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6 Attorney for Plaintiff  
7 Mountain Valley Airport, LLC

8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
9 **COUNTY OF KERN, METROPOLITAN DIVISION – UNLIMITED CIVIL**

10 MOUNTAIN VALLEY AIRPORT, LLC, a ) Case No.: S-1500-CV-273937 WDP  
11 California Limited Liability Corporation )  
12 Plaintiff, ) **[PROPOSED] SECOND AMENDED**  
13 vs. ) **COMPLAINT TO QUIET TITLE TO**  
14 ) **EASEMENT (By Prescription)**  
15 SUMMIT LIME COMPANY, a California )  
16 Corporation; THE JOHN R. SHORE AND )  
17 MILDRED B. SHORE FAMILY TRUST )  
18 dated March 25, 1987; DAVID L. ECKERT )  
19 LIVING TRUST; ELLIOTT H. WYMAN, an )  
20 individual; PHILLIP D. WYMAN, an )  
21 individual; ALTA WINDPOWER )  
22 DEVELOPMENT,LLC., A Delaware limited )  
23 liability company; all persons unknown, )  
24 claiming any legal or equitable right, title, )  
25 estate, lien, or interest in the property )  
26 described in the complaint adverse to )  
27 plaintiff's title, or any cloud on plaintiff's title )  
28 thereto; and DOES 1-1000, inclusive, )  
29 Defendants. )

30 Plaintiff alleges:

31 1. Plaintiff Mountain Valley Airport, LLC (hereinafter "MVA"), a California limited  
32 liability corporation, is a privately owned public use airport located in an unincorporated area of  
33 Kern County near Tehachapi, California.

1 2. MVA owns the real property that comprises the airport commonly referred to as  
2 Mountain Valley Airport, L94, 16334 Harris Road, Tehachapi, California, and leases that real  
3 property to various entities, including a private glider pilot school known as Skylark North.  
4 Skylark North is sole proprietorship dba Larry and Jane Barrett. Skylark North runs the day-to-  
5 day operations of the airport.

6 3. The primary users of the airport and the easement that is the subject matter of this action  
7 are the pilots, employees, customers, and students of Skylark North.

8 4. On or about September 30, 2011 Skylark North assigned all of its rights, claims and  
9 assertions relating to this action to MVA as the lessor and owner of Mountain Valley Airport.

10 5. Based upon this assignment and the use by Skylark North and its pilots, employees,  
11 customers, and students, MVA owns an easement that burdens real property situated in Kern  
12 County, California, commonly known as Kern County Assessors Parcel Numbers 223-080-11,  
13 400-110-02, 400-110-03, 400-130-02, 400-140-01, 400-140-02, 400-140-03, 400-150-01, 400-  
14 180-01, 400-180-02, 400-190-01, 223-071-18, 223-080-04, 223-080-06, 223-080-10, 400-011-  
15 02, 400-011-03, 400-012-01, 400-012-03, 400-012-04, 400-012-05, 400-012-15, 400-023-01,  
16 400-030-01, 400-041-02, 400-090-01, 400-090-02, 400-090-03, 400-090-04, 400-100-01, 400-  
17 100-02, 400-110-01, 400-120-01, 400-120-02, 400-130-01, 400-160-01, 400-160-02, 400-170-  
18 01, 400-170-02, 400-170-03, 400-170-04, 400-041-03, 400-041-04, 400-041-05, 400-042-07,  
19 400-042-08, and 400-241-02, and described more specifically in Exhibits A and B.

20 6. The easement is particularly described as follows ("the Easement"): an avigation and  
21 clearance easement for the right to fly glider planes at elevations below the horizontal limits of  
22 the private airport imaginary surfaces described in Federal Aviation Regulations, Part 77,  
23 including the navigable airspace between 200 and 500 feet above the surface, and the use of  
24 thermal lift, mountain waves, ridge lift, wind, and airspace necessary to the flight of gliders  
25 above the property of defendants.

26 7. Plaintiff's title is based on plaintiff's and plaintiff's assignors', customers, and lessees'  
27 actual, open, notorious, hostile, and adverse use of the Easement for more than five years  
28 preceding the commencement of this action.

1 8. Defendant Summit Lime Company (hereinafter “SUMMIT”) is a California corporation  
2 with its principal place of business located in Tehachapi, California.

3 9. SUMMIT is the owner of record of Kern County Assessor’s Parcel Numbers 223-080-11,  
4 400-110-02, 400-110-03, 400-130-02, 400-140-01, 400-140-02, 400-140-03, 400-150-01, 400-  
5 180-01, 400-180-02, 400-190-01, 223-071-18, 223-080-04, 223-080-06, 223-080-10, 400-011-  
6 02, 400-011-03, 400-012-01, 400-012-03, 400-012-04, 400-012-05, 400-012-15, 400-023-01,  
7 400-030-01, 400-041-02, 400-090-01, 400-090-02, 400-090-03, 400-090-04, 400-100-01, 400-  
8 100-02, 400-110-01, 400-120-01, 400-120-02, 400-130-01, 400-160-01, 400-160-02, 400-170-  
9 01, 400-170-02, 400-170-03, and 400-170-04, whose legal descriptions are attached hereto and  
10 incorporated herein by this reference as Exhibit A (hereinafter collectively referred to as  
11 “SUMMIT PROPERTY”).

12 10. Defendant SUMMIT claims an interest in the Easement as the holder of the legal title to  
13 the SUMMIT PROPERTY, which interest is adverse to Plaintiff.

14 11. Defendant The John R. Shore and Mildred B. Shore Family Trust dated March 25, 1987  
15 (hereinafter “SHORE TRUST”) is a family trust who trustees are John R. Shore and Mildred B.  
16 Shore.

17 12. Defendant David L. Eckert Living Trust (hereinafter “ECKERT TRUST”) is a living  
18 trust whose trustee is David L. Eckert.

19 13. Defendants SHORE TRUST and ECKERT TRUST are the owners of record of Kern  
20 County Assessor’s Parcel Numbers 400-041-03, 400-041-04, 400-041-05, 400-042-07, 400-042-  
21 08, 400-241-02, whose legal descriptions are attached hereto and incorporated herein by this  
22 reference as Exhibit B and hereinafter referred to collectively as “SHORE AND ECKERT  
23 PROPERTY”.

24 14. Defendants SHORE TRUST and ECKERT TRUST claim an interest in the Easement as the  
25 holders of the legal title to the SHORE AND ECKERT PROPERTY, which interest is adverse to  
26 Plaintiff.

27 15. Plaintiff is informed and believes and thereon alleges that Defendant Alta Windpower  
28 Development LLC (hereinafter “ALTA”), a Delaware Limited Liability Corporation, claims an

1 interest in the Easement as the holder of a lease for the wind rights and development of wind  
2 turbines on the SUMMIT PROPERTY, which interest is adverse to plaintiff. The memorandum  
3 of wind energy site lease and agreement were recorded on November 23, 2010 in the Official  
4 Records of the County of Kern, Document Number 0210162795 and 0210162797 copies of  
5 which are attached as Exhibit D and made a part of this complaint.

6 16. Plaintiff is informed and believes and thereon alleges that Defendant ALTA claims an  
7 interest in the Easement as the holder of an option agreement for a lease of the wind rights and  
8 development of wind turbines on the SHORE AND ECKERT PROPERTY, which interest is  
9 adverse to plaintiff. The memorandum of option for wind energy site lease was recorded on July  
10 12, 2010 in the Official Records of the County of Kern, Document Number 0210091069, a copy  
11 of which is attached as Exhibit E, and made a part of this complaint.

12 17. Defendants designated as "all persons unknown, claiming any legal or equitable right, title,  
13 estate, lien, or interest in the property described in the complaint adverse to plaintiff's title, or any  
14 cloud on plaintiff's title thereto" ("the Unknown Defendants") claim rights, titles, estates, liens,  
15 or interests in the Easement adverse to plaintiff's title, and their claims constitute a cloud on  
16 plaintiff's title.

17 18. Plaintiff is ignorant of the true names and capacities of defendants sued herein as DOES 1-  
18 1000 and therefore sues those defendants by such fictitious names. Plaintiff will amend this  
19 complaint to allege their true names and capacities when ascertained. Plaintiff is informed and  
20 believes and thereon alleges that each of the fictitiously named defendants claims some right,  
21 title, estate, lien, or interest in the Easement adverse to plaintiff's title, and their claims constitute  
22 a cloud on plaintiff's title.

23 19. Plaintiff is seeking to quiet title against all adverse claims of defendants ("the Adverse  
24 Claims"), to wit:

- 25 a. The claims of the fictitiously named defendants  
26 described in Paragraph 18;
- 27 b. The claims of the Unknown Defendants described in  
28 Paragraph 17, whether or not any such claim is known to plaintiff;

- 1 c. The claims of defendant ALTA described in Paragraphs 15 and 16; and  
2 d. The claims of defendants SUMMIT and SHORE AND ECKERT TRUST as  
3 holders of the legal titles.

4 20. The Adverse Claims are without any right whatever. Defendants have no right, title,  
5 estate, lien, or interest whatever in the Easement adverse to plaintiff's title.

6 21. Plaintiff seeks to quiet title as of June 22, 2011. This is the date the original complaint in  
7 this matter was filed and that is the reason the date of determination should be June 22, 2011.

8 WHEREFORE, plaintiff prays for judgment as follows:

- 9 1. That plaintiff is the owner of the Easement and that no defendant has any interest in  
10 the Easement adverse to plaintiff;  
11 2. For costs of suit herein incurred;  
12 3. For attorney fees pursuant to Code of Civil Procedure § 1021.5 and  
13 4. For such other and further relief as the court may deem proper.

14  
15 Dated: November 14, 2011

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16 KASSANDRA MCQUILLEN, Counsel for Plaintiff  
17 MOUNTAIN VALLEY AIRPORT, LLC  
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1 VERIFICATION

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3 I, Larry Barrett, am president of the plaintiff Mountain Valley Airport, LLC in the above-entitled  
4 action. I have read the within second amended complaint in the matter of Kern County Superior  
5 Court as Case No. S-1500-CV-273937, *Mountain Valley Airport, LLC v. Summit Lime Company*  
6 and know the contents thereof. The same is true of my own knowledge, except as to those  
7 matters which are therein stated on information and belief, and as to those matters, I believe it to  
8 be true.

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10 I declare under penalty of perjury under the laws of the State of California that the foregoing is  
11 true and correct.

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13 \_\_\_\_\_  
14 Date

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17 Larry Barrett as President of Mountain Valley Airport, LLC  
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