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11 EAST BAY EXPRESS PUBLISHING LP, TROY
12 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 JAMES LARKIN
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

24
25 **FILED CONDITIONALLY UNDER SEAL PURSUANT TO C.R.C. 2.551(d)**
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1 **DECLARATION OF JAMES LARKIN**

2 I, James Larkin, declare:

3 1. I am the Chairman and Chief Executive Officer (“CEO”) of Village Voice Media,
4 LLC (“VVM” and previously known as “New Times”). I have personal knowledge of each of
5 the facts stated in this declaration.

6 2. With Executive Editor Michael Lacey, we own the majority of the membership
7 interests in VVM, including SF Weekly LP (“SF Weekly”). We owned East Bay Express
8 Publishing LP until its sale in May 2007.

9 3. Following approval from the United States Department of Justice, the 11 weekly
10 newspapers of New Times Media LLC, Inc. merged with the six owned by VVM in 2005.

11 4. As Chairman and CEO, I was the highest ranking business side officer at New
12 Times and in charge of total management of the non-editorial side of the company. I also hold
13 this position with VVM.

14 5. I have never instructed anyone that any advertisement in the SF Weekly or the
15 East Bay Express be sold at below-cost or any other particular price.

16 6. I am not aware of any strategy, scheme, plan or design to sell advertising at
17 below-cost prices for the purpose of injuring the San Francisco Bay Guardian, other competitors,
18 or to create or perpetuate a monopoly in Bay Area advertising sales, nor have I ever directed that
19 such a scheme or strategy be implemented. Such a scheme or strategy could not have existed
20 without my knowledge.

21 7. The SF Weekly was acquired by New Times in 1995 and the East Bay Express in
22 2001. As noted above, the East Bay Express Publishing LP was sold to an independent group
23 led by its existing editor in May 2007.

24 8. Since the inception of the original New Times newspaper in Phoenix in 1970 the
25 business model for each new or newly acquired paper has been to build a market presence and an
26 advertiser base by investing heavily in editorial content—with the goal of advertising revenues
27 equaling fixed and variable costs within 5 or 6 years. This model is based on the belief that a
28

1 strong advertising base follows a loyal readership, that the latter takes considerable time to
2 achieve, and that the former can not occur without the latter.

3 9. Following this model, we acquired the SF Weekly in 1995. Because of our
4 significant investments in editorial content, the paper was not profitable from 1995-1999. We
5 operated profitably from 2000-2001. Following the dot-com collapse, the events of September
6 11, 2001 and the emergence of Craigslist and other Internet competition, our advertising
7 revenues declined and we again operated at a loss from 2002 to the present.

8 10. The past decade has been economically challenging for alternative newsweeklies
9 and for print media generally. Strong advertising market segments such as Romance advertising,
10 records and CD's, Adult, and rentals, which contributed millions of dollars in revenues annually
11 to NT, and have been lost to the Internet. This is true even in markets in which we operate with
12 only one substantial alternative newsweekly. Competition from print, the Internet, and other
13 advertising mediums in every market in which we compete precludes asking for, or receiving,
14 monopoly advertising rates.

15 11. The term "alternative newsweekly" has always referred to being an alternative to
16 paid-circulation daily or dailies and we have been most successful in markets where readership
17 of daily newspapers, and daily newspaper advertising prices, are strong.

18 12. New Times regularly competes in markets with one or more paid daily
19 newspapers and multiple free weekly and monthly distribution advertising platforms. Only in
20 San Francisco do we compete in an advertising market with a single paid daily, *The San*
21 *Francisco Chronicle*, that is not a profitable paper.

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

25
26 _____
27 James Larkin
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