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Attorneys for Plaintiffs

ROBERT WALLEN and GREGORY LERMOND, Plaintiffs, v. THE NEW JERSEY DEPARTMENT OF ENVIRONMENTAL PROTECTION, THE BOROUGH OF LAVALLETTE, and CELLCO PARTNERSHIP DBA VERIZON WIRELESS, Defendants.	SUPERIOR COURT OF NEW JERSEY OCEAN COUNTY LAW DIVISION DOCKET NO.: OCN-L- <u>Civil Action</u> <u>COMPLAINT</u>
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Plaintiffs Robert Wallen and Gregory Lermond (“Plaintiffs”), by way of Complaint against Defendants the New Jersey Department of Environmental Protection, Defendant Cellco Partnership, DBA Verizon Wireless, and the Borough of Lavallette (“Defendants”), states:

PARTIES

1. Plaintiff Robert Wallen is an individual residing in the Borough of Lavallette, Ocean County, New Jersey with a mailing address of c/o 365 Rifle Camp Road, Woodland Park, New Jersey 07424.

2. Plaintiff Gregory Lermond is an individual residing in the Borough of Lavallette, Ocean County, New Jersey with a mailing address of c/o 365 Rifle Camp Road, Woodland Park, New Jersey 07424.

3. Defendant New Jersey Department of Environmental Protection (“NJDEP”) is an agency of the State of New Jersey, with its principal offices located at P.O. Box 420, Trenton, New Jersey 08625-0420.

4. Defendant Cellco Partnership, d/b/a Verizon Wireless (“Verizon”) is a telecommunications provider authorized to do business in New Jersey and maintains its principal place of business at One Verizon Way, Basking Ridge, New Jersey 07920.

5. Defendant Borough of Lavallette (the “Borough of Lavalette” or “Lavallette”) is a municipal corporation organized under the laws of the State of New Jersey with an address of 1306 Grand Central Avenue, Lavallette, New Jersey 08735.

JURISDICTION AND VENUE

6. This Court has subject matter jurisdiction over this action pursuant to N.J. Stat. § 2A:35A-4, which permits any person to commence a civil action against any other person alleged to be in violation of any statute, regulation, or ordinance designed to prevent or minimize pollution, impairment, or destruction of the environment.

7. Under N.J. Stat. § 2A:35A-3, a person is defined to include “corporations, companies, partnerships ... any political subdivision of the State and any agency or instrumentality of the State or of any political subdivision of the State.”

8. Accordingly, N.J. Stat. § 2A:35A-4 permits litigants to bring claims against NJDEP, Lavallette and Verizon.

9. This Court has subject matter jurisdiction to grant declaratory and equitable relief for the protection of the environment and the interest of the public therein from pollution, impairment, or destruction pursuant to N.J. Stat. § 2A:35A-4.

10. Venue is proper in Ocean County pursuant to N.J. Court Rule 4:3-2, because the cause of action arose in Ocean County, where the wireless facilities are located and where the alleged environmental violations occurred.

FACTS

11. On August 15, 2023, Verizon Wireless filed an application with Lavallette seeking to install five small wireless facilities (“SWFs”) in Lavallette.

12. On November 13, 2023, the Borough Council of Lavallette denied Verizon’s application for the installation of the SWFs.

13. On December 13, 2023, Verizon initiated a lawsuit against Lavallette in the District Court for the Federal District of New Jersey.

14. On December 4, 2024, Verizon and Lavallette entered into settlement agreement whereby Lavallette agreed to issue all permits necessary for Verizon to install the SWFs in exchange for, *inter alia*, Verizon dismissing their lawsuit.

15. Following the settlement agreement, Verizon submitted applications and received permission from Lavallette to construct SWFs in Lavallette.

16. In addition to the SWFs that were installed pursuant to the settlement agreement, wireless facilities exist at the following locations in Lavallette: (1) Route 35 South and Brown Avenue, (2) Route 35 South and White Avenue, (3) Route 35 South and Pennsylvania Avenue, (4) 120 Washington Avenue, (5) 1608 Bay Boulevard, (6) Route 35 North and Jersey City Avenue, (7) Route 35 North and New York Avenue, (8) 123A Newark Avenue, (9) Boardwalk and New

Brunswick Avenue, (10) Boardwalk and Philadelphia Avenue, (11) Boardwalk and Ortley Avenue, (12) Boardwalk and Bryn Mawr Avenue, (13) Funston Road and Dickman Drive, (14) 102 President Avenue, and (15) Boardwalk and President Avenue (together with the SWFs, the “Wireless Facilities”).

17. Lavallette is located along the New Jersey coastline within the coastal zone subject to regulation under the Coastal Area Facility Review Act (“CAFRA”).

18. The Wireless Facilities are located within areas that pose a significant threat to the habitats of endangered species within Lavallette and along its scenic coastline.

19. Upon information and belief, Verizon did not obtain CAFRA permits prior to constructing the Wireless Facilities.

20. Upon information and belief, in failing to obtain CAFRA permits prior to constructing the Wireless Facilities, Verizon relied on an NJDEP jurisdictional determination (the “NJDEP Determination”) which found that CAFRA permits were not required to construct Small Wireless Facilities in the Borough of Belmar.

21. Upon information and belief, the NJDEP also failed to require that Verizon conduct an Endangered Species Assessment as required by N.J.A.C. 7:7E-3.38(c)(1).

22. The construction and operation of the Wireless Facilities without CAFRA permits and without conducting an Endangered Species Assessment violates statutes and regulations designed to prevent and minimize pollution, impairment, and destruction of the environment.

23. On April 9, 2026, Plaintiffs provided the NJDEP, the New Jersey Attorney General’s Office, and the Borough of Lavallette with notice of their intention to commence an action pursuant to N.J. Stat. § 2A:35A-11 and demanding that the NJDEP require Verizon to obtain CAFRA Permits and conduct an Endangered Species Assessment within 30 days.

24. More than 30 days have elapsed since Plaintiffs provided notice to the parties named above and the NJDEP has not required Verizon to obtain CAFRA Permits or conduct an Endangered Species Assessment.

COUNT ONE

(Violation N.J. Stat. 2A:35A-4 For Failure to Obtain a CAFRA Permit Against Defendants)

25. Plaintiffs repeat and re-allege every allegation set forth in the previous paragraphs, as if set forth at length herein.

26. The New Jersey Environmental Rights Act (the “NJERA”) permits any person to commence a civil action against any other person alleged to be in violation of any statute, regulation, or ordinance designed to prevent or minimize pollution, impairment, or destruction of the environment.

27. As defined under the NJERA, any other “Person” includes corporations, companies, partnerships, political subdivision of the State, any agency or instrumentality of the State and any political subdivision of the State. *See* N.J. Stat. § 2A:35A-3.

28. Accordingly, NJDEP, Lavallette, and Verizon are subject to suit under the NJERA.

29. CAFRA is designed to prevent and minimize pollution, impairment, and destruction of the coastal environment.

30. The NJDEP is required to enforce CAFRA and its implementing regulations by requiring permits for development within the coastal zone.

31. The Wireless Facilities constitute development within the coastal zone requiring CAFRA permits under N.J. Stat. § 13:19-5.

32. The NJDEP issued a Jurisdictional Determination improperly concluding that no CAFRA permits were required to construct small wireless facilities in the Borough of Belmar,

which Verizon relied upon when it failed to procure CAFRA permits for the Wireless Facilities in Lavallette.

33. By failing to require Verizon to obtain CAFRA Permits, the NJDEP is in violation of statutes and regulations designed to prevent and minimize pollution, impairment, and destruction of the environment.

34. NJDEP's failure to require CAFRA Permits allows Verizon to continue operating the Wireless Facilities without proper environmental review and oversight.

35. Additionally, by failing to require a CAFRA permit prior to construction of the Wireless Facilities, Lavallette is in violation of N.J. Stat. § 13:19-5.

36. As a result of constructing the Wireless Facilities without a CAFRA permit, Verizon Wireless is in violation of N.J. Stat. § 13:19-5.

37. As a direct and proximate result of Defendants' violations, Plaintiffs and the coastal environment within Lavallette are suffering ongoing harm from the unauthorized Wireless Facilities.

WHEREFORE, Plaintiffs demand judgment against Defendants as follows:

- a) Granting equitable relief requiring Defendants to obtain CAFRA permits for all Wireless Facility locations;
- b) Assessing civil penalties against Defendants for failing to secure CAFRA permits in violation of N.J. Stat. § 13:19-5 and N.J. Stat. 2A:35A-4;
- c) Awarding Plaintiffs' attorneys' fees and costs of suit; and
- d) For such other and further relief the Court deems just and proper.

COUNT TWO

(Violation of N.J. Stat. 2A:35A-4 For Failure to Obtain an Endangered Species Assessment Against Defendants)

38. Plaintiffs repeat and re-allege every allegation set forth in the previous paragraphs, as if set forth at length herein.

39. N.J.A.C. 7:7E-3.2 and N.J.A.C. 7:7E-3.38(c)(1) require Endangered Species Assessments for development activities in areas that pose threats to endangered species habitats, specifically shellfish habitats.

40. Lavallette is within the jurisdiction prescribed by N.J.A.C. 7:7E-3.2 because of its proximity to the Hudson River Waterfront Area.

41. In turn, the Wireless Facilities are located in areas that pose a significant threat to the habitats of endangered species within Lavallette and along its scenic coastline.

42. The NJDEP failed to require Verizon to conduct an Endangered Species Assessment prior to constructing and operating the Wireless Facilities.

43. By failing to require an Endangered Species Assessment, the NJDEP violated regulations designed to protect endangered species and their habitats from impairment and destruction.

44. NJDEP's failure to require an Endangered Species Assessment allowed Verizon to continue operating the Wireless Facilities without proper assessment of impacts to endangered species, in violation of N.J.A.C. 7:7E-3.38(c)(1).

45. Additionally, Lavallette's failure to require Verizon to conduct an Endangered Species Assessment prior to the construction of the Wireless Facilities without proper assessment of impacts to endangered species, continues to pose a threat to endangered species.

46. Verizon's failure to conduct an Endangered Species Assessment prior to the construction of the Wireless Facilities constituted a violation of N.J.A.C. 7:7E-3.38(c)(1).

47. As a direct and proximate result of the Defendants' violations, endangered species habitats within Lavallette are at risk of ongoing harm and destruction.

WHEREFORE, Plaintiff demands judgment against Defendants for:

- a) Granting equitable relief requiring Defendants to obtain Endangered Species Assessments for all Wireless Facilities locations;
- b) Assessing civil penalties against Defendants for failing to conduct Endangered Species Assessments in violation of N.J.A.C. 7:7E-3.38(c)(1) and N.J. Stat. 2A:35A-4;
- c) Awarding Plaintiffs' attorneys' fees and costs of suit; and
- d) For such other and further relief the Court deems just and proper.

COUNT THREE

(Declaratory Judgment Against Defendants Pursuant to N.J. Stat. 2A:16-59)

48. Plaintiffs repeat and re-allege every allegation set forth in the previous paragraphs, as if set forth at length herein.

49. An actual controversy exists between Plaintiffs and the Defendants regarding whether the Wireless Facilities require CAFRA Permits and Endangered Species Assessments.

50. Plaintiffs seek a declaratory judgment that the Wireless Facilities constitute development within the coastal zone requiring CAFRA Permits under N.J. Stat. § 13:19-5.

51. Plaintiffs seek a declaratory judgment that the Wireless Facilities are located in areas requiring Endangered Species Assessments under N.J.A.C. 7:7E-3.2 and N.J.A.C. 7:7E-3.38(c)(1).

52. Plaintiffs seek a declaratory judgment that Verizon's reliance on the NJDEP's Jurisdictional Determination that no CAFRA Permits were required to construct small wireless facilities in the Borough of Belmar when it constructed the Wireless Facilities in Lavallette without CAFRA Permits was improper.

53. A declaration of the parties' rights and obligations is necessary to resolve the ongoing controversy and protect the coastal environment and endangered species habitats.

WHEREFORE, Plaintiff respectfully requests the Court enter judgement against Defendants and declare that:

- e) Granting equitable relief requiring Defendants to obtain Endangered Species Assessments for all Wireless Facility locations;
- f) Ordering the NJDEP to require Verizon to apply for and obtain CAFRA Permits for all Wireless Facilities located within the Lavallette;
- g) Ordering the NJDEP to require Verizon to conduct Endangered Species Assessments in accordance with N.J.A.C. 7:27E-3.38(c)(1) for all Wireless Facilities located within Lavallette;
- h) Ordering that Verizon must submit CAFRA permits for all Wireless Facilities located within Lavallette;
- i) Ordering that Verizon must conduct an Endangered Species Assessments for all Wireless Facilities located within Lavallette;
- j) Awarding Plaintiffs' attorneys' fees and costs of suit; and
- k) For such other and further relief the Court deems just and proper.

Dated: Woodland Park, New Jersey
August 25, 2026

ANSELL GRIMM & AARON, P.C.

By: s/ Joseph M. Carusone
Joseph M. Carusone, Esq.
Attorneys for Plaintiff

CERTIFICATION OF NO OTHER PARTIES/ACTIONS

I, Joseph M. Carusone, Esq., attorney for the Plaintiff in the within action, hereby certify pursuant to R. 4:5-1, that to the best of my knowledge that the matter in controversy is not the subject of any other action pending in any court or any arbitration proceeding and no other action or arbitration proceeding is contemplated, other than a possible action against Defendants and others for damages in the Superior Court of New Jersey, Law Division, Ocean County, which has not yet been filed. Further, I know of no other party who should be joined in this action.

Dated: Woodland Park, New Jersey
August 25, 2026

ANSELL GRIMM & AARON, P.C.

By: s/ Joseph M. Carusone
Joseph M. Carusone, Esq.
Attorneys for Plaintiff

RULE 1:38-7 CERTIFICATION

I certify that confidential personal identifiers have been redacted from documents now submitted to the court, and will be redacted from all documents submitted in the future in accordance with R. 1:38-7(b).

Dated: Woodland Park, New Jersey
August 25, 2026

ANSELL GRIMM & AARON, P.C.

By: s/ Joseph M. Carusone
Joseph M. Carusone, Esq.

DESIGNATION OF TRIAL COUNSEL

Pursuant to R. 4:25-4, Joseph M. Carusone, Esq., of Ansell Grimm & Aaron, P.C. is hereby designated as trial counsel for the within matter.

Dated: Woodland Park, New Jersey
August 25, 2026

ANSELL GRIMM & AARON, P.C.

By: s/ Joseph M. Carusone
Joseph M. Carusone, Esq.

Civil Case Information Statement

Case Details: OCEAN | Civil Part Docket# L-002544-26

Case Caption: WALLEN ROBERT VS THE NEW JERSEY
DEPARTMENT OF

Case Initiation Date: 08/25/2026

Attorney Name: JOSEPH MICHAEL CARUSONE

Firm Name: ANSELL GRIMM & AARON PC

Address: 1500 LAWRENCE AVE CN 7807

OCEAN NJ 07712

Phone: 7329221000

Name of Party: PLAINTIFF : ROBERT WALLEN

Name of Defendant's Primary Insurance Company
(if known): Unknown

Case Type: ENVIRONMENTAL/ENVIRONMENTAL COVERAGE
LITIGATION

Document Type: Complaint with Jury Demand

Jury Demand: YES - 6 JURORS

Is this a professional malpractice case? NO

Related cases pending: NO

If yes, list docket numbers:

**Do you anticipate adding any parties (arising out of same
transaction or occurrence)?** NO

Does this case involve claims related to COVID-19? NO

Are sexual abuse claims alleged by: ROBERT WALLEN? NO

Are sexual abuse claims alleged by: GREGORY LERMOND? NO

THE INFORMATION PROVIDED ON THIS FORM CANNOT BE INTRODUCED INTO EVIDENCE

CASE CHARACTERISTICS FOR PURPOSES OF DETERMINING IF CASE IS APPROPRIATE FOR MEDIATION

Do parties have a current, past, or recurrent relationship? NO

If yes, is that relationship:

Does the statute governing this case provide for payment of fees by the losing party? NO

**Use this space to alert the court to any special case characteristics that may warrant individual
management or accelerated disposition:**

Do you or your client need any disability accommodations? NO

If yes, please identify the requested accommodation:

Will an interpreter be needed? NO

If yes, for what language:

Please check off each applicable category: Putative Class Action? NO Title 59? NO Consumer Fraud? NO
Medical Debt Claim? NO

I certify that confidential personal identifiers have been redacted from documents now submitted to the court, and will be redacted from all documents submitted in the future in accordance with *Rule 1:38-7(b)*

08/25/2026
Dated

/s/ JOSEPH MICHAEL CARUSONE
Signed