

Honorable Richard A. Jones

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

SEATTLE MIDEAST AWARENESS  
CAMPAIGN, a Washington non-profit  
corporation,

Plaintiff,

vs.

KING COUNTY, a municipal corporation,

Defendant.

No. 2:11-cv-00094-RAJ

DECLARATION OF KEVIN  
DESMOND IN SUPPORT OF KING  
COUNTY'S BRIEF IN OPPOSITION  
TO SEATTLE MIDEAST  
AWARENESS CAMPAIGN'S  
MOTION FOR PRELIMINARY  
INJUNCTION

Noted for February 11, 2011

I, Kevin Desmond, declare that:

1. I am over the age of 18 and competent to testify and base this declaration on  
personal knowledge.

2. I am the General Manager of the Transit Division of the King County Department  
of Transportation (also known as "Metro"). I have been in this position since June of 2004.  
Prior to coming to King County, I held senior management positions at Pierce Transit from

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MIDEAST AWARENESS CAMPAIGN'S MOTION FOR  
PRELIMINARY INJUNCTION - 1 (11-00094 RAJ)

**Daniel T. Satterberg**, Prosecuting Attorney  
CIVIL DIVISION, Litigation Section  
900 King County Administration Building  
500 Fourth Avenue  
Seattle, Washington 98104  
(206) 296-8820 Fax (206) 296-8819

1 1996-2004 and at the New York City Transit Authority from 1991-1996. I have been directly  
2 involved with public transportation field for 20 years.

3 3. As the General Manager, I am responsible for all aspects of Metro Transit  
4 administration, including ensuring the safe, secure and reliable provision of all modes of Metro  
5 public transportation. Metro's services include fixed route bus, light rail, streetcar, Access  
6 paratransit and vanpool transportation. I am responsible for approximately 4,600 employees and  
7 an annual operating budget of approximately \$600 million dollars.

8 4. Part of King County Metro Transit's mission is to provide the best possible public  
9 transportation services and improve regional mobility and quality of life in King County. This  
10 includes ensuring the safety and security of the riding public as well as our transit operators.  
11 King County has twice been honored as the best-run large public transportation system in North  
12 America. It has never been a part of Metro's mission to provide a forum for public debate,  
13 especially on non-transit issues.

14 5. King County Metro Transit is responsible for providing public transportation  
15 services throughout all of King County, including the Seattle metropolitan area. Metro's  
16 ridership includes people that have chosen public transportation for their transportation needs as  
17 well as those who are dependent on public transportation, including riders with special needs and  
18 disabilities.

19 6. Metro is a central participant in regional transportation policy development and  
20 implementation and maintains relationships with many public organizations and hundreds of  
21 businesses (through fare sales agreements and service partnerships). One of our goals as an  
22 agency is to attempt to increase ridership.

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1           7.     Metro operates 245 bus routes with approximately 350,000 daily boardings  
2 (approximately 110 million annual boardings), over a service area of 2,134 square miles. Metro  
3 also transports 1.2 million people with disabilities on its Access vans annually and over 2.5  
4 million annual passenger trips using approximately 1,000 vanpools.

5           8.     Metro has had a revenue-based advertising program since 1978. The purpose of  
6 the Metro advertising program is to generate revenue to support the on-going delivery of  
7 transportation services to the public. Advertising income is an essential portion of Metro's  
8 Operating Revenue, which is also made up of farebox revenue and other miscellaneous revenues.  
9 Operating Revenue is used to support at least 25% of the operating cost of fixed bus route  
10 service, with tax revenue supporting the balance.

11           9.     In 2010, advertising revenue was approximately 4.25% of the total Operating  
12 Revenue with \$5.36 million in Transit Advertising Program revenue out of \$125.9 million total  
13 Operating Revenue, according to preliminary data.

14           10.    It is my understanding that in October of 2010, the Seattle Mideast Awareness  
15 Campaign (SeaMAC), proposed a large ad to run on the street-side of 12 Metro buses for one  
16 month. The text of these ads read, "ISRAELI WAR CRIMES: YOUR TAX DOLLARS AT  
17 WORK" accompanied by a graphic. This ad was initially approved to run on the buses  
18 beginning December 27, 2010.

19           11.    At the time the SeaMAC Ad was approved, Metro had not received any  
20 complaints or threats of disruption to Metro service.

21           12.    On Monday morning, December 20, 2010, I was informed that there was a high  
22 volume of calls and emails to the Metro Call Center over the prior weekend concerning the  
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1 proposed SeaMAC Ad. These calls and emails followed a King 5 news story about the ad.  
2 These calls and emails continued during the week.

3 13. Due to the intense and, at times, vitriolic response to the SeaMAC Ad, I met with  
4 my senior staff and Metro Transit Police, because I was concerned that our services could be  
5 disrupted and the possibility that our buses and customers may be placed in harm's way. I also  
6 spoke with King County Sheriff Sue Rahr about her concerns regarding the SeaMAC Ad.

7 14. On December 21, 2010, my concerns grew when two counter ads were submitted  
8 by groups in response to the SeaMAC ad, which by this time had gained widespread national and  
9 international notoriety.

10 15. As a result, we were faced with the prospect of the sensitive and emotional Arab-  
11 Israeli conflict being argued on the sides of multiple Metro buses, operating for an extended  
12 period of time.

13 16. Based on the information I received, that was either read by me, or conveyed to  
14 me by Metro employees at meetings, I became increasingly concerned about the potential for  
15 service disruptions and harm to the riding public and our operators.

16 17. On December 21, 2010, I requested that Captain Lisa Mulligan of the Metro  
17 Transit police develop a Bus Ads Operational Response Plan to deal with the possibility of acts  
18 of retaliation or civil disobedience being directed at Metro buses, such as vandalism or blocking  
19 Metro buses.

20 18. During the time period from December 20-23, 2010, I had several meetings with  
21 the King County Executive, Dow Constantine and his senior staff, as well as Harold Taniguchi  
22 and Laurie Brown, Director and Deputy Director of the Department of Transportation, discussing  
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1 the SeaMAC Ad and counter ads. I was also present at meetings with representatives from the  
2 Jewish community and SeaMAC.

3 19. On December 22, 2010, I was also contacted by the president of the transit  
4 operator's union, Paul Bachtel, requesting that we not place the SeaMAC Ad on the sides of the  
5 buses due to his concern for the safety and security of his members. Mr. Bachtel told me that  
6 there were drivers who had expressed concerns over their own safety as well as drivers who were  
7 refusing to drive the buses if the ads were to run.

8 20. On December 22, 2010, I became aware that a news-story concerning the  
9 SeaMAC Ad had been posted on a Hamas-affiliated web-site. I discussed this issue with Metro's  
10 Homeland Security Coordinator, Mike DeCapua, and also shared this information with members  
11 of the Leadership Team in the Executive's Office.

12 21. My concerns about the SeaMAC Ad included the following: (1) the response was  
13 raising the prospect of service disruptions; (2) the controversy surrounding the ad might cause  
14 some people to feel unsafe riding Metro or to choose not to ride Metro because they disagreed  
15 with the message; (3) the costs of running the SeaMAC Ad was far exceeding the financial  
16 benefit to Metro; and (4) there was a potential for the debate to escalate (given the counter-ads)  
17 and increase the risk that Metro transit would become subject to a terrorist attack, or be  
18 perceived to be at risk for such an attack.

19 22. This advertising controversy cost Metro, and thus the taxpayers, far in excess of  
20 the revenue generated by running the ads, thus defeating the purpose of the advertising program.  
21 The controversy overwhelmed my staff and consumed virtually all of my work time during the  
22 week of December 20, 2010.  
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SIGNED and DATED at Seattle, WA this 4th day of February, 2011.

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