

**IN THE SUPERIOR COURT OF THE STATE OF ALASKA
FOURTH JUDICIAL DISTRICT AT FAIRBANKS**

GEOFFREY ORTH,)
)
)
 Plaintiff,)
)
)
 vs.)
)
)
 WALTER S. LARGENT,)
)
)
 Defendant.)

**FILED In the Trial Courts
State of Alaska Fourth District**

JUL 25 2013

By _____ Deputy

4FA-13- 02333 CI

**COMPLAINT FOR DECLARATORY JUDGMENT
AND INJUNCTIVE RELIEF**

COMES NOW Plaintiff, GEOFFREY ORTH, by and through his attorney of record, The Law Offices of William R. Satterberg, Jr., and hereby complains against Defendants as follows:

PARTIES

1. At all times relevant to this cause, Plaintiff has been a resident of Ester, Alaska, in the Fourth Judicial District.
2. At all times relevant to this cause, Defendant has been a resident of the Fourth Judicial District.

JURISDICTION AND VENUE

3. This cause of action involves a dispute over a trail, which crosses property owned by Defendant, Walter S. Largent.

Diapp Peterson Tiemeszen Thiemeszen & Johnson
 PTTJ File # 2044-1 Date Rec'd 8/13
 Date Served 8/19/13 Response Due
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 ORR PIDG DISC WIT REC BF

Diapp Peterson Tiemeszen Thiemeszen & Johnson
 PTTJ File # 906 Date Rec'd
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4. The Superior Court has jurisdiction over this action because Plaintiff seeks a declaratory judgment with respect to rights involving real property, and furthermore, seeks injunctive relief.
5. Venue is properly situated in Fairbanks, Alaska, in the Fourth Judicial District.

GENERAL ALLEGATIONS

6. The matter forming the subject of the dispute involves a trail that has been in use for over one hundred years in the vicinity of Ester, Alaska. Should the trail be established to exist prior to 1976, the trail may exist as an RS 2477 right of way, which existed before the property that the trail crosses was withdrawn from the public domain.
7. That trail, known as the Ester Valley Trail, was originally used for access to mining claims and is possibly properly characterized as a branch of an existing RS 2477 trail, Ester-Dunbar, RST #70. Within approximately the last 35 years, the Ester Valley Trail has been used both by miners to access mining claims as well as by the general public as a multi-season, multi-use, recreational trail.
8. The year-round use of the trail includes summer activities such as hiking, trapping, running, bicycling, and ATV riding. Winter use of the trail includes activities such as hiking, running, bicycling, cross-country skiing, snow machining, and use by dog sled teams. Use of the trail has been in the

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manner of the general public utilizing a public trail. The trail width varies over its course from approximately 10-20 feet in width.

9. The trail originates in Ester and connects to several trails. The trail also provides access to State of Alaska and Fairbanks North Star Borough land.
10. The trail crosses several parcels of private property owned by Defendant, Walter S. Largent.
11. At least one warranty deed acknowledges a right-of-way easement granting passage to neighboring landowners. The State of Alaska and Fairbanks North Star Borough are among those neighboring landowners.
12. In approximately June of 2011, Defendant closed access to the Ester Valley Trail as it crosses Defendant's property.
13. Plaintiff has demanded that Defendant cease and desist the closure of the trail, but Defendant has refused to do so.
14. Plaintiff is one of those general public users of the trail who has historically used the trail for many years.
15. Plaintiff, as a user of the trail, also represents, in general, a larger group of the general public who also use the trail, and who are situated as members of the general public.

COUNT I DECLARATORY JUDGMENT

16. Plaintiff realleges and reincorporates paragraphs 1-15 above and further alleges as follows:

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17. The trail that crosses the Defendant's property has been a trail in public use for over one hundred years, with consistent year-round recreational use seen for more than forty years. By virtue of such use, rights have arisen in the general public, to include Plaintiff, under common law prescriptive rights and as an RS 2477 right-of-way.
18. Plaintiff is entitled to an order of this Court declaring, as a matter of law, that the trail crossing Defendant's property is a public trail and/or right-of-way, which cannot be blocked or otherwise interfered with by Defendant.

COUNT II
PRELIMINARY AND PERMANENT INJUNCTION

19. Plaintiff realleges and reincorporates paragraphs 1-18 above and further alleges as follows:
20. The actions of the Defendant in interfering with Plaintiff's use, as well as the general public's use, of the trail causes grave and irreparable injury to Plaintiff and to other members of the public who utilize the trail for access, training, and other activities.
21. Despite demand therefore, Defendant have refused to cease the interference with the use of the trail.
22. There exists no other adequate remedy of law and Plaintiff is entitled to an order at equity enjoining Defendant from interfering with Plaintiff's use of

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the trail or interfering with the use of the trail by other members of the general public.

WHEREFORE, Plaintiff seeks a Declaratory Order of this Court declaring that the trail crossing the Defendant's property, by virtue of prescriptive rights, is a general public trail and/or exists as a public right-of-way and that Defendant be permanently enjoined from interfering with or otherwise impairing the use of and access to the trail.

Plaintiff furthermore seeks his costs and attorney fees, and any such other relief as this Court may deem just and equitable in the premises.

DATED this 25 day of July, 2013.

THE LAW OFFICES OF WILLIAM R. SATTERBERG, JR.

By: 

William R. Satterberg, Jr.
Alaska Bar No. 7610126
Attorney for Plaintiff

:erc/wd

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