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**Maggy Hurchalla, left, thanks attorney Sandy D'Alemberte, who represented her Tuesday before the 4th District Court of Appeal.**

[KIMBERLY MILLER/PALMBEACHPOST.COM]

## Environmentalist's \$4.4M appeal: Influential emails versus protected speech

By **Kimberly Miller**

The Palm Beach Post

Tales of a secret government meeting, influential emails and an indignant billionaire-backed mining company were embroiled in two court hearings Tuesday that some legal experts say share a common thread — to chill the public's willingness to question authority.

The cases, whose common

denominator is Martin County-based mining company Lake Point Restoration, were heard in the 4th District Court of Appeal by a three-judge panel charged with parsing the public's right to know versus sealing closed-door negotiations, and whether complaining to public officials is protected speech.

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# APPEAL

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**Lake Point Restoration near Port Mayaca is a unique public-private partnership mining coarse aggregate, base rock, riprap and specialty sand products.** [ALLEN EYESTONE/PALMBEACHPOST.COM]

Environmentalist and former Martin County Commissioner Maggy Hurchalla was appealing a \$4.4 million judgment levied against her after she protested the mining company's operations in emails to Martin County commissioners. Lake Point said Hurchalla lied in the messages, had more "clout" than a normal citizen, and was intent on hurting the company — ingredients that a jury decided in February 2018 was worth the multimillion-dollar fine but that Hurchalla disputes.

In the second case, the nonprofit Everglades Law Center had requested a transcript of a closed-door meeting of South Florida Water Management District Governing Board members who were discussing settling a Lake Point lawsuit.

Instead of producing the document, or declaring why it was exempt from public records laws, the district sued, saying it wanted a judge's opinion and forcing the law center into court. Hurchalla was added to the lawsuit when she made a similar records request. The district also threatened to subpoena emails between Hurchalla, the law center and 16 other Floridians who also asked for the record in what it said was an attempt to thwart malicious requests.

"These are people being punished because they did exactly what we want citizens to do, be engaged with their government," said Barbara Petersen, president of Florida's First Amendment Foundation, which wrote a brief supporting the Everglades Law Center's transcript request. "This is saying 'We don't want to know what you think, don't express an opinion and don't dare ask for a public record.' It's stunning."

Tuesday's hearings were the culmination of years of legal tumult between Lake Point, which is co-owned by one-time Wellington resident George Lindemann Jr., the water district, Martin County and Hurchalla, sister to the late U.S. Attorney General Janet Reno.

Hurchalla was represented Tuesday by

85-year-old Sandy D'Alemberte, a heralded Florida attorney, former president of the American Bar Association and Florida State University President Emeritus.

He said Hurchalla contacted Martin County commissioners after learning in 2012 that Lake Point was considering conveying water to West Palm Beach for a fee. The city had just suffered a severe drought, but Lake Point was pitched three years earlier as an environmental project that would mine limestone and leave the pits to the Water Management District to store water, not sell it.

"Based solely on that contact with county commissioners she suffered a judgment of \$4.4 million," D'Alemberte said. "This leads us to a case that has extreme consequences to free speech and the right to petition."

But Lake Point paints the 78-year-old Hurchalla as a puppeteer who so influenced commission actions with "deliberate misrepresentations" it created uncertainty about whether mining would continue and cost the company millions of dollars.

"Simply put, there is no constitutional right to lie," Lake Point attorneys said in court filings.

Lake Point has already settled with Martin County, which wrote an apology letter and agreed to pay \$12 million for a non-appraised, 400-acre piece of land it didn't want. Hurchalla had two old kayaks and her late sister's 2004 Toyota Camry seized by the company for reparations. They were returned late last year.

"Lake Point could have donated them to a charity or disposed of them in another way," Lake Point spokeswoman Honey Rand said at the time. "Instead, the decision was made to give the kayaks and car back in the Christmas spirit."

The Everglades Law Center calculated from a public records request that the South Florida Water Management District spent an estimated \$116,000 just its fight to keep the August 2017 meeting out of public purview.

Law Center Executive Director Lisa Interlandi said she asked for the meeting transcript because the board came out of the meeting and immediately voted to settle with Lake Point — seemingly an about face from its previous positions.

"The public has a right to know the decision-making process," Law Center attorney Richard Grosso said during Tuesday's hearing. "The governing body is not allowed to meet in secret discussing why they are settling, what are their reasons and what is the purpose for the settlement."

Last year, Martin County Judge William Roby agreed with the district that the transcript is considered mediation and sealed it.

Appeals Judge Burton Conner said if the 4th DCA agrees to keep the document sealed it would be a "very significant decision."

"Because arguably speaking, there is now this cloak that can be applied and the public may never have any idea or have the opportunity to review the decision-making of the board," he said.

The settlement forces the district to buy 50,000 tons of rubble annually from the company for 15 years and extended the company's hold on the land from 20 years to 50 years.

Interlandi said the case is about more than finding out what the district's reasoning was for the settlement.

"The people's ability to hold government accountable for the actions it takes is at stake," she said.

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