Defendants' Post-Trial Brief with Appendix 1, filed 3/20/07. s/Huntington, Esq.</p>
3/21/07	<p>Plaintiffs' Post-Trial Brief with Exhibit A, filed 3/20/07. s/Silk, Esq.</p>
5/3/07	<p>JUDGMENT, Studstrup, J. JUDGMENT for the defendants on the plaintiffs' independent claims. Copies mailed to attys. of record. Copies mailed to Donald Goss, Garbrecht Law Library and Deborah Firestone.</p>