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EAST BAY EXPRESS PUBLISHING LP, TROY
7 LARKIN

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9 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
10 **CITY AND COUNTY OF SAN FRANCISCO**
11 **UNLIMITED JURISDICTION**

12 BAY GUARDIAN COMPANY, INC.,

13 Plaintiff,

14 v.

15 NEW TIMES MEDIA LLC, SF WEEKLY LP,
16 EAST BAY EXPRESS PUBLISHING LP,
TROY LARKIN, DOES ONE through 10,
17 inclusive,

18 Defendants.

Case No. 04-435584

**DECLARATION OF MICHAEL
LACEY IN SUPPORT OF MOTION
FOR SUMMARY JUDGMENT UNDER
*MIAMI HERALD v. TORNILLO***

Case Filed: October 19, 2004

Date: September 14, 2007

Time: 11:00 a.m.

Courtroom: 304

Trial: October 15, 2007

HON. RICHARD A. KRAMER

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25 **FILED CONDITIONALLY UNDER SEAL PURSUANT TO C.R.C. 2.551(d)**
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1 I, Michael Lacey, declare:

2 1. Following approval by the United States Department of Justice last year New
3 Times Media, LLC (“NTM”), one of the defendants in this action, merged with Village Voice
4 Media, LLC (“VVM). NTM purchased the SF Weekly, a defendant in this action, in 1995 and
5 the East Bay Express, another defendant in this action, in 2001.

6 2. I am the Executive Editor of VVM and previously served in the same capacity
7 with NTM. As Executive Editor, my chief duty is to ensure the strong editorial content of all of
8 VVM’s publications. I have personal knowledge of each of the facts stated in this declaration.

9 3. NTM was begun in 1970 in Phoenix, Arizona as a single newsweekly, “New
10 Times”, by a small group of local residents, including myself, in response to the pro-war stance
11 of the jointly-owned Arizona Republic and Phoenix Gazette.

12 4. James Larkin is the Chairman and CEO of VVM and served in the same capacity
13 with NTM. Mr. Larkin and I own a majority interest in VVM and owned a majority interest in
14 NTM for over thirty years.

15 5. Freelance writers who work on a per-story basis, and receive no salaries and
16 benefits, are widely used in alternative journalism. Neither the SF Weekly nor the East Bay
17 Express make or made substantial use of freelance writers as a matter of ongoing policy.

18 6. Last month, VVM sold the East Bay Express to a group led by its existing editor,
19 Tom Buel. In contrast to our editorial policy, East Bay’s new ownership opted to substantially
20 reduce expenses by laying off full time writers or not replacing those who’d left. Those
21 reductions included the loss of four reporters at an aggregated annualized cost reduction of
22 \$163,652 in salaries alone, not including the employment benefits those reporters received or any
23 other editorial cuts.

24 7. My intent when the SF Weekly and East Bay Express were purchased was to
25 invest heavily over pre-acquisition levels in editorial content in order to build a readership base
26 and my working assumption was that both papers would operate at a loss for at least five or six
27 years in order to achieve this objective. The year-over-year increase in editorial expenditures
28 over pre-acquisition levels is attached as Exhibit A.

1 8. The SF Weekly operated at a loss from its purchase in 1995 until 1999, earned a
2 small profit in 2000 and 2001, and has not operated at a profit since the events of September 11,
3 2001, following on what is now known as the “Dot.com Bust”. From its purchase by NTM in
4 2001 until its sale by VVM last month, the East Bay Express never operated at a profit.

5 9. NTM instituted a national program and recruited heavily at schools of journalism
6 at colleges and universities across the United States and VVM continues to do the same. The
7 papers have been widely recognized for excellence in journalism and I have attached as Exhibit
8 B awards won by the SF Weekly and East Bay Express since NTM acquired each.

9 10. Last month a reporter at VVM’s LA Weekly, Jonathan Gold, won the Pulitzer
10 Prize for criticism. Additionally the organization’s investment in journalists has resulted in
11 thousands of awards over the years. In 2007, for example, the Livingston Awards, which
12 recognize excellence in young writers, announced that VVM had 4 finalists, more than any news
13 organization in the nation.

14 11. NTM used what were known as “space plans” for the SF Weekly and East Bay
15 Express during the period following 9/11. When advertising revenues do not offset editorial costs
16 it is common for a newspaper publisher to attempt to “cannibalize” non-revenue producing
17 content from the editorial side of the publications (i.e. to sell additional advertising space and
18 reduce editorial space without the need to add additional pages to the newspaper). “Space plans”
19 were used at both papers to place a base number of editorial pages off-limits to advertising.

20 I declare under penalty of perjury under the laws of the State of California that the
21 foregoing is true and corrected. Executed this 28th day of June, 2007, in _____,
22 _____.

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24 _____
25 MICHAEL LACEY
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