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County of San Diego

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Clerk of the Superior Court
By V. Navarro ,Deputy Clerk

**SUPERIOR COURT OF CALIFORNIA
COUNTY OF SAN DIEGO**

JOHN C. LEVY, JR., and JIM KELLY, in their
individual capacities and as Trustees of the
JOHN C. LEVY, JR. REVOCABLE TRUST
dated November 4, 2024, and the BUENA
VISTA REVOCABLE TRUST, respectively,

Petitioners and Plaintiffs,

v.

CALIFORNIA COASTAL COMMISSION, and
DOES 1 through 20, inclusive,

Respondents and Defendants.

THE BEACH HOMEOWNERS ASSOCIATION
and CITY OF CARLSBAD, California,

Real Parties in Interest.

Case No.: 25CU062487N

**VERIFIED PETITION FOR WRIT OF
MANDATE AND COMPLAINT FOR
DECLARATORY AND INJUNCTIVE
RELIEF**

**(C.C.P. §§ 526, 1060, 1094.5; 42 U.S.C. §
1983)**

1 By this verified Petition and Complaint, Petitioners and Plaintiffs JOHN C. LEVY, JR., AND JIM
2 KELLY, in their individual capacities and as Trustees of the JOHN C. LEVY, JR. REVOCABLE TRUST
3 dated November 4, 2024, and BUENA VISTA REVOCABLE TRUST, respectively (collectively, “Levy
4 Petitioners”) allege as follows:

5 **PARTIES**

6 1. Petitioner and Plaintiff Buena Vista Revocable Trust is the present owner of the property
7 located at 2401 Mountain View Drive, Carlsbad, in the County of San Diego, California (“Levy
8 Property”), and Petitioner and Plaintiff John Levy is the trustee of the same. Other Petitioners and
9 Plaintiffs have, at various times, owned or had a trustee obligation in the owner of the Levy Property.

10 2. Respondent and Defendant California Coastal Commission (“Commission”) is a state
11 agency charged with administration of the California Coastal Act of 1976 and, on appeal from a project
12 in the City of Carlsbad, the City’s Local Coastal Program (“LCP”). The Commission issued the
13 administrative orders challenged herein.

14 3. Real Party in Interest The Beach Homeowners Association owns and controls real property
15 that is the subject of this action, such that its interests therein are directly affected by this proceeding.

16 4. Real Party in Interest City of Carlsbad, California is the holder of easements on The Beach
17 Homeowners Association’s real property, such that its interests therein are directly affected by this
18 proceeding.

19 5. Levy Petitioners are unaware of the true names and identities of those persons named
20 herein as DOES 1 through 20, inclusive, and upon ascertaining said true names and identities, will amend
21 this Petition and Complaint accordingly.

22 **JURISDICTION AND VENUE**

23 6. This Court has jurisdiction over the claims in this action pursuant to Code of Civil
24 Procedure §§ 526, 1060, and 1094.5; Public Resources Code § 30801; and 42 U.S.C. §1983.

25 7. Venue is proper in this Court, because the real property that is the subject of this lawsuit is
26 located in the County of San Diego.

27 **GENERAL ALLEGATIONS**

28 8. In 1983, the Commission issued CDP 6-83-051 (“1983 CDP”) to the owner of the land just

south of the Levy Property, allowing for the land's subdivision into three lots (Lots 1, 2, and 3) and the construction of condominiums on Lot 1.

9. The Commission conditioned the 1983 CDP on the owner's agreement to record (a) an offer to dedicate a "lateral access" easement over Lots 2 and 3 for "public access and passive recreational use along the shoreline" ("Lateral Access Easement"), to be reached via "an existing ten-foot wide, improved, open and signed public access easement" down a path off of Ocean Boulevard, and (b) an offer to dedicate an open-space easement over Lots 2 and 3 ("Open Space Easement").

10. As to the requirement to offer a Lateral Access Easement, the Commission found that "adequate vertical access already exists," thereby requiring no additional vertical access (for example, from Mountain View Drive) to the shoreline. The Commission's findings and conditions for the 1983 CDP, as well as the offer to dedicate the Lateral Access Easement, both unequivocally establish that the Lateral Access Easement is not intended to, and does not, provide vertical access to the shoreline from Mountain View Drive—which, at all relevant times, has been lawfully closed off to pedestrian or vehicle access by a fence or gate.

11. The Beach Homeowners Association ("Beach HOA") manages the condominiums on Lot 1 and owns Lots 2 and 3.

12. In 1984, a private access easement over Lot 3 was recorded, allowing ingress and egress from Mountain View Drive to the Levy Property.

13. Petitioners acquired the then-vacant Property in 1997. Subsequently, they applied to the City of Carlsbad for a local CDP to build a residence, which the City approved in 1998 ("1998 CDP"). The CDP authorized development, subject to certain conditions, as follows:

- (a) construction of a house;
- (b) a driveway off of Mountain View Drive, across the Beach HOA's Lot 3, and into the Levy Property over the private easement described above;
- (c) replacement of the Beach HOA's existing manual gate, located on the HOA's Lot 3, off of Mountain View Drive, with an electric gate ("Vehicle Gate");
- (d) a requirement that Petitioners offer to dedicate a public access-easement to the City of Carlsbad on the Levy Property along the lagoon ("Lagoon Access Easement");

1 (e) a requirement that Petitioners record an open-space/wildlife deed restriction over
2 the area on the Levy Property that runs along the lagoon, and that Petitioners offer
3 to dedicate fee title of that area to the California Department of Fish and Wildlife;
4 and

5 (f) extensive fencing along the southern boundary of the Levy Property, including a
6 time-lock electric gate on the property's western boundary so that the Lagoon
7 Access Easement—if and when accepted by the City—could be available to the
8 public from dawn to dusk ("Pedestrian Gate").

9 14. Two Coastal Commissioners appealed the CDP approved by the City to the Commission,
10 but the Commission found no substantial issue justifying acceptance of the appeal, including with respect
11 to the proposed Vehicle Gate. Thus, the City's approval of the 1998 CDP was upheld and became final.

12 15. With the 1998 CDP in hand, Petitioners built the project as approved by the permit.
13 Petitioners also installed the Pedestrian Gate, and replaced the Beach HOA's manual gate at Mountain
14 View Drive with an electrical Vehicle Gate.

15 16. The Pedestrian Gate has been locked because the City has not accepted—and, on
16 information and belief, does not want to accept—the Lagoon Access Easement. The City has repeatedly
17 made this clear to the Commission staff, to no avail. The City likely does not want the easement because
18 it would provide the public only a short "path to nowhere" on the Levy Property, with no views to the
19 lagoon or other recreational or aesthetic benefits; yet, despite the absence of any meaningful public
20 benefits, the City would still be forced to assume liability and maintenance responsibility for the
21 accessway. Because the City has not accepted the offer to dedicate the Lagoon Access easement, there is
22 no legal public access into the Levy Property at that location, and therefore the Pedestrian Gate has
23 remained lawfully locked to protect Petitioners' private property against trespass. In the unlikely event the
24 City accepts the Lagoon Access Easement, Petitioners are prepared to implement the time-lock on the
25 gate, so that the public has dawn-to-dusk access.

26 17. As for the Vehicle Gate, Levy is not authorized to open it to the public. First, there is no
27 lawful public access into Lot 3 off of Mountain View Drive. The only ones with lawful access into Lot 3
28 off of Mountain View Drive are: (1) the Beach HOA, which owns Lot 3 and the Vehicle Gate, (2) the

City, which holds easements over Lots 2 and 3, and (3) Petitioners and their guests, who have a private driveway easement across Lot 3 and into the Levy Property. Second, because the Beach HOA is the owner of the underlying land and Vehicle Gate, only *it* can open the gate to persons or entities other than the ones listed above.

18. In 2005, the City accepted the offers to dedicate the Lateral Access Easement and Open Space Easement. The City has the Vehicle Gate's access codes to enter and exit their easements to perform as-needed maintenance. The Beach HOA also has the gate's access codes, as it is the owner of the gate and the underlying land.

19. In 2009, Petitioners began short-term rental of the Levy Property until about 2016. During that period, Petitioners permitted the occasional wedding to be hosted there at no additional charge. Unbeknownst to Petitioners, guests' cars were parked in the open-space area of the property in 2013, disturbing some vegetation, but all that vegetation has grown back to its original condition.

20. Soon after obtaining its 1998 CDP, Petitioners submitted to the City their offer to dedicate the Lagoon Access Easement. But the City refused to actually record the offer until 2018. And the City has refused, to this day, to *accept* that offer.

21. For the last eight or so years, the Coastal Commission has been pursuing Petitioners for alleged violations of his 1998 CDP and the Coastal Act. The Commission's claims turn on largely unsupported allegations that Petitioners failed to comply with certain CDP conditions related to purported public access through the Vehicle Gate and Pedestrian Gate, and that Petitioners removed vegetation and built an unpermitted pickleball court at the Levy Property.

22. As noted above, the claimed vegetation removal has been resolved, as the vegetation has grown back. As for the pickleball court, Petitioners' contractor mistakenly believed that no permit was required to construct it. Petitioners are working with the City to secure an "after the fact" permit for the pickleball court. And, contrary to the Commission's repeated claims, the pickleball court was not built in any setback or other protected area of the property.

23. As for the public-access violations and other gate-related accusations, Petitioners categorically deny them and assert that they have satisfied all the conditions in the 1998 CDP. And, in an August 1, 2025, letter, the City agreed with Petitioners.

1 24. Particularly unhappy that Petitioners refused to open the Vehicle Gate and Pedestrian Gate,
2 on October 2, 2024, the Commission staff issued a notice of intent to record a Notice of Violation on the
3 title of the Levy Property. The Commission staff hoped to strong-arm Petitioners into submitting to its
4 demands, including by threatening crippling daily fines. But Petitioners remained firm in their view that
5 they were no violating the 1998 CDP or the Coastal Act.

6 25. After the City made clear its support of Petitioners, Commission staff grew frustrated and
7 formally initiated an enforcement action against him.

8 26. After business hours on Friday, September 26, 2025, staff for the Commission published
9 on the Commission's website a more-than-1200-page staff report, including exhibits. The staff report
10 urged the Commission—at a hearing set for only 13 days later, on October 9—to issue a Cease-and-Desist
11 Order, a Restoration Order, and Administrative Penalties against Petitioners (collectively, "Administrative
12 Orders").

13 27. The Commission's standard procedures purported to require Petitioners to thoroughly
14 review all the factual allegations and legal arguments contained in the staff report and associated exhibits,
15 and to submit any rebuttal response and supporting documentation, by close of business on Friday,
16 October 3. Petitioners asked staff for a continuance of the October 9 hearing so that they could have
17 sufficient time to respond to staff's allegations, as required by Due Process. But staff refused.

18 28. Petitioners then scrambled to cobble together a truncated response and supporting
19 documentation, which they submitted to the Commission on October 8, 2025.

20 29. The day before the October 9 hearing, Petitioners learned that the Commission's staff had
21 uploaded an additional 197-page addendum that includes a number of letters in support of issuing the
22 Administrative Orders against Petitioners. On information and belief, some of those supporters were
23 recruited by Commission staffers to echo staff's misrepresentations and speak out against Petitioners.

24 30. Commission staff publicly named and shamed Petitioner John Levy in particular in the
25 court of public opinion, before he had any opportunity to present his defense and clear his name. On
26 information and belief, staff even leaked information about the enforcement action to the press and allies
27 of the Commission. Mr. Levy's plight before the Commission appeared in written articles and in videos
28 around the world, which has caused him great reputational harm and significant distress.

1 31. On the morning of October 9—the day of the hearing—Commission staff dropped yet
2 another addendum of 157 pages. Petitioners had no time to review the addendum. The Commission held
3 its hearing a few hours later to determine whether to adopt staff’s recommendation and issue the
4 Administrative Orders against Petitioners. Staff made a lengthy presentation. Staff was followed by
5 Petitioners. Petitioners were followed by staff’s rebuttal. It is normally not a practice of the Commission
6 to allow Petitioners to provide additional comments after staff’s rebuttal in enforcement hearings held
7 pursuant to Public Resources Code sections 30821 and 30821.3. But at Petitioners’ request, and on the
8 advice of the Commission’s attorney, Petitioners were given time to offer additional comments.

9 32. During their oral comments at the hearing, Petitioners pleaded with Commissioners to
10 continue the October 9 so as to give them sufficient time to fully address staff’s submissions. The
11 Commission refused. Petitioners also objected to the merits of the Administrative Orders—to the best of
12 their ability, given the lack of the opportunity to fully review and prepare comprehensive objections to
13 staff’s various arguments and submissions.

14 33. At the conclusion of the hearing, the Commission adopted staff’s recommendation to issue
15 Administrative Orders against Petitioners. The executed Administrative Orders issued that same day.

16 34. The Cease-and-Desist Order purports to require Petitioners to:

- 17 a. cease and desist from engaging in or undertaking any further “development”
18 without a CDP;
- 19 b. refrain from interfering with public access to the Lateral Access Easement and the
20 Lagoon Access Easement, including by complying with the requirements for
21 opening the Lateral Access Easement;
- 22 c. remove, consistent with a Commission-approved “Restoration Plan,” the following
23 items: “1) the permanently locked gate within the Lagoon Access Easement that
24 runs along the lagoon”; “2) a private parking lot with woodchips, event staging
25 area, and wedding venue within a wetland buffer setback area required to be
26 protected for habitat conservation and open space” by the City’s Local Coastal
27 Program; and “3) the pickleball court, additional pavement, and fencing on state
28 land in the lagoon”; and

d. ensure that “unfettered” access to the Lateral Access Easement and the Lagoon Access Easement is provided.

35. The Restoration Order purports to require Petitioners to restore the “Restoration Area,” as defined by the order, by creating and implementing the Restoration Plan. The Restoration Area refers to the area of alleged “Unpermitted Development” that is required to be restored. The alleged Unpermitted Development consists of: “1) placement and maintenance of a permanently locked gate within the accepted [Lateral Access Easement] and the Open Space Easement . . . , that leads to the beach and Buena Vista Lagoon; 2) placement of the permanently closed and locked gate where only a ‘dawn to dusk’ gate was authorized at the entrance to the Lagoon Access Easement that runs along the lagoon in an area where public access is required to be protected . . . , as well as fencing adjacent to it in land, tidelands, and submerged lands managed by California Department of Fish and Wildlife; 3) creation of a private parking lot, including placement of woodchips, and event staging area, changing the intensity of the use of the land, and vegetation clearance within a wetland buffer setback area required to be protected for habitat conservation and open space by the LCP; and 4) installation of the pickleball court, additional pavement, and fencing on state land and in the lagoon.”

36. The Penalty Order purports to impose two penalties on Petitioners, one of which is contingent:

a. Penalty No. CCC-25-AP-04: Under Public Resources Code section 30821, the Commission imposed a “contingent” penalty of \$1,071,562 for alleged “public access” violations, but “applicable only if Mr. Levy fails to comply with requirements to facilitate unhampered public access into Lots 2 and 3 (owned by the HOA), including by removing the Vehicle Gate. The penalty, if owed, would be deposited into the Violation Remediation Account administered by the California State Coastal Conservancy or into such other public account as authorized by applicable California law at the time of the payment, and as designated by the Commission’s Executive Director.

b. Penalty No. CCC-25-AP-02: Under Public Resources Code section 30821.3, the Commission imposed a penalty of \$1,428,750. The payment is due within 60 days

1 of the effective date of the penalty (December 8, 2025). The penalty would be
2 deposited into the Violation Remediation Account administered by the
3 Conservancy or into such other public account as authorized by applicable
4 California law at the time of the payment, and as designated by the Executive
5 Director.

6 37. The Administrative Orders purport to allow Commission staff “or any other agency having
7 jurisdiction over the work being performed” under said orders unfettered access to the Levy Property,
8 without advanced notice or other limitation.

9 38. The Commission executed and issued the Administrative Orders immediately after its
10 hearing, on October 9, 2025.

11 39. On October 12, 2025, Petitioners opened the Vehicle Gate. Petitioners did so under protest
12 and without waiving any claims, defenses, or arguments against the various Administrative Orders.

13 40. Petitioners have exhausted all their administrative remedies, making the Commission’s
14 Administrative Orders final. Section 30801 of the Public Resources Code confers upon Petitioners the
15 right to judicial review of Commission decisions and orders pursuant to section 1094.5 of the Civil
16 Procedure Code.

17 **FIRST CAUSE OF ACTION**

18 **PETITION FOR WRIT OF MANDATE (C.C.P. § 1094.5)**

19 41. Petitioners reallege and incorporate by reference herein the preceding paragraphs in their
20 entirety.

21 42. Section 1094.5 of the Civil Procedure Code authorizes a petition for writ of mandate “for
22 the purpose of inquiring into the validity of any final administrative order or decision made as the result
23 of a proceeding in which by law a hearing is required to be given, evidence is required to be taken, and
24 discretion in the determination of facts is vested in the inferior tribunal.” Civ. Proc. Code § 1094.5(a).

25 43. Under section 1094.5, “the inquiry in such a case shall extend to the questions whether the
26 respondent has proceeded without, or in excess of, jurisdiction; whether there was a fair trial; and whether
27 there was any prejudicial abuse of discretion.” *Id.* § 1094.5(b). “Abuse of discretion is established if the
28 respondent has not proceeded in the manner required by law, the order or decision is not supported by the

findings, or the findings are not supported by the evidence.” *Id.*

44. The Commission’s Cease-and-Desist and Restoration Orders are invalid, and a writ should issue to set them aside in their entirety, including without limitation because:

- a. There is no legal authority or substantial evidence in the record, or adequate findings, to support the conclusion that Petitioners have committed “public access” violations, including findings of “public access” violations based on the existence, construction, or use of the Vehicle Gate or the Pedestrian Gate;
- b. There is no legal authority or substantial evidence in the record, adequate findings, to support the conclusions that the Vehicle Gate, and the Pedestrian Gate and connected fencing, are unpermitted or otherwise unlawful;
- c. There is no legal authority or substantial evidence in the record, or adequate findings, to support the conclusion that Petitioners “create[ed] . . . a private parking lot” with “woodchips”; installed an “event staging area”; caused “vegetation clearance within a wetland buffer setback area required to be protected for habitat conservation and open space”; or built a pickleball court within a setback are or any other protected area that precludes development; and/or
- d. There is no legal authority or substantial evidence in the record, or adequate findings, to support the requirements imposed on Petitioners to install erosional control measures, remove physical items of Unpermitted Development, remove invasive plants, revegetate, or monitor the Restoration Area.

45. The Penalty Order is invalid, and a writ should issue to set it aside, including without limitation because:

- a. The order is based on allegations of “public access” and “non-public-access” violations that find no support in the law, in adequate findings, or in sufficient evidence, including without limitation as described above;
- b. The Commission unlawfully applied and/or weighed the factors identified in sections 30821 and 30821.3 of the Public Resources Code, rendering the resulting penalties unlawful; and/or

1 c. Sections 30821 and 30821.3 of the Public Resources Code are facially
2 unconstitutional and/or violate Petitioners' rights under the Due Process Clauses of
3 the Fourteenth Amendment of the United States Constitution and Article 1, section
4 7, of the California Constitution; the Seventh Amendment of the United States
5 Constitution; and the Excessive Fines Clause of the Eighth Amendment of the
6 United States Constitution, including for all the reasons and arguments described
7 in the Second Cause of Action, all of which are incorporated herein by reference.

8 46. If the Cease-and-Desist, Restoration, and Penalty Orders are not invalid for their failure to
9 be supported by law, by adequate findings, or by sufficient evidence, they are invalid and should be set
10 aside, because Petitioners were deprived their due process right to a fair hearing. Despite repeated requests,
11 the Commission unlawfully denied Petitioners a continuance of the October 9, 2025. A continuance would
12 have allowed Petitioners an adequate opportunity to prepare a full defense against staff's myriad
13 accusations, as reflected in over 1500 pages of exhibits and addenda that were made available to
14 Petitioners only shortly before the October 9 hearing. The Commission's refusal to grant a reasonable
15 continuance violated Petitioners' Due Process right to constitutionally adequate notice and an opportunity
16 to be heard, as well as a fair hearing. U.S. Const. amend. XIV (Due Process Clause); Cal. Const. art. 1, §
17 7 (Due Process Clause).

18 **SECOND CAUSE OF ACTION**

19 **FOR DECLARATORY RELIEF (C.C.P. § 1060, 42 U.S.C. § 1983)**

20 47. Petitioners reallege and incorporate by reference herein the preceding paragraphs in their
21 entirety.

22 48. Under section 1060 of the Civil Procedure Code, "[a]ny person . . . who desires a declaration
23 of his or her rights or duties with respect to another, . . . in cases of actual controversy relating to the legal
24 rights and duties of the respective parties, [may] bring an original action . . . in the superior court for a
25 declaration of his or her rights and duties."

26 49. 42 U.S.C. § 1983 provides a cause of action against any person who, under color of state
27 law, deprives another of rights, privileges, or immunities secured by the Constitution.

28 50. The Commission, acting under color of state law through sections 30821 and 30821.3 of

1 the Public Resources Code, has deprived and continues to threaten to deprive Petitioners and other
2 property owners of their constitutional rights in violation of both the Federal and California Constitutions.

3 51. Public Resources Code sections 30821 and 30821.3 are unconstitutional, both on their face
4 and as applied to Petitioners, as set forth below.

5 ***Violation of Procedural Due Process - Inadequate Procedural Safeguards***

6 52. The Due Process Clause of the Fourteenth Amendment prohibits the government from
7 depriving any person of life, liberty, or property without due process of law. The California Constitution
8 prohibits the same. Cal. Const. art. 1, § 7.

9 53. Petitioners and similarly situated property owners have constitutionally protected property
10 interests in the real property they lawfully own and in their financial assets that are subject to the
11 Commission's penalty authority.

12 54. Sections 30821 and 30821.3 purport to authorize the imposition of penalties of up to
13 \$11,250 per violation per day (potentially exceeding \$20 million per violation) through informal
14 administrative proceedings that lack the procedural safeguards required for adjudicating property rights
15 or imposing quasi-criminal penalties.

16 55. The Commission's penalty proceedings, as authorized by sections 30821 and 3021.3, deny
17 Petitioners and similarly situated property owners fundamental procedural protections, including without
18 limitation: (a) the right to constitutionally sufficient notice and an adequate opportunity to be heard
19 regarding staff's claims, arguments and purported evidence, which are published just days before the
20 penalty hearing—and often are made available only the day of the hearing itself; (b) the right to cross-
21 examine adverse witnesses; (c) the right to require adverse testimony under oath; (d) the right to exclude
22 hearsay and other unreliable evidence; (e) the right to compel the attendance of witnesses through
23 subpoenas; (f) the right to conduct discovery to obtain evidence supporting their defense; (g) the right to
24 present rebuttal evidence after opposing parties have testified; and (h) the right to a proceeding governed
25 by rules of evidence that protect against, among other things, speculation and hearsay.

26 56. The penalties authorized by sections 30821 and 30821.3 are quasi-criminal in nature, as
27 evidenced by their punitive purpose, their focus on the alleged violator's degree of culpability and prior
28 history of violations, and their potential to exceed the entire value of the property at issue. Yet the statutes

1 provide only minimal procedural protections, which are inadequate for quasi-criminal proceedings.

2 57. Property ownership disputes, such as the dispute in this case over the acceptance of offers
3 to dedicate property, must be resolved through proper judicial proceedings that provide adequate
4 procedural protections, not through penalty proceedings designed for alleged quasi-criminal violations.

5 58. The Commission's use of the penalty power under sections 30821 and 30821.3 to resolve
6 complex questions of property ownership, easement acceptance, and title through administrative
7 proceedings violates Petitioners' and similarly situated property owners' right to procedural due process
8 under the Fourteenth Amendment and the California Constitution.

9 ***Violation of Procedure Due Process – Inadequate Post-Deprivation Review***

10 59. Sections 30821 and 30821.3 also fail to provide Petitioners and similarly situated property
11 owners constitutionally adequate post-deprivation review of penalty orders, in violation of their procedural
12 due process rights under the Federal and California Constitutions.

13 60. Following the Commission's issuance of a penalty order, the order is subject to limited
14 judicial review under Civil Procedure Code section 1094.5. Judicial review cannot exceed the bounds of
15 a closed administrative record, a rule that prohibits additional exculpatory or mitigating evidence and
16 testimony to be presented to a court of law. Further, judicial review of contested findings is limited by the
17 rule that such findings must be upheld unless there is no "substantial evidence" in the record to support
18 them.

19 ***Violation of Procedural Due Process - Unconstitutionally Biased Tribunal***

20 61. The Due Process Clause of the Fourteenth Amendment and the California Constitution
21 guarantee an impartial and disinterested tribunal when the government seeks to deprive someone of life,
22 liberty, or property.

23 62. The Commission serves simultaneously as prosecutor, judge, and beneficiary of the
24 penalties it imposes, creating an inherent and unconstitutional bias in the proceedings.

25 63. The Commission is statutorily mandated to "maximize public access to and along the
26 coast," yet the same Commission must adjudicate alleged violations of the Coastal Act's public access
27 provisions, creating an impermissible conflict between its policy advocacy role and its adjudicatory
28 function.

1 64. All penalties collected by the Commission under sections 30821 and 30821.3 are deposited
2 into the Violation Remediation Account, which is used to fund Coastal Act implementation including
3 public access projects and Commission operations, creating a direct financial incentive for the
4 Commission to impose and maximize penalties.

5 65. Under an existing memorandum of understanding between the Commission and the
6 California State Coastal Conservancy, the Commission's Executive Director has authority to direct the
7 use of penalty funds exceeding \$5,000, giving the Commission control to divert funds towards
8 Commission-desired coastal projects and thereby giving the Commission a direct institutional interest in
9 maximizing penalty revenue.

10 66. The Commission's own agents—its staffers—play multiple conflicting roles throughout
11 the enforcement process, serving as investigators, prosecutors, and de facto law clerks to the Commission
12 by preparing detailed staff reports with explicit recommendations about what penalties should be imposed,
13 eliminating the neutral presentation of competing views that fair adjudication requires. The incentives are
14 such that staffers are motivated, as they were here, to allege as many violations as possible—irrespective
15 of the legal authority or evidence to support them—and, of course, propose a substantial penalty.

16 67. This institutional structure violates the fundamental principle that an adjudicator cannot
17 have a direct, personal, or substantial pecuniary interest in the outcome of proceedings and deprives
18 Petitioners and similarly situated property owners of their right to an impartial tribunal under the
19 Fourteenth Amendment and the California Constitution.

20 ***Violation of Right to Jury Trial - Seventh Amendment***

21 68. The Seventh Amendment to the United States Constitution provides that “[i]n Suits at
22 common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be
23 preserved.” U.S. Const. amend. VII.

24 69. The Seventh Amendment right to jury trial applies to claims that are legal in nature,
25 including claims for monetary penalties that are punitive rather than purely remedial.

26 70. The administrative penalties authorized by sections 30821 and 30821.3 are legal rather than
27 equitable in nature, as they seek to impose monetary sanctions for alleged violations of law, involve
28 disputed questions of fact regarding property rights and ownership, and are punitive in character as

1 evidenced by their consideration of culpability and deterrence.

2 71. The value in controversy far exceeds twenty dollars, with the Commission seeking to
3 impose penalties exceeding \$2.4 million against Petitioners.

4 72. The Commission's penalty scheme provides no avenue for a jury trial, instead requiring
5 that all factual disputes be resolved by the Commission itself acting as both prosecutor and judge.

6 73. By authorizing the imposition of substantial monetary penalties without providing any
7 opportunity for a jury trial, sections 30821 and 30821.3 violate Petitioners' and similarly situated property
8 owners' Seventh Amendment right to have disputed facts determined by a jury of their peers.

9 74. The Seventh Amendment right to jury trial is among the fundamental rights protected by
10 the Fourteenth Amendment's Due Process Clause and applies to state proceedings that involve the
11 adjudication of legal claims for monetary penalties.

12 ***Violation of Excessive Fines Clause – Eighth Amendment***

13 75. The Eighth Amendment's Excessive Fines Clause, applicable to the states through the
14 Fourteenth Amendment, prohibits the imposition of fines that are grossly disproportionate to the gravity
15 of the offense. U.S. Const. amends. VIII, XIV.

16 76. Petitioners bear minimal to no culpability for the alleged violations, as they purchased the
17 property in good faith, have complied with all permit conditions, and cannot control structures or
18 conditions on property they do not own.

19 77. Any penalty imposed against Petitioners for alleged violations involving property and
20 structures they do not control would be grossly disproportionate to any culpability on their part.

21 78. The Commission's threatened penalties of up to \$2.4 million are so substantial that they are
22 confiscatory and punitive rather than remedial.

23 79. The imposition of such excessive penalties violates the Eighth Amendment's prohibition
24 on excessive fines.

25 ***All Violations***

26 80. There is an actual and present controversy surrounding the statutes' constitutionality.
27 Petitioners contend that sections 30821 and 30821.3 are unconstitutional for all the reasons stated above.
28 On information and belief, the Commission contends they are constitutional.

1 81. Petitioners seek a judicial declaration that sections 30821 and 30821.3 of the Public
2 Resources Code are unconstitutional both on their face and as applied to Petitioners for violating: (a) the
3 procedural due process guarantees of the Fourteenth Amendments and the California Constitution; (b) the
4 Seventh Amendment right to a jury trial; and/or (c) the Excessive Fines Clause of the Eighth Amendment.

5 82. There is no plain, speedy, and adequate remedy at law.

6 **PRAYER FOR RELIEF**

7 WHEREFORE, Petitioners request relief as follows:

8 1. A writ of mandate requiring the Commission to vacate and set aside its Administrative
9 Orders;

10 2. A declaration that Public Resources Code sections 30821 and 30821.3 are unconstitutional,
11 on their face and as-applied to Petitioners;

12 3. A preliminary and permanent injunction enjoining the Commission from enforcing Public
13 Resources Code sections 30821 and 30821.3, including against Petitioners.

14 4. Costs of suit and reasonable attorneys' fees.

15 5. Such other relief as the Court may deem proper.

16 DATED: November 19, 2025

Respectfully submitted,

17 PACIFIC LEGAL FOUNDATION
18 PIERSON FERDINAND LLP

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20 By: _____
21 Paul Beard II
22 Attorneys for Petitioner and Plaintiff
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VERIFICATION

I am authorized to make this Verification on behalf of Petitioners and Plaintiffs in this action. I have read the foregoing **VERIFIED PETITION FOR WRIT OF MANDATE AND COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF** and know its contents. The factual matters stated therein are true of my own knowledge, except as to those matters stated on information and belief, and as to those matters, I believe them to be true.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on November 19, 2025, at San Diego County.

John Levy
John Levy (Nov 19, 2025 12:03:05 PST)
JOHN LEVY