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10 NEW TIMES MEDIA LLC, SF WEEKLY LP,  
11 EAST BAY EXPRESS PUBLISHING LP,  
12 TROY LARKIN

13 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
14 **CITY AND COUNTY OF SAN FRANCISCO**  
15 **UNLIMITED JURISDICTION**

16 BAY GUARDIAN COMPANY, INC.,

17 Plaintiff,

18 v.

19 NEW TIMES MEDIA LLC, SF WEEKLY LP,  
20 EAST BAY EXPRESS PUBLISHING LP,  
21 TROY LARKIN, DOES ONE through 10,  
22 inclusive,

23 Defendants.

Case No. 04-435584

**DECLARATION OF JOSHUA  
FROMSON IN SUPPORT OF  
MOTIONS FOR SUMMARY  
ADJUDICATION OF SECTION 17043  
AND SECTION 17045 CLAIMS**

Case Filed: October 19, 2004

Date: September 14, 2007

Time: 11:00 a.m.

Courtroom: 304

Trial: October 15, 2007

HON. RICHARD A. KRAMER



1 to Bill Graham Presents, Inc., Golden Brands or any other SF Weekly or East Bay Express  
2 customers. Nor has either publication secretly extended to any customers special services or  
3 privileges not extended to all customers purchasing upon like terms and conditions.

4 9. Advertising sales to Bill Graham Presents, Inc, that are related to the Warfield  
5 Theatre sponsorship are set at, and have been set, at prevailing rates. These rates have built-in  
6 annual increases.

7 10. I have reviewed corporate records, kept in the ordinary course of business, of  
8 New Times, SF Weekly and the East Bay Express and determined that since October 2001, the  
9 SF Weekly has sold advertising to 4,229 individual advertisers. The East Bay Express has sold  
10 advertising to 3,410 individual advertisers.

11 11. From time to time, SF Weekly and East Bay Express have provided tickets to  
12 concerts and other events to their advertising customers. We do not discriminate between  
13 customers when providing these tickets. We do our best to provide tickets upon request to our  
14 customers when available. These promotional tickets are provided merely to increase or  
15 maintain the customer base and thank them for their business. These tickets, or any other  
16 promotional items provided to customers, do not affect the advertising rates the customers pay.

17 12. All advertising sales have been made for the purpose of increasing or maintaining  
18 the papers' customer base and building a profitable paper.

19 13. The nature of the advertising market is such that no entity could sell advertising at  
20 a loss to drive out competitors and then plan to recoup the losses later by raising prices to non-  
21 competitive levels. The remaining competitors, or new companies, would simply take away the  
22 customers with lower prices.

23 I declare under the penalty of perjury under the laws of the State of California that the  
24 foregoing is true and correct. Executed on this \_\_\_\_ day of June, 2007, in San Francisco,  
25 California.

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27 \_\_\_\_\_  
28 Joshua Fromson

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