EXPEDITE 1 No hearing set 2 Hearing is set 3 Date: January 13, 2012 4 Time: 11:00am 5 Judge/Calendar: Hon. Paula Casey/ Hon. Christopher Wickham 6 7 8 9 SUPERIOR COURT OF THE STATE OF WASHINGTON 10 THURSTON COUNTY 11 KENT L. and LINDA DAVIS; JEFFREY and 12 SUSAN TRININ; and SUSAN MAYER, derivatively on behalf of OLYMPIA FOOD Case No. 11-2-01925-7 13 COOPERATIVE, 14 Plaintiffs. DECLARATION OF BRUCE E.H. JOHNSON IN SUPPORT OF 15 DEFENDANTS' SPECIAL MOTION TO STRIKE UNDER 16 WASHINGTON'S ANTI-SLAPP STATUTE, RCW 4.24.525, AND GRACE COX; ROCHELLE GAUSE; ERIN GENIA; T.J. JOHNSON; JAYNE KASZYNSKI;) 17 JACKIÉ KRZYZEK; JESSICA LAING; RON MOTION TO DISMISS LAVIGNE; HARRY LEVINE; ERIC MAPES; 18 JOHN NASON; JOHN REGAN; ROB RICHARDS; SUZANNE SHAFER; JULIA 19 SOKOLOFF; and JOELLEN REINECK WILHELM, 20 Defendants. 21 22 I, Bruce E.H. Johnson, am over the age of 18, am competent to testify, and have 23 personal knowledge of all the facts stated herein. I declare as follows: 24 I am a partner at the law firm of Davis Wright Tremaine LLP, which represents 1, 25 Defendants in this case. 26 27 Davis Wright Tremaine LLP

LAW OFFICES
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DECLARATION OF BRUCE JOHNSON - 1

DWT 18711183v2 0200353-000001

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- 2. Attached hereto as Exhibit A is a true and correct copy of an email chain, dated October 4, 2011, reflecting an agreement between myself and counsel for Plaintiffs, Robert Sulkin, that the parties would stay all discovery in this case until the anti-SLAPP motion is resolved.
- 3. Plaintiffs demanded videotaped depositions and issued multiple and duplicative discovery requests to all sixteen Defendants in this case.
- 4. Due to the large volume of discovery requested by Plaintiffs at the outset of this case, and pursuant to RCW 4.24.525(5)(c), I called Plaintiffs' counsel Robert Sulkin on the telephone to request a discovery stay. On October 3, 2011, during our telephone conversation, Mr. Sulkin and I agreed to stay discovery until the Court decided the anti-SLAPP motion.
- 5. The following day, I sent Mr. Sulkin an email confirming our agreement to stay discovery until resolution of the anti-SLAPP motion. He responded: "We are on the same page." Accordingly, Plaintiffs agreed to stay discovery until resolution of the anti-SLAPP motion. As a result of our agreement, the sixteen videotaped depositions did not take place and none of the Defendants were required to respond to any of the extensive discovery requests served upon them at the outset of the lawsuit.
- 6. On November 1, 2011, I spoke again with Mr. Sulkin. Defendants were about to serve and file their anti-SLAPP motion, and so Mr. Sulkin and I were discussing an appropriate oral argument hearing date for that motion in accordance with our agreement. At that time, Mr. Sulkin mentioned that in response to the anti-SLAPP motion, the Plaintiffs might file a cross-motion seeking discovery, which is a remedy available to them under RCW 4.24.525(5)(c). Other than that suggestion and until we received the Plaintiffs' cross-motion for discovery on December 1, 2011, Plaintiffs' counsel never contacted me with any request to modify their prior agreement staying discovery with Defendants.

I declare under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct to the best of my knowledge and belief.

Executed at New York, New York, this 15th day of December, 2011.

Bruce E.H. Johnson

EXHIBIT A

Smith, Devin

From:

Robert Sulkin <RSulkin@mcnaul.com>

Sent:

Tuesday, October 04, 2011 10:53 PM

To:

Johnson, Bruce

Cc:

Avi Lipman; Robin Lindsey

Subject:

Re: Our conversation yesterday in Davis v. Cox

We are on the same page.

Sent from my iPad

On Oct 4, 2011, at 1:41 PM, "Johnson, Bruce" < brucejohnson@dwt.com > wrote:

Bob, we spoke yesterday and agreed upon the following:

- 1. I will check with the defendants and determine, among those who have not yet been served, which ones will agree to have me accept service, and let you and/or Ari know promptly;
- 2. The defendants will have until Oct. 31 to file their motion to dismiss/Anti-SLAPP motion to strike;
- 3. We will work cooperatively to set the briefing schedule, and any oral argument, on the motion identified in #2; and
- 4. Discovery will be stayed until resolution of that motion.

Bruce E. H. Johnson | Davis Wright Tremaine LLP 1201 Third Avenue, Suite 2200 | Seattle, WA 98101 Tel: (206) 757-8069 | Fax: (206) 757-7069 | Mobile: (206) 465-4309 Email: brucejohnson@dwt.com | Website: www.dwt.com

Anchorage | Bellevue | Los Angeles | New York | Portland | San Francisco | Seattle | Shanghai | Washington, D.C.

CERTIFICATE OF SERVICE

I hereby certify that I served a copy of the foregoing document on:

Robert Sulkin Avi J. Lipman McNaul Ebel Nawrot & Helgren PLLC 600 University Street Suite 2700 Seattle, WA 98101-3143

Suite 2	700 , WA 98101-3143
addressed to said attor the date set forth below	by mailing a copy thereof in a sealed, first-class postage prepaid envelope mey's last-known address and deposited in the U.S. mail at Seattle, WA on w;
as shown above on the	by causing a copy thereof to be hand-delivered to said attorney's address e date set forth below;
envelope, addressed to	by sending a copy thereof via overnight courier in a sealed, prepaid said attorney's last-known address on the date set forth below;
number on the date se	by faxing a copy thereof to said attorney at his/her last-known facsimile t forth below; or
address as set forth ab	by emailing a copy thereof to said attorney at his/her last-known email ove.
DATED this 1	5 day of December, 2011.
	DAVIS WRIGHT TREMAINE LLP
	By Ron Glant
	Rohi Grant