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Superior Court of California,
County of San Diego
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Clerk of the Superior Court
By V. Navarro ,Deputy Clerk

11 SUPERIOR COURT OF CALIFORNIA
12 COUNTY OF SAN DIEGO

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

19 Petitioners and Plaintiffs,

20 v.

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

23 Respondents and Defendants,

24 THE BEACH HOMEOWNERS
25 ASSOCIATION and CITY OF CARLSBAD,
26 California,

27 Real Parties in Interest.

Case No.: 25CU062487N

**NOTICE OF MOTION AND MOTION OF
PETITIONERS AND PLAINTIFFS
JOHN LEVY, ET AL., TO STAY
RESPONDENT AND DEFENDANT
CALIFORNIA COASTAL
COMMISSION'S ADMINISTRATIVE
PENALTY, CEASE AND DESIST, AND
RESTORATION ORDERS**

IMAGED FILE

Date: February 20, 2026

Time: 1:30 p.m.

Dept. 31

Judge: Hon. Michael D. Washington

Action Filed: November 19, 2025

1 **NOTICE OF MOTION AND MOTION TO STAY**

2 **TO THE COURT, THE PARTIES, AND THEIR ATTORNEYS OF RECORD:**

3 **PLEASE TAKE NOTICE THAT** on February 20, 2026, at 1:30 p.m. or as soon thereafter as the
4 matter may be heard, in Department 31 of the San Diego Superior Court, 325 S. Melrose, Vista, California
5 92081, Petitioners and Plaintiffs John C. Levy, Jr., et al. (hereinafter “Levy”), will move, pursuant to Code
6 of Civil Procedure section 1094.5, subdivision (g), and Public Resources Code section 30803, subdivision
7 (b), for an order staying enforcement of Cease and Desist Order No. CCC-25-CD-03, Restoration Order
8 No. CCC-25-RO-02, and Administrative Penalty Nos. CCC-25-AP-04 and CCC-25-AP3-02, reproduced
9 as Exhibit A to the Declaration of Tawnda Dyer in Support of Motion to Stay. The basis for the motion
10 will be that a stay of these orders, issued by Respondent and Defendant California Coastal Commission,
11 would not be contrary to the public interest. Levy will request that the stay remain in effect until the filing
12 of a notice of appeal from the judgment or until the expiration of the time for filing the notice, whichever
13 occurs first.

14 The orders that Levy challenges in this action were issued after an informal hearing conducted by
15 the Commission on October 9, 2025, pursuant to its alleged authority under the California Coastal Act,
16 *see* Pub. Res. Code §§ 30810, 30811, 30821, 30821.3. They require Levy to, among other things, promptly
17 pay the Commission a \$1.4 million penalty (and potentially a further \$1 million penalty), remove a fully
18 permitted vehicular gate, open a pedestrian gate onto Levy’s property where public access does not exist,
19 take out a fully constructed and permissible pickleball court, and engage in extensive and costly habitat
20 enhancement. *See* Dyer Decl. Exh. A ¶¶ 1.3, 1.4, 3, 4, 7.2, 8.1.1. Levy challenges the legality of these
21 orders, contending that they are not supported by substantial evidence, are contrary to the Coastal Act, and
22 violate Levy’s rights to due process and jury trial, and freedom from excessive fines, secured by the United
23 States and California Constitutions. *See* Ver. Pet’n for Writ of Mandate & Compl. ¶¶ 41-82 (filed Nov. 19,
24 2025).

25 Staying these orders pending resolution of Levy’s petition and complaint would not be against the
26 public interest. *Cf.* Code Civ. Proc. § 1094.5(g); Pub. Res. Code § 30803(b). Levy anticipates that the
27 Commission may argue to the contrary on the ground that the alleged violations inhibit public access to
28 and use of the Buena Vista Lagoon and its shoreline. Yet, immediately after the orders were issued, Levy

1 opened up the vehicular gate at issue and Real Party in Interest City of Carlsbad has posted signage
2 indicating that the driveway beyond the gate is open to public use. *See* Declaration of Petitioner John C.
3 Levy, Jr., in Support of Motion to Stay ¶ 10. Moreover, as explained in the accompanying memorandum,
4 none of the other alleged violations inhibits existing public access, none presents a risk of immediate or
5 substantial environmental harm, and all of the challenged structures are either already permitted under the
6 Coastal Act or can readily be made so.

7 The risk of irreparable harm further supports the motion to stay. Even with an extension granted
8 by the Commission last month, the orders impose several deadlines—including payment of the penalty—
9 of March 9, 2026. Forcing Levy to comply with the very orders he is challenging would require him to
10 expend significant, non-recoverable resources. *See* Levy Decl. ¶¶ 12, 13. Thus, a stay would be proper to
11 avoid these irreparable harms.

12 This motion is based on the accompanying Memorandum of Points and Authorities, the
13 declarations filed herewith, the Court’s file in this matter, and any other matters properly before the Court
14 at the time of the hearing. Pursuant to Local Rule 2.1.19(C) and the policies and procedures of Department
15 31, the Court will issue a tentative ruling in this matter no later than 4:00 p.m. on the court day before the
16 hearing date, and the motion will be heard in accordance with California Rule of Court 3.1308(a)(2). The
17 tentative ruling may be obtained through the Court’s website at <http://www.sdcourt.ca.gov> and clicking
18 on the tentative ruling link listed under the civil tab, or by telephoning the independent calendar clerk for
19 Department 31.

20 DATED: January 23, 2026.

Respectfully submitted,

21 PACIFIC LEGAL FOUNDATION
22 PIERSON FERDINAND LLP

23 By: /s/ Damien M. Schiff
24 Damien M. Schiff
25 Attorneys for Petitioners and Plaintiffs
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