

1 H. SINCLAIR KERR (61713)
2 JAMES M. WAGSTAFFE (95535)
3 IVO LABAR (203492)
4 **KERR & WAGSTAFFE LLP**
5 100 Spear Street, Suite 1800
6 San Francisco, CA 94105-1528
7 Telephone: (415) 371-8500
8 Facsimile: (415) 371-0500

9 Attorneys for Defendants
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 CHRISTOPHER
KEATING 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 8. During my tenure as Group Publisher, neither publication made any secret
2 payments, secret rebates, secret refunds, secret commissions, or unearned discounts, whether in
3 the form of money or otherwise, to Bill Graham Presents, Golden Brands or any other affiliated
4 companies. Nor did either publication secretly extend to certain customers special services or
5 privileges not extended to all customers purchasing upon like terms and conditions.

6 9. During my tenure as Group Publisher, all advertising sales were made for the
7 purpose of increasing or maintaining the papers' customer base and building a profitable
8 business.

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

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

16
17 _____
18 Christopher Keating
19
20
21
22
23
24
25
26
27
28