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The Honorable Nelson K. H. Lee
Hearing Date: July 2, 2020 at 1 pm

SUPERIOR COURT OF THE STATE OF WASHINGTON
KING COUNTY

STATE OF WASHINGTON
COUNTY OF KING

SW No. 20-0-616926

**DECLARATION OF DANNY
GAWLOWSKI IN SUPPORT OF
OBJECTIONS TO SUBPOENA
FOR PROTECTED
NEWSGATHERING MATERIAL**

I, Danny Gawlowski, declare:

1. I make this declaration based on personal knowledge, except for matters stated on information and belief, which I believe to be true. This declaration is made in support of the news media’s Objections to and Request to Quash Subpoena for Protected Newsgathering Material. If called, I could testify competently as follows.

2. I am an Assistant Managing Editor for the Seattle Times (“Times”). I oversee the Times’ photography, video and digital departments, and supervise its photojournalists. I have held my current position for two years and have been a Times employee since 2009.

3. I have worked as a photojournalist for 15 years. As a photo and video editor, my work has been recognized with two staff Pulitzer Prizes and numerous other national journalism awards. In 2016, I served as President of the Associated Press Photo Managers, a national association of newsroom managers overseeing photographers. From 2015 to 2018, I was Director of the Kalish Visual Editing Workshop, which teaches photojournalism ethics to

1 industry leaders from around the world.

2 4. I was responsible for managing and coordinating Times photojournalists covering
3 the protests in downtown Seattle on May 30, 2020, and their aftermath. I understand the Seattle
4 Police Department (“SPD”) has issued a subpoena seeking all digital and video images captured
5 by Seattle Times journalists from 3:30 to 5 pm on May 30, 2020, in a four-square block area in
6 downtown Seattle, in connection with the police investigation of alleged criminal activity.

7 5. Requiring journalists to disclose newsgathering material undermines their ability
8 to cover and report the news freely and effectively. Among other things, responding to such
9 requests detracts from journalists’ regular work – a particular concern at present in light of
10 diminished newsroom resources, increased workloads, and the burdens of covering the ongoing
11 COVID-19 pandemic. Responding to the SPD subpoena would require the Times to interrupt
12 normal work to search images recorded by four photojournalists and two videographers who
13 covered the May 30 protests, as well as additional material gathered by the approximately nine
14 Times news reporters at the scene. Their work is spread out across multiple publishing, archive
15 and social media platforms. Identifying the responsive images would require hours of time from
16 each of the individual journalists, as well as review by at least a dozen editors and production
17 staff. The burden and disruption to the newsroom and to regular news production would be
18 tremendous.

19 6. More significantly, the SPD subpoena, if enforced, would pose an additional,
20 specific risk to journalists: it will contribute to the perception that journalists are operating not as
21 independent newsgatherers, but rather as arms of government investigators. The perception that
22 a journalist might be collaborating with police or other public officials poses a very real, physical
23 danger to journalists, particularly when they are covering protests or civil unrest. Enforcing the
24 subpoena also will aggravate the distrust journalist already face in covering protests.

25 7. These risks were evidenced numerous times during the events in Seattle in May
26 and June 2020. For example, in the course of the first week of the protests, one Times staff
27 photographer was hit in the head with a rock thrown by protesters (fortunately he was wearing a

1 helmet, and was not injured). In a separate incident, the same photographer also was punched in
2 the face by a protester. Another Times staff photographer was told by multiple protesters that
3 they did not want their photographs taken because they feared identification or police retaliation
4 if they were recorded.

5 8. In covering the “Capitol Hill Occupied Protest,” Times photographers have had to
6 explain repeatedly that the Times is independent from the police, and that journalists do not serve
7 as an extension of law enforcement. Such assurances have been instrumental in our journalists’
8 ability to gain trust with protesters so that the Times can safely and accurately report news from
9 the protest zone. The perception that the news media is cooperating with police investigations
10 would subvert that effort, degrade the trust our journalists have built, and undermine our ability
11 to inform the public.

12 9. Simply put, enforcing the SPD subpoena poses a substantial risk both to the
13 physical safety of Times journalists and other news reporters, and to their ability to inform the
14 public effectively.

15 I declare under penalty of perjury under the laws of the State of Washington that the
16 foregoing is true and correct.

17 Executed this 29th day of June, 2020, at Seattle, Washington.

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28 Danny Gawlowski

DECLARATION OF SERVICE

The undersigned, hereby declares under the laws of the State of Washington, that on this day he caused to be served, a copy of the foregoing document on the following counsel of record in the manner indicated:

Brian W. Esler [] Via First Class Mail
Miller Nash Graham & Dunn LLP [] Via Overnight Mail
Pier 70, 2801 Alaskan Way, Suite 300 [X] Via Email
Seattle, WA 98121-1128 [] Via Messenger
brian.esler@millernash.com

DATED this 29th day of June, 2020, at Seattle, Washington.

/s/Eric M. Stahl
Eric M. Stahl, WSBA #27619