

LAW REVIEW

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SHOWING ANIMALS RESPECT AND KINDNESS (SHARK) V. HOLLYWOOD

Showing Animals Respect and Kindness (SHARK) is not a group of lawyers but a non-profit organization that campaigns against cruelty to animals. Last month SHARK took on Hollywood. Your intrepid reporter has the hot scoop.

SHARK

SHARK actively campaigns against cruelty to animals. I guess like PETA (People for the Ethical Treatment of Animals.)

SHARK is on a campaign against Hilary Duff, who sings at rodeos in her home State of Texas. Rodeo country. With two young daughters at home, I have watched Hillary Duff play the role of Lizzie McGuire on TV. She seems sincere and harmless to me.

SHARK operates a truck it calls the "Tiger Truck." The truck has four one-hundred inch video screens mounted on the front, back and sides depicting scenes of animals being injured or killed by humans. The truck broadcasts the cries of animals being abused and displays signs reading "dumpduff.com" and "sharkonline.org" There is nothing subtle about the truck or its message.

STREETS OF HOLLYWOOD

Plaintiff, Steve Hindi was operating the Tiger Truck in the City of West Hollywood when he was stopped by a city code enforcement officer and cited for violating an ordinance which makes mobile free speech billboard advertising illegal. The hearing officer rejected SHARKS First Amendment free speech arguments, and after SHARK and Hindi filed a lawsuit, the trial court threw out their case.

SHARK and Hindi appealed.

MOBILE BILLBOARD ADVERTISING

The West Hollywood Municipal Code makes it unlawful...“for any person to conduct, or cause to be conducted, any mobile billboard advertising upon any streets, or other public place within the city in which the public has the right of travel...mobile advertising includes any vehicle, or wheeled conveyance which carries, conveys, pulls, or transports any sign or billboard for the primary purpose of advertising.”

Exemptions to the anti-mobile billboard advertising code include advertising “as long as the vehicle is engaged in the usual business of the owner and not used primarily to display advertising,” like a business name on the side of a delivery truck. Buses and taxi cabs are also exempted and allowed to advertise.

FREE SPEECH

SHARK claimed that its rights of free speech were violated, specifically that the advertising ban applies only to commercial speech and not to SHARK'S non-profit social-cause speech i.e. "advertising" means commercial.

SHARK also argued that the ordinance discriminated against non-profits because it exempted buses and taxi cabs which carry billboards.

COURT OF APPEAL

The Court of Appeal upheld the mobile billboard advertising ban—as serving a legitimate city interest to promote safe movement of traffic, reduce air pollution and improve the aesthetic appearance of West Hollywood.

SHARKS non-commercial anti animal cruelty is no different than prohibiting political candidates from driving through West Hollywood with mobile billboards. Goodbye Tiger Truck.

The code appropriately exempts buses and taxi cabs which carry billboards because their "primary purpose" is not advertising but transporting people, unlike mobile billboards.

The Court of Appeal noted that municipalities may prohibit vehicles from using sound amplifying devices and may ban electronic messaging signs and may even prohibit signs that flash or blink (hello Boomtown) as long as the banning ordinances are "content neutral"--they apply to everyone without regard to the message.

West Hollywood's legitimate interests trump the First Amendment, but SHARK seems to have won the skirmish. Per "dumpduff.com", Hillary Duff is no longer performing at rodeos and bull fights.

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