

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

JERRY GREENBERG, individually and IDAZ
GREENBERG, individually,

Plaintiffs,

v.

NATIONAL GEOGRAPHIC SOCIETY, a
District of Columbia corporation,
NATIONAL GEOGRAPHIC ENTERPRISES,
INC., a corporation, and MINDSCAPE, INC., a
California Corporation,

Defendants.

Case No. 97-3924 Civ-Lenard
Magistrate Judge Turnoff

**NOTICE OF FILING ORIGINAL
DECLARATION OF KENT
KOBBERSTEEN IN SUPPORT OF
DEFENDANTS' CROSS-MOTION
FOR PARTIAL SUMMARY
JUDGMENT AND IN OPPOSITION
TO PLAINTIFFS' MOTION FOR
PARTIAL SUMMARY JUDGMENT
AS TO NUMBER OF WORKS
INFRINGED**

PLEASE TAKE NOTICE of the filing of the original Notice of Filing Original Declaration of Kent Kobersteen in Support of Defendants' Cross-Motion for Partial Summary Judgment and in Opposition to Plaintiffs' Motion for Partial Summary Judgment as to Number of Works Infringed.

MAY 6,
2002

Respectfully submitted,

By: _____

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Attorneys for Defendants


- and -

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Executive Vice President
National Geographic Society
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Of Counsel

CERTIFICATE OF SERVICE

WE HEREBY CERTIFY that the foregoing has been sent by Federal Express this 6th day of May, 2002 to Norman Davis and David A. Aronberg, Steel Hector & Davis LLP, 200 South Biscayne Boulevard, 40th Floor, Miami, Florida 33131-2398, attorneys for Plaintiffs.

By: 
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COPY

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
Case No. 97-3924 CIV-LENARD-SIMONTON

JERRY GREENBERG, individually
and IDAZ GREENBERG, individually,

Plaintiffs,

v.

NATIONAL GEOGRAPHIC SOCIETY, a
District of Columbia corporation, NATIONAL
GEOGRAPHIC ENTERPRISES, INC., a
corporation, and MINDSCAPE, INC., a
California corporation,

Defendants.

**DECLARATION OF KENT KOBERSTEEN IN SUPPORT OF
DEFENDANTS' CROSS-MOTION FOR PARTIAL SUMMARY JUDGMENT AND IN
OPPOSITION TO PLAINTIFFS' MOTION FOR PARTIAL SUMMARY JUDGMENT
AS TO NUMBER OF WORKS INFRINGED**

KENT KOBERSTEEN declares as follows, under penalty of perjury:

1. I am the director of photography of the National Geographic Society (the "Society") and a senior editor of the National Geographic Magazine (the "Magazine"). I respectfully submit this declaration in support of Defendants' Cross-Motion for Partial Summary Judgment and in Opposition to Plaintiffs' Motion for Partial Summary Judgment as to Number of Works Infringed. I make this declaration based on personal knowledge except where otherwise indicated.

2. The Society is a nonprofit scientific and educational organization dedicated to the increase and diffusion of geographic knowledge in its broadest sense. I joined the Society in September 1983 as an illustrations editor. In that capacity, I worked with freelance and staff photographers who were photographing stories for the Magazine. I worked with the photographers in planning their photographic coverage, reviewing preliminary work as it came in, and editing the final photographs for the story. I also participated in the layout of the

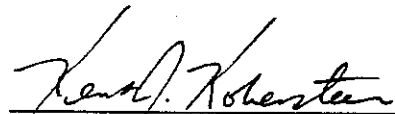
stories and coordinated with other departments of the Magazine that prepared other visual portions of the periodical, such as maps, drawings and the like. In September 1987, I joined the photographic division as assistant director of photography, and became the associate director of photography in 1995. In February 1998, I was promoted to director of photography. As director, I am involved in planning Magazine stories at the conceptual stage, I select and assign the photographers, and I am responsible administratively for managing the assignment photographers who shoot stories for the Magazine.

3. Each issue of the Magazine is a collective work comprising several stories. Each story is comprised of both photographs and text. The Society frequently retains freelance photographers, like Mr. Greenberg, to create the photographs for these stories, and has done so for decades.

4. When the photographer has completed the assignment he or she will have submitted many more photographs than can be used in the story. The Magazine staff then selects those photographs that will be published in the story and arranges them visually. My understanding is that this procedure has been followed for decades.

5. Pursuant to 17 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct.

Dated: May 6, 2002



Kent Kobersteen