

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  
11 BARBRA STREISAND,

12 Plaintiff,

13 vs.

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

17 Defendants.

CASE NO. SC 077257

[HONORABLE ALLAN J. GOODMAN]

**PLAINTIFF'S REPLY MEMORANDUM IN  
SUPPORT OF PRELIMINARY  
INJUNCTION MOTION**

**[Filed Concurrently with Declaration of Rex  
D. Glensy and Appendix of Non-California  
Authorities]**

Date: July 14, 2003  
Time: 1:30 p.m.  
Dept: H

Complaint Filed: May, 20, 2003

1 INTRODUCTION

2 In opposing Plaintiff Barbra Streisand’s (“Streisand”) motion for preliminary injunction,  
3 Defendant Kenneth Adelman (“Adelman”) has decided to rewrite privacy law and announce a  
4 legal proposition hereto unheard of in the annals of United States jurisprudence: that an injunction  
5 can **never** issue to vindicate privacy rights. Adelman reaches this untenable conclusion by  
6 indulging in circular logic and relying on two contradictory premises: (1) that an injunction can  
7 not issue to vindicate privacy rights before the violation occurs because that would be an  
8 impermissible prior restraint on speech; and (2) that an injunction can not issue to vindicate  
9 privacy rights after the violation occurs because the information revealed, being already public,  
10 negates any possibility of the plaintiff showing irreparable harm. In other words, it is legally  
11 impossible to ever obtain an injunction to vindicate privacy rights: in Adelman’s fantasy world,  
12 this remedy simply does not exist.

13 Of course, Adelman is both factually and legally wrong. Factually, he is wrong because  
14 this case does not involve any prior restraint on speech seeing that Adelman has already spoken in  
15 violating Streisand’s privacy rights. Legally, he is wrong because California courts have  
16 repeatedly held that injunctive relief is an appropriate remedy to prevent violations of privacy  
17 rights. Indeed, contrary to Adelman’s absurd claim that no court in California has ever issued an  
18 injunction to protect privacy rights, California courts have actually done so even when they have  
19 enjoined the publication of material which had already been publicly available for years.

20 Adelman’s claim that Streisand will not prevail on the merits is as fallacious as his attempt  
21 to cast this case as one involving a prior restraint on speech. California courts have held that the  
22 revelation of the location of someone’s home is a violation of privacy which is not protected by  
23 the First Amendment, especially when the consequences of such a revelation can result in the  
24 physical harm of the person whose private information is being revealed. Streisand is such a  
25 person. She has been repeatedly subjected to stalkers and threats of physical violence, thus the  
26 continued publication of the location of her home will cause her irreparable harm. The fact that  
27 Adelman trivializes Streisand’s concern as being merely a “concern about people seeing ‘the  
28 positioning of the deck chairs and parasols around her pool’” is illustrative of the callousness and

1 offensiveness of his conduct. Furthermore, the balance of the equities tips decidedly in  
2 Streisand's favor because Adelman does not possess a First Amendment right to reveal the  
3 location of her home. As such, Streisand's motion for preliminary injunction should be granted.

#### 4 ARGUMENT

##### 5 **I. Adelman Misleads the Court as to the Relief Requested by Streisand in this Motion**

6 Streisand, in this motion, seeks only that Adelman remove the caption "Streisand Estate,  
7 Malibu," and any identification of any photograph with her from his website, and also seeks that  
8 Adelman stop selling pictures of her home. Adelman need only have read the Notice of Motion  
9 for Preliminary Injunction and/or the Proposed Order accompanying the motion to ascertain  
10 himself of the preliminary relief requested by Streisand. See Notice of Motion for Preliminary  
11 Injunction filed on June 23, 2003, at 1; [Proposed] Order Granting Motion for Preliminary  
12 Injunction filed on June 23, 2003, at 1. Any assertion by Adelman that Streisand is seeking any  
13 additional preliminary relief is disingenuous and calculated solely to mislead the Court.

##### 14 **II. The Court is Empowered to Grant the Injunction Requested in this Case**

15 "Privacy" is enshrined as an "inalienable right" belonging to all Californians in Art. I, § 1  
16 of the California Constitution. The "scope and application of the state constitutional right of  
17 privacy is broader and more protective of privacy than the federal constitutional right of privacy  
18 as interpreted by the federal courts." American Academy of Pediatrics v. Lungren, 16 Cal. 4<sup>th</sup>  
19 307, 326 (1997). Adelman's suggestion to the contrary is false.

20 This case does not involve a prior restraint on speech. Adelman misleads the court in  
21 declaring otherwise after providing a suitable definition of a prior restraint: "Orders which restrict  
22 or preclude a citizen from speaking *in advance*." PI Opp., 5:8-10 (citing Hurvitz v. Hoefflin, 84  
23 Cal. App. 4th 1232, 1241 (2000)). As the language plainly states, prior restraints preclude  
24 individuals from "speaking in advance." By captioning the photograph of Streisand's home as  
25 belonging to her, Adelman has already spoken and, in the process, violated her privacy and  
26 publicity rights.<sup>1</sup> Thus, there is no "prior restraint" in enjoining this information. If Adelman

27 <sup>1</sup> Adelman again misleads the Court in claiming that the decision in New York Times Co. v.  
28 United States, 403 U.S. 713 (1971) is applicable. In that case, the Court specifically noted that  
although Congress had passed statutes dealing with espionage or taking material relevant to

1 were correct, then one could **never** obtain an injunction to vindicate privacy rights.

2 Moreover, the very cases Adelman cites at length to demonstrate that an injunction should  
3 not be granted, actually buttresses Streisand's correct contention that not only are "all prior  
4 restraints [not] invalid" but "[f]urthermore, 'an injunction restraining speech may issue in some  
5 circumstances *to protect private rights*.'" Gilbert v. Nat'l Enquirer, 43 Cal. App. 4th 1135, 1145  
6 (1996) (quoting Wilson v. Superior Court, 13 Cal. 3d 652, 662 (1975)) (emphasis added).<sup>2</sup>

7 And indeed, it is private rights that Streisand seeks to protect. Streisand, legitimately  
8 fearful of stalkers and others who have threatened her safety and security, has made every  
9 reasonable attempt to keep the details of her home private.<sup>3</sup> In light of the seriousness of  
10 Adelman's privacy invasion, removal of the caption identifying the home as belonging to her  
11 does not encroach upon the First Amendment nor constitute a prior restraint. As Witkin states,  
12 though "older decisions tended to deny equitable relief against invasion of personal rights . . .  
13 today, interests in privacy, reputation . . . and civil rights are recognized as proper matters for  
14 injunctive relief." Witkin, Cal. Procedure, Vol. 6, Provisional Remedies, § 316, p. 249. This  
15 reality has been reinforced not only in California but nationwide.

16 In this State, Judges have granted injunctions where the force of a complaint has been for  
17 the invasion of privacy. For example, Los Angeles Superior Court Judge Robert O'Brien, in 1997,  
18 temporarily restrained and then enjoined the publication of an edition of Playgirl which contained  
19 nude photographs of a celebrity notwithstanding that such photographs were widely available on  
20 the Internet, and had been so available, for over two years. See Declaration of Rex D. Glensy

21 \_\_\_\_\_  
22 "national security," Congress had not passed any law to enjoin publication of such matters. Id. at  
23 720. The California legislature, however, has enacted statutes allowing injunctions to prevent  
24 irreparable harm that cannot be adequately compensated by monetary damages. See e.g. Lugosi  
25 v. Universal Pictures, 25 Cal. 3d 813 (1975); Eastwood v. Superior Court, 149 Cal. App. 3d 409  
26 (1983) (observing that an injunction was a proper remedy to prevent misappropriation).

27 <sup>2</sup> Adelman's reliance on Gilbert is inapposite for other reasons as well. In Gilbert, the appellate  
28 court struck down a preliminary injunction on the grounds that the injunction was *overbroad*. As  
the court explained: "the order in this case restrained" the defendant "from talking privately to  
family, friends, and coworkers about his dissatisfaction with" the plaintiff "as a parent." Gilbert,  
43 Cal. App. 4th at 1146. Streisand does not seek an injunction that is nearly this broad in scope.

<sup>3</sup> Streisand has been the victim or target of multiple stalking instances and suffers from continued  
threats to her physical security. See Soderberg Declaration accompanying opposition to Anti-  
SLAPP motion, incorporated by reference herein ("Soderberg Decl."), ¶4. From this perspective,  
Streisand seeks to do more than "merely" protect her right to privacy. PI Opp., 6:15-16.

1 filed concurrently herewith (“Glensy Decl.”), Exhs. 20-23. The Court of Appeal underscored  
2 such a decision by refusing to stay the injunction pending the appeal. See Glensy Decl., Exh. 25.  
3 These decisions were reached notwithstanding the fact that Playgirl offered exactly the same  
4 arguments that Adelman is offering here, i.e., that the First Amendment protected its activities  
5 and that the “photos were already widely published on the Net” and on “European tabloids.”  
6 Glensy Decl., Exhs. 23-24. Those arguments were rightly rejected then, and should be rejected  
7 now. Similarly, actress Alyssa Milano obtained an injunction from Judge Ronald S.W. Lew of  
8 the U.S. Central District of California which prohibited an Internet Website “from posting *any*  
9 *more* nude photos” of her. Glensy Decl., Exh. 26. So much for Adelman’s assertion that no court  
10 had ever issued such injunction!

11 Likewise, another court found that violation of privacy and publicity rights are both  
12 *independent grounds* to grant a preliminary injunction. In Michaels v. Internet Entertainment  
13 Group, Inc., 5 F.Supp. 2d 823, 840 (C.D. Cal. 1998) for example, the court—on these grounds *as*  
14 *well as* for reasons of copyright infringement—enjoined the unauthorized distribution of a  
15 videotape showing celebrity plaintiffs, one of whom had previously appeared nude in magazines,  
16 movies, and videotapes, engaged in sexual activity. Significantly, the court also expressly  
17 rejected the defendant’s “the cat’s out of the bag” argument, by enjoining the tape’s distribution  
18 despite the fact that portions of the tape were already available on the Internet.<sup>4</sup> Id. at 841. See  
19 also Lungren, 16 Cal. 4th 307, 324 (enjoining enforcement of a statute on the ground that it  
20 violated the right to privacy); Leavy v. Cooney, 214 Cal. App. 2d 496, 504 (1963) (finding that  
21 where the evidence is sufficient to prove the wrongful invasion of plaintiff’s right of privacy, it is  
22 the court’s duty to enjoin further commission of the wrongful conduct).<sup>5</sup>

23 <sup>4</sup> Notwithstanding claims that the First Amendment would be infringed by the imposition of  
24 injunctive relief, courts have also frequently enjoined the publication and sale of books and  
25 magazine in various contexts. See e.g. Dr. Seuss Enterprises, LP v. Penguin Books USA, 109  
26 F.3d 1394, (9th Cir. 1996) (affirming preliminary injunction prohibiting distribution of a book);  
Hearst Corp. v. Stark, 639 F.Supp. 970 (N.D. Cal. 1986) (enjoining importation of books  
protected by United States statute even though they were lawfully produced abroad).

27 <sup>5</sup> Similarly, another court determined that the filming of a prisoner in an exercise cage observed  
28 by prison guards and other inmates, for broadcast, could constitute a violation of the prisoner’s  
right of privacy, and thereby could properly be enjoined without constituting a prior restraint.  
Huskey v. National Broadcasting Co., Inc., 632 F.Supp. 1282, 1296 (N.D. Ill. 1986). The court

1 Like his contention that Streisand seeks an unlawful prior restraint, Adelman's claim that  
2 Streisand seeks to "censor" him is equally spurious. PI Opp., 8:3. Streisand is not asking to  
3 censor political speech, as was the issue in the case that Adelman relies on for his preposterous  
4 proposition. Wilson, 13 Cal. 3d at 662. *The subject matter of her preliminary injunction motion*  
5 *is the removal of the caption identifying the photographed property as belonging to her.* The  
6 issue, therefore is not censorship, but eliminating unlawful conduct that has already occurred.

7 Finally, Adelman's suggestion that Streisand's intrusion and misappropriation claims  
8 violate the First Amendment and constitute a prior restraint, is without merit. Courts have already  
9 held that "[i]ntrusion does not raise First Amendment difficulties since its perpetration does not  
10 involve speech or other expression." Miller v. National Broadcasting Co., 187 Cal. App. 3d  
11 1463, 1491 (1986). Instead, it "occurs by virtue of the . . . mechanical observation of the private  
12 affairs of another, and not by the publication of such observations." Id. Similarly, "although" the  
13 tort of misappropriation involves "speech and other expression," it nevertheless "probably does  
14 not raise First Amendment problems." Id. (holding that NBC did not have a First Amendment  
15 defense to a misappropriation claim).<sup>6</sup>

### 16 **III. Streisand Has Satisfied Her Burden For Obtaining A Preliminary Injunction**

#### 17 **A. Streisand Will Prevail on All of Her Causes of Action**

##### 18 **1. Streisand's Claim For Publication Of Private Facts Will Succeed**

19 Numerous decisions, as indicated in the PI Motion, indicate that individuals have

---

20 noted that Supreme Court jurisprudence "suggest[s] that an injunction to prevent private wrongs  
21 stands on a very different footing from injunctions that suppress the communication of  
22 information as such." Id. at 1294. Likewise, in Ali v. Playgirl, Inc., 447 F.Supp. 723 (S.D.N.Y.  
23 1978), the court issued an injunction to recall and prevent further publication of a magazine issue  
24 stating that even though Muhammad Ali "may have voluntarily on occasion surrendered [his]  
25 privacy" that did not mean that he had done so for all times and occasions. Id., at 727. In fact,  
26 just because "a person has become a public figure, voluntarily, or involuntarily, does not thereby  
27 render every aspect of his or her life subject to public scrutiny. 'Every individual has some  
28 phases of his life and his activities and some facts about himself that he does not expose to the  
29 public eye, but keeps entirely to himself or at most reveals only to his family or to close personal  
30 friends.'" Nobles v. Cartwright, 659 N.E. 2d 1064, 1076 (Ind. Ct. App. 1995) (citing Rest.  
(Second) of Torts, § 652D, cmt.b. (1977)).

<sup>6</sup> In this light, Adelman's anti-SLAPP motion as applied to the intrusion, misappropriation, and  
constitutional privacy causes of action must be denied as a matter of law because these causes of  
action do not impact on First Amendment issues.

1 “a substantial privacy interest in their home addresses” and its functional equivalents. Moreover,  
2 such information is still be considered a private fact even though the “information may have been  
3 at one time public.” United States Dep’t of Justice v. Reporters for Freedom of the Press, 489  
4 U.S. 749 (1989). As a result, even in cases involving proceedings to compel information pursuant  
5 to the Freedom of Information Act (“FOIA”) and the California Public Records Act (“CPRA”) courts  
6 have determined that privacy interests trump First Amendment concerns notwithstanding  
7 the fact that the policy underlying FOIA and CPRA “is to ensure an informed citizenry, vital to  
8 the functioning of a democratic society.” NLRB v. Robbins Tire & Rubber Co., 437 U.S. 214,  
9 242 (1978), see also Planned Parenthood Golden Gate v. Superior Court, 83 Cal. App. 4th 347  
10 (2000); City of San Jose v. Superior Court, 74 Cal. App. 4th 1008 (1999); and Department of  
11 Defense v. FLRA, 510 U.S. 487 (1994). Adelman’s position in this case is even weaker than that  
12 advocated by the losing side in these cases seeing that he does not have FOIA and CPRA as  
13 weapons in his arsenal upon which he can draw to penetrate Streisand’s privacy.<sup>7</sup>

14 Adelman’s reliance on Sipple v. Chronicle Publishing Co., 154 Cal. App. 3d 1040 (1984)  
15 is inapposite. That case is referring to instances where information has been *lawfully* made public  
16 and involves a situation where the plaintiff was the very person who put the allegedly private  
17 information in the public domain. *Id.* at 1048. Streisand, on the other hand, has made every  
18 effort to keep the specific location of her home private. It would be legally obtuse to suggest that  
19 private facts would permanently become part of the public domain so long as one individual  
20 disseminated the information first. If this were true, then the floodgates would be open to  
21 allowing Adelman and the like to continue to assault an individual’s privacy so long as someone,  
22 perhaps an individual living in a foreign country and with Internet access, had done so first.

23 The offensiveness of Adelman’s publication is not only expressed by Streisand. Indeed,  
24 Adelman has dedicated a portion of his website to mocking those who believe that his site  
25 invades the privacy of others. After one individual informed Adelman that he, and others in his

26 \_\_\_\_\_  
27 <sup>7</sup> Furthermore, Adelman’s assertion that the Planned Parenthood and City of San Jose cases are  
28 inapposite because they dealt with discovery disputes is a distinction without a difference. In  
both cases, discovery of information was precluded in light of the same privacy rights that are  
implicated in this case.

1 community, did not want their homes published on the Internet, Adelman responded by producing  
2 a photograph of the neighborhood the individual lived in. See Declaration of Jonathan E. Stern  
3 accompanying opposition to Anti-SLAPP motion, incorporated by reference herein, Exh. 4.  
4 When one woman phoned him to inform him that his website was “too intrusive for words,”  
5 “totally outrageous,” and “intruding on people’s rights,” Adelman placed her voice message on  
6 his website as well as her name, age, phone number, and other information; all the while  
7 acknowledging that “this lady *really* doesn’t want to be on the Internet.” Id. And lastly, in  
8 response to concerns that many of his photographs threaten the security of not only individuals  
9 but the nation, Adelman stands on his soapbox by telling readers that “the enormous good that  
10 could come from this project outweighs [*sic*]” any “real security risk.” Id.

11         Meanwhile, Adelman’s Opposition to the PI Motion routinely makes post-hoc  
12 justifications for his publications. PI Opp., 11:3-10 His website, however, which he—and not his  
13 counsel—authored, reveals an honest reason why he believes that it is permissible to take  
14 intrusive photographs of individual’s homes and identify the owners regardless of threats to their  
15 personal security or efforts to keep the information private. “Those people who have chosen to  
16 live on” the California coast, he explains, “have made the coast a part of their lives, and their lives  
17 part of the coast.” See Declaration of John M. Gatti accompanying PI Motion, Exh. 17. Taken to  
18 its logical conclusion Adelman is suggesting that photographing homes in the vicinity of public  
19 parks, lakes, rivers, hillsides, reservoirs, or highways is permissible so long as it is under the  
20 pretext of exploring and documenting the environment. Indeed, Adelman’s wife’s own words  
21 emphasize this notion and concede the fact that in so doing, she and Adelman are “photographing  
22 . . . private property or [property that is] otherwise inaccessible” so that private information is  
23 available “to everybody.” Glensy Decl., Exh. 27. Thus, every Californian is potentially a target  
24 and privacy is no longer a concern in Adelman’s Orwellian world.<sup>8</sup>

25  
26 <sup>8</sup> Also note that Adelman is not immune from suit under § 230 of the Communications Decency  
27 Act. That is because the act does not protect violators of intellectual property rights, those who,  
28 as “internet content providers,” create and develop the information contained on their websites, or  
individuals who utterly fail to filter objectionable material. See e.g., 47 U.S.C. § 230; Carafano v.  
Metrosplash.com, Inc., 207 F.Supp. 2d 1055 (C.D. Cal. 2002).



1                   2.       Streisand's Claim For Intrusion Into Seclusion Will Succeed

2                   The California court of appeal has already held that “[i]ntrusion does not raise  
3 First Amendment difficulties since its perpetration does not involve speech or other expression.”  
4 Miller 187 Cal. App. 3d at 1491. Consequently, Adelman cannot claim that photographing  
5 Streisand’s home is conduct protected by the First Amendment.

6                   Moreover, intrusion focuses on the location of the intruder and not on the location of the  
7 intrusion. And, the California Supreme Court has already stated that the intrusion tort  
8 encompasses “unwanted sensory intrusions” including “visual or photographic spying.” Shulman  
9 v. Group W. Productions, 18 Cal. 4th 200, 231 (1998). Other California courts have echoed this  
10 axiom. Almost 25 years ago, for example, the court of appeal stated that “[g]iven today's state of  
11 technology, it is impossible to conceptualize a legally significant difference between  
12 electronically aided aural perception and optically aided visual view. As electronic bugs and  
13 remote microphones have made it possible to intrude upon private conversation surreptitiously in  
14 an Orwellian degree, so have modern optics made possible the same sort of visual intrusion.”  
15 People v. Arno, 90 Cal. App. 4th 505, 511 (1979). Today, the modern optics and equipment that  
16 Adelman uses is significantly more sophisticated and intrusive than what existed then.

17                   3.       Streisand Will Succeed On Her Other Three Causes Of Action

18                   Adelman violated Streisand’s constitutional privacy right. Hill v. NCAA, 7 Cal.  
19 4th 1, 38 (1994), instructs that “if defendant's legitimate objectives can be readily accomplished  
20 by alternative means having little or no impact on privacy interests, the prospect of actionable  
21 invasion of privacy is enhanced.” There is no doubt that if Adelman were wholly committed to  
22 merely “develop[ing] a pictorial record of the entire California coastline,” Anti-SLAPP Motion,  
23 2:8-9, then he could have done so without posting detailed photographs of Streisand’s home,  
24 identifying Streisand as the homeowner, and then using her name to sell pictures.

25                   Streisand’s claim under Anti-Paparazzi Act (Civ. Code § 1708.8) will also be meritorious,  
26 because, in using a six megapixel visual enhancing device, Adelman has not shown that he did  
27 not intend to capture images of Streisand. Moreover, had Adelman succeeded in photographing  
28 Streisand from afar, the resulting quality of the photograph would be irrelevant since the statute

1 focuses on the attempt to photograph and not the quality of the final product.

2 Since Streisand has also shown that Adelman’s website captions—without  
3 authorization—Streisand’s name next to the location of her residence, Streisand will prevail on  
4 her misappropriation claim. By making numerous solicitations on his website to purchase his  
5 photographs, Adelman has also violated Cal. Civ. Code § 3344(a) which requires consent when  
6 using another’s name for “soliciting purchases, of products, merchandise, goods or services.” See  
7 e.g., Gatti Decl., Exhs. 7, 10, & 14. Furthermore, the court in Miller has already stated that  
8 “although” the tort of misappropriation involves “speech and other expression,” it nevertheless  
9 “probably does not raise First Amendment problems.” 187 Cal. App 3d at 1491 (holding that  
10 NBC did not have a First Amendment defense to a misappropriation claim).

11 **B. Streisand Will Suffer Irreparable Harm If the Injunction is not Granted**

12 Adelman’s suggestion that the unauthorized publication of private information irreversibly  
13 places that information into the public domain such that Streisand or others can never prohibit its  
14 unlawful dissemination, is both offensive and contrary to established law. See e.g., Glensy Decl.,  
15 Exhs. 20-24 (describing Superior Court order to recall magazine containing photographs of a  
16 nude celebrity despite the fact that the photographs had been available elsewhere on the Internet  
17 for over two years); FLRA, 510 U.S. at 500 (“[a]n individual’s interest in controlling the  
18 dissemination of information regarding personal matters does not dissolve simply because that  
19 information is made available to the public in some form”); Planned Parenthood, 83 Cal. App. 4th  
20 at 364 (“[c]ase law . . . confirms that when the circumstances merit protection of [residential  
21 addressees or telephone numbers] courts do not hesitate to afford it” even though “such  
22 information is . . . often accessible by other means”); Ali, 447 F.Supp. 723 (enjoining the further  
23 publication of a magazine even though there would not be any further domestic distribution of the  
24 issue). Equally offensive is Adelman’s suggestion that “Streisand has submitted no evidence that  
25 there is any real danger that someone will use the photograph to harm her.” PI Opp., 2:19-21.  
26 Streisand contends with threats to her safety on an ongoing basis and has had to do so for many  
27 years now. See Streisand Declaration accompanying PI Motion, ¶3. This fact is confirmed by  
28 the Chief of Detectives of the Los Angeles County Sheriff’s Department. See Soderberg Decl.,

1 ¶¶ 3-4. In fact, the California court of appeal has already recognized the dangers that publications  
2 of private facts of the kind that Adelman has pursued in this case carry for the people whose  
3 private information is being published: "Human experience compels us to conclude that  
4 disclosure carries with it serious risks which include, but are not limited to: the nationwide  
5 dissemination of the individual's private information . . . and the infliction of threats, force, and  
6 violence." Planned Parenthood Golden Gate, 83 Cal. App. 4th at 360. In that light, it is clear  
7 that the continued identification of her home's location poses an imminent threat of irreparable  
8 harm to her.<sup>9</sup>

9 **C. The Balance of Equities Favors Streisand**

10 The balance of hardships unquestionably tips in Streisand's favor. If the injunction is not  
11 granted then private information about Streisand will continue to be disseminated on the internet  
12 with the consequent threat to her security that that entails. If the injunction is granted, Adelman  
13 will *only* be prevented from identifying the home as belonging to her and engaging in related  
14 unlawful activity. Since Adelman "would suffer little harm" if the injunction were granted it  
15 would be "an abuse of discretion to fail to grant the preliminary injunction." Robbins v. Superior  
16 Court, 38 Cal. 3d 199, 205 (1985).

17 **IV. Conclusion**

18 For the foregoing reasons, the motion for preliminary injunction should be granted.

19 DATED: July 9, 2003

ALSCHULER GROSSMAN STEIN & KAHAN LLP

21  
22 By 

John M. Gatti  
Attorneys for Plaintiff  
BARBRA STREISAND

23  
24  
25  
26 <sup>9</sup> Streisand's counsel possesses documentation of the threats and acts of violence that Streisand  
27 has had to contend with to date. Given Adelman's penchant for publishing on his website  
28 everything that gets filed with the Court, Streisand is unwilling to put this sensitive information  
on file. However, if the Court so wishes, Streisand will present this documentation to the Court  
and opposing counsel for an in camera inspection.