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By: Kristina Vargas, Deputy

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Attorneys for Plaintiffs Daniel and Mary Lou Perelmutter

SUPERIOR COURT OF THE STATE OF CALIFORNIA  
COUNTY OF LOS ANGELES

By Fax

DANIEL AND MARY LOU PERELMUTTER,  
Plaintiffs,

v.

LINDSAY WINEBERG, as Trustee of the 2569  
Creston Drive Revocable Trust dated May 15,  
1998; a California limited liability company;  
MINNIE DRIVER, an individual; and DOES  
ONE through TEN, inclusive,

Defendants.

Case No. **BC 6 1 9 1 2 2**

**JURY TRIAL DEMANDED**

**COMPLAINT FOR:**

- (1) Quiet Title**
- (2) Establishment of Prescriptive Easement**
- (3) Establishment of Equitable Easement**
- (4) Trespass**
- (5) Private Nuisance**
- (6) Assault**
- (7) Intentional Infliction of Emotional Distress**
- (8) Declaratory Judgment**
- (9) Preliminary and Permanent Injunctive Relief**

1 For their Complaint against Lindsay Wineberg, as Trustee of the 2569 Creston Drive  
2 Revocable Trust dated May 15, 1998 (“Wineberg”) and Minnie Driver (“Driver”) (collectively,  
3 “Defendants”), Plaintiffs Daniel and Mary Lou Perelmutter (collectively, the “Perelmutter” or  
4 “Plaintiffs”) allege as follows:

5 **PARTIES**

6 1. The Perelmutter are individuals residing in Los Angeles County, California.

7 2. Defendant Wineberg is an individual serving as Trustee of the 2569 Creston Drive  
8 Revocable Trust dated May 15, 1998, which owns the real property at issue herein, located in Los  
9 Angeles County, California.

10 3. Minnie Driver is an individual residing in Los Angeles County, California.

11 4. Plaintiff is not aware of the true names and capacities, whether individual or  
12 corporate, associate or otherwise, of Defendants Does 1 through 10 (“Defendant Does”). Plaintiffs  
13 therefore sue Defendant Does by such fictitious names and asks leave of Court to amend the  
14 Complaint to show their true names and capacities when the same have been fully ascertained.  
15 Each of these fictitiously named defendants is responsible in some way, whether directly or  
16 indirectly, for the injuries complained of in this action.

17 5. Each of the Defendants is the agent, servant, employee, and/or joint venturer of each  
18 of the other Defendants such that each of the Defendants are responsible in some manner or to some  
19 degree for the action omissions of each of the other Defendants sued herein.

20 **NATURE OF THE CASE**

21 6. This action seeks redress for Defendants’ continuing efforts to block and/or impede  
22 Plaintiffs’ use of a driveway easement to access the real property located at 7668 Woodrow Wilson  
23 Drive. This action further seeks the removal of the gate blocking access to the easement, and a  
24 preliminary and permanent injunction enjoining Defendants from continuing in their efforts to  
25 impede Plaintiffs’ lawful use of the easement.  
26

1 **FACTUAL ALLEGATIONS**

2 7. Plaintiffs are the owners of real property located at 7668 Woodrow Wilson Drive  
3 (the "7668 Property"), commonly known as APN: 5570-031-025 and legally described as follows:

4 THAT PORTION OF THE SOUTH HALF OF THE SOUTH HALF OF SECTION  
5 32, TOWNSHIP 1 NORTH, RANGE 14 WEST, SBB&M, IN THE CITY OF LOS  
6 ANGELES, COUNTY OF LOS ANGELES, STATE OF CALIFORNIA,  
7 DESCRIBED AS FOLLOWS.

8 BEGINNING AT THE INTERSECTION OF THE SOUTHERLY LINE OF LAND  
9 DESCRIBED IN THE DEED RECORDED IN BOOK 14988, PAGE 225  
10 OFFICIAL RECORDS OF LOS ANGELES COUNTY, WITH THE EASTERLY  
11 LINE OF WOODROW WILSON DRIVE, AS SHOWN ON MAP OF TRACT  
12 6993, AS PER MAP RECORDED IN BOOK 129 PAGES 29 TO 31 INCLUSIVE  
13 OF MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY,  
14 WHICH IS A POINT ON A CURVE CONCAVE TO THE WEST WITH A  
15 RADIUS OF 131.26 FEET, AT WHICH POINT THE RADIUS BEARS SOUTH  
16 78° 33' 00" EAST;

17 THENCE NORTHERLY ALONG SAID CUR.VE AN ARC DISTANCE OF 6980  
18 FEET TO A POINT WHERE THE RADIUS BEARS NORTH 70° 58' 55" EAST,  
19 WHICH IS THE TRUE POINT OF BEGINNING;

20 THENCE NORTHERLY ALONG SAID EASTERLY LINE OF WOODROW  
21 WILSON DRIVE, WHICH IS THE ARC OF A CURVE CONCAVE TO THE  
22 SOUTHWEST WITH ARC RADIUS OF 131.26 FEET AN ARC DISTANCE OF  
23 45.52 FEET TO A POINT IN A REVERSE CURVE WITH A COMMON RADIUS  
24 THAT BEARS SOUTH 50° 54' 10" WEST;

25 THENCE NORTHERLY ALONG SAID EASTERLY LINE OF WOODROW  
26 WILSON DRIVE, WHICH IS THE ARC OF A CURVE CONCAVE TO THE  
27 EAST RADIUS OF 71.37 FEET AN ARC DISTANCE OF 59.05 FEET TO A  
28 POINT WHERE THE RADIUS BEARS NORTH 81° 41' 20" WEST;

THENCE SOUTH 51° 13' 00" EAST 212.95 FEET;

THENCE NORTH 81° 38' 10" WEST 57.40 FEET;

THENCE SOUTH 46° 40' 00" WEST 22.00 FEET;

THENCE NORTH 51° 13' 00" WEST 71.50 FEET TO THE TRUE POINT OF  
BEGINNING.

SAID LAND IS ALSO SHOWN AS THAT PORTION OF PARCEL NO. 4, IN  
THE CITY OF LOS ANGELES, AS SHOWN ON THAT CERTAIN RECORD OF  
SURVEY MAP RECORDED IN BOOK 46, PAGE 49 OF RECORDS OF  
SURVEYS.

1           8.       In or about May 19, 1939, an easement deed was recorded between the then owners  
2 of Parcels 1, 2, 3 and 4 as indicated on the Record of Survey Map recorded in book 46, page 49 of  
3 the Records of Surveys (the “Record of Survey”).

4           9.       The roadway easement provided a means of entering and exiting Parcels 2, 3 and 4  
5 as indicated on the Record of Survey and ran from Parcel 3 in a northwest direction to Woodrow  
6 Wilson Drive (the “Easement”).

7           10.      In or about February 1951, what was then known as Parcel 4 on the Record of Survey  
8 was subdivided, with the northeastern portion of the land becoming what is now known 7666  
9 Woodrow Wilson Drive, or APN 5570-031-019 (the “7666 Property”).

10          11.      The 7666 Property is presently owned by Wineberg and/or Driver and upon  
11 information and belief is occupied by Driver.

12          12.      The southwestern portion of Parcel 4 was further subdivided, becoming what is now  
13 known as the 7668 Property and 7670 Woodrow Wilson Drive (APN 6670-031-26) (the “7670  
14 Property”).

15          13.      Historically, the 7668 Property has been accessible both at its northwestern tip,  
16 directly from Woodrow Wilson Drive, and via a gate at the southeastern edge of the property, via  
17 the Easement.

18          14.      The 7668 Property retains ownership of the Easement both via the original grant of  
19 easement, as well as because of the open and notorious use of the Easement to access the gate at  
20 the southeastern edge of the property.

21          15.      In or about January 2014, the Perelmutter's purchased the 7668 Property with the  
22 intention of building a home on it.

23          16.      After obtaining all appropriate permits, the Perelmutter's began construction in  
24 approximately March 2015.

25          17.      As prior owners had done historically, the Perelmutter's utilized the Easement to  
26 access the 7668 Property via the southeastern gate to the property.

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1           18.    As construction proceeded, the gate was removed, leaving an opening at the  
2 southeastern edge of the property where construction vehicles could access the 7668 Property.

3           19.    The Perelmutter's have now to reinstalled a gate at the southeastern edge of the 7668  
4 Property.

5           20.    During the course of construction, Driver has obstructed the Perelmutter's  
6 construction efforts by deliberately blocking access to the 7668 Property via the southeastern  
7 entrance.

8           21.    First, Driver had previously installed an electric gate across the Easement, with the  
9 promise of providing electronic access to the Perelmutter's. In early 2015, such electronic access  
10 was cut off. Thereafter, the Perelmutter's were required to manually open the gate via a switch on  
11 the inside of the gate.

12           22.    After Driver realized that cutting off electronic access had failed to prevent the  
13 Perelmutter's from utilizing the Easement, she had the switch disabled.

14           23.    When that failed, she began blocking access to the southeastern entrance to the 7668  
15 Property by deliberately parking her vehicle within the 7668 Property line, right outside the  
16 southeastern entrance, which served to block ingress and egress from the southeastern entrance to  
17 the 7668 Property.

18           24.    When these efforts failed to halt construction, she took to verbally harassing the  
19 Perelmutter's as well as construction workers present at the 7668 Property.

20           25.    Driver regularly *inter-alia* screams all manner of obscenities at the Perelmutter's and  
21 construction worker's present; speeds her car toward construction workers and/or the Perelmutter's;  
22 throws construction materials onto the 7670 Property; and causes intentional damage to the  
23 structures being built on the 7668 Property.

24           26.    Upon information and belief, Driver has also vandalized the home being constructed  
25 on the 7668 Property by throwing baby food jars filled with black paint against the walls of the  
26 home.

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**(Against All Defendants)**

36. The allegations in paragraphs 1 through 35 above are incorporated herein by reference as though fully set forth.

37. Plaintiffs and their predecessors in interest have continuously, openly, notoriously utilized the Easement for a period in excess of five years prior to the commencement of this action, for purposes of accessing the 7668 Property via the southeastern entrance.

38. By reason of the facts alleged herein, Plaintiffs have established a prescriptive easement over the Easement for the purposes of accessing the southeastern entrance to the 7668 Property. Plaintiffs are therefore entitled to a judgment of this Court establishing an appurtenant, non-exclusive easement for the benefit of Plaintiff, for the purpose of accessing the southeastern portion of the 7668 Property.

**THIRD CAUSE OF ACTION**

**Establishment of Equitable Easement**

**(Against All Defendants)**

39. The allegations in paragraphs 1 through 38 above are incorporated herein by reference as though fully set forth.

40. Plaintiffs' and their predecessors in interest's use of the Easement to access the southeastern portion of the 7668 Property has at all times been innocent and without any willfulness or negligence on Plaintiffs' part, as Plaintiffs have always understood they were legally entitled to to their existing use of the Easement for the purpose of accessing the southeastern entrance to the 7668 Property.

41. The hardship to Defendants resulting from a judgment establishing an equitable easement for the benefit of Plaintiffs, is minimal and greatly disproportionate to the very substantial hardship that would be imposed upon Plaintiffs if they were precluded from continuing their long-established use of the Easement to access the southeastern entrance to the 7668 Property.












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Dated: May 6, 2016

By:   
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