

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

JERRY GREENBERG, individually,
and IDAZ GREENBERG, individually,

Plaintiffs,

CASE NO. 97-3924
CIV-LENARD
Magistrate Judge Turnoff

v.

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

Defendants.

**DEFENDANTS' RESPONSE TO
PLAINTIFFS' FIRST SET OF
INTERROGATORIES TO
DEFENDANT NATIONAL
GEOGRAPHIC SOCIETY**

Pursuant to Fed. R. Civ. P. 33 and S.D. Fla. L.R. 26.1.G, the defendant National Geographic Society (the "Society"), by its attorneys Weil, Gotshal & Manges LLP, hereby responds to the Plaintiffs' First Set of Interrogatories to Defendant National Geographic Society (the "Interrogatories") as follows:

All responses contained herein are subject to the objections noted below. Additionally, objections (including but not limited to objections as to admissibility, relevance, confidentiality, hearsay, and materiality) which, if sustained at trial, would require the exclusion of any response contained herein or any document referred to herein, are reserved. Additionally, these responses are given without prejudice to the defendants' right to produce, at a later date, subsequently discovered information responsive to the Interrogatories.

GENERAL OBJECTIONS

1. The Society objects to the Interrogatories to the extent that they purport to call for the disclosure of attorney-client communications; information that was prepared for, or in anticipation of, litigation; or information that is otherwise privileged or immune from discovery.

2. The Society objects to the Interrogatories to the extent that by their "Instructions" they seek to impose discovery obligations upon the Society beyond those provided for in the Federal Rules of Civil Procedure.

RESPONSES AND OBJECTIONS TO INTERROGATORIES

INTERROGATORY NO. 1:

With reference to Count I of the Amended Complaint, provide the name and address of the artist(s) or other graphic specialist(s) who participated in the preparation or production of the product addressed in that count. For each individual listed, stated whether the person was an employee or an independent contractor during the times relevant to Count I, and for each individual state the role performed.

RESPONSE TO INTERROGATORY NO. 1:

Without waiving, and subject to, its General Objections, the Society responds as follows:

Warren Cutler
7900 Curtis Street
Chevy Chase, MD 20815

Independent Contractor Artist

Megan Ullman
U-T Houston Medical School
Department of Pediatrics &
Internal Medicine
6410 Fannin 416 HPB
Houston, TX 77030

Independent Contractor Researcher

Lyle Rosbotham
National Geographic Society
1145 17th Street, N.W.
Washington, D.C. 20036

Employee

Art Director

Beth Molloy
49 B Reeder Road
New Hope, PA 18938

Independent Contractor

Art
Director

INTERROGATORY NO. 2:

Identify the individual(s) with the most knowledge of the Society's library, archives, collections, or other storage systems for photographs and other graphic works.

RESPONSE TO INTERROGATORY NO. 2:

Maura Mulvihill
Assistant Vice President, Image Collection
National Geographic Society
1145 17th Street, N.W.
Washington, D.C. 20036

INTERROGATORY NO. 3:

With reference to the allegations in Count I of the Amended Complaint, identify the individual(s) with the most knowledge of the relationship between the Society and Educational Insights that is addressed in that count, and for each individual listed state the nature of the knowledge possessed.

RESPONSE TO INTERROGATORY NO. 3:

William Gray
Vice President
Book Division
National Geographic Society
1145 17th Street, N.W.
Washington, D.C. 20036

Primary contact with Educational Insight
with respect to terms of agreement;
general editorial oversight

Barbara Brownell
National Geographic Society
1145 17th Street, N.W.
Washington, D.C. 20036

Project director

INTERROGATORY NO. 4:

Identify any photography or artwork of Jerry Greenberg or Idaz Greenberg that was provided to, or was available to, the persons who prepared the product addressed in Count I of the Amended Complaint, from sources including but not limited to books, magazine, film transparencies, archival printouts, digitally stored materials, and any other printed matter.

RESPONSE TO INTERROGATORY NO. 4:

The Society objects to this interrogatory on the grounds that it is vague and ambiguous. The Society further objects to this interrogatory to the extent that it requests the identification of materials that were "available to the persons who prepared the product addressed in Count I of the Amended Complaint" on the ground that it has no knowledge of all such materials. Without waiving, and subject to, this objection and its General Objections, the Society responds as follows:

The artist possessed his own copy of *The Living Reef*, by Jerry Greenberg, at the time he worked on the Educational Insights product addressed in Count I of the Amended Complaint.

INTERROGATORY NO. 5:

Identify any and all documents or articles bearing copyright notice by Jerry Greenberg, Idaz Greenberg and/or Michael Greenberg that were in the possession or control of the Society during the times relevant to Count I of the Amended Complaint.

RESPONSE TO INTERROGATORY NO. 5:

The Society objects to this request on the grounds that it is vague and ambiguous and on the further grounds that it is not relevant to the issues in this action and is

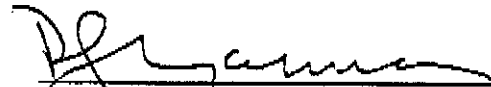
not reasonably calculated to lead to the discovery of admissible evidence. The Society also objects to this request to the extent that it requests materials bearing copyright notice by Michael Greenberg on the grounds that it is not relevant to the issues in this action and is not reasonably calculated to lead to the discovery of admissible evidence. Without waiving, and subject to, these objections and its General Objections, the Society responds as follows:

Jerry Greenberg, *Beneath the Tropic Seas: the Fishes* (1986)

Jerry Greenberg, *The Living Reef* (1972)

Idaz Greenberg, *Sharks and Other Dangerous Sea Creatures* (1981)

Dated: New York, New York
May 4, 1998


Robert G. Sugarman, Esq.
WEIL, GOTSHAL & MANGES LLP
767 Fifth Avenue
New York, New York 10153
(212) 310-8000

TO: STEEL, HECTOR & DAVIS LLP
Suite 4000
First Union Financial Center
200 South Biscayne Boulevard
Miami, Florida 33131