

The Honorable Carol Murphy

EXPEDITE
 No hearing set
 Hearing is set
Date: March 2, 2018
Time: 9:00 a.m.
Judge/Calendar: Hon. Carol Murphy

SUPERIOR COURT OF THE STATE OF WASHINGTON
THURSTON COUNTY

KENT L. and LINDA DAVIS; and SUSAN
MAYER, derivatively on behalf of
OLYMPIA FOOD COOPERATIVE,

Plaintiffs,

v.

GRACE COX, ROCHELLE GAUSE, ERIN
GENIA, T.J. JOHNSON, JAYNE KASZYNSKI,
JACKIE KRZYZEK, JESSICA LAING, RON
LAVIGNE, HARRY LEVINE, ERIC MAPES,
JOHN NASON, JOHN REGAN, ROB
RICHARDS, JULIA SOKOLOFF, and
JOELLEN REINECK WILHELM,

Defendants.

No. 11-2-01925-7

DECLARATION OF BROOKE
HOWLETT IN SUPPORT OF
DEFENDANTS' REPLY IN
SUPPORT OF DEFENDANTS'
MOTION FOR SUMMARY
JUDGMENT

I, Brooke Howlett, am an attorney for Defendants, and I have personal knowledge of the matters set forth in this declaration. If called to testify to these matters, I could do so competently.

1 **DECLARATION OF SERVICE**

2 On March 5, 2018, I caused to be served a true and correct copy of the foregoing
3 document upon counsel of record, at the address stated below, via the method of service
4 indicated:

5	Robert M. Sulkin	<input checked="" type="checkbox"/>	Via Messenger
6	Avi J. Lipman	<input type="checkbox"/>	Via U.S. Mail
7	McNaul Ebel Nawrot & Helgren PLLC	<input type="checkbox"/>	Via Overnight Delivery
8	600 University Street, Suite 2700	<input type="checkbox"/>	Via Facsimile
	Seattle, WA 98101-3143	<input type="checkbox"/>	Via E-mail

9 I declare under penalty of perjury under the laws of the United States of America and
10 the State of Washington that the foregoing is true and correct.

11 DATED this 5th day of March, 2018, at Seattle, Washington.

12
13 s/ Brooke Howlett
14 Brooke Howlett, WSBA No. 47899

EXHIBIT A

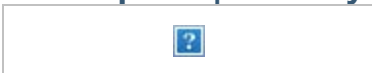
From: [Avi Lipman](#)
To: [Howlett, Brooke](#)
Cc: [Thao Do](#); [Curtis Isacke](#); [Johnson, Bruce E.H.](#); [Robert Sulkin](#); [Maria LaHood](#); [Angelo Guisado](#); [Sara Redfield](#)
Subject: RE: OFC
Date: Friday, February 02, 2018 2:34:48 PM
Attachments: [image001.png](#)

Brooke:

1. We will file the SPO.
2. We will be producing an additional batch of approximately 2500 documents today or on Monday, and expect to produce an additional, much smaller batch early next week. That will complete production of responsive, non-privileged material that we have in our possession. If we receive any additional material, it will be quite modest compared to what we've produced so far. We'll let you know as soon as possible.
3. We will send you alternative trial dates.
4. I don't understand why you won't agree to a consolidated hearing date, especially given that we have an opportunity to lighten the briefing load on both sides and the Court. Be that as it may, we will take whatever steps are necessary to schedule our cross-motion, which of course involves largely the same set of underlying facts as yours.
5. We disagree with your contention about the breadth of our prior requests, but agree that you can stage supplementation as indicated – without waiving our right to full compliance.

Thanks.

Avi J. Lipman | Attorney



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www.mcnaul.com | alipman@mcnaul.com

From: Howlett, Brooke [mailto:BrookeHowlett@dwt.com]
Sent: Thursday, February 01, 2018 10:01 AM
To: Avi Lipman
Cc: Thao Do; Curtis Isacke; Johnson, Bruce E.H.; Robert Sulkin; Maria LaHood; Angelo Guisado
Subject: RE: OFC

Avi,

Please see below for our responses.

Best,

Brooke

Brooke Howlett | Davis Wright Tremaine LLP

1201 Third Avenue, Suite 2200 | Seattle, WA 98101

Tel: (206) 757-8187 | Fax: (206) 757-7187

Email: brookehowlett@dwt.com | Website: www.dwt.com

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

From: Avi Lipman [<mailto:ALipman@mcnaul.com>]

Sent: Wednesday, January 31, 2018 3:12 PM

To: Howlett, Brooke

Cc: Thao Do; Curtis Isacke; Johnson, Bruce E.H.; Robert Sulkin

Subject: RE: OFC

Brooke: Please respond. Thanks.

From: Avi Lipman

Sent: Thursday, January 25, 2018 12:08 PM

To: 'Howlett, Brooke'

Cc: Thao Do (TDo@mcnaul.com); Curtis Isacke; Johnson, Bruce E.H.; Robert Sulkin

Subject: OFC

Brooke:

1. Attached is an executed version of the SPO. Please send us your signature. **Thank you—I'm attaching the signature page. Will you take care of filing with the court? Also, if you intend to file any documents designated confidential, we'll need several days at minimum to review them before you do.**
2. We are actively working on completing document production, and will be rolling out tranches to you as they become available. I can't predict when the process will be complete, but we're aiming for the week of Feb 5. **Do you have any update on when you will be producing more documents, and how many? A reminder that our requests for document cover social media communications, hand-written notes, recordings, etc. Also, you never responded to our April 18, 2017 request regarding whether you would accept service for the Trinins. Please let us know – we'd like to start getting their documents ASAP.**
3. Our clients want the case to be tried earlier than the fall. We propose May 29. Please let me know your thoughts. **I will be assisting Bruce with another trial set for May 29. Feel free to send us other dates that work for you and we can check them against our schedules as well as our clients' schedules.**
4. Please confirm that you agree our MSJ may be heard on March 2. The procedural rules in Thurston County are quite different than King County, and we may need to note a separate motion – which I believe both sides would have to attend – if there is disagreement on this point. We'll do that if necessary, but I imagine all of us would like to avoid an unnecessary trip to Olympia. **We do not agree to March 2nd (or March 9, when our summary judgement motion will be heard). As we have said, without any information about the scope or basis of your motion (or the scope or quantity of documents you will be filing or producing), we cannot agree to the same hearing date with an overlapping briefing schedule.**

5. Please confirm defendants' document production is complete. And please supplement their answers/responses as warranted. Our clients' document production has long been complete. As to our clients' answers, given the nature of the interrogatories, and the fact that none of our clients are board members any longer, we doubt there is much to supplement, but we will find out. As to a supplemental production, you may have noticed that your overbroad request for all documents relating in any way to boycotting and/or divesting from Israel caught a lot of irrelevant documents that had nothing to do with the Olympia Food Co-op, such as weekly mass emails from unrelated organizations. If you would like production supplemented sooner rather than later, we could focus on requested documents relating to Olympia Food Co-op boycotting. Let us know your thoughts.

Thanks.

Avi J. Lipman | Attorney



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EXHIBIT B

From: ["Linda Sternhill Davis" <Irsdavis@dreamlinque.net>](mailto:Irsdavis@dreamlinque.net)
To: ["Kent L. Davis <"](mailto:kldavis@tech4law.com)
["\\\(kldavis@tech4law.com\)>"](mailto:kldavis@tech4law.com)
Date: 2/8/2013 9:52:23 PM
Subject: FW: Message not approved: Encouraging news in connection with the Israeli Boycott at Oly Food Coop

In case you want to see this thread again...

-----Original Message-----

From: Oly-Action-owner@yahoogroups.com [mailto:Oly-Action-owner@yahoogroups.com] On Behalf Of Linda
Sent: Sunday, December 16, 2012 5:21 PM
To: Susan Mayer
Cc: Oly-Action-owner@yahoogroups.com
Subject: Message not approved: Encouraging news in connection with the Israeli Boycott at Oly Food Coop

Hi Susan,

Your message hasn't been posted to our Oly-Action eGroup yet because it mentions some still-confidential and controversial issues involving our lawsuit.

While I know that others will want to know that our legal action has been successful in stopping other food co-ops from enacting similar boycotts against Israel, the information about the money from Stand With Us and other details should probably not be divulged to others right now, especially in writing.

If you could please re-send your message with these items removed, this would be great!

BTW, I'm interested to hear more about the recent SWU training about protecting Israel and pro-Israel students on campuses.

Thanks so much!

Warmly,

Linda

- > Hi Everyone,
- > I had the opportunity to speak with Rob Jacobs and Carolyn Hathaway
- > this past Thursday at the StandWithUs workshop on Protecting Pro-Israel Students
- > and Faculties. They both told me that
- > since of the legal stand we took against the Israeli boycott by the
- > Olympia Food Coop Board, a line has been drawn for such a boycott in
- > other US food coops.
- >
- > It seems that this legal action has discouraged other coops from
- > taking similar measures, and at this point, we have been successful
- > in drawing a line! Although some of you may have, I personally was not
- > aware of this most encouraging development.
- >
- > I greatly appreciate the dedicated work of our attorneys, Bob Sulkin
- > and Avi Lipman. And of course Rob Jacobs, Carolyn Hathaway and
- > StandWithUs for hearing our call, providing the legal team and raising
- > all of the money that Judge McPhee has ruled on in favor of the Board.
- > This money by the way will be going into escrow since we are appealing his judgment.
- >
- > We are currently awaiting decision from the Washington State Supreme
- > Court on whether they will take our case, and if not, the appeal will
- > be going to the lower appellate court. All this is likely to take
- > months, but in the meantime, things are currently quiet in the US food
- > coops regarding boycott of Israeli products.
- >
- > The food coops that BDS considered a 'soft target', may not be as 'soft'
- > anymore.

> Cheers.
> Susan Mayer