

Barbra Streisand's Lawsuit to Silence Coastal Website to be Dismissed

Free Speech Protections Upheld for Landmark Aerial Database

Los Angeles - 12/3/2003 - In a decision that reaffirms the public's First Amendment right to participate in matters of public significance, a Los Angeles Superior Court issued a 46 page opinion today holding that Barbra Streisand, the well-known entertainer and Hollywood celebrity, abused the judicial process by filing a lawsuit against aerial archivist Ken Adelman, his Internet Service Provider Layer42.NET, and Pictopia.COM. The court also firmly rejected Streisand's request for an injunction to force the removal of a panoramic photographic frame that happens to include her sprawling blufftop estate from Adelman's website, www.Californiacoastline.org.¹

• Streisand's Use of Corporate Polluter Tactic Fails:

A jubilant Adelman expressed gratification at the court's ruling. "My goal in bringing the Anti-SLAPP motion was to protect the integrity of this historic photographic database of the California coast and to ensure that the public continues to have unfettered access to the photographs and the other data it provides," Adelman said. Lawsuits that seek to suppress public participation and free speech are referred to as SLAPP suits - Strategic Lawsuits Against Public Participation. The California Legislature enacted the Anti-SLAPP Statute to stop the increasing use by large corporate polluters of these meritless lawsuits that sought to silence the "valid exercise" of the constitutional right of freedom of speech of grassroots activists.

• Project is Labor of Love; Use Free to Government, Science and Grassroots

The landmark California Coastal Records Project (CCRP), an aerial database consisting of 12,700 sequential panoramic frames of the California coast, is the brainchild of Ken and Gabrielle Adelman. The Adelmans, a husband and wife team, self-funded the project in an effort to promote coastal conservation. They donated their time and the use of their personal helicopter and the latest computer and camera equipment to complete the baseline photographic index of the California coast; Gabrielle flies the helicopter while Ken shoots pictures roughly once every

¹ The Court's "Tentative Decision and Proposed Statement of Decision" is subject to correction pursuant to Rule 232 of the California Rules of Court, but given the thoroughness of the Court's Opinion, any corrections are expected to be minor.

three seconds. The aerial photographs, taken over a period of over six months from public airspace, are arranged sequentially by longitude and latitude and made available to government agencies, universities, scientists and conservation groups free of charge on the website www.Californiacoastline.org. Users include the National Oceanic and Atmospheric Administration (NOAA), United States Geological Survey (USGS), US Coast Guard, the National Park Service, the State Coastal Conservancy, the State Lands Commission, California State Parks and others. A more complete listing of CCRP users appears below.

Streisand, a self-proclaimed environmentalist, shocked many in the environmental and scientific community when she filed suit in May against Adelman, claiming that the appearance of her lavish blufftop Malibu estate in a small portion of one of the 12,700 aerial photographs in the database violated her right to be free from offensive intrusions, violated the anti-paparazzi statute, constituted wrongful publication of private facts and misappropriated her name. Streisand sought ten million dollars in damages and a permanent injunction against display or dissemination of the photograph.

• **Hundreds of Scientists, Researchers & Planners Utilize Site:**

“We were quite surprised to learn that someone who publicly espouses support for environmental and free-speech protection would sue to dismantle a project that has proven itself a powerful tool for coastal protection at no cost to the public. We were even more dismayed at allegations posted on her personal celebrity website that claimed that our hobby was to ‘fly around spying on people.’ Certainly, the hundreds of scientists, researchers, land-use planners and conservationists who use the website in their work understand that this project is providing a photographic baseline from which to understand, measure and, hopefully, reverse environmental degradation of the California coast,” said Gabrielle Adelman.

“The Californiacoastline.org web site and photographs have become an extremely useful tool for our coastal research on a wide range of issues from coastal erosion and cliff failure, to the distribution of seawalls and other coastal armoring,” said Gary Griggs, Director of the Institute of Marine Sciences at the University of California, Santa Cruz. “Nowhere does this sort of statewide, up-to-date, high quality information exist in an easily available and conveniently accessible format. It has greatly facilitated our research and has become an invaluable data base. This is a resource I use virtually every day and there is no other source for this quality and scope of aerial photography for documenting coastal change,” Griggs said.

Adelman’s attorney, Richard Kendall of Irell & Manella, successfully argued

that the photographs constituted protected free speech in connection with a matter of public significance - protection of the California coast - and that Streisand's suit was nothing more than a SLAPP suit that lacked a 'reasonable probability' of success on the merits. The Court agreed that Streisand's lawsuit was an attempt to unfairly restrain and punish Adelman and ordered Streisand to pay the legal fees the defense incurred.

Countering Streisand's claim that Adelman sought to benefit by allowing Streisand's name to appear in a caption of the photograph, Kendall pointed out that Adelman does not profit from the website. Her claim that her privacy suffered from the publication of the photograph is also groundless; Kendall noted that Adelman deliberately designed the site so that the captions on the photographs, that are supplied by the public, are invisible to external search engines like Google; that the site does not contain Streisand's address; and that the information that Streisand sought to suppress was readily available on other sites and in other publications - some with the express permission of Streisand herself.

• **Streisand's Mansion Attracted Little Attention:**

Kendall also pointed out that Streisand grossly overestimated the number of people who would use the caption to download or order pictures of her blufftop estate. In her declaration, Streisand claimed that it was likely that thousands of people had downloaded the frame to view her estate. In fact, prior to the lawsuit, only six downloads of that frame were executed (out of a total of over 14,000 downloads for the site as a whole), two of which were downloads by her own attorneys. Similarly, prior to the lawsuit, only three reprints of the frame were ordered through Pictopia - two by Streisand herself and one by a neighbor who is in a lengthy dispute with her over controversial expansion plans for her blufftop estate.

• **California Coastal Protection Activists Celebrate:**

Environmentalists up and down the state rejoiced at the decision. "We applaud the court's determination that the public has a compelling interest in viewing our coast and that efforts of coastal landowners to intimidate the public will not be tolerated. The victory today is more than just a validation that the Adelmans' philanthropic enterprise provides an extraordinary and legitimate public benefit. It is a confirmation that the public has the unfettered right to view our coast and public trust resources." said Mark Massara, environmental lawyer and Director of the Sierra Club Coastal Program.

"For scientists, researchers, and conservationists working to protect the California coast against environmental degradation and the threat of illegal and inappropriate development, this project is an invaluable tool. Streisand's lawsuit, had it been successful, would have opened the door for other wealthy landowners to demand that individual frames be

removed thereby jeopardizing the entire coastal baseline survey that forms the foundation of the California Coastal Records Project,” said Susan Jordan, Director of the California Coastal Protection Network. “Public access to the coast, whether physical or visual, is a cornerstone of the California Coastal Act and we welcome its implicit affirmation in the Court’s decision today,” she concluded.

“This decision sends a message to all environmental activists that the court will not tolerate threats of intimidation whether it comes from corporate polluters like Texaco or Shell Oil or a celebrity who believes that her personal interests are more important the public’s constitutional right to free speech,” said Adelman.

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Government Use

Army Corps of Engineers
National Marine Fisheries Service (NMFS)
National Oceanic and Atmospheric Administration (NOAA)
National Park Service
US Forest Service
US Geological Survey (USGS)
US Coast Guard

California Department of Conservation
California Coastal Commission
California Department of Boating and Waterways
California State Coastal Conservancy
CALTRANS
State Lands Commission

Capistrano Bay District
County of San Diego
Crescent City Harbor District
Half Moon Bay Planning Commission
Humboldt Bay Harbor Recreation, & Conservation District
La Jolla Town Council
Mendocino County
Mendocino County Planning Department
San Diego Parks & Recreation
San Luis Obispo County Planning & Building Department
Santa Barbara Planning Department
Santa Cruz Planning Department
South Orange County Wastewater Treatment

Universities/Educational Institutions

Aquarium of the Pacific
Associated Press
Scripps University
Stanford University
The Diversity Institute
The Watershed Institute
UC Berkeley
UC Santa Barbara
UC Santa Cruz
UC Davis
University of Montana
McMaster University, Canada
Partnership for Interdisciplinary Studies of Coastal Oceans

Publications

American Society of Landscape Architecture Magazine

Architectural Records Magazine
Bodega Bay Navigator
California Cruising Clippers
Faultline News
Independent Coast Observer
Intl. Association of Women Pilots Magazine
Los Angeles Times
Longboard Magazine
National Wetlands Newsletter
Petroglyph Magazine - Utah University
Pilot Journal
Popular Photography Magazine
Recreational Boating Magazine
San Francisco Chronicle
San Jose Mercury News
San Simeon Newsletter
Santa Rosa Press Democrat
Scripps Explorations Magazine
Seabright News
Surfer Magazine

Conservancies, Foundations, & Environmental Groups

Big Sur Land Trust
CALPIRG
California Coastal Foundation
Committee for Green Foothills
Dana Point Headlands Conservancy
Environmental Defense Center (EDC)
Environment California
Film Arts Foundation
Friends of Salk Coastal Canyon
Friends of the Garcia Watershed
Glendon Organization
Golden Gate Park Windmills
Headlands Institute
Heal the Bay
LandPeople
LightKeepers
Nuclear Witness
Peninsula Open Space Trust
Point Bonita Lighthouse
Rancho Santa Ana Botanic Garden
Redwood Coastal Land Conservancy
Rivers and Mountains Conservancy
The Nature Conservancy
The Trust for Public Land
Zoological Society of San Diego