

1 ALSCHULER GROSSMAN STEIN & KAHAN LLP
John M. Gatti (No. 138492)
2 Rex D. Glensy (No. 198909)
Jonathan E. Stern (No. 222192)
3 The Water Garden
1620 26th Street
4 Fourth Floor, North Tower
Santa Monica, CA 90404-4060
5 Telephone: 310-907-1000
Facsimile: 310-907-2000

6 Attorneys for Plaintiff
7 BARBRA STREISAND

8 SUPERIOR COURT OF THE STATE OF CALIFORNIA

9 COUNTY OF LOS ANGELES

10 WEST DISTRICT

11
12 BARBRA STREISAND, an individual,

13 Plaintiff,

14 vs.

15 KENNETH ADELMAN, an individual;
16 PICTOPIA.COM, a California corporation;
LAYER42.NET, a California corporation;
and DOE 1 through DOE 20, inclusive,

17 Defendants.
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CASE NO. SC 077257

[Honorable Allan J. Goodman, Dept. H]

**DECLARATION OF JONATHAN E.
STERN IN SUPPORT OF PLAINTIFF'S
OPPOSITION TO DEFENDANTS'
MOTION TO STRIKE COMPLAINT
PURSUANT TO CIV. CODE § 425.16**

**[Filed Concurrently with Opposition;
Declaration of Chief Michael E. Soderberg in
support thereof; and Appendix of Non-
California Authorities]**

Date: July 14, 2003

Time: 1:30 p.m.

Place: Dept. H

Complaint Filed: May 20, 2003

DECLARATION OF JONATHAN E. STERN

I, Jonathan E. Stern, declare:

1. I am an attorney at law licensed to practice before the Courts of the State of California and before this Court. I am an associate with the law firm of Alschuler Grossman Stein & Kahan LLP, counsel of record for Barbra Streisand. I have personal knowledge of the facts set forth in this declaration and, if called upon to testify thereto, could and would do so competently.

2. Attached hereto as Exhibit 1 is a true and correct copy of a page from the website owned by Defendant Kenneth Adelman ("Adelman") reproduced on July 2, 2003, which is reached by entering the term "Geffen" on the image caption locator on the home page of the Website, and which contains a view of David Geffen's ("Geffen") property and residence identified as "David Geffen's House, Malibu (the disputed beach access walkway featured in Gary Trudeau's Doonesbury is blocked by a double-hung white wooden gate to the left of the compound)," longitudinal and latitudinal coordinates, its location on a map, the number of the photograph, and when such photograph was taken.

3. Attached hereto as Exhibit 2 is a true and correct copy of a page from the website, reproduced on July 2, 2003, which is reached by clicking on the picture of Geffen's property contained in Exhibit 1 above, and which contains the same information as Exhibit 1 only now the photograph is considerably larger and more detailed, the map is similarly enhanced to show the location of Geffen's residence, and the viewer is given the option of downloading the image of Geffen's property to one's personal computer and to purchase such image for a fee.

4. Attached hereto as Exhibit 3 is a true and correct copy of a page from the website, reproduced on July 2, 2003, where Adelman brushes aside and derides the privacy concerns raised by certain people, where he claims that people who live by the coast have no privacy rights, where he describes as "rants" those expressions of privacy concerns with his website, where he publishes the full name, age, phone number, and city of a woman whom he acknowledges "really doesn't want to be on the Internet," and where he publishes a photograph


1 of the neighborhood belonging to a person who informed Adelman that Adelman has invaded the
2 privacy of coastal homeowners. Out of respect for the lady whom Adelman acknowledges
3 “really doesn’t want to be on the Internet,” the personal information related to identifying her has
4 been redacted.

5 5. Attached hereto as Exhibit 4 is a true and correct transcription of a voice
6 mail message contained at http://www.californiacoastline.org/rant-of-jeanett-_____.mp3,
7 where the caller informs Adelman that his photographs are “too intrusive for words,” “totally
8 outrageous” and “intruding on . . . people’s rights.” For the same considerations expressed above,
9 the private information concerning the identity of the caller has been redacted.

10 6. Attached hereto as Exhibit 5 is a true and correct copy of a page from “The
11 Thomas Guide” which, in a fashion strikingly similar to Adelman’s website, contains identical
12 contours of the coast, insertion of the Pacific Coast Highway, and the identification of the Point
13 Dume and its location.

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

16 Executed this 3rd day of July, 2003.

17
18 

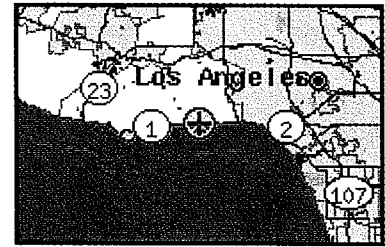
19 _____
Jonathan E. Stern

California Coastal Records Project

[Home](#)[New Lookup](#)

David Geffen's House, Malibu (the disputed beach access walkway featured in Garry Trudeau's *Doonesbury* is blocked by a double-hung white wooden gate to the left of the compound.)

N34 02.07 W118 39.50 Image 3953 Mon
Sep 23 13:48:00 2002

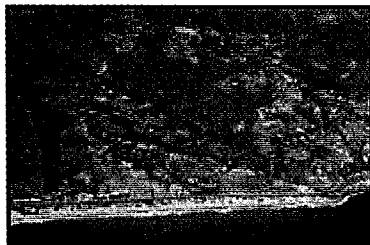


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California Coastal Records Project

Home <<-- Northwest 10 <-- Northwest 1 Southeast 1 --> Southeast 10 -->>

Images "up coast" from the selected image:



N34 01.64 W118 39.63



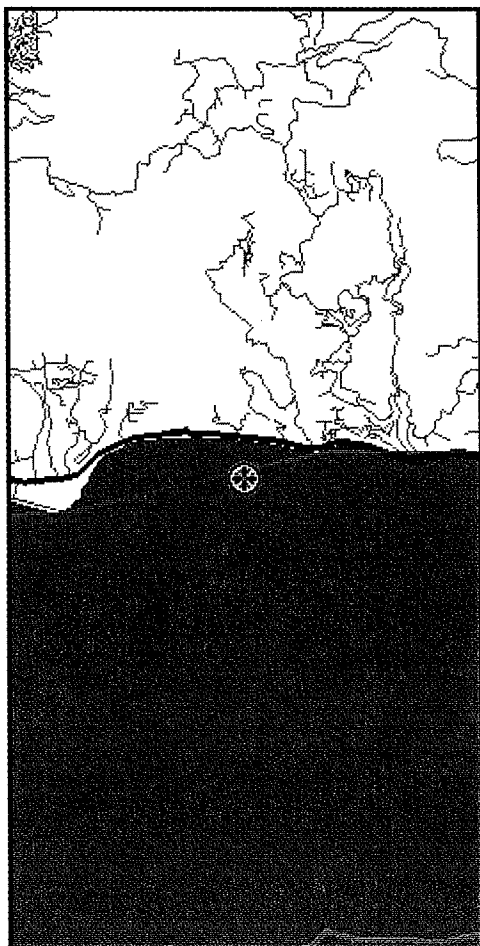
N34 02.07 W118 39.62



N34 02.07 W118 39.58

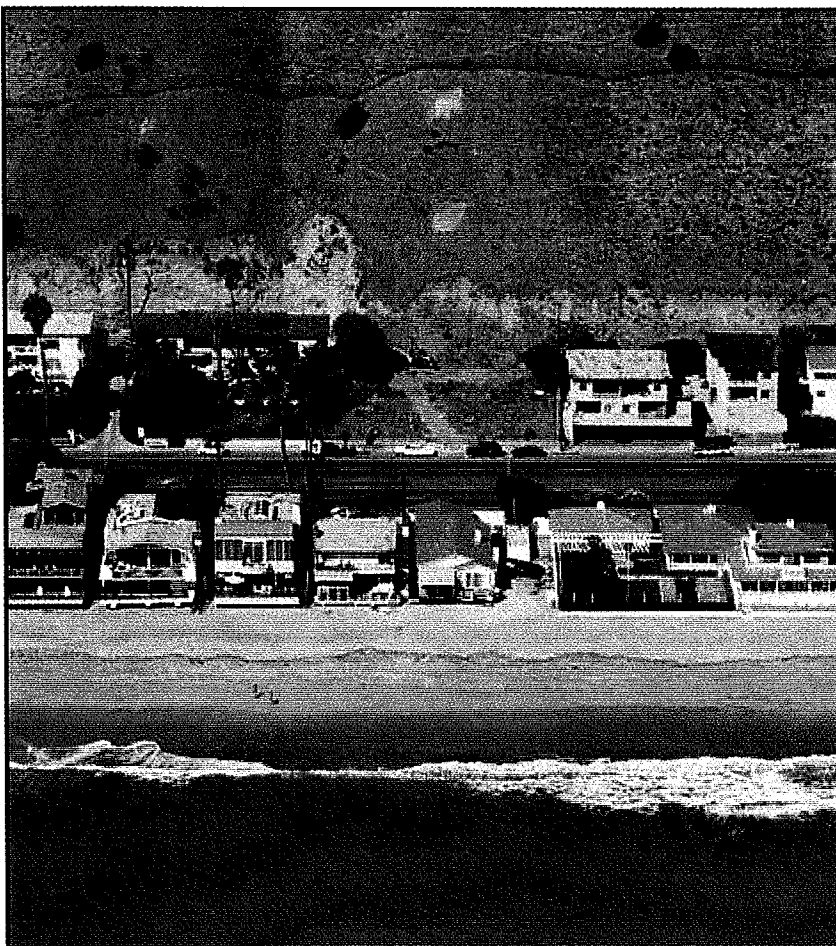


N34 02.07



Helicopter Location

[Zoom Out](#)



N34 02.07 W118 39.50 Image 3953 1

David Geffen's House, Malibu (the disputed beach access walkway blocked by a double-hung white wooden gate)

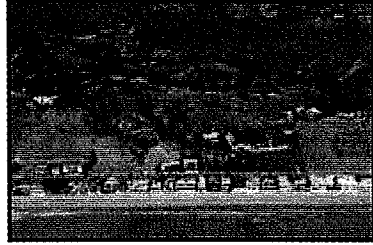
Copyright © 2002 Kenneth Adelman. All r

Purchase Photograph

Images "down coast" from the selected image:



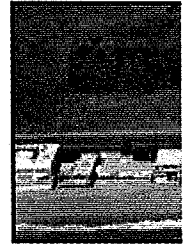
N34 02.07 W118 39.36



N34 02.07 W118 39.35



N34 02.07 W118 39.31



N34 02.08

Home

<<-- Northwest 10

<-- Northwest 1

Southeast 1 -->

Southeast 10 -->>

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You cannot see much detail, for example, identify individuals or see into a house. Also, as discussed in the next section, this information is available elsewhere.

A very good book about how technology will affect the privacy of all of us is [The Transparent Society: Will Technology Force Us to Choose Between Privacy and Freedom?](#) by David Brin.

Security and Terrorism Concerns

A number of visitors have expressed a concern that this site contains photographs of some locations that might be of interest to terrorists. We have thought long and hard as to whether the publication of these photographs is a real security risk that outweighs the enormous good that could come from this project. It is important that the project be a *complete* record of the coast, and it could not be if we redacted this material.

We do not believe that our publication of these photographs, in and of itself, creates a real risk because:

- **Photographs like these are available elsewhere on the web:** A quick search of [Google](#) for any of these facilities will return much information, including photographs, some of which are from government web sites.
 - Microsoft's [Terraserver](#) has pictures of the **entire** country, with free, unfettered access to all.
 - [Mapquest](#) or [Yahoo Maps](#) offer you a "click here to see a photo" link when you bring up a map given an address. Enter [1600 Pennsylvania Ave., Washington DC](#), for example...
- **Photographs like these are easy to take:** Anyone could charter a plane for a few hundred dollars and take pictures with this resolution using an ordinary 35mm camera. There is no "rocket science" involved. We are more interested in providing a historical record; terrorists are more interested in current photographs.
- **Exposing security problems will get them fixed:** There is no true security in obscurity. Public knowledge of a security flaw forces the flaw to be fixed. We have learned this a long time ago in the software industry.

Furthermore, there are enormous reasons that the public should specifically be permitted to view these facilities:

- **Many are damaging to the environment:** They include facilities like power plants and refineries that are enormously destructive to the environment. Because access to these sites is in some cases restricted, much of the damage occurs far from public scrutiny. For example:
 - Powerplants use once-through cooling, sterilizing billions of gallons of sea water per day and in some cases, discharging this water into our National Marine Sanctuaries.
 - Water desalination plants discharge brine with two to three times the normal concentration of salt. This brine sinks to the ocean floor without mixing and kills sea life.
 - Sewage plants discharging into the sea.
 - Many sites build sea walls that destroy the beach.

New Concerns?

I would be happy to discuss any *new* concerns you may have about the project.

Rants

Here are some of the rants that we have received and would like to share with you for your amusement. They have been reformatted to fit your screen.

This first rant was recorded by my answering machine. I'm not sure who the author is, but the Caller ID on my answering machine indicated a number of _____ and name of Jeanette _____. This lady *really* doesn't want to be on the Internet. If this is really Jeanette _____ of _____, CA, age 43, she shouldn't worry, because I have no plans to photograph _____. She *should* instead be concerned because there is a lot more personal information publically available on the Internet than these photographs.

If anyone knows what this guy is talking about, please let me know. I haven't studied much geology. He would obviously make a great screenwriter of James Bond movies. Oops, too late. This seems like it is right out of the plot to "View to a Kill".

From: "Kumar Subramaniam" <paulmar3@hotmail.com>
To: sjordan51@aol.com
Subject: Suggestion
Date: Tue, 05 Nov 2002 08:38:01 -0800

Hi Susan,

I deeply appreciate your website. You are trying to do something that is great and useful to protect California environment. I lived in CA and took all those fabulous rides around the coast. Your photographs are amazing.

But I have a suggestion that you may want to strongly consider. I come from a background which you may not understand fully. I have 2 Masters degree in engineering related to geotech etc. and performing advanced research on earthquake prediction etc. I track quakes that involve people lives and have been more successful than even the best agencies spending billions on it.

To me the exposure of California coastline to the public this way is extremely dangerous for the following reasons:

After 9/11 exposing your coastline without proper computer system policies (preferred users) will achieve dangerous results i.e. opposite to what you are trying to do.

I beg you not to expose CA to the whole world at this time. It is pretty easy for terrorists to target your sites. I speak with great scientific backing after studying with the top most scientist related to geology on earth. There are many many ways that one could cause serious harm to CA with least of equipments not from the traditional weapons of mass destruction but with something totally different which people like me and few know and do not tell it out for security reasons.

Even if they may or may not be able to do it today they can certainly in say 5 years when all this 9/11 would have been forgotten.

The security system in this nation cannot cover all those things as it is very very expensive to save the whole Coast that too there are no geologist with such a background who work for your top security agencies. I know that.

So, I beg you to not expose these coastlines as it will achieve something that you can never ever imagine. No geologist will tell you all this openly because of security reasons.....

To me you should have restricted access to your site and you have to have a reasonably good mechanism as to whom you expose this site.

You can contact the experts in the field of system policy and how to implement it.

Even otherwise, please wait with your environmental concerns for at least a year till the national security system is in place. Please. I studied in the top health and safety and earth science school.

Thanks
Kumar

Likewise, I've always wanted to visit Cuba, and thought I would have to wait until after Castro dies. I have thanked the writer for his offer of media attention and offered our helicopter services to Mr. O'Reilly. As you can see from my portfolio, my wife and I are experienced aerial photographers:

Date: Thu, 07 Nov 2002 12:12:12 -0800
From: smd <smd@inreach.com>
Subject: National Security

Dear Ken,

RE Californiacoastline.org

We turned you in to GWB & FBI & Coast Guard for your flagrant breach of National Security in time of War. I hope they bust your traitor arse and send it to Guantanamo.

You may be able to mitigate and limit the damage you have done by taking down the server to this entire site immediately and apologizing to the President personally. Such total disregard for human life is beyond belief!

Specifics? Well for starters how about Diablo Canyon N35 12.48 W120 52.21 #2204big These high resolution photos show every detail of the place, every fence, wire, barricade, spent fuel pools, every rock. I wouldn't be surprized to find out bin Laden has set it as his screensaver. We notified PG&E and SCE security.

If this is not taken care of immediately, we will also forward this to the media and the backlash and outrage will be incredible. I hope Bill O'Reilly posts high resolution photos of your swimming pool online! Do unto others...

Most Sincerely,
SMD

There seems to be a common theme in these last two email rants. Quoting from my Diagnostic and Statistical Manual of Mental Disorders, Fourth Edition, usually referred to as the "DSM-IV", under Section 297.1 "Delusional Disorder", Subtype "Grandiose",

" This subtype applies when the central theme of the delusion is the conviction of having some great (but unrecognized) talent or insight of having made some important discovery. Less commonly, the individual may have the delusion of having a special relationship with a prominent person (e.g., an adviser to the president) or being a prominent person (in which case the actual person may be regarded as an imposter). [...]"

...but of course, I'm not a psychologist and I'm not qualified to make this diagnosis, and there are other preconditions (like the delusion needs to last a month) for the diagnosis.

Now that Streisand has filed her lawsuit against the site, the rest of the litigants are coming out of the woodwork. Here is a threat from Bruce Craig of Encinitas, California:

From: Cbruce348@aol.com
Date: Sat, 14 Jun 2003 03:23:35 EDT
Subject: Streisand
To: Adelman@Adelman.COM

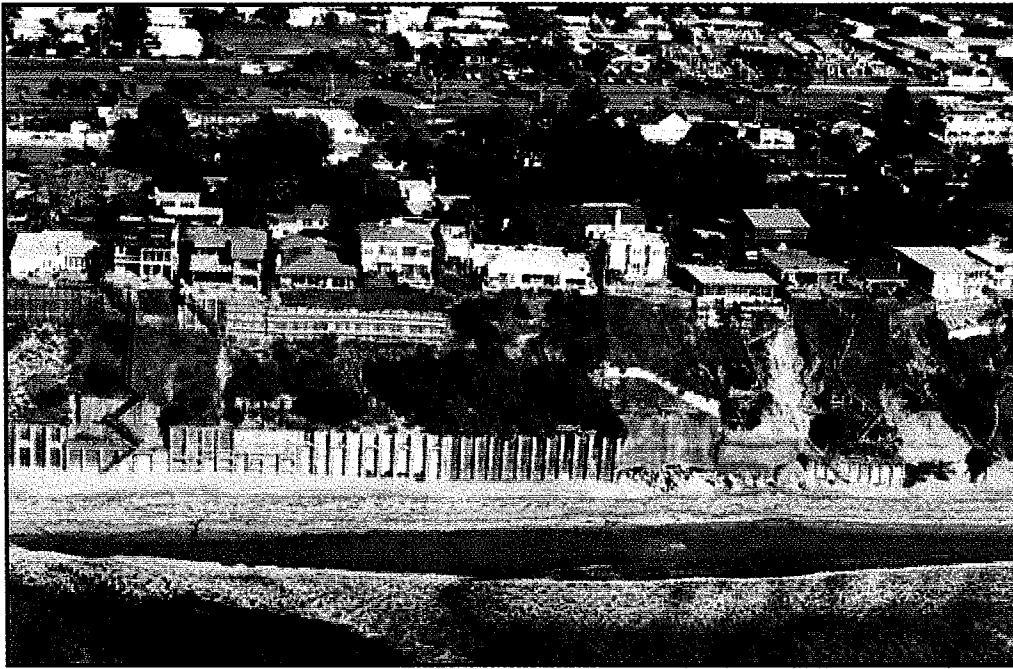
The beautiful move MS Steisand has begun is only the tip of the iceberg.

It is our intention (speaking for many bluff top, coastal homeowners and members of the Seaside Preservation Commity) to keep you as deep in court costs as possible. Regardless of the outcome, you will pay to fight similar damage claims from here on out.

As each of us will file separate suits to teach you the true cost of your ignorant and careless actions. If we wanted our homes on the Internet, we would have put them there.

I can assure you Mr. Adelman, each battle is irrelevant, you will lose this war.

Since he speaks for members of the Seaside Preservation Commity [sic] we'd like to show you exactly what he considers "Preservation" (which according to my American Heritage Dictionary means "*To keep in perfect or unaltered condition; maintain unchanged*"). What is Mr. Bruce trying to hide?



This is the photo that we believe includes his neighborhood

These have to be some of the **worst** looking seawalls that I have ever seen in all of my photography of the coast.

Mr. Craig continued to write me to express his anger at those who would enforce the law:

The greatest lesson you are about to learn is that regardless of your antics, your website will not magically generate some new arm of the government which will swoop down on all the illegal sea walls. The owners of these walls will continue to throw money at the courts to keep their walls as they will to eliminate you.

Mr. Craig -- there is *one* certainty -- the ocean will reclaim these homes, seawall or not. I just hope the taxpayers don't get stuck with the bill for cleaning up the rubble which is left.

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EXHIBIT 4

Voice Mail Message From Jeanette _____ to Kenneth
Adelman Contained At:

www.californiacoastline.org/rant-of-jeanett-_____.mp3

MESSAGE:

Hello, this message is for Ken Adelman. I hope I have the right man. This man appears to be a peeping tom taking photographs of people's houses all up and down the coastline. I've got news for you--if this is the man--there are people out there that want their privacy, okay, and don't want to be on the internet. I can name quite a few of them that I know personally. Allrighty? You are intruding on these people's rights. If you would like to call me and chat with me about this I'd be more than happy to try to straighten you out on this. This is too intrusive for words. I was totally upset reading this article. My phone number is XXX-XXX-XXXX. If I have the right person. If I don't I apologize for calling – but, at any rate, so you'll know there is a man out there by the name of Ken Adelman. He's up in his helicopter filming every coastline property along the coast of California and posting it on the internet without people's permission. Okay? If somebody's out sunbathing in their yard, they're going to be on the internet. That to me is totally outrageous! I hope that that's not the case and he changes his mind if he is. At any rate – goodbye.

PACIFIC

OCEAN

