

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 SHARRON  
SHINBO 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, Sharron Shinbo, declare that:

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

2. I am currently the Transit Advertising Program Project Manager for the Transit Division of the King County Department of Transportation (also known as "Metro"). I was originally hired as Metro Marketing and Sales Supervisor in 1985. In my current position, I serve as King County's primary contact with its advertising contractor, Titan Outdoor LLC

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

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1 ("Titan"). My responsibilities include reviewing and approving artwork (graphics and text) for  
2 transit advertisements. I am also responsible for negotiating and administering the Transit  
3 Advertising Sales and Related Support Services Agreement (the "Titan Contract") between King  
4 County and Titan.

5 3. A true and correct copy of the Titan Contract that was in place from January 1,  
6 2005 to the present is attached as Exhibit A. Also part of that exhibit are true and correct copies  
7 of Amendments 1 and 2, executed in 2008 and 2009, respectively. Neither Amendment is  
8 relevant to this case.

9 4. Metro has contracted with consultants to sell advertising space on its buses since  
10 at least 1978. The purpose of the Transit Advertising Program ("Program") is to generate  
11 revenue to support Metro transit operations and over the years Metro has worked to expand its  
12 advertising program in order to generate increased revenues. The current Titan Contract covers a  
13 seven-year period beginning in 2005. Metro receives 65% of the net billings from the contractor.  
14 To-date, in the current contract cycle, King County has received over \$35 million in revenue  
15 through the Program. All revenue received from the Transit Advertising Program goes into  
16 Metro's operating budget and helps to fund public transportation.

17 5. I have been involved with the Program for twenty-five years and it has never been  
18 a goal of the Program to create an open forum for public debate. The primary goal has always  
19 been to generate revenue for Metro, but there are rules regulating the content of advertisements.  
20 The Titan Contract provides for restrictions on advertising and as long as I have been involved  
21 with the Program, the relevant contracts have included advertising restrictions. During my time  
22 with the Program, Metro has consistently and conscientiously applied the restrictions are listed in  
23 Section 6 (Advertising Restrictions) of the Titan Contract (Exhibit A).

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1           6.     The Titan Contract requires that Titan comply with Section 6 (Advertising  
2 Restrictions). That section prohibits the posting of advertising that depicts tobacco or alcohol  
3 products, illegal activity, certain films and video-games, or sexual or excretory activity. In  
4 addition, Section 6.4 contains disruption of service and civility clauses, in subsections D & E,  
5 respectively, that prohibit the posting of advertisements which are so objectionable or offensive  
6 as to be reasonably foreseeable that they could invite disruption of the transportation system,  
7 retaliation, vandalism, or a breach of the peace. More detail is provided in Section 6 of Exhibit  
8 A and I have only summarized the provisions in this paragraph.

9           7.     Each unique advertisement consisting of text and graphics is known as a  
10 "creative". One creative may be used to produce displays in one or a number of different sizes.  
11 The displays are posted on the number of buses and for the period specified in a contract  
12 between Titan and the client. A contract period is generally a multiple of four weeks. The core  
13 of Metro's transit advertising products has long consisted of the placement of traditional framed  
14 exterior displays and interior bus cards. The framed exterior displays are known as "kings"  
15 (generally street side), "queens" (generally curb-side) and "tails" (rear). Metro added new direct  
16 application vinyl products and tunnel advertising to generate additional revenue.

17           8.     All potential creatives, or proposed ads, are screened by Titan and if there is a  
18 question about a potential Section 6 content violation, they are passed through to me for further  
19 evaluation. On rare occasions Metro staff has observed an advertisement that was not  
20 appropriately screened against Section 6 content restrictions and the advertisement was promptly  
21 pulled from service. Alcohol and tobacco content is the most common reason that a proposed ad  
22 is rejected, but there have been others as well. Up until the recent controversy that resulted in  
23 this lawsuit, I am not aware of any proposed advertisement that was rejected because of the

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1 civility clauses in Section 6.4, D & E. At the same time, during my 25 years with the Transit  
2 Advertising Program, no advertisement has ever triggered such public expressions of concern as  
3 the one that had been proposed by SeaMAC.

4 9. Historically, the focus of the Transit Advertising Program has been on  
5 commercial advertising. During the life of the current Titan Contract through December 22,  
6 2010, there have been approximately 6600 unique creatives (proposed advertisements).  
7 Approximately 84.41% were commercial advertisements; approximately 0.47% were political  
8 advertisements and approximately 2.09% are public issue advertisements. The remaining  
9 approximately 13.03% were public service announcements. These numbers are approximations  
10 because there are a small number of contracts, and their creatives, that carry over from one  
11 calendar year to the next.

12 10. When I use the term "commercial advertisement," I mean advertising that  
13 promotes or solicits the sale, rental, distribution, or availability of goods, services, food,  
14 entertainment, events, programs, transactions, products or property for commercial purposes.

15 11. When I use the term "political advertisement," I mean advertising that supports or  
16 opposes a political party or supports or opposes the election of any candidate or group of  
17 candidates for federal, state, or local governmental offices, and advertisements supporting or  
18 opposing initiatives, referendums or other ballot measures or causes.

19 12. When I use the term "public issue advertisement", I mean advertising that  
20 conveys, or attempts to convey a particularized message of a social, religious, ideological or  
21 philosophical nature, or is likely to be understood as such by those who receive it. Such  
22 advertising lacks a commercial purpose and is primarily public communication.  
23

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1           13.     When I use the term "public service announcement", I mean advertising that is  
2 directed to the general public, or a significant segment of the public and relates to: prevention  
3 and treatment of illnesses, children and family services, solicitations by broad-based employee  
4 contribution campaigns that provide funds to multiple charitable organizations, services and  
5 programs which provide support to low income and disabled citizens, and any other service,  
6 subject or program consistent with the above.

7           14.     On October 18, 2010, Titan notified me that the Seattle Mideast Awareness  
8 Campaign (SeaMAC), was proposing a King-size external bus card creative that included the  
9 following text "ISRAELI WAR CRIMES: YOUR TAX DOLLARS AT WORK" with a graphic  
10 of a refugee camp. A true and correct copy of the initial creative proposed by SeaMAC is  
11 attached at Exhibit B. Eventually, SeaMAC altered the graphic to show a group of children by  
12 what appeared to be a bomb-damaged building. A true and correct copy of the final creative  
13 proposed by SeaMAC is attached as Exhibit C.

14           15.     Both of the proposed advertisements (Exhibits B & C) were reviewed internally  
15 and found to be controversial, but our initial assessment was that they did not violate Section 6 of  
16 the Titan Contract. The revised creative (Exhibit C) was approved by Metro on December 14,  
17 2010. SeaMAC contracted for the posting of twelve King-sized ads for four weeks, beginning  
18 December 27, 2010. SeaMAC paid Titan \$2760 for the proposed ad run ("SeaMAC Ad").  
19 Metro would have received \$1794 (65% of Titan's net billing). At the time the SeaMAC Ad was  
20 approved, we had not received any complaints or threats of disruption to Metro service.

21           16.     A true and correct copy of Titan's contract for advertising with SeaMAC for  
22 SeaMAC Ad is attached as Exhibit D. Paragraph 10 of the Titan's contract with SeaMAC allows  
23

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1 for the advertisement to be cancelled or withdrawn in the event of the County's disapproval or  
2 "in the event of adverse publicity of any nature" resulting from the advertisement.

3 17. I learned that on Friday, December 17, 2010, King 5 Television broadcast a news  
4 story about the SeaMAC Ad scheduled to be posted on Metro buses starting on December 27,  
5 2010.

6 18. During the week of December 20, 2010, I learned that the news regarding the  
7 SeaMAC Ad was generating an un-precedent amount of controversy and public comment.  
8 During my years with the Metro Transit Advertising Program, there has never been an  
9 advertisement that generated a similar degree of controversy in terms of the volume of messages  
10 and the content of the messages. While I did not receive many of the messages myself, I learned  
11 about them from conversations with my colleagues and superiors.

12 19. The situation surrounding the SeaMAC Ad and the proposed Counter Ads, which  
13 are described below in paragraphs 19-21, caused an internal re-evaluation of the SeaMAC Ad  
14 under the Titan Contract Sections 6.4 D&E. Metro had never previously rejected, or reversed its  
15 approval of, an advertisement under these sections but we had also never had an advertisement  
16 that triggered this level of public response.

17 20. I do not recall any proposed advertisement prior to the SeaMAC Ad that singled  
18 out any ethnic, national, or religious group for negative treatment, such as equating Israel with  
19 War Crimes. It is correct that Metro had previously allowed some advertisements about the  
20 Middle-East conflict including two ads sponsored by the Arab American Community Coalition  
21 and one advertisement sponsored by the Jewish Federation of Greater Seattle. The  
22 advertisements sponsored by the Arab American Community Coalition stated "SAVE GAZA!",  
23 contracted to post from January 21, 2009 through February 17, 2009, and ""END SIEGE OF  
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GAZA!" contracted to post on February 9, 2009 through March 8, 2009. The advertisement sponsored by the Jewish Federation of Greater Seattle stated "THOUSANDS HAVE FALLEN IN PURSUIT OF PEACE, Remember Israel's soldiers and victims of terror. Join us in a moment of Silence on April 28 at 11:00 am.", contracted to post on April 15, 2009 through April 28, 2009. I know of only eight complaints regarding these three these ads. True and correct images of these ads are attached as Exhibit E.

21. The only other advertisement I recall as generating a large number of comments was the ad sponsored by the Freedom From Religion Foundation. This ad stated, "YES, VIRGINIA...THERE IS NO GOD" contracted to post on November 2, 2009 through November 29, 2009. I do not understand this ad to be referencing the Middle-East conflict in any way and the overall number and content of the complaints was very different from the complaints about the SeaMAC Ad. I do not recall hearing about any threats of disruption to transit service related to this ad. A true and correct copy of the image of this ad is attached as Exhibit F.

22. None of the four advertisements listed above in paragraphs 20-21 caused such a strong public response in the form of threats of disruption as the SeaMAC Ad.

23. On Tuesday, December 21, 2010, I learned from Titan that two other entities were seeking to run their own advertisements in response to the SeaMAC Ad. These two entities were the Horowitz Freedom Center, a political organization based in California, and American Freedom Defense Initiative/Stop Islamization of America (AFDI) based in New York.

24. The text of the proposed Horowitz Freedom Center advertisement was "PALESTINIAN WAR CRIMES - YOUR TAX DOLLARS AT WORK" with two versions: one showing an image of a burning bus, the other showing injured and bleeding passengers in a

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1 damaged bus. True and correct copies of the proposed Horowitz Freedom Center advertisements  
2 are attached as Exhibit G.

3 25. The text of the advertisement proposed by AFDI was "IN ANY WAR  
4 BETWEEN THE CIVILIZED MAN AND THE SAVAGE, SUPPORT THE CIVILIZED  
5 MAN". This text was accompanied by seven graphic images, including one showing Adolf  
6 Hitler with what could be perceived to be a Palestinian youth wearing traditional head-garb and  
7 other images that show what could be perceived to be Muslim people with Swastika flags. A  
8 true and correct copy of the proposed advertisement is attached as Exhibit H.

9 26. I forwarded the proposed Horowitz Freedom Center and AFDI advertisement  
10 ("Counter-Ads") up the decision-making chain at Metro. On December 23, 2010, I was  
11 informed by Kevin Desmond that Executive Constantine was directing that Metro deny the  
12 SeaMAC Ad and the Counter Ads under Sections D&E. That same day, I directed Titan by  
13 email to reject the SeaMAC Ad and the Counter Ads.

14 27. As of December 23, 2010, Metro adopted an Interim Advertising Policy that does  
15 not allow for political or cause advertising and is limited to commercial and government  
16 advertising. This policy is still under review.

17 I hereby declare under penalty of perjury of the laws of the United States and the State of  
18 Washington that, to the best of my knowledge, the foregoing is true and correct.

19 SIGNED and DATED at Seattle, WA this 7th day of February, 2011.

20 Sharron Shinbo Feb 7, 2011  
21 SHARRON SHINBO  
22  
23

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