

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

10 Attorneys for Plaintiff
 11 BARBRA STREISAND

CONFORMED COPY
 OF ORIGINAL FILED
 Los Angeles Superior Court

MAY 20 2003

John A. Clarke, Executive Officer/Clerk

By A. Washington, Deputy

8 SUPERIOR COURT OF THE STATE OF CALIFORNIA
 9 COUNTY OF LOS ANGELES

10 BARBRA STREISAND, an individual,
 11
 12 Plaintiff,

13 vs.

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

18 Defendants.

CASE NO.

COMPLAINT FOR:

SC077257

ALLAN J. GOODMAN

1. INVASION OF PRIVACY
(INTRUSION INTO SECLUSION)
2. INVASION OF PRIVACY
(PUBLICATION OF PRIVATE
FACTS)
3. INVASION OF PRIVACY
(CONSTITUTIONAL PRIVACY)
4. VIOLATION OF CALIFORNIA
CIVIL CODE SECTION 1708.8
(THE ANTI-PAPARAZZI ACT)
5. VIOLATION OF CALIFORNIA
CIVIL CODE SECTION 3344
(MISAPPROPRIATION OF THE
RIGHT TO PUBLICITY)

DEMAND FOR JURY TRIAL

[FILED UNDER CONDITIONAL SEAL
PURSUANT TO C.R.C. 243.2]

Judge _____ Dept. H
 Initial Status Conference at
 OSC Re: Proof of Service Set 8:30 a.m.
 1639 Purdue Ave., West Los Angeles Courthouse

1 Plaintiff Barbra Streisand for her Complaint hereby alleges as follows:

2 **INTRODUCTION**

3 1. Plaintiff Barbra Streisand ("Plaintiff") is a renowned singer, actress, movie
4 director, composer and producer. She has performed as an entertainer throughout the United
5 States and the rest of the world appearing numerous times in the most prestigious venues. Her
6 albums have sold millions of copies around the world. As a theatrical motion picture actress,
7 Plaintiff has appeared in several movies to critical and popular acclaim including winning the
8 Academy Award (Oscar) for the best performance by a female actor in a leading role. Her work
9 as a composer has also resulted in her winning the Academy Award. Her work as a movie
10 director, and producer has resulted in similar success.

11 2. Throughout the entirety of her career Plaintiff has been and is sought after
12 by a wide array of people for many different reasons because of her celebrity. Commercial
13 photographers take pictures of her when she attends public events and many times will sell these
14 photographs to various publications. The mainstream newspaper and television media often
15 arrange interviews and appearances by Plaintiff to discuss with her topics ranging from the
16 entertainment industry to current affairs.

17 3. People who wish to have contact with Plaintiff do not always do so
18 through legitimate channels which respect her personal space. Unfortunately, some people are
19 prepared to resort to any means to secure that glimpse, or illicit photograph, which fulfills their
20 desire to feel close to Plaintiff, or make money at her expense. Thus, Plaintiff is often stalked by
21 obsessed personalities who possess an unnatural urge to stake her out at all times and paparazzi
22 who hang around her whereabouts lying in wait to capture any possible image of her. Moreover,
23 Plaintiff has been throughout her career, the recipient of threats to her personal safety and has had
24 to deal on several occasions with individuals who have stalked her with the intent of inflicting
25 personal injury on her.

26 4. In light of her personal experience with people who wish to pry into every
27 aspect of her life and people who have threatened her personal safety, Plaintiff has adopted
28 throughout the years various measures to shield her private life from public view. For example,

1 her home telephone number is unlisted. Also, the records of real property that she owns, such as
2 her home residence, do not list her as the owner, but rather show that the property is owned by an
3 entity which cannot be traced, with any certainty, back to her.

4 5. Among these measures that Plaintiff has adopted to shield her private life
5 from public view is to purchase a primary residence that offers her the protection from unwanted
6 intrusion into her domestic environment. After years of painstaking search for a property that
7 was able to combine Plaintiff's desire for a secluded piece of real estate that did not provide any
8 naked eye access to onlookers with her wish to enjoy the benefits and amenities of beautiful
9 natural landscape features within a safe neighborhood, Plaintiff purchased a parcel of real estate
10 in the City of Malibu. This property, whose road access is delineated by a prominent gate and
11 fence, is set back at a considerable distance from the public roadway which makes Plaintiff's
12 living quarters virtually inscrutable from such roadway. The back of the property abuts a steep
13 cliff overlooking the beach and is demarked by thick shrubbery and foliage. Because Plaintiff's
14 living quarters are set back from the brink of the cliff, they are not visible either from the bottom
15 of the cliff or from the beach that stretches in front of this cliff. In fact, to catch a glimpse of the
16 back of Plaintiff's living quarters from the beach side, one would have to walk a significant
17 distance from the property either to the north or the south. At that point only the main features of
18 the residence (such as its roof and color) would be identifiable and no detail could be seen with
19 the naked eye. Plaintiff has two neighbors to the north and south. The property lines with each of
20 these neighbors are fenced off and are marked by a thick texture of trees and other flora.
21 Therefore, it is almost impossible to see Plaintiff's property and residence from whatever side one
22 attempts to peer, and what one does manage to see with the naked eye is not easily
23 distinguishable or identifiable in any manner. It is this seclusion that attracted Plaintiff to the
24 property in the first place, and it is the preservation of this seclusion that motivated Plaintiff, at a
25 considerable expense, to landscape the property in the fashion that it now appears.

26 6. In or around November 2002, Plaintiff became aware that photographs of
27 her property and residence in Malibu were being disseminated on the internet on the website
28 www.californiacoastline.org. The website is owned and operated by defendant Kenneth Adelman

1 ("Adelman"). Defendant Layer42.Net ("Layer42") provides the web hosting service for
2 www.californiacoastline.org. The photographs of Plaintiff's property and residence, which
3 Plaintiff is informed and believes were shot by Adelman from a helicopter piloted by his wife
4 flying overhead on the beach side of the property, are extremely well-taken with equipment that
5 reflects the most cutting-edge visual technology. So much so, that the photographs of Plaintiff's
6 property are shot at a very fine (high) resolution thus showing details that would be impossible to
7 see via the naked eye while viewing from a public vantage point. For example, the layout of
8 Plaintiff's pool and the positioning of her parasols and deck chairs is clearly visible from these
9 photographs. The interior of the home, positioning of the windows, the French doors, the
10 balconies, and all aspects of her residence and guest house that face the beach (also features
11 which are not visible with the naked eye while viewing from public property) are similarly
12 visible. The photographs also clearly identify those routes that could be used to enter her
13 property. Moreover, the website identifies the property location by longitudinal and latitudinal
14 coordinates and by showing its location on a map, and names the home the "Streisand Estate,
15 Malibu." In fact, by entering the word "Streisand" on the website's own search engine, one is
16 immediately taken to the detailed picture of the property with its identified location. Initially,
17 Adelman's website did not include Plaintiff's name and there is no legitimate reason to include it
18 at this time. The photographs of Plaintiff's property can be enlarged on the computer to poster-
19 size dimensions, and because of the high resolution quality of the photography, the clarity of
20 depiction is maintained with spectacular integrity. The photographs of Plaintiff's property can be
21 downloaded onto anyone's computer hard drive, and can also be purchased at various prices
22 depending on the picture size through Adelman's "special relationship" with defendant
23 Pictopia.com ("Pictopia").

24 7. The clarity with which the details of her private residence are paraded on
25 the world wide web for all to see has caused Plaintiff considerable anxiety. In light of Plaintiff's
26 past experience with stalkers, threats to her safety, and undesirable personalities' proven
27 propensity for prying into every aspect of her private life, Plaintiff is justifiably concerned that
28 the photographs of her property provide a road map into her residence for anyone who would be

1 inclined to attempt to gain access to the grounds. In fact, not only is Plaintiff's property explicitly
2 denominated as hers, but the identification of her property as hers facilitated by the website's own
3 search engine coupled with the minute detail of the pictures assist any potential physical or
4 optical intrusion.

5 8. Plaintiff's representatives contacted Adelman, expressed concerns, and
6 asked that the photographs of her property and residence, together with the caption bearing her
7 name, be removed from Adelman's website and that her name not be used to promote the sale of
8 the photographs. Plaintiff was clear that she was making this request out of concerns for her own
9 personal safety. Adelman refused, and through his website, has promised that he will continue to
10 take pictures of the California coastline (including Plaintiff's property) with his high-tech
11 equipment in his harassing helicopter flybys. Adelman notes that he "will re-photograph portions
12 of the coastline every few years, so that historical data is available for research and enforcement
13 purposes . . . [and he is] looking forward to advances in digital camera technologies up into the
14 12-20 megapixel range, as these cameras will provide even higher resolution." Considering that a
15 6 megapixel camera was used to make the pictures that are currently disseminated on Adelman's
16 website, a camera with three times the resolution will be able to penetrate even further into
17 Plaintiff's property, and reveal even more private and intimate details of her living quarters.

18 9. Individuals have a fundamental right to maintain the privacy and
19 confidentiality of their home address, and to guard against intrusions into areas of their own
20 homes which cannot be viewed by the naked eye. In an era when scientific advancements enable
21 unprecedented access and enhancement of visual images and photographs, individuals'
22 fundamental right to maintain a sphere of privacy around their own homes must remain inviolate.
23 The photographs of Plaintiff's property that are publicly disseminated on Adelman's website not
24 only constitute a flagrant invasion of Plaintiff's privacy, but serve as guide to anyone who wishes
25 to have unauthorized access to Plaintiff's property and residence. Because of these
26 considerations, Adelman's public and unabashed portrayal of Plaintiff's property, and his
27 commercialization of said property, must be foreclosed.

THE PARTIES

10. Plaintiff Barbra Plaintiff is, and at all relevant times has been, a resident of the County of Los Angeles, State of California.

11. Upon information and belief, defendant Kenneth Adelman is, and at all relevant times has been, a resident of the County of Santa Cruz, State of California.

12. Upon information and belief, defendant Pictopia, Inc. is, and at all relevant times has been, a company organized under the laws of the State of California, with its principal place of business in the County of Alameda, State of California.

13. Upon information and belief, defendant Layer42.Net is, and at all relevant times has been, a company organized under the laws of the State of California, with its principal place of business in the County of Santa Clara, State of California.

14. Plaintiff does not know the true names and capacities of defendants sued in this Complaint as Doe 1 through Doe 20, inclusive, and therefore sues these defendants by fictitious names pursuant to Section 474 of the California Code of Civil Procedure. Plaintiff will amend this Complaint to allege the true names and capacities of Doe 1 through Doe 20, inclusive, when ascertained. Plaintiff is informed and believes, and on that basis alleges, that each of the defendants named herein as Doe 1 through Doe 20, inclusive, is responsible in some manner for the occurrence, injury and other damages alleged in this Complaint.

15. Plaintiff is informed and believes, and on that basis alleges, that each defendant was in some manner responsible for the acts and damages alleged herein, and/or are indebted to Plaintiff as alleged herein, and that each defendant participated in the acts alleged herein and that, in participating in such acts, each defendant was the agent and co-conspirator of each other defendant, and was acting in the course and scope of such agency and conspiracy.

JURISDICTION AND VENUE

16. This Court has jurisdiction over all causes of action asserted herein because all causes of action asserted herein arise out of conduct undertaken by defendants in Los Angeles County, State of California. The photographs of Plaintiff's property and residence which are the subject of this lawsuit were knowingly and deliberately taken in Los Angeles County, State of

1 California. The dissemination of such photographs through the world wide web is such that these
2 photographs are readily available for viewing and/or purchase within Los Angeles County, State
3 of California. Each defendant has sufficient minimum contacts with the State of California, is a
4 citizen of the State of California, or otherwise intentionally availed itself of the State of California
5 so as to render the exercise of jurisdiction over it by the State of California courts consistent with
6 traditional notions of fair play and substantial justice.

7 17. Venue is proper in this Court under Code of Civil Procedure §§ 395 and
8 395.5 because the injury to Plaintiff occurred, and is occurring, in Los Angeles County, State of
9 California, and the liabilities to which defendants are subject arise in Los Angeles County, State
10 of California.

11 FACTUAL BACKGROUND

12 18. Plaintiff is the owner of a certain property located within the City of
13 Malibu, County of Los Angeles, State of California. Plaintiff's primary place of residence is
14 situated on this property.

15 19. Plaintiff's property on which her primary place of residence is located is
16 secluded. The side of the property facing the road entrance is protected by a large gate and a
17 perimeter fence. Thick foliage planted along the perimeter fence shields the property from view
18 by anyone looking in from the road. The back of the property abuts a cliff overlooking the beach.
19 The steepness and highness of the cliff combined with thick shrubbery growth prevents anyone
20 standing at the bottom of the cliff or on the beach from viewing the back of the property.

21 Plaintiff's property is located between two other private properties with trees and other plants
22 shielding Plaintiff's property from being viewed by either such properties.

23 20. After a search that took years, Plaintiff purchased the property that is the
24 subject of this Complaint primarily to satisfy her desire for seclusion and safety, and to protect
25 herself against unwarranted physical and/or visual intrusions into her private life.

26 21. In or around November 2002, Plaintiff discovered that detailed
27 photographs of her property and residence were being disseminated on the internet. These
28 photographs appear on the website www.californiacoastline.org. The website, owned by

1 defendant Adelman, and hosted by defendant Layer42, states that its mission is "to create a [sic]
2 aerial photographic survey of the California Coast and update it on a periodic basis." The home
3 page, identified by the title "Welcome," aside from introducing the web surfer to Adelman's
4 mission statement, offers the viewer of the website the possibility of locating the picture of a
5 desired spot close to the California coast by entering: (1) a longitudinal or latitudinal coordinate
6 (or both); (2) a famous coastal landmark (such as the Rock of Morro Bay); (3) an image caption
7 (such as the name of a celebrity); or (4) the number of the requested photograph. In addition,
8 Adelman provides guidance as to how to calculate the proper coordinates of any desired location,
9 should the viewer be unfamiliar with the exact coordinates of the place being searched. The
10 website also gives the user the possibility of linking his computer to, among other things, a
11 particular image such as the photographs of Plaintiff's property and residence.

12 22. By entering the term "Streisand" on the image caption locator (option 3
13 described above) on the home page of the website, a viewer is transported to a page which
14 contains a view of Plaintiff's property and residence identified as "Streisand Estate, Malibu", its
15 longitudinal and latitudinal coordinates, its location on a map, the number of the photograph, and
16 when such photograph was taken. By clicking on the picture of Plaintiff's property and residence
17 with a mouse, a new page appears which contains the same information of the previous page only
18 now the photograph is considerably larger and more detailed, and the map is similarly enhanced
19 to show the street location of Plaintiff's residence as if one were looking at a Thomas Guide. In
20 addition, this page gives the viewer the option of downloading the image of Plaintiff's property
21 and residence to one's personal computer and to purchase such image from defendant Pictopia
22 which "handles the printing, mailing, and billing of the photograph reprint orders for [Adelman]
23 in return for a portion of the amount that [the viewer] pay[s]." By clicking again on the picture
24 containing Plaintiff's property and residence, the picture is blown up to poster-size dimensions
25 (approximately 40" x 24"). The purchase and download options are still present on the page even
26 with photographs so enlarged. Because the photographs can be downloaded, or saved, they can
27 be further enlarged through digital means. There is no telling how many people have downloaded
28

1 the photograph of Plaintiff's property and residence on their computer, or who have linked their
2 web browser to such image, but the numbers could easily already be in the thousands.

3 23. The quality of the photographs is staggering. On the website Adelman
4 describes with minute detail the cutting-edge technology that he deployed in the making of this
5 project. He explains that "the advent of the modern digital cameras with resolution in the 6
6 megapixel range helped make the decision to forgo film and photograph the coast digitally." A
7 "Nikon D1x with a 28-70mm f/2.8 ED-IF AF-S Zoom-Nikkor lens was used to take these
8 pictures," and "in order to sustain the high frame rate and still shoot at maximum resolution, the
9 camera was tethered with a FireWire cable to a 667Mhz Apple Powerbook running MacOS 9.2
10 and the Nikon Capture software. The Nikon D1x is also connected to the aircraft GPS receiver
11 using a custom-made cable, thereby recording the latitude, longitude, and altitude of the
12 helicopter in each image file." He also explains how the images were stored in the 45GB hard
13 drive of the Powerbook, how they were converted to image formats for processing online and
14 how higher resolutions than those made available online can be "made available for applications
15 requiring the detail which is lost" in the process of formatting the images for online viewing.
16 Adelman describes with detail how the pictures were taken: by flying in his own helicopter at an
17 altitude between 150 to 2000 feet, sometimes making several passes to capture one image.
18 Adelman promises future updates: "This project will never be complete. We plan on finishing
19 the remainder of the coast as soon as the weather will allow. We will re-photograph portions of
20 the coastline every few years, so that historical data is available for research and enforcement
21 purposes. We are looking forward to advances in digital camera technologies up into the 12-20
22 megapixel range, as these cameras will provide even higher resolution."

23 24. The photographs of Plaintiff's property and residence show how tens of
24 thousands of dollars in technology can buy images of extraordinary detail and resolution. As
25 noted, the photographs of Plaintiff's property and residence are taken from a helicopter overflying
26 the Pacific Ocean. Thus, the side being shot is the back of Plaintiff's property, or its most
27 secluded side. The photographs extend approximately one half of a mile inland from the
28 coastline. Every detail of the back of Plaintiff's property and residence (as well as some details

1 of the front of the property) can be gleaned from the photographs on Adelman's website: the
2 public and private access routes leading into, and inside, the property; the plant arrangements in
3 Plaintiff's garden; the positioning of the deck chairs and parasols around Plaintiff's pool; the
4 positioning of the deck chairs and parasols in the lanai of Plaintiff's guest house; the window
5 layout of her residence and guest house; the location of the balconies and verandas of the main
6 residence and guest house; the location of the sky-roofs; the location of the garden furniture; the
7 location and size of the fences surrounding the property; the location of the property vis-à-vis the
8 coastline and street; etc. . . In fact, all those secluded areas of Plaintiff's property and residence
9 which would not be visible from any public vantage point with the naked eye are displayed in
10 meticulous detail in Adelman's photographs.

11 25. Not only are these photographs disseminated world wide through the
12 internet, but, as noted above, Adelman's service allows anyone to download the images to one's
13 computer, to link one's web browser to the pictures, or to purchase these photographs. By
14 clicking on the "purchase photograph" icon which appears on the screen in connection with the
15 picture of Plaintiff's property and residence, one is taken to the section where the details of such
16 purchase (which is made through defendant Pictopia) are explained. In addition to the
17 explanation of the terms and conditions of purchase, one is given the option of ordering "an
18 Enlargement of [Plaintiff's home] image." Selecting this option, one is taken to a different screen
19 where the option is to choose a matte print measuring from 8" x 12.3" (costing \$50) to 20" x
20 30.7" (costing \$120).

21 26. Adelman is aware of the mass dissemination of the images contained in his
22 website. He boasts on his website that "the public support for this site has been overwhelming,
23 200,000 visitors in [the site's] first three weeks of operation is a testimony to this." Adelman is
24 similarly aware that visitors to the site have expressed some privacy concerns that they have with
25 the content of the photographs shown on the site. Adelman is nonchalant about such concerns
26 brushing aside any such expression. On his site, under the subsection "Privacy Concerns"
27 (contained in the section "Public Response to this Site,") Adelman states that he is "aware that
28 [he] has photographed a number of homes in the process of documenting the California Coast.

1 The California Coast is a unique and beautiful place, and those people who have chosen to live on
2 it have made the coast a part of their lives, and their lives a part of the coast. It should come as no
3 surprise that the public-at-large would be attracted to view this beautiful place some call home.
4 We have little sympathy for those who would feel that in order to enjoy the beauty of the coast
5 that they must deny others access to it." In that light, Adelman, through this comment on his
6 website belies the notion that there are any legitimate privacy concerns pertaining to his
7 endeavors. Moreover, Adelman derides those web visitors who wrote to him expressing their
8 concerns by publicly mocking them on his website (calling them delusional), and by publishing
9 some of their correspondence to him under the heading "Rants." Finally, in an attempt to reduce
10 the magnitude of his accomplishment (the thousands of dollars and the years spent to take all the
11 pictures), Adelman claims (rather flippantly) that anyone can take the pictures he took by
12 chartering a plane (for a few hundred dollars) and using an ordinary 35mm camera. As if
13 www.californiacoastline.org could have been put together by the use of a 35mm camera and a
14 few hundred dollars!

15 27. Since Plaintiff became aware of the posting of detailed pictures of her
16 property and residence on the world wide web through www.californiacoastline.org she has
17 experienced considerable anxiety. Her past experiences with threats to her personal safety make
18 such anxiety well-founded. She has attempted to reach a resolution with Adelman on the matter
19 but to no avail. In fact, through his website, Adelman has promised that he will continue to take
20 photographs and looks forward to the day when the improvements in visual technology will
21 empower him to take pictures of a much greater resolution. The invasion of Plaintiff's privacy is
22 compounded with every passing day by the photographs, as exhibited on Adelman's site, which
23 not only identify and disseminate to all and sundry private information regarding Plaintiff, such as
24 the location of her home, but allow anyone to intrude into this most private of spheres of
25 Plaintiff's life.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

FIRST CAUSE OF ACTION

(Invasion of Privacy – Intrusion Into Seclusion against all Defendants)

28. Plaintiff hereby realleges and incorporates by this reference, as though set forth in full, the allegations in paragraph 1 through 27, inclusive.

29. Plaintiff is informed and believes, and thereupon alleges that, in doing the things alleged hereinabove and in this cause of action, Adelman, Pictopia, and Layer42 (collectively, "Defendants"), and each of them, without Plaintiff's consent, violated her right to privacy established in Article I, Section 1 of the California Constitution and the common law. Plaintiff maintains a legally protected privacy interest in the location of her home address, and the secluded areas of her home.

30. Plaintiff is informed and believes, and thereupon further alleges that Defendants' wrongful conduct constitutes intrusion into seclusion that would be offensive and highly objectionable to the reasonable person, and that the location of Plaintiff's property and residence, and the image of the secluded areas of said property and residence, are not matters of legitimate public concern.

31. Defendants knew, or should have known, that Plaintiff had a reasonable expectation of privacy and that taking detailed high resolution pictures of areas of her property and residence that are not visible to the naked eye without Plaintiff's knowledge or consent constituted intrusion into seclusion in violation of Plaintiff's right to privacy.

32. Defendants knew, or should have known, that Plaintiff had a reasonable expectation of privacy and that identifying the detailed pictures of Plaintiff's home as hers, and showing the location of Plaintiff's property through longitudinal and latitudinal coordinates and pinpointing the spot on a map without Plaintiff's knowledge or consent constituted intrusion into seclusion in violation of Plaintiff's right to privacy.

33. Plaintiff is informed and believes, and thereupon further alleges that it was foreseeable, contemplated, and intended by Defendants that the photographs and maps identifying the location of Plaintiff's property and residence, and showing in detail those secluded portions that are not visible to the naked eye, would be exploited, published, distributed, and otherwise

1 disseminated to the general public through the world wide web. Such dissemination increased
2 Plaintiff's injuries and renders Defendants liable for damages that go above and beyond the
3 damages caused solely by the Defendants' intrusion into seclusion.

4 34. Defendants' wrongful conduct as alleged hereinabove, without regard to
5 whether Defendants acted intentionally or with any other particular state of mind or scienter,
6 renders Defendants, and each of them, liable to Plaintiff for the wrongful intrusion into Plaintiff's
7 seclusion and for the damages caused thereby. In doing the acts as alleged hereinabove,
8 Defendants, and each of them, acted with actual malice and constitutional malice, that is, they
9 acted intentionally, or with conscious disregard for Plaintiff's right to privacy.

10 35. As a direct and proximate result of said wrongful conduct by Defendants,
11 and each of them, Plaintiff has suffered damages in an amount to be proven at trial. Plaintiff
12 currently believes that such damages are in excess of Ten Million Dollars (\$10,000,000) plus pre
13 and post judgment interest at the maximum rate allowed by law. Plaintiff will donate such sums
14 to charity.

15 36. Plaintiff is informed and believes, and thereupon alleges, that in
16 performing the acts herein alleged, Defendants, and each of them, acted with oppression, fraud,
17 and malice, or, alternatively, that Defendants, and each of them, acted in such conscious disregard
18 of Plaintiff's right to privacy that, as a direct and proximate result of Defendants' collective and
19 individual acts, Plaintiff is entitled to punitive damages to punish Defendants, and each of them,
20 and to deter such conduct in the future, in an amount to be determined at trial.

21 37. Unless Defendants are preliminarily and permanently enjoined from
22 disseminating, disclosing, or otherwise exploiting the photographs of Plaintiff's property and
23 residence, and their knowledge of the location of said property and residence, obtained as a result
24 of the intrusion into Plaintiff's seclusion, Plaintiff will be irreparably harmed in a manner which
25 cannot be adequately compensated in money damages. Enjoining Defendants should also avoid a
26 multiplicity of legal actions which may otherwise have to be initiated and prosecuted by Plaintiff
27 regarding further or additional instances of dissemination, disclosure, or exploitation of the
28 photographs containing the images of Plaintiff's property and residence.

SECOND CAUSE OF ACTION

(Invasion of Privacy – Publication of Private Facts against all Defendants)

38. Plaintiff hereby realleges and incorporates by this reference, as though set forth in full, the allegations in paragraph 1 through 37, inclusive.

39. Plaintiff is informed and believes, and thereupon alleges that, in doing the things alleged hereinabove and in this cause of action, Defendants, and each of them, without Plaintiff's consent, violated her right to privacy established in Article I, Section 1 of the California Constitution and the common law. Plaintiff maintains a legally protected privacy interest in the location of her home address, and the secluded areas of her home.

40. Plaintiff is informed and believes, and thereupon further alleges that Defendants' wrongful conduct constitutes the public disclosure of private facts that would be offensive and highly objectionable to the reasonable person, and that the location of Plaintiff's property and residence, and the image of the secluded areas of said property and residence, are not matters of legitimate public concern.

41. Defendants knew, or should have known, that Plaintiff had a reasonable expectation of privacy and that identifying the detailed pictures of Plaintiff's home as hers, and showing the location of Plaintiff's property through longitudinal and latitudinal coordinates and pinpointing the spot on a map without Plaintiff's knowledge or consent constituted publication of private facts in violation of Plaintiff's right to privacy.

42. Defendants knew, or should have known, that Plaintiff had a reasonable expectation of privacy and that taking detailed high resolution pictures of areas of her property and residence that are not visible to the naked eye, and disseminating such images on the internet without Plaintiff's knowledge or consent constituted publication of private facts in violation of Plaintiff's right to privacy. In fact, Defendant's website acknowledges that privacy concerns have been expressed about the photographs on the website, but such concerns are ignored by Defendants. Defendants attempt to justify their invasive conduct by erroneously stating that "You cannot see much detail, for example, identify individuals or see into a house." This statement is known by Defendants to be untrue since both individuals and the inside of houses,

1 including Plaintiff's, can be seen very easily. On the website, Defendants brag about how one
2 can view the highest resolution photographs. At the same time, Defendants proclaim "little
3 sympathy" for the privacy concerns of people living near the California coast.

4 43. Plaintiff is informed and believes, and thereupon further alleges that it was
5 foreseeable, contemplated, and intended by Defendants that the photographs and maps identifying
6 the location of Plaintiff's property and residence, and showing in detail those secluded portions
7 that are not visible to the naked eye, would be exploited, published, distributed, and otherwise
8 disseminated to the general public through the world wide web.

9 44. Defendants' wrongful conduct as alleged hereinabove, without regard to
10 whether Defendants acted intentionally or with any other particular state of mind or scienter,
11 renders Defendants, and each of them, liable to Plaintiff for the wrongful publication of private
12 facts concerning Plaintiff and for the damages caused thereby. In doing the acts as alleged
13 hereinabove, Defendants, and each of them, acted with actual malice and constitutional malice,
14 that is, they acted intentionally, or with conscious disregard for Plaintiff's right to privacy.

15 45. As a direct and proximate result of said wrongful conduct by Defendants,
16 and each of them, Plaintiff has suffered damages in an amount to be proven at trial. Plaintiff
17 currently believes that such damages are in excess of Ten Million Dollars (\$10,000,000) plus pre
18 and post judgment interest at the maximum rate allowed by law. Plaintiff will donate such sums
19 to charity.

20 46. Plaintiff is informed and believes, and thereupon alleges, that in
21 performing the acts herein alleged, Defendants, and each of them, acted with oppression, fraud,
22 and malice, or, alternatively, that Defendants, and each of them, acted in such conscious disregard
23 of Plaintiff's right to privacy that, as a direct and proximate result of Defendants' collective and
24 individual acts, Plaintiff is entitled to punitive damages to punish Defendants, and each of them,
25 and to deter such conduct in the future, in an amount to be determined at trial.

26 47. Unless Defendants are preliminarily and permanently enjoined from
27 disseminating, disclosing, or otherwise exploiting the photographs of Plaintiff's property and
28 residence, and their knowledge of the location of said property and residence, Plaintiff will be

1 irreparably harmed in a manner which cannot be adequately compensated in money damages.
2 Enjoining Defendants should also avoid a multiplicity of legal actions which may otherwise have
3 to be initiated and prosecuted by Plaintiff regarding further or additional instances of
4 dissemination, disclosure, or exploitation of the photographs containing the images of Plaintiff's
5 property and residence.

6 **THIRD CAUSE OF ACTION**

7 **(Invasion of Privacy – Violation of Article I, Section 1 of the California Constitution against** 8 **all Defendants)**

9 48. Plaintiff hereby realleges and incorporates by this reference, as though set
10 forth in full, the allegations in paragraph 1 through 47, inclusive.

11 49. Plaintiff is informed and believes, and thereupon alleges that, in doing the
12 things alleged hereinabove and in this cause of action, Defendants, and each of them, without
13 Plaintiff's consent, violated her right to privacy established in Article I, Section 1 of the
14 California Constitution. Plaintiff maintains a legally protected privacy interest in the location of
15 her home address, and the secluded areas of her home.

16 50. Plaintiff is informed and believes, and thereupon further alleges that
17 Defendants' wrongful conduct constitutes a serious invasion of privacy, and that the location of
18 Plaintiff's property and residence, and the image of the secluded areas of said property and
19 residence, are not matters of legitimate public concern.

20 51. Defendants knew, or should have known, that Plaintiff had a reasonable
21 expectation of privacy and that taking detailed high resolution pictures of areas of her property
22 and residence that are not visible to the naked eye without Plaintiff's knowledge or consent
23 constituted a violation of Plaintiff's constitutionally protected right to privacy.

24 52. Defendants knew, or should have known, that Plaintiff had a reasonable
25 expectation of privacy and that identifying the detailed pictures of Plaintiff's home as hers, and
26 showing the location of Plaintiff's property through longitudinal and latitudinal coordinates and
27 pinpointing the spot on a map without Plaintiff's knowledge or consent constituted a violation of
28 Plaintiff's constitutionally protected right to privacy.

1 53. Plaintiff is informed and believes, and thereupon further alleges that it was
2 foreseeable, contemplated, and intended by Defendants that the photographs and maps identifying
3 the location of Plaintiff's property and residence, and showing in detail those secluded portions
4 that are not visible to the naked eye, would be exploited, published, distributed, and otherwise
5 disseminated to the general public through the world wide web. Such dissemination increased
6 Plaintiff's injuries and renders Defendants liable for damages that go above and beyond the
7 damages caused solely by the Defendants' violation of Plaintiff's constitutionally protected right
8 to privacy.

9 54. Defendants' wrongful conduct as alleged hereinabove, without regard to
10 whether Defendants acted intentionally or with any other particular state of mind or scienter,
11 renders Defendants, and each of them, liable to Plaintiff for the wrongful violations of Plaintiff's
12 constitutionally protected right to privacy and for the damages caused thereby. In doing the acts
13 as alleged hereinabove, Defendants, and each of them, acted with actual malice and constitutional
14 malice, that is, they acted intentionally, or with conscious disregard for Plaintiff's right to
15 privacy.

16 55. As a direct and proximate result of said wrongful conduct by Defendants,
17 and each of them, Plaintiff has suffered damages in an amount to be proven at trial. Plaintiff
18 currently believes that such damages are in excess of Ten Million Dollars (\$10,000,000) plus pre
19 and post judgment interest at the maximum rate allowed by law. Plaintiff will donate such sums
20 to charity.

21 56. Plaintiff is informed and believes, and thereupon alleges, that in
22 performing the acts herein alleged, Defendants, and each of them, acted with oppression, fraud,
23 and malice, or, alternatively, that Defendants, and each of them, acted in such conscious disregard
24 of Plaintiff's right to privacy that, as a direct and proximate result of Defendants' collective and
25 individual acts, Plaintiff is entitled to punitive damages to punish Defendants, and each of them,
26 and to deter such conduct in the future, in an amount to be determined at trial.

27 57. Unless Defendants are preliminarily and permanently enjoined from
28 disseminating, disclosing, or otherwise exploiting the photographs of Plaintiff's property and

1 residence, and their knowledge of the location of said property and residence, obtained as a result
2 violating Plaintiff's constitutionally protected right to privacy, Plaintiff will be irreparably
3 harmed in a manner which cannot be adequately compensated in money damages. Enjoining
4 Defendants should also avoid a multiplicity of legal actions which may otherwise have to be
5 initiated and prosecuted by Plaintiff regarding further or additional instances of dissemination,
6 disclosure, or exploitation of the photographs containing the images of Plaintiff's property and
7 residence.

8 **FOURTH CAUSE OF ACTION**

9 **(Violation of California Civil Code §1708.8 against all Defendants)**

10 58. Plaintiff hereby realleges and incorporates by this reference, as though set
11 forth in full, the allegations in paragraph 1 through 57, inclusive.

12 59. The above-described conduct of Defendants, and each of them, constitutes
13 a violation of California Civil Code § 1708.8 (Physical or Constructive Invasion of Privacy).
14 Defendants are liable for constructive invasion of privacy because by taking photographs of the
15 secluded portions of Plaintiff's property and residence (or facilitating such activity), they have
16 attempted to capture, in a manner that is offensive to a reasonable person, a type of visual image
17 of Plaintiff engaging in personal activity under circumstances in which she had a reasonable
18 expectation of privacy, through the use of a visual device without which the images captured by
19 said photographs could not have been achieved.

20 60. As a direct and proximate result of said wrongful conduct in violation of
21 California Civil Code § 1708.8 by Defendants, and each of them, Plaintiff has suffered damages
22 in an amount to be proven at trial. Plaintiff currently believes that such damages are in excess of
23 Ten Million Dollars (\$10,000,000) plus pre and post judgment interest at the maximum rate
24 allowed by law.

25 61. As a direct and proximate result of said wrongful conduct in violation of
26 California Civil Code § 1708.8, Defendants, and each of them, are liable for three times the
27 amount of Plaintiff's general and special damages.

1 62. Defendants, and each of them, who directed, solicited, actually induced, or
2 actually caused any of the other Defendants to violate California Civil Code § 1708.8(b) are liable
3 for the general, special and consequential damages suffered by Plaintiff for each said violation
4 pursuant to California Civil Code § 1708.8(d).

5 63. Plaintiff is informed and believes, and thereupon alleges, that in
6 performing the acts herein alleged, Defendants, and each of them, acted with oppression, fraud,
7 and malice, or, alternatively, that Defendants, and each of them, acted in such conscious disregard
8 of Plaintiff's right to privacy that, as a direct and proximate result of Defendants' collective and
9 individual acts, Plaintiff is entitled to punitive damages pursuant to California Civil Code §§
10 1708.8(c)-(d) and 3294 to punish Defendants, and each of them, and to deter such conduct in the
11 future, in an amount to be determined at trial. To the extent that Defendants, and each of them,
12 directed, solicited, actually induced, or actually caused any of the other Defendants to commit a
13 constructive invasion of privacy, they are liable to Plaintiff for punitive damages to the same
14 extent that an employer, under those circumstances, would be subject to punitive damages
15 pursuant to California Civil Code § 3294(b). Moreover, because the invasion of privacy was
16 committed for a commercial purpose, Defendants, and each of them, are subject to disgorgement
17 to Plaintiff of any proceeds or other consideration obtained as a result of their violation of
18 California Civil Code § 1708.8(b).

19 64. Unless Defendants are preliminarily and permanently enjoined pursuant to
20 California Civil Code § 1708.8(g) from disseminating, disclosing, or otherwise exploiting the
21 photographs of Plaintiff's property and residence, and their knowledge of the location of said
22 property and residence, obtained as a result of the invasion in violation of California Civil Code §
23 1708.8(b), Plaintiff will be irreparably harmed in a manner which cannot be adequately
24 compensated in money damages. Enjoining Defendants should also avoid a multiplicity of legal
25 actions which may otherwise have to be initiated and prosecuted by Plaintiff regarding further or
26 additional instances of dissemination, disclosure, or exploitation of the photographs containing
27 the images of Plaintiff's property and residence.

28

1 **FIFTH CAUSE OF ACTION**

2 **(Violation of California Civil Code §3344 against all Defendants)**

3 65. Plaintiff hereby realleges and incorporates by this reference, as though set
4 forth in full, the allegations in paragraph 1 through 64, inclusive.

5 66. Plaintiff has never granted Defendants, and each of them, any permission
6 to photograph her property and residence, to identify her property and residence by using her
7 name, or to sell, disseminate or otherwise use such photographs in any manner whatsoever.

8 67. Plaintiff is informed and believes, and thereupon alleges that, in doing the
9 things alleged hereinabove and in this cause of action, Defendants, and each of them, without
10 Plaintiff's consent, misappropriated Plaintiff's name for the purposes of soliciting interest in
11 www.californiacoastline.org, and selling pictures of the photographs of Plaintiff's property and
12 residence so identified by the use of her name.

13 68. The photographs of Plaintiff's property and residence, identified as such by
14 the use of her name, published and disseminated world wide on www.californiacoastline.org do
15 not pertain to any newsworthy event, any political or social debate, or any artistic literary or
16 scientific purpose.

17 69. As a direct and proximate result of Defendants' conduct, Plaintiff has been
18 deprived of the economic value of the use of the images of her property and residence.

19 70. Plaintiff is entitled to the profits or income derived by Defendants from the
20 unauthorized use the images of Plaintiff's property and residence identified as such by the use of
21 her name, and to an award of attorneys' fees and costs pursuant to California Civil Code § 3344,
22 all of which are not presently ascertained and will be established through proof at trial.

23 71. Plaintiff is informed and believes, and thereupon alleges, that in
24 performing the acts herein alleged, Defendants, and each of them, acted with oppression, fraud,
25 and malice, or, alternatively, that Defendants, and each of them, acted in such conscious disregard
26 of Plaintiff's right to privacy that, as a direct and proximate result of Defendants' collective and
27 individual acts, Plaintiff is entitled to punitive damages to punish Defendants, and each of them,
28 and to deter such conduct in the future, in an amount to be determined at trial.

WHEREFORE, Plaintiff prays for judgment as follows:

ON THE FIRST CAUSE OF ACTION

1. For compensatory, general, special, and consequential damages against Defendants, and each of them, in an amount to proven at trial but not less than Ten Million Dollars (\$10,000,000) plus pre and post judgment interest at the maximum rate allowed by law;

2. For preliminary and permanent injunctive relief prohibiting and enjoining each of the Defendants from further violations of Plaintiff's right to privacy including any further disclosure, dissemination, or exploitation of the location of Plaintiff's property and residence, and the photographs of said property and residence;

3. For exemplary and punitive damages against Defendants, and each of them, in an amount to be determined at trial sufficient to punish and set an example of Defendants;

ON THE SECOND CAUSE OF ACTION

4. For compensatory, general, special, and consequential damages against Defendants, and each of them, in an amount to proven at trial but not less than Ten Million Dollars (\$10,000,000) plus pre and post judgment interest at the maximum rate allowed by law;

5. For preliminary and permanent injunctive relief prohibiting and enjoining each of the Defendants from further violations of Plaintiff's right to privacy including any further disclosure, dissemination, or exploitation of the location of Plaintiff's property and residence, and the photographs of said property and residence;

6. For exemplary and punitive damages against Defendants, and each of them, in an amount to be determined at trial sufficient to punish and set an example of Defendants;

ON THE THIRD CAUSE OF ACTION

7. For compensatory, general, special, and consequential damages against Defendants, and each of them, in an amount to proven at trial but not less than Ten Million Dollars (\$10,000,000) plus pre and post judgment interest at the maximum rate allowed by law;

8. For preliminary and permanent injunctive relief prohibiting and enjoining each of the Defendants from further violations of Plaintiff's right to privacy including any further disclosure, dissemination, or exploitation of the location of Plaintiff's property and residence, and the

1 photographs of said property and residence;

2 9. For exemplary and punitive damages against Defendants, and each of them, in an amount
3 to be determined at trial sufficient to punish and set an example of Defendants;

4 **ON THE FOURTH CAUSE OF ACTION**

5 10. For an award of three times the compensatory, general, special, and consequential
6 damages against Defendants, and each of them, pursuant to California Civil Code § 1708.8 in an
7 amount to proven at trial but not less than Ten Million Dollars (\$10,000,000) plus pre and post
8 judgment interest at the maximum rate allowed by law;

9 11. For disgorgement of the profits or income derived by Defendants, and each of them, from
10 the unauthorized use of the photographs of Plaintiff's property and residence;

11 12. For preliminary and permanent injunctive relief pursuant to California Civil Code §
12 1708.8(g) prohibiting and enjoining each of the Defendants from further violations of California
13 Civil Code § 1708.8(b) including any further disclosure, dissemination, or exploitation of the
14 location of Plaintiff's property and residence, and the photographs of said property and residence;

15 13. For exemplary and punitive damages against Defendants, and each of them, in an amount
16 to be determined at trial sufficient to punish and set an example of Defendants;

17 **ON THE FIFTH CAUSE OF ACTION**

18 14. For compensatory, general, special, and consequential damages against Defendants, and
19 each of them, in an amount to proven at trial but not less than Ten Million Dollars (\$10,000,000)
20 plus pre and post judgment interest at the maximum rate allowed by law;

21 15. For disgorgement of the profits or income derived by Defendants, and each of them, from
22 the unauthorized use of the photographs of Plaintiff's property and residence;

23 16. For preliminary and permanent injunctive relief prohibiting and enjoining each of the
24 Defendants from further violations of Plaintiff's rights including any further disclosure,
25 dissemination, or exploitation of the location of Plaintiff's property and residence, and the
26 photographs of said property and residence;

27 17. For exemplary and punitive damages against Defendants, and each of them, in an amount
28 to be determined at trial sufficient to punish and set an example of Defendants;

1 **ON ALL CAUSES OF ACTION**

2 18. For reasonable costs and attorneys' fees incurred to the extent available by law;

3 19. For such other and further relief as the Court may deem just and proper.

4 **DEMAND FOR A JURY TRIAL**

5 Plaintiff hereby demands trial by jury on all issues triable by jury.

6
7 DATED: May 19, 2003

ALSCHULER GROSSMAN STEIN & KAHAN LLP

8 JOHN M. GATTI
9 REX D. GLENSY

10 By 

11 John M. Gatti
12 Attorneys for Plaintiff
13 BARBRA STREISAND
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28