

STATE OF VERMONT

SUPERIOR COURT
ORLEANS UNIT

CIVIL DIVISION
Docket No.

STATE OF VERMONT,
DEPARTMENT OF FORESTS,
PARKS, AND RECREATION,
Plaintiff,

v.

THOMAS TREMONTE,
Defendant.

COMPLAINT

The State of Vermont, by and through Vermont Attorney General Thomas J. Donovan, Jr., and pursuant to 13 V.S.A. § 3606, 13 V.S.A. § 3701, common law trespass, and the general equitable jurisdiction of the Court, makes the following complaint against Thomas Tremonte.

ALLEGATIONS

The Parties

1. Plaintiff, Vermont Department of Forests, Parks, and Recreation (FPR), is a department of the Agency of Natural Resources, an agency of the State of Vermont created through 3 V.S.A. § 2802. Pursuant to Title 10 Chapter 83, FPR manages publicly owned forests and park lands, including Hazen's Notch State Park (the Park).
2. The Vermont Attorney General represents the State of Vermont in civil causes "in which the State is a party or is interested when, in his or her judgment, the interests of the State so require." 3 V.S.A. § 157.

3. Defendant, Thomas Tremonte, a resident of the State of New Hampshire, is the owner of real property located in Westfield, Orleans County, Vermont, identified by SPAN 717-228-10320, and that abuts a portion of the eastern border of the Park.

Vermont Law

4. Title 13 section 3606 provides a civil action for timber trespass when a person “cuts down, fells, destroys, removes, injures, damages, or carries away any timber...belonging to another person, without permission from the owner...”
13 V.S.A. § 3606(a).
5. Title 13 section 3606(a) also provides the injured party a right to recover “treble damages for the value of the timber or forest product, and any damage caused to the land or improvements.” “The injured party or landowner may rely on an assessment of damages based on the kind, condition, location, and use of the timber or forest product by the injured party or landowner, or alternatively, may elect to rely on the values established under section 3602 of [Title 13].” *Id.*
6. Title 13 section 3701 provides that a person commits unlawful mischief when, "with intent to damage property, and having no right to do so or any reasonable ground to believe that he or she has such a right, does any damage to any property." 13 V.S.A. § 3701(a).
7. Title 13 section 3701(f) provides that “a person who suffers damages as a result of [unlawful mischief] may recover those damages together with

reasonable attorney's fees in a civil action under this section.”

Facts Relating to Defendant

8. The State of Vermont and Mr. Tremonte share a property boundary in Westfield, Vermont, located south of Route 58 and running north and south in direction for approximately one third of a mile.
9. The State acquired title to the Park land that abuts Mr. Tremonte’s parcel by warranty deed from H.B. Parkhurst dated April 11, 1946, and recorded at book 15, page 167 in the Westfield Town Land Records.
10. Mr. Tremonte acquired title to his land that abuts the Park by warranty deed from Mark and Mary Beaulieu dated December 10, 2017, and recorded at book 55, page 184 in the Westfield Town Land Records.
11. On June 21, 2019, an FPR forester received a report of hearing chainsaws in the Park. The forester relayed this report to a Vermont Department of Fish and Wildlife Game Warden, who visited the area the same day and spoke with Mr. Tremonte on his log landing and camp driveway.
12. During their meeting on June 21, 2019, Mr. Tremonte stated to the Game Warden that he may have cut too far.
13. On June 24, 2019, FPR foresters performed a site visit to the area of cutting at the Park. Approximately 400 yards south and uphill from Route 58, FPR foresters observed cutting of timber on both sides of the marked boundary between the State and Mr. Tremonte’s land.
14. During their June 24, 2019, site visit, the FPR foresters observed an area of

timber and brush cut at an angle away from the boundary onto State land. FPR foresters observed fresh sawdust, as well as saplings, stems, and fresh green leaves within this area, approximately 300-400 feet wide and 100-130 feet in length.

15. A portion of the Park is a designated natural area pursuant to 10 V.S.A. § 2607 with cliffs of serpentine rock, supporting rare alpine and serpentine-adapted plant species. Historically and in recent years, peregrine falcons have nested at the Park.
16. On July 8, 2019, FPR foresters conducted a field stump survey, and observed 839 cut trees and shrubs within the designated natural area on State land.
17. On September 10, 2019, State Game Wardens interviewed Mr. Tremonte. Mr. Tremonte admitted to cutting trees on State property.
18. During the September 10, 2019, interview, Mr. Tremonte confirmed the purpose of his cutting had been to create an area for backcountry skiing.
19. Mr. Tremonte did not request approval and the State of Vermont did not grant leave or permission to Mr. Tremonte to cut down or damage timber on Park property.

Count I – Civil Timber Trespass

20. The allegations set forth in paragraphs 1-19 are incorporated herein by reference and are realleged.
21. Defendant on and before June 21, 2019, did at Hazen's Notch State Park in Orleans County, Vermont, cut down, destroy, and/or carry away timber

belonging to the State of Vermont, without permission from the State of Vermont, in violation of 13 V.S.A. § 3606.

Count II – Trespass

22. The allegations set forth in paragraphs 1-19 are incorporated herein by reference and are realleged.
23. Defendant on and before June 21, 2019, did enter onto and trespass upon Hazen’s Notch State Park land in Orleans County, Vermont, without permission from the State of Vermont, causing injury to the interest of the State of Vermont.

Count III – Civil Action for Unlawful Mischief

24. The allegations set forth in paragraphs 1-19 are incorporated herein by reference and are realleged.
25. Defendant on and before June 21, 2019, did at Hazen’s Notch State Park in Orleans County, Vermont, intend to damage property that he had no right to believe was his own, and causing the damage intended, violated 13 V.S.A. § 3701.

RELIEF SOUGHT

Based on the allegations set forth above, the State of Vermont respectfully requests that the Court award the following relief:

1. Temporary and permanent injunctive relief: (a) barring all further trespass onto and damage to Hazen’s Notch State Park by or at the direction of Defendant, and (b) requiring remediation of all harm to Hazen’s Notch State Park;
2. An Order adjudicating Defendant liable for the violations of Vermont

law set forth above in counts one through three;

3. An Order awarding treble damages for the value of the State timber, plus damages caused to State land, in accordance with 13 V.S.A. § 3606;

4. An Order for civil damages caused by Defendant's unlawful mischief, plus reasonable attorney's fees and costs in accordance with 13 V.S.A. § 3701; and

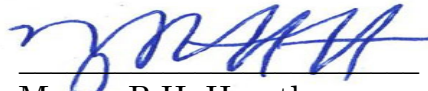
5. Such other relief as the Court may deem just and appropriate.

DATED at Montpelier, Vermont, this 15th day of March, 2021.

Respectfully submitted,

THOMAS J. DONOVAN, JR.
ATTORNEY GENERAL

By:



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