

# B A T T L E FOR THE B A Y

**What does the controversial legal battle between visiting and local Lunada Bay surfers mean for the famed break and the future of localism?**

*Words by ASHTYN DOUGLAS, Photos by WOODY WOODWORTH*

On the 14th floor of the towering Central Civil West Courthouse in Los Angeles, the clock on the wall of a small, oak-paneled courtroom ticked past 10:15 a.m. as judge Carolyn Kuhl emerged from her chambers. Kuhl, a 65-year-old woman sporting a blonde, manicured bob and round spectacles, climbed the bench and settled into her leather chair at the head of the room. She glanced down at the legal briefings in front of her and addressed the group of men toward the back. “Counsels in the Cory Spencer et al versus Lunada Bay Boys et al case, can you please come forward?”

Four lawyers rose from their seats and walked toward the front, the clacking of their footsteps echoing through the otherwise silent courtroom. They took their places at their respective tables — the defense attorneys on the left, the plaintiff’s on the right. Then the status hearing — a preliminary meeting between the attorneys and the judge — began.

It sounded strange hearing the name of a famed surf spot read aloud in a formal legal setting, but, considering the public drama that has enveloped the break, perhaps this case was inevitable. Lunada Bay, the bowly, rippable right-hand point located in the affluent Los Angeles community of Palos Verdes Estates, has gained widespread notoriety over the past 40 years. It’s recognized as one of the best spots in California, able to comfortably hold waves from 4 to 30 feet on the right swells. More famous than the wave itself, however, is the group of local surfers who fiercely guard it. The “Bay Boys” have allegedly used harassment, intimidation, vandalism and violence to keep visitors away from the break.

Throughout the decades, visiting surfers have left Lunada Bay with stories of being threatened, pelted by rocks or having their tires slashed and cars keyed while they surfed. The locals have consistently denied any allegations of wrongdoing, but last year, a group of surfers and lawyers decided to use the justice system in an attempt to prove the Bay Boys had a stranglehold on Lunada Bay. They reasoned that if charges could be brought against the locals, it would change the dynamic of the break, allowing visitors unfettered access.

Vic Otten, a short, middle-aged attorney in a tailored navy suit and modish, rectangular glasses, stood at the plaintiff’s table. “Good morning,

your honor,” he began. “I’m here on behalf of the plaintiffs: Corey Spencer, Diana Milena and the Coastal Protection Rangers.”

Otten looked the part of a lawyer, but his drawn-out speech bespoke his past life as a surfer. Otten grew up minutes from Palos Verdes and worked as a shaper for a time, even building boards for 1993 world champion Pauline Menczer. As a goofyfoot, he frequented the few blue-ribbon left-handers neighboring Lunada Bay, and he encountered some localism at his own breaks. According to Otten, however, it was nothing compared to what was going on at Lunada Bay.

In 1995, Otten hung up his planer for good and focused his professional sights entirely on environmental and real estate law. In the following years, he witnessed various people and well-intentioned groups like Surfrider make ineffective attempts to stop localism at Lunada Bay. He became interested in getting involved back in early 2016, when he came across a Los Angeles Times article recounting the stories of his now two leading plaintiffs: Corey Spencer, who claimed to have been run over in the lineup, and Diana Milena, who says a local exposed himself and verbally harassed her at Lunada Bay.

Otten and his co-counsel, Kurt Franklin, a longtime surfer and lawyer from a San Francisco-based firm, decided the best way to combat localism in Lunada Bay would be by hitting the Bay Boys with multiple lawsuits. The first claim, filed in state court, alleges that by discouraging and restricting access to the beach the Bay Boys are violating the Coastal Protection Act. The second claim, filed in federal court, accuses the Bay Boys of acting as a criminal street gang. If a jury found them liable for the latter, the plaintiffs would ask for a gang injunction, which would forbid the defendants from gathering at Lunada Bay. It was a unique, multifaceted legal strategy, and one that Otten and Franklin believed would work.

As the hearing adjourned and the courtroom emptied, a question hung in the air. In modern surf history, disputes over waves generally have resolved themselves in the water or the parking lot, seldom involving the traditional justice system. But with the public focus on the Bay Boys case, is the era of surfers self-governing coming to a close? Will surfing’s tribal tenets dissolve as we enter a more litigious future?







*(Previous)* As inviting as Lunada Bay can look during a solid swell with glassy conditions, the notorious localism of the area has kept all but the boldest visitors from paddling out.

*(Left)* Just a few miles away from the clogged arteries of urban Los Angeles, Lunada Bay feels uniquely pristine and unspoiled.

*(Right)* With rights like this, it's easy to see why Lunada Bay has been such a coveted break since the 1970s.

**COREY** Spencer tried to dive to safety, but it was too late. After the impact, he could feel the warm rush of blood starting to seep from the fin gash on his wrist underwater. Spencer, a 45-year-old El Segundo, California, police officer, says he'd been to localized spots all over California and Hawaii and understood that if you behave respectfully, don't paddle straight to the peak, and wait for scraps, generally no one bothers you. But after being run over while making his way back out through the channel, Spencer thought that Lunada Bay surfers may play by a different set of rules entirely.

Spencer got his first look at the wave at Lunada Bay as a teenager right after receiving his driver's license. Perched on a hilly peninsula jutting into the Pacific, Palos Verdes felt vastly different than the overcrowded, urban neighborhoods that made up the surrounding areas. Spencer gazed out the window at multimillion-dollar homes lining the main road, with freshly trimmed lawns and unimpeded ocean views. It looked more like a setting from "Leave It to Beaver" than the stomping grounds of a ruthless surf gang.

When he got to the Bay, Spencer parked his truck and walked out onto the bluff — a horseshoe of 100-foot, empyrean cliff faces — and looked down at the shimmering cove beneath him. But the stories of overly aggressive locals kept him from paddling out that day — and for another 30 years.

Spencer finally surfed the Bay in January 2016, after meeting Chris Taloa, an ex-professional bodyboarder from the North Shore of Oahu. Taloa moved to Los Angeles in 2001 to chase an acting career (he played the part of a local in the movie "Blue Crush"). A few years ago, when Taloa started missing the heavy waves of Hawaii, he thought Lunada Bay might be able to fill that void. So he got in touch with a local who had moved out of the area years ago; we'll call this local Mr. Smith, as Taloa refused to name him for this story. According to Taloa, Smith showed him where to park and told him everything he should and shouldn't do as a visitor: Come alone, don't look anyone in the eye and don't walk down the cliff in your wetsuit. Taloa says that Smith even took him to the house of one of the Bay's main locals in order to introduce himself — a meeting Taloa describes as uneventful.

The next day, Taloa says, Smith called and begged him not to surf the Bay. "He sounded completely panicked," says Taloa. "I remember thinking it was odd that a grown man in his 50s should sound so frightened." Smith allegedly told Taloa that he was receiving death threats and "that if I [Taloa] returned to Lunada Bay, both of us would be harmed."

After hearing about other surfers having similar experiences, Taloa decided to start a social media campaign in 2014 to end Lunada Bay's entrenched localism. Through Facebook, Taloa invited people to join him

on Martin Luther King Day for a "peaceful paddle-out at the Bay." He urged people "show love in the face of aggression," but to bring cameras to record any potential acts of aggression on the locals' behalf. The morning of MLK Day, people lined the cliffs, but only a few surfers braved the paddle out. Once in the lineup, Taloa says locals kicked him underwater. "One of them paddled out painted in blackface makeup, wearing an Afro wig," says Taloa. "He told me, 'You don't pay enough taxes to be here.'"

Taloa repeated the event the following two years and more people showed up each time. Spencer heard about Taloa's peaceful paddle-outs, but it wasn't until last year when he rang him. "I was watching the charts on the computer and I saw something was coming," says Spencer. "He was like, 'Yeah, let's go, man!'"

The two say they chipped in some cash to have Taloa's friend — a black belt in jiu jitsu — watch the car as they surfed. They put on their wetsuits and walked down toward the cliffs in the dark before sunrise. "The heckling pretty much started when we got out of the car," says Spencer.

In the water, Spencer watched one alleged Bay Boy paddle frantically around Taloa, blocking him from every wave that came through. "In the 90 minutes I was in the water that day, I never saw the local guy attempt to catch a wave," says Spencer. "His sole purpose was just to prevent us from getting a wave. And this guy was in his 50s, mind you."

Toward the end of his session, as the sun began to peak over the cliffs, Spencer stroked into a clean, overhead right. Paddling back to the lineup after his wave, Spencer says he recognized one of the locals who had been yelling at him on the cliffs. The local was now pumping down the line, his eyes locked on Spencer paddling in the channel. A collision ensued and Spencer surfaced with an injured wrist, but, according to Spencer, the local wasn't finished. "He just started berating me, saying, 'I told you to go home,'" recalls Spencer.

At about the same time, the media began circulating other stories similar to Spencer's. Diana Milena, a 29-year-old model and filmmaker, alleged that she was harassed at Lunada Bay on two occasions by the locals, and told police that in the second instance one of them intentionally dropped his towel to expose himself to her. In the police report, she described the perpetrator as appearing to be drunk.

Not long after hearing Spencer and Milena's experiences, Otten contacted them both to see if they'd be willing to participate in a class-action lawsuit, with the goal of making Lunada Bay accessible to all.

"Never in my life did I ever think I'd be in a lawsuit about surfing," says Spencer. "I'm not a litigious, I'm-going-to-sue-you guy, but something had to be done."



**UNTIL** recently, few people knew who the Lunada Bay locals were. But through research and testimonies, Otten and his team have been slowly unmasking the identities of those in the group. According to Otten, most of them live in Palos Verdes Estates and attended PV High School. They've gone on to become teachers, airline pilots, construction workers, doctors, shapers, lifeguards and real estate agents. The lawsuits, in both federal and state courts, currently name a dozen or so defendants — one of whom recently paid \$100,000 in restitutions after knocking a 50-year-old man unconscious at a Dodgers game.

A subpoena would later reveal that the day after Otten filed his lawsuit in federal court in 2016, an alleged Lunada Bay local sent out a group text to nine of his friends. "My source tells me that a class action lawsuit is in the works against 'the bay boys' and the city of PVE," the text began. "Probably that Diana bitch. Watch out for subpoenas. Great time to be on the ultra down-low."

A year later, Otten's motion for a class action — which would've allowed anyone who alleged they were victims of the Bay Boys to become part of the litigation — was denied in federal court by U.S. District Judge James Otero. Undeterred, Otten and his three plaintiffs went forward with the case and continued to gather as much evidence as possible.

Shortly after the motion was rejected, I met with Otten at his small law office in Torrance. The conference room had one of Otten's handshaped hanging on the wall, and the table was strewn with witness statements and court-filed pieces of evidence. Otten plopped a thick three-ring binder on the table in front of me. It was filled with over 50 police reports.

In order to get a gang injunction against the Bay Boys, the plaintiffs will have to convince Judge Otero that the defendants have been acting in a conspiratorial, gang-like manner. Otten and his team have obtained emails from locals discussing their "rules of engagement" and have acquired texts through subpoena that, according to Otten, prove their coordinating efforts to harass visitors. Otten has witnesses who claim they've attended clandestine meetings of 20 to 30 locals discussing how to maintain control over the Bay and keep outsiders out. And then he has stories like Jordan Wright's.

Wright, a big-wave surfer who frequents both Jaws and Mavericks, drove up to Lunada Bay in January 2012 with his dad, a sergeant in the Los Angeles County Sheriff's Department. At the top of the cliff, Wright looked out and saw glassy, triple-overhead waves. Locals approached him, warning that the waves were probably too big for him. Wright politely replied that he surfs Mavericks at double the size and would be fine out there. Irritated, some of the locals began badgering Wright, while others busied themselves on walkie-talkies and cell phones.

Once Wright and his father reached the bottom, a local, whom Wright had never seen before, allegedly approached them, asking, "Are you that guy from Mavericks?" Wright assumed that the locals on the cliff had used the walkie-talkies to warn those on the beach about him.

"It was like all of a sudden a switch went on when we arrived and they got into a mode they had practiced and had organized," says Wright. "My dad, who has worked on gang and narco units for over 30 years in the worst neighborhoods in LA, said it was the same level of sophisticated organization as any street gang he had ever encountered."





*(Left)* Locals aside, the wave itself at Lunada Bay can be intimidating in contrast to the novice-friendly beach breaks in nearby coastal communities.

*(Right)* The Lunada Bay fort, allegedly built and used by the Bay Boys before it was demolished in 2016. Photo by Schaben



This isn't the first time someone has requested a gang injunction against the Bay Boys. Back in 1995, after a man named Peter McCollum pushed, shoved and threatened an adult and four teenagers, a local lawyer asked the judge for a gang injunction. Instead, the matter was settled. McCollum received an individual restraining order and was forced to pay \$15,000 to the plaintiffs.

According to Pat Carey, a criminal defense attorney who grew up in Palos Verdes and is currently representing one of the defendants, a gang injunction doesn't make sense in this particular case.

"I think the way that they are portraying [the defendants] is untrue," says Carey. "They paint them as this gang of men and young men that hold up these barriers to this beautiful place and that is simply not the case. Frankly, they just do not have a legal basis in my opinion to ask for a criminal gang injunction."

These injunctions were created, Carey explains, to make it unlawful for street gangs like the Bloods or Crips or Mexican Mafia to gather in their established territories. But the Lunada Bay locals, in Carey's mind, are not engaging in comparable organized criminal activity.

"Chief [Jeff] Kepley [the chief of police for the city of Palos Verdes Estates] himself doesn't believe they are a criminal street gang," says Carey. "So when law enforcement and the prosecuting agencies around the area do not believe that a criminal street gang exists, there are legal hurdles that prevent them to get something just as this. A private restraining order, that's a different story."

Otten reasons that the local police department is actually complicit in the problem. When he and his team filed their lawsuit, they also added claims against the City of Palos Verdes Estates and Chief Kepley, accusing local law enforcement of being negligent and discriminatory toward non-resident surfers. Witnesses in Otten's case have criticized police officers for not taking their complaints seriously or following up on unresolved issues.

Spencer, who has been a police officer for over 20 years, says there's no way this type of behavior would have continued under his watch. "If we had a Palos Verdes cliff in El Segundo with a wave like that, there's no way these instances would have continued for over 40 years," says Spencer. "We would've easily handled this problem, had it popped up, in two weeks."

On Dec. 31, 2015, Kepley posted a public message denying the allegations of police apathy. In the message, Kepley said he was going to do his best to tackle the problem of localism, and that his department would start conducting "several daily surfer safety checks" to check for car vandalism and to "let those in the water know that we are policing the area."

Not long after the message was posted, a handful of local surfers sent letters of disapproval to the mayor and the city manager, arguing that their tax dollars shouldn't be wasted on police officers patrolling their surf spot. One of the letters said about Kepley, "... if YOU feel that he is acting in our best interest then maybe it's time for a change in leadership of the people that hired him and endorse his policies. Are you catching my drift?!"

**THE** gang injunction notwithstanding, what makes Otten's state case especially unique is its use of the Coastal Act. According to Otten, who also represents the Coastal Protection Rangers, a non-profit that uses litigation to enforce the Coastal Act, this has always been, first and foremost, a case about public beach access.

Historically, the Coastal Act has been primarily used to ensure that development — in the form of private oceanfront properties, freeways, etc. — doesn't block a person's access to a public beach. But the law, as it turns out, defines the word "development" in broad terms as any change in the use or the intensity of use of the coast. And any change in use — be it through structural hindrances or threatening behavior that's intended to keep people away — requires a permit.

"This will be one the most important public-beach-access cases in California," says Mark Massara, a friend of Otten's and an environmental lawyer who's been involved in coastal access lawsuits. "My theory is that what's going on down there qualifies as a development under the Coastal Act. By law, if five guys sit down there and intimidate people from using the coast, or just stand there staring at you, trying to vibe you away, that requires a permit. The only reason they're doing that is because you wanted to use the public beach." If a judge agrees with Massara's perspective, then, without a permit, the city, who owns the beach, along with the individuals who have obstructed access, would be in violation of the Coastal Act and open to fines.

"The fines and penalties can go up \$15,000 per each day the violation

was maintained," says Massara. "Once they start levying those fines, you can be certain those dudes are going to disappear."

The city also faces penalties for the unpermitted structures they've allegedly allowed the locals to construct — specifically a rock fort that sat at the north side of the Bay. When added together, each violation the city and the defendants are found guilty of could exceed \$20 million in fines.

The fort, which locals purportedly used as a venue to drink alcohol, host BBQs and heckle outsiders, was ordered by the California Coastal Commission in 2016 to be taken down. A few months later, the city complied.

On demolition day, people lined the cliff to watch the wrecking crew dismantle the Bay Boys' homespun bastion. As helicopters flew across the bay carrying huge boulders and jackhammers, onlookers stood behind yellow caution tape. Some were angered by the city's choice of action, while others saw it as a long-overdue step in eradicating localism in the area. Still, many wondered if it would change anything at all.

Later that night, when the crowds left, someone snuck down to the base of the cliff and set fire to the construction crew's tools, generator and air compressor. They then keyed their contractor's truck and tampered with the ignition of a tractor trailer.

"The Bay Boys tried to say it was non-locals who did it, who were just trying to make them look bad," says Massara. "But what non-local could navigate those cliffs at night? And keying cars? Who's M.O. is that?"





*(Left)* According to attorney Vic Otten and environmental lawyer Mark Massara, anyone who stands on the cliff in an attempt to block people's access to the beach could possibly be in violation of the Coastal Act. If the plaintiffs succeed in state court, the defendants and the city of Palos Verdes Estates could face hefty penalties.

*(Right)* If a wave like this were located in San Clemente, how many surfers do you think would be sitting on the peak?



**SHORTLY** after my visit to the courthouse, I drove up to Lunada Bay and stood on the cliffs, looking down at an empty lineup. It was quiet and peaceful, and the pristine cove looked like an untouched frontier, somehow skipped over by the development that's defined much of Southern California. It takes only a glance to understand why Lunada Bay conjures up strong feelings from both locals and visitors alike.

The lawsuits against the Bay Boys could end in a couple of ways. The defendants could settle in both state and federal courts, admitting to wrongdoings and paying agreed-upon penalties. Or the judge could throw out their federal case entirely. But Otten believes it's more likely the case will go to trial at the end of the year, where the defendants will sit in a small, oak-paneled courtroom while their attorneys stand in front of a jury box, trying to explain the concept of localism to a dozen non-surfers, who will then decide whether or not the Bay Boys constitute a gang and a judge will determine whether or not they should be banned from their infamous home break.

For Otten and Spencer, no matter how both cases end, they feel they've already won. At Taloa's most recent MLK Day paddle-out, it seemed as if Lunada Bay was already changing. Hundreds of visitors gathered on the usually empty cliffs and cops escorted surfers down to the water while drones circled overhead. It was a strange scene to witness during a surf session, but, for once, visitors felt safe to enter the lineup. But it wasn't long before two locals paddled out, sat on the bowly inside section, and began dropping in on visitors, allegedly attempting to run them into huge, protruding rocks.

For this story, I contacted over 40 people who surf the Bay regularly or have surfed it in the past. Many replied with "no comment" in regards to the drama and litigation surrounding Lunada Bay. Most never returned my calls or messages. The few who were willing to talk asked to remain

anonymous, and most said the same things: They've never seen any harassment toward outsiders; that Lunada Bay has received undue publicity from all of this; and that, besides a few bad apples, the locals are a respectful group of guys. Generally speaking, they said, Lunada Bay is no different than localized spots in Hawaii, Oregon and Northern California.

As for the defendants in both cases, only one responded to my request for comment. In a long email, he told me that he grew up surfing in an era when surfers "were anything but the little whiners they are now. We used to get heckled from sun up to sun down and it molded us into the people we are now. Now someone says one little thing and guys are calling cops, lawyers, newscasters, making Facebook pages in utter uproar." He went on to say that "outsiders will get nothing except maybe a shitty one or two... so good luck. Wouldn't any normal, self-respecting dude just go check elsewhere? Everyone has a local break and to see it disrespected and slutted out everywhere is just plain f--king dumb."

"Sign of the times," the email concluded.

It's become obvious that this lawsuit, and the recent publicity it's engendered, has started to change the social dynamics between surfers at Lunada Bay. And it might have a ripple effect at other localized spots. But the problem sitting at the heart of localism at Lunada Bay, and elsewhere, might never change. Good waves are a limited commodity and some people will always do whatever it takes to ensure they get what they believe they're entitled to.

Spencer, who intends to see this lawsuit through to the end, believes that things will eventually get better at Lunada Bay, although he admits it might take time. "It's not going to be perfect and I don't expect to pull up there and be greeted with hugs and kisses," he says. "But it's 2017. People should be able to paddle out without worrying about their stuff getting messed with or getting run over in the water." **S**