

# City's Suit Dismissed Against the Koffee Klatch 3

by Becky Johnson

On June 1, Judge Samuel Stevens dismissed the five-month-old harassment suit filed against three homeless activists who were lobbying in Mayor Tim Fitzmaurice's office to end the law which criminalizes homeless people if they sleep or cover up with blankets at night.

David Beauvais, attorney for the defendants, said: "This is a victory for homeless activists, and for those who would bring homeless issues before public officials in a persistent lobbying effort. We have more than the right to free speech in our own living rooms."

Beauvais argued that the civil suit, which utilized the resources of the Santa Cruz City Attorney and Police Department, was actually a SLAPP-suit, or Strategic Lawsuit Against Public Participation. It was meant to silence homeless advocates. A February 8th hearing in Judge Kathleen Akao's court dismissed an earlier SLAPP-motion on the part of the defense. An appeal of that decision is in progress.

The suit had been opposed by the California Homeless Civil Rights Organizing Project, a statewide coalition

of groups working to document human rights violations against homeless people.

Testimony at the hearing on the merits of the restraining order from defendant Becky Johnson included the Homeless Census 2000 report's in-time head count of 1273 homeless people in the City of Santa Cruz, a city with a population of 54,000 which had emergency shelter space last December for only 165. On

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## Rabbi Chayim Levin praised Judge Stevens' decision as: "A victory for the First Amendment and a victory for homeless activists everywhere."

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direct examination from Attorney Kate Wells, Johnson reported a rash of violence committed against homeless people, and a growing death toll among the homeless...

Another motive for beginning the Koffee Klatch was the death of "Boxer" Billy Densen, who died on November 12, 2000, of apparent hypothermia in his wheelchair in a carport in Beach Flats. That prompted a small group of determined activists to begin a lobbying effort on December 4, 2000, called the City Hall Koffee Klatch and Tag-Team Teach-in. Serving coffee at 10:00 a.m. each busi-

ness day, the activists took turns going into the public reception area of Mayor Fitzmaurice's office to attempt to make an appointment with Fitzmaurice, who controls the City Council agenda.

Often the activists were met by Administrative Assistant Anna Brooks who took their messages and delivered them to the mayor and members of the Santa Cruz City Council.

Defendant Bernard Klitzner testified that on December 13, "Mayor Fitzmaurice came out of his office and ordered Brooks to take a memo saying that the people in the office were speaking at the top of their lungs inches from staff. Since no one had been talking loudly, we were quite concerned that the mayor was creating a false record about us." Nor did Fitzmaurice file a "disturbing the peace" complaint.

Robert Norse testified that again on December 15, Mayor Fitzmaurice ordered his staff to take a memo reporting that Robert Norse, Becky Johnson and

Bernard Klitzner were speaking "at the top of their lungs." During testimony, Beauvais revealed that Anna Brooks was not in the office on December 15. "How can this be evidence of harassment of Ms. Brooks when she was not even in the office on that date?" Beauvais asked.

On December 21, the very day that the Homeless Service Center reported the deaths of 41 homeless people for the year 2000, Brooks signed her declaration claiming that harassment by the three defendants made her "emotionally distraught" and "unable to perform my job duties."

Her claims of harassment included "occupying the office furniture for their own personal use making it unavailable for use by other persons," "talking to people who came and went," "passing out flyers," "making tape recordings," "attempting to purchase copies using a \$20.00 bill," "stealing pens," "helping themselves to office supplies," and "attempting to pilfer food" from a donation barrel. Brooks also accused Johnson of a "sudden assault" when she videotaped her for one second from a distance of 10 feet in a public place.

Not discussed in Brooks' declaration