

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN

THE WEATHER UNDERGROUND, INC.,
a Michigan corporation,

Plaintiff,

vs.

Case No. 2:09-CV-10756
Hon. Marianne O. Battani

NAVIGATION CATALYST SYSTEMS, INC.,
a Delaware corporation; CONNEXUS CORP.,
a Delaware corporation; FIRSTLOOK, INC.,
a Delaware corporation; and EPIC MEDIA
GROUP, INC., a Delaware corporation,

Defendants.

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**DECLARATION OF WILLIAM A. DELGADO IN SUPPORT OF DEFENDANTS
CONNEXUS CORPORATION, FIRSTLOOK, INC., AND NAVIGATION CATALYST
SYSTEMS, INC.'S MOTION FOR PROTECTIVE ORDER**

I, William A. Delgado, declare as follows:

1. I am over the age of eighteen and am lead counsel for Defendants in this matter. I have personal knowledge of the facts stated herein except where stated on information and belief, and, as to those matters, I believe them to be true.

2. On September 15, 2010, I defended the deposition of Seth Jacoby, the now-former president of Firstlook, Inc., defendant in this matter. The deposition was videotaped; proceeded for a full day; and took place in New York City, where Mr. Jacoby resided and worked at the time.

3. With the exception of a motion for reconsideration related to Plaintiff's witness, Chris Schwerzler, there has been no motion practice or discovery in this matter since September 2011.

4. Attached as Exhibit A is a true and correct copy of the February 21, 2012 subpoena to Seth Jacoby served on my office by e-mail.

5. Attached as Exhibit B is a true and correct copy of a letter to William Delgado from Enrico Schaefer dated November 11, 2011.

6. Attached as Exhibit C is a true and correct copy of a letter to Enrico Schaefer from William Delgado dated November 29, 2011.

7. Attached as Exhibit D is a true and correct copy of a letter to William Delgado from Enrico Schaefer dated February 3, 2012.

8. Attached as Exhibit E is a true and correct copy of a letter to Enrico Schaefer from William Delgado dated February 7, 2012

9. My recent schedule as it relates to this case only (i.e., putting aside all of my other cases, including three class actions, and any of my administrative responsibilities as a partner at my law firm, which include overseeing a major hardware and software upgrade of my firm's computer system taking place the weekend of February 24-26):

- a. February 20-24, 2012: finalize and file Defendants' motions in *limine*; prepare and file responses to Plaintiff's first two motions in *limine*; work with Plaintiff's counsel to prepare final pretrial order; finalize all trial exhibits; work with counsel to finalize and assemble Bench Book for pretrial conference, including drafting Administrative Section, Theory of the Case, Defendants' Proposed Jury Instructions, Defendants' Verdict Form, Exhibit List, and Witness List and incorporating all of its Plaintiff's respective portions.
- b. Weekend of February 25th and 26th: prepare Motion for Protective Order; prepare responses to Plaintiff's second two motions in *limine*.
- c. February 27th: file Motion for Protective Order and responses to Plaintiff's motions in *limine*; spend remainder of day flying to Detroit for pretrial conference.
- d. February 28th: prepare for and attend pretrial conference; fly back to Los Angeles.

10. A second deposition of Seth Jacoby would deprive me of three days of trial preparation as I would need a full day to prepare for the deposition (including drafting my own set of questions and preparing any exhibits I may wish to show him), a full day to fly from Los

Angeles to New York City, and a full day to attend the deposition of Mr. Jacoby and fly back to Los Angeles.

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

Executed on this 27th day of February, 2012 at Los Angeles, California.

/s/William A. Delgado

William A. Delgado

CERTIFICATE OF SERVICE

I hereby certify that on February 27, 2012, Pacific Time, I electronically filed the foregoing paper with the Court using the ECF system which will send notification of such filing to the following:

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