

SIXTEENTH JUDICIAL DISTRICT COURT  
ST. MARTIN PARISH  
STATE OF LOUISIANA

DOCKET NO. 89949

DIVISION “ \_\_\_ ”

SECTION \_\_\_\_\_

STATE OF LOUISIANA, THROUGH THE DEPARTMENT OF WILDLIFE AND FISHERIES

v.

PATRICK R. GARRITT, ET AL

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PETITION

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**Introduction**

1.

The matter addresses a public right-of-way that provided public access to Lake Martin until the defendants unilaterally physically blocked the public right-of-way in March 2020.

**Parties**

*The Plaintiff*

2.

The plaintiff is the State of Louisiana, through the Louisiana Department of Wildlife and Fisheries (“LDWF”).

3.

The LDWF is legislatively delegated the duty and authority to manage the Lake Martin Preserve, and provide public access.

*The Defendants*

4.

The defendants are Patrick R. Garritt, Ron Carroll Hebert, Richey Michael Hebert, Edith Hebert Eldridge, Reed Mitchell Hebert, Renee Hebert Debetaz, Ryan Alphonse Hebert, Ricky Patrick Garritt, Rachel Garritt, and the Trustees of the Jo Mill Trust, Clifford J. Hebert and Emmaline Marie (Hebert) Thibodeaux.

5.

The defendants are all domiciled in St. Martin Parish, Louisiana, except for one defendant in Lafayette Parish.

#### **Jurisdiction**

6.

This Court has jurisdiction over this lawsuit under La. Code Civ. P. art. 8.

#### **Venue**

7.

Venue is proper in St. Martin Parish under La. Code Civ. P. art. 72.

#### **Facts**

##### ***Lake Martin***

8.

Present day Lake Martin was created by Legislative Act 337 in 1950 from existing lakes in St. Martin Parish.

9.

Act 337 of 1950 enabled the Louisiana Department of Public Works to construct a levee around the low lying area containing Lake LaPointe, resulting in the formation of present day Lake Martin.

10.

The State constructed levee encircles approximately 765 acres, and approximately 200 acres are open waters of what was formerly Lake LaPointe, now part of Lake Martin.

11.

Pursuant to the Act, the State was authorized to purchase property or obtain a permanent flooding servitude over all private lands within the levees.

12.

The purpose of the Act was further to create a game and fish preserve, originally managed by a special commission formed by the St. Martin and Lafayette Parish Governments, with regulations to be approved by the State "Department of Wild Life and Fisheries."

13.

Subsequent legislative acts transferred the local Commission's responsibilities and authority to LDWF.

14.

The State of Louisiana owns water bottoms in a large portion of Lake Martin in its public capacity.

15.

Other than the public right-of-way (and the boat-launch area through prescription as detailed below), the State of Louisiana does not own any property bordering Lake Martin.

16.

The property bordering Lake Martin, with the exception of the public right-of-way area, is owned by private parties.

***Public Right-of-Way***

17.

In 1951, a public right-of-way existed next to the Defendants' property that borders Lake Martin.

18.

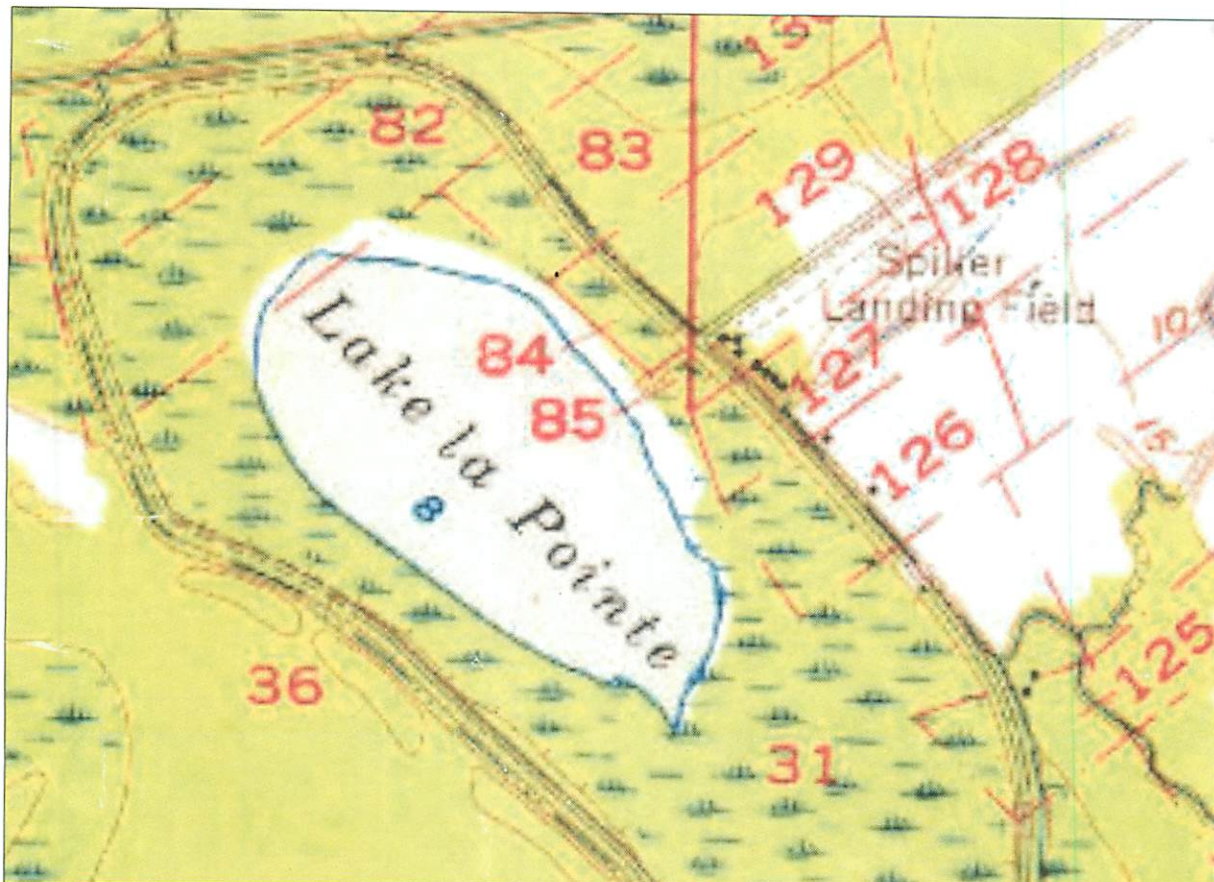
The State of Louisiana and the public used the public right-of-way to access Lake Martin.

19.

The properties on either side of the right-of-way at that time were both described in the conveyance records as bounded by the public right-of-way leading to Lake Martin.

20.

The 1957 U.S. Geological Survey map includes a drawing that shows approximately where the two sections, 84 and 85, are located next to the public right-of-way leading to Lake Martin:



21.

The State, LDWF, and public have continuously used the public right-of-way area to access Lake Martin from at least 1951 until March, 2020.

22.

The Defendants currently own the property on section 84, on the north-west side of the public right-of-way.

23.

In the 1950s, public agencies built a boat ramp for public access to Lake Martin at the public right-of-way area.

24.

LDWF and St. Martin Parish have agreed to name the boat launch to honor Clifford Hebert's ancestors by naming the launch area after them, regardless of the outcome of this litigation.

25.

Since that time, the State of Louisiana has periodically expended public funds and labor on repairs and upgrades to that boat ramp and associated docks, and St. Martin Parish has periodically expended work or funds to maintain the parking area.



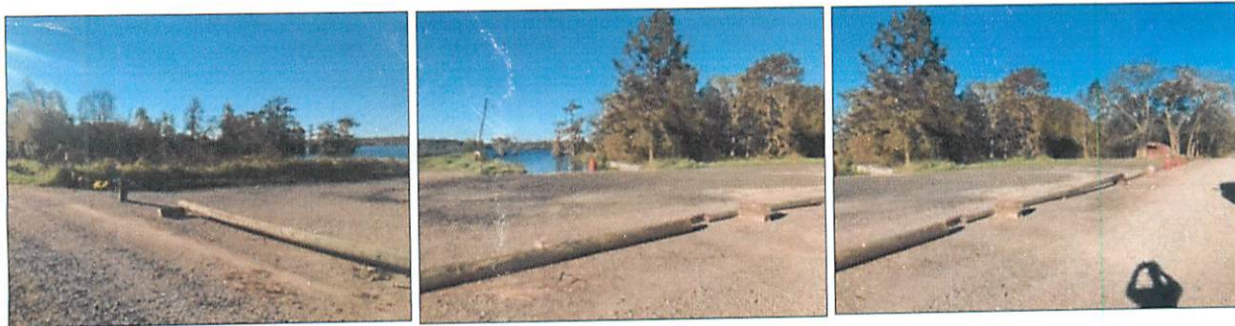
*Blocked Access to Public Right-of-Way and Public Structures*

26.

In March 2020, some of the defendants, or their agents, physically blocked the public right-of-way, and have continuously blocked the right-of-way since that time.

27.

As of October 29, 2020, the boat launch was blocked in the manner depicted in these photographs:



28.

Despite repeated efforts to reach a resolution, the Defendants currently continue to block the public right-of-way.

29.

Because the Defendants continue to block the public right-of-way, the people of Louisiana can no longer readily or meaningfully access Lake Martin.

30.

Because the Defendants have blocked the State's public access to the structures built on the public right-of-way, the Defendants have physically taken private control of the public boat launch and associated structures that were built and maintained with public funds.

### **Claims**

#### ***The Public Right-of-Way Pre-existed the Defendants' Acquisition of Land***

31.

The public right-of-way leading to Lake Martin existed before the Defendants acquired the property next to the public right-of-way.

32.

The public right-of-way was described in the mortgage and conveyance records before the Defendants acquired the property next to the public right-of-way.

33.

The State of Louisiana and the public have continuously used the public right-of-way leading to Lake Martin from 1950 until the Defendants blocked the public right-of-way in March 2020.

34.

Therefore, the Defendants do not own and has no right to block the public right-of-way leading to Lake Martin.

#### ***Acquisitive Prescription***

35.

In the alternative, the State of Louisiana, the public, and the LDWF have continuously used the public right-of-way for both public access and State agency access from at least 1950 to March 2020, when the Defendants began physically blocking the State from using the public right-of-way.

36.

The State of Louisiana, the public, and the LDWF's use of the public right-of-way was public, peaceful, uninterrupted, open, and apparent.

37.

Therefore, the State of Louisiana has acquired either a servitude or actual ownership over the public right-of-way by continuously possessing the public right-of-way as owner for more than 30 years.

***The Structures are Public Property***

38.

The boat launch and associated structures were constructed on the public right-of-way with state funds, and the parking area was periodically maintained with Parish work or funds.

39.

These structures are public property, and the Defendants cannot appropriate it for private use.

***Enclosed Estate***

40.

Lake Martin is an enclosed estate, to which the State does not have meaningful access as long as the Defendants block the public right-of-way.

41.

The owner of an estate that has no access to a public road may claim a right of passage over neighboring property to the nearest public road.

***Expropriation***

42.

In the alternative, the State of Louisiana intends to make a payment for just compensation to the Defendants for the right of ownership of the private property where the public boat ramp is located.



**Prayer for Relief**

43.

Wherefore, the State of Louisiana, through the LDWF, prays for Judgment in favor of LDWF and against the Defendants, and seeks:

- A. A declaration that the State of Louisiana owns the public right-of-way.
- B. In the alternative, a declaration that the State of Louisiana has a servitude at the traditional public right-of-way for public access to Lake Martin;
- C. A declaration that the State of Louisiana owns the boat launch and associated structures, and that they are for public use;
- D. In the alternative, or in addition, that notice of expropriation be issued and served upon the Defendants, together with a certified copy of this Petition, an Order of Expropriation of this Court, and a Receipt of the Clerk of Court for deposit made, according to law.
- E. An order enjoining the Defendants, and any successors or assigns of the owners of the property that borders the public right-of-way, from blocking public use of the public right-of-way and public boat launch;
- F. Reasonable attorneys' fees and costs authorized under law;
- G. Any other declaratory, injunctive, or monetary relief authorized under law;
- H. Any other equitable relief this Court may deem fit in order to effect justice.

Respectfully Submitted,

**JEFF LANDRY**  
**ATTORNEY GENERAL**

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