

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

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FOX TELEVISION STATIONS, INC., et al.

Case No. 1:13-cv-00758 (RMC)

Plaintiffs & Counter-  
Defendants,

v.

AEREOKILLER LLC, et al.

Defendants & Counter-  
Plaintiffs.

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**DECLARATION OF BARBARA W. WALL**

I, Barbara W. Wall, declare as follows:

1. I am a Vice President and Senior Associate General Counsel of Gannett Co., Inc. (“Gannett”).
2. I submit this declaration in support of Plaintiffs’ Motion for Preliminary Injunction. This declaration is based on my own personal knowledge, my review of Gannett’s books and records, or on information provided to me in my capacity as Vice President and Senior Associate General Counsel of Gannett. If called as a witness, I will provide testimony regarding the subject matter addressed in this declaration.
3. Gannett’s wholly owned subsidiary, Detroit Free Press, Inc., owns and operates the television station WUSA-TV, which is an FCC-licensed broadcast station that broadcasts to viewers over-the-air on channel 9 in the Washington, D.C. market. WUSA-TV is affiliated with the CBS Television Network.

4. Gannett is actively engaged, among other things, in the production and distribution of television programming and other copyrighted works, including local news programming.

5. Attached hereto as Exhibit 1 is a true and correct copy of a non-exhaustive list of television programs in which Gannett holds the copyrights, which I am informed and believe were broadcast on the WUSA-TV television channel on May 28, 2013, and May 29, 2013. It is my understanding that other episodes of television programs in which Gannett holds the copyright have been aired on WUSA-TV (as original or repeat airings) at various times between May 28, 2013, and the present.

6. Attached hereto as Exhibit 2 is a true and correct copy of a notice that I sent to defendants' counsel, which informed defendants, pursuant to Section 411(c) of United States Copyright Act and Section 201.22 of the Copyright Office's regulations, of their potential copyright infringement related to the programming listed in Exhibit 1 and Gannett's intent to secure a copyright in that programming.

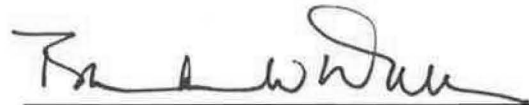
7. Attached hereto as Exhibit 3 are true and correct copies of the copyright registrations for the works listed in Exhibit 1. These registrations are maintained by Gannett in the ordinary course of business.

8. Gannett has not licensed to any of the Defendants the right to publicly display or perform, distribute or reproduce copies of any of its television programs or other works in which

they own the copyrights, including those works listed in Exhibit 1.

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

Executed this 29 day of July, 2013 at McLean, Virginia.

A handwritten signature in cursive script, appearing to read "Barbara W. Wall", written over a horizontal line.

Barbara W. Wall

# **EXHIBIT 1**

No.	Program Title	Broadcast Date	Copyright Owner	Registration
1.	WUSA 9 News at 6 pm 5/28/2013	5/28/2013	Gannett Co., Inc.	PA 1-846-483
2.	WUSA 9 News at 6 pm 5/29/2013	5/29/2013	Gannett Co., Inc.	PA 1-846-485

# **EXHIBIT 2**

GANNETT

Barbara W. Wall  
Vice President,  
Senior Associate  
General Counsel

May 24, 2013

**VIA FIRST CLASS MAIL RETURN RECEIPT REQUESTED**  
**AND EMAIL:** [copyright@filmon.com](mailto:copyright@filmon.com)

Aereokiller LLC  
400 E. 58<sup>th</sup> Street, Apt. 8B  
New York, NY 10022

FilmOn.TV, Inc.  
FilmOn.TV Network, Inc.  
FilmOn.com, Inc.  
301 N. Canon Drive  
Beverly Hills, CA 90210

c/o Jaime W. Marquart  
10990 Wilshire Blvd, Fourth Floor  
Los Angeles, CA 90024  
[jmarquart@bakermarquart.com](mailto:jmarquart@bakermarquart.com)

**RE: ADVANCE NOTICE OF POTENTIAL INFRINGEMENT**

On behalf of Gannett Co., Inc. ("Gannett"), we submit this advance notice of potential infringement pursuant to Section 411(c) (formerly 411(b)) of the United States Copyright Act, 17 U.S.C. § 411(c), and Section 201.22 of the Copyright Office's regulations, 37 C.F. R. § 201.22 (2009).

The Federal Communications Commission has licensed Gannett, through its subsidiary Detroit Free Press, Inc. to operate the television station identified by the call letters WUSA, the signal of which is broadcast to viewers over-the-air in the Washington, DC metropolitan area. WUSA will telecast the following programs:

<u>Program</u>	<u>Date</u>	<u>Time (E.S.T.)</u>
WUSA 9 News at 6pm	May 28, 2013	6:00 p.m. – 6:30 p.m.
WUSA 9 News at 6pm	May 29, 2013	6:00 p.m. – 6:30 p.m.

Each telecast will be a copyrighted work consisting of sounds and images, the first fixation of which will be made simultaneously with its transmission. Gannett, the copyright claimant of these works, intends to secure a copyright in these telecasts upon their fixation and to file an application for copyright registration in such telecasts within three months of their first transmission.

Your streaming of these telecasts over the Internet to subscribers and users of the Aereokiller retransmission service, including through the websites [www.filmon.com](http://www.filmon.com), [www.filmonx.com](http://www.filmonx.com), [www.filmon.tv](http://www.filmon.tv), and [www.aereokiller.com](http://www.aereokiller.com), or any other service owned or controlled by you, would, if carried out, result in an infringement of the copyright in such telecasts. Gannett objects to such activities that, if carried out, would subject you to liability for copyright infringement. In view of this notice, such infringement would be willful.

This notice does not purport to be a full or complete statement of facts or the law and is without prejudice to any rights, claims and remedies available to Gannett, whether legal or equitable in nature, all of which are expressly reserved.

Very truly yours,

A handwritten signature in black ink, appearing to read "Barbara W. Wall". The signature is fluid and cursive, with a large initial "B" and a distinct "W" and "Wall" at the end.

Barbara W. Wall



# **EXHIBIT 3**

# Certificate of Registration



This Certificate issued under the seal of the Copyright Office in accordance with title 17, *United States Code*, attests that registration has been made for the work identified below. The information on this certificate has been made a part of the Copyright Office records.

*Maria A. Pallante*

Register of Copyrights, United States of America

**Registration Number**  
**PA 1-846-483**

**Effective date of registration:**  
July 5, 2013

## Title

**Title of Work:** WUSA 9 News at 6 pm 5/28/2013

## Completion/Publication

**Year of Completion:** 2013

**Date of 1st Publication:** May 28, 2013

**Nation of 1st Publication:** United States

## Author

▪ **Author:** Gannett Co., Inc.

**Author Created:** entire motion picture

**Work made for hire:** Yes

**Citizen of:** United States

**Domiciled in:** United States

## Copyright claimant

**Copyright Claimant:** Gannett Co., Inc.

7950 Jones Branch Drive, McLean, VA, 22107, United States

## Limitation of copyright claim

**Material excluded from this claim:** preexisting footage / commercials

**New material included in claim:** all other cinematographic material

## Rights and Permissions

**Organization Name:** Gannett Co., Inc.

**Address:** 7950 Jones Branch Drive

McLean, VA 22107 United States

## Certification

**Name:** Jonathan Coronel

**Date:** July 1, 2013

**Correspondence:** Yes





**Registration #:** PA0001846483  
**Service Request #:** 1-955570501



Arnold & Porter LLP  
Jonathan Coronel  
777 S. Figueroa St.  
44th Floor  
Los Angeles, CA 90017 United States

# Certificate of Registration



This Certificate issued under the seal of the Copyright Office in accordance with title 17, *United States Code*, attests that registration has been made for the work identified below. The information on this certificate has been made a part of the Copyright Office records.

*Maria A. Pallante*

Register of Copyrights, United States of America

**Registration Number**  
**PA 1-846-485**

**Effective date of registration:**  
July 5, 2013

## Title

**Title of Work:** WUSA 9 News at 6 pm 5/29/2013

## Completion/Publication

**Year of Completion:** 2013

**Date of 1st Publication:** May 29, 2013

**Nation of 1st Publication:** United States

## Author

▪ **Author:** Gannett Co., Inc.

**Author Created:** entire motion picture

**Work made for hire:** Yes

**Citizen of:** United States

**Domiciled in:** United States

## Copyright claimant

**Copyright Claimant:** Gannett Co., Inc.

7950 Jones Branch Dr., McLean, VA, 22107, United States

## Limitation of copyright claim

**Material excluded from this claim:** preexisting footage / commercials

**New material included in claim:** all other cinematographic material

## Rights and Permissions

**Organization Name:** Gannett Co., Inc.

**Address:** 7950 Jones Branch Dr

McLean, VA 22107 United States

## Certification

**Name:** Jonathan Coronel

**Date:** July 1, 2013

**Correspondence:** Yes

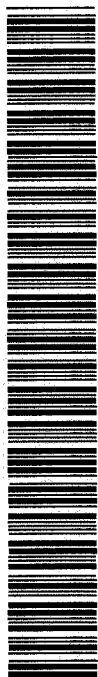






**Registration #:** PA0001846485

**Service Request #:** 1-955579831



Arnold & Porter LLP  
Jonathan Coronel  
777 S. Figueroa St.  
44th Floor  
Los Angeles, CA 90017 United States