

The Honorable Marsha J. Pechman

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON

CITY OF SEATTLE, a first-class charter city,)	No. C07-1620MJP
Plaintiff,)	
v.)	DECLARATION OF BRADLEY S.
THE PROFESSIONAL BASKETBALL CLUB,)	KELLER IN SUPPORT OF THE
LLC, an Oklahoma limited liability company,)	PROFESSIONAL BASKETBALL CLUB'S
Defendant.)	REPLY REGARDING MOTION TO
)	AMEND ANSWER
)	NOTE ON MOTION CALENDAR:
)	MAY 5, 2008

Bradley S. Keller declares as follows:

1. I am one of the attorneys of record for defendant The Professional Basketball Club, LLC in this action. The following is true and correct and based upon my own personal knowledge:

2. Attached hereto are true and correct copies of the following:

Exhibit No.	Description
1	Excerpts from the April 2, 2008, deposition of Gregory James Nickels.
2	March 26, 2008, Notice of Videotaped 30(b)(6) Deposition of the Professional Basketball Club

DECLARATION OF BRADLEY S. KELLER IN SUPPORT OF
PBC'S REPLY REGARDING MOTION TO AMEND ANSWER
(C07-1620MJP) - 1

BYRNES & KELLER LLP
38TH FLOOR
1000 SECOND AVENUE
SEATTLE, WASHINGTON 98104
(206) 622-2000

Exhibit No.	Description
3	Plaintiff City of Seattle's Fed. R. Civ. P. 26(a) Disclosure Statement
4	Chart: Preliminary Estimates Based on Currently Available Data (Dep. Ex. 327)
5	April 1, 2008, Greg Nickels email to Regina LaBelle

DATED in Seattle, Washington, this 5th day of May, 2008.

/s/ Bradley S. Keller
Bradley S. Keller, WSBA #10665

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CERTIFICATE OF SERVICE

I hereby certify that on the 5th day of May, 2008, I electronically filed the foregoing document with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following:

Thomas A. Carr (thomas.carr@seattle.gov)
Gregory C. Narver (gregory.narver@seattle.gov)
Seattle City Attorney
600 Fourth Avenue, 4th Floor
P.O. Box 94769
Seattle, WA 98124-4769

Slade Gorton (slade.gorton@klgates.com)
Paul J. Lawrence (paul.lawrence@klgates.com)
Jeffrey C. Johnson (jeff.johnson@klgates.com)
Michelle Jensen (michelle.jensen@klgates.com)
K&L Gates
925 4th Avenue, Suite 2900
Seattle, WA 98104

/s/ Bradley S. Keller
Bradley S. Keller, WSBA #10665
Byrnes & Keller LLP
1000 Second Avenue, 38th Floor
Seattle, WA 98104
Telephone: (206) 622-2000
Facsimile: (206) 622-2522
bkeller@byrneskeller.com

EXHIBIT 1

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON

CITY OF SEATTLE, a first-class)	
charter city,)	
)	
Plaintiff,)	
)	
)	
vs.)	No. C07-1620MJP
)	
THE PROFESSIONAL BASKETBALL)	
CLUB, LLC, an Oklahoma limited)	
liability company,)	
)	
Defendant.)	

Videotaped Deposition Upon Oral Examination
of
GREGORY JAMES NICKELS

Taken at 600 Fourth Avenue, 7th Floor
Seattle, Washington

DATE: April 2, 2008

REPORTED BY: Brigid M. Donovan, RPR, CCR
CCR NO.: 2070

STARKOVICH REPORTING SERVICES
(206) 323-0919

STARKOVICH REPORTING SERVICES
206.323.0919

f930c0f7-bf7b-4624-a9de-cd7b7b21b96e

1 A It was very consistent with the proposals
2 we've had all along.

3 Q And the proposal -- strike that.

4 So you'd like to see the team sold to local
5 owners and you've been working to try and make that
6 happen, right?

7 A Yes.

8 Q Do you believe the prospects of the sale of
9 the team to local ownership is more likely if the
10 Bennett group faces having to play out their lease term
11 until 2010?

12 A Absolutely.

13 Q Is that one of the reasons, one of the reasons
14 why the city is wanting the Sonics to play out the last
15 two years because you think that that will help create
16 the environment where the sale of the team will happen
17 to local owners?

18 MR. NARVER: Object to form.

19 A Absolutely.

20 Q Is that one of the motives why you are trying
21 to specifically enforce the lease?

22 MR. NARVER: Object to form.

23 A We are seeking to enforce the lease because it
24 is the basis upon which the people of Seattle invested
25 \$74 million in upgrading Key Arena. I believe that the

1 longer a team is here, the more likely it is we'll be
2 able to work out a solution long-term for Key Arena to
3 be a competitive facility through an additional lease
4 term.

5 Q Now see if you can answer my question. Is
6 trying to create the environment where a sale to local
7 ownership will happen if the current ownership faces
8 having to play out its lease --

9 MR. NARVER: Object to the form and move
10 to strike the preface.

11 Q -- is that part of the motive for why you are
12 seeking specific performance?

13 MR. NARVER: Object to the form.

14 A I believe the longer the team is here, the
15 more likely it is we will be able to find a long-term
16 answer to keep them here.

17 Q Is part of the reason why you are seeking
18 specific performance is that you know the current
19 ownership is losing money, and if they face losses you
20 believe they will be more inclined to sell to local
21 owners?

22 MR. NARVER: Object to form.

23 A I believe that the longer the team is here,
24 the more likely it is we will find an answer long-term.
25 I've experienced that with baseball. I've experienced

1 it with football. And I think it's true of basketball
2 as well.

3 Q So depositions are a little different than a
4 press conference. I get to ask follow-ups and ask for
5 an answer to my question. So I am going to try one more
6 time.

7 A Sure.

8 Q Is part of the reason why the city is seeking
9 specific performance because it knows that the current
10 owners are losing money, and that faced with losing
11 money you believe it will create an environment where
12 they would be more likely to sell to a local group?

13 MR. NARVER: Objection. Asked and
14 answered and move to strike the observations of counsel.

15 A I believe the longer the team is here, the
16 better the chances are that we will find a long-term
17 solution, one of those parts being local ownership.

18 Q And is one of the reasons why you believe that
19 to be the case is because you know that the current
20 ownership is facing operating losses here, and that if
21 they have to have those -- incur those operating losses
22 for another two years, they would be more than likely to
23 sell?

24 MR. NARVER: Objection to the form.
25 Asked and answered.

1 A I believe that the chances get better over
2 time.

3 Q You are not answering my questions. Is one of
4 the reasons why you believe the chances get better over
5 time because you know they are losing money and if they
6 are losing a lot of money they ought to be more
7 motivated to sell?

8 MR. NARVER: Object to the form.

9 A I would hope that the longer the team is here
10 the better our chances are, and that's one of the
11 reasons that I am pushing for the team to fulfill its
12 obligations under the lease.

13 MR. KELLER: Move to strike as
14 nonresponsive. I've asked it three times. We'll wait
15 to ask it another time in another form.

16 MR. NARVER: Move to strike the comments.

17 Q Do you agree that the city of Seattle doesn't
18 own the Sonics team?

19 A That's -- I think that's an interesting
20 question, what the city's ownership is of an asset like
21 a professional basketball team. The ownership of the
22 companies and the financials certainly is Mr. Bennett
23 and his group. There is a certain type of ownership, a
24 civic ownership of the Sonics as an institution that's
25 been part of our city for 41 years. But the ownership

EXHIBIT 2

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The Honorable Marsha J. Pechman

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

CITY OF SEATTLE, a first-class charter
city,

Plaintiff,

v.

THE PROFESSIONAL BASKETBALL
CLUB, LLC, an Oklahoma limited liability
company,

Defendant.

No. C07-1620 MJP

NOTICE OF VIDEO TAPED
30(b)(6) DEPOSITION OF
THE PROFESSIONAL
BASKETBALL CLUB

TO ALL PARTIES AND YOUR ATTORNEY OF RECORD:

YOU AND EACH OF YOU, WILL PLEASE TAKE NOTICE that testimony of
the designated FRCP 30(b)(6) most qualified person or persons of the Professional Basketball
Club, upon oral examination before a Notary Public at The Law Office of Kirkpatrick &
Lockhart, Preston, Gates Ellis, LLP, located at 925 Fourth Avenue, Suite 2900, Seattle,
Washington 98104-1158 (206) 623-7580, as referenced in "Exhibit A" attached hereto, will
be taken on April 23, 2008, commencing at the hour of 9:00 a.m. Such deposition shall be
subject to continuance or adjournment from time to time, and may be set at an alternative

NOTICE OF VIDEO TAPED
30(b)(6) DEPOSITION OF THE
PROFESSIONAL BASKETBALL CLUB - 1

Case No. C07-1620 MJP

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KIRKPATRICK & LOCKHART
PRESTON GATES ELLIS LLP
925 FOURTH AVENUE
SUITE 2900
SEATTLE, WASHINGTON 98104-1158
TELEPHONE: (206) 623-7580
FACSIMILE: (206) 623-7022

1 location to be negotiated, until completed, and shall be taken on the ground that the witness
2 will provide testimony material to plaintiff's case. Furthermore, the deposition may be
3 recorded by sound, sound-and-visual, or stenographic means.

4 The Professional Basketball Club is also hereby instructed to identify the witness or
5 witnesses they will designate by April 9th, 2008.

6 DATED this 26th day of March, 2008.

7
8 KIRKPATRICK & LOCKHART
PRESTON GATES & ELLIS, LLP

THOMAS A. CARR
Seattle City Attorney

9
10 By: 

By: 

11 Slade Gorton, WSBA No. 20
12 Paul J. Lawrence, WSBA No. 13557
13 Jeffrey Johnson, WSBA No. 23066
Jonathan Harrison, WSBA No. 31390
Michelle Jensen, WSBA No. 36611

Gregory C. Narver, WSBA No. 18127
Assistant City Attorney

Attorneys for Plaintiff City of Seattle

14 Attorneys for Plaintiff City of Seattle
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26 NOTICE OF VIDEO TAPED
30(b)(6) DEPOSITION OF THE
PROFESSIONAL BASKETBALL CLUB - 2

Case No. C07-1620 MJP

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KIRKPATRICK & LOCKHART
PRESTON GATES ELLIS LLP
925 FOURTH AVENUE
SUITE 2900
SEATTLE, WASHINGTON 98104-1158
TELEPHONE: (206) 623-7580
FACSIMILE: (206) 623-7022

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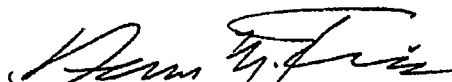
CERTIFICATE OF SERVICE

I hereby certify that on March 26, 2008, I served a copy of the foregoing:

**NOTICE OF VIDEO TAPED 30(b)(6) DEPOSITION
OF THE PROFESSIONAL BASKETBALL CLUB**

by US Mail and electronic mail to the following counsel of record:

Bradley S. Keller, Esq. bkeller@byrneskeller.com
Paul R. Taylor, Esq. ptaylor@byrneskeller.com
Cathy Coleman ccoleman@byrneskeller.com
BYRNES & KELLER LLP
1000 Second Avenue, 38th Floor
Seattle, Washington 98104


Dennis M. Tessier

NOTICE OF VIDEO TAPED
30(b)(6) DEPOSITION OF THE
PROFESSIONAL BASKETBALL CLUB - 3

Case No. C07-1620 MJP

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KIRKPATRICK & LOCKHART
PRESTON GATES ELLIS LLP
925 FOURTH AVENUE
SUITE 2900
SEATTLE, WASHINGTON 98104-1158
TELEPHONE: (206) 623-7580
FACSIMILE: (206) 623-7022

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EXHIBIT A

SUBJECT MATTER FOR THE DEPOSITION

1. The Professional Basketball Club's ("the PBC's") purchase of the Seattle SuperSonics (the "Sonics"), including but not limited to the purchase agreement, the due diligence process, and the valuation and financial performance of the Sonics.
2. The Premises Use and Occupancy Agreement (the "Lease") entered into between the City of Seattle and SSI Sports, Inc., and subsequently assumed by the Basketball Club of Seattle and the PBC, including but not limited to PBC's obligations under the Lease, and communications between the PBC and any third party regarding the Lease.
3. Communications between the PBC and any former owner of the Sonics regarding (a) the Lease, (b) the suitability of Key Arena as a professional basketball facility, (c) commitments to make efforts to keep the Sonics in Washington State, (d) the possibility of moving the Sonics to Oklahoma City, and (e) the financial performance of the Sonics either in the past or projected in the future.
4. The financial performance of the Sonics, under past and current ownership, including but not limited to profit and loss statements, financial projections and pro formas, and financial statements submitted to the NBA by both present and former owners.
5. Projected attendance at Sonics home games during the 2007-08 season, including but not limited to the effect on attendance resulting from: the departure of former Sonics Ray Allen and/or Rashard Lewis; public awareness of a possible relocation of the Sonics; and, marketing campaigns to promote attendance.
6. Efforts to secure financing for a new arena in Washington State, including lobbying efforts by the PBC and/or its representatives.
7. The possible relocation of the Sonics from KeyArena and/or the City of Seattle, including but not limited to the assessment of alternative venues in Renton, Washington, Bellevue, Washington and Oklahoma City, and communications with representatives of Oklahoma City, the Ford Center or the NBA regarding such a relocation.
8. The formation of the PBC, including communications with investors and the development of organizational documents.
9. Economic and noneconomic benefits derived by Oklahoma City as a result of the New Orleans Hornets playing home games in Oklahoma City.
10. Economic and noneconomic benefits derived by the City of Seattle as a result of the Sonics playing home games in Seattle.
11. Projected benefits, economic and noneconomic, that would be derived by Oklahoma City as a result of the relocation of the Sonics to Oklahoma City.

NOTICE OF VIDEO TAPED
30(b)(6) DEPOSITION OF THE
PROFESSIONAL BASKETBALL CLUB - 4

Case No. C07-1620 MJP

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KIRKPATRICK & LOCKHART
PRESTON GATES ELLIS LLP
925 FOURTH AVENUE
SUITE 2900
SEATTLE, WASHINGTON 98104-1158
TELEPHONE: (206) 623-7580
FACSIMILE: (206) 623-7022

- 1 12. Tax benefits accruing to the principals of the PBC as a result of their ownership
2 interest in the Sonics.
3 13. Volunteer, community and charitable contributions by the Sonics, its employees,
4 representatives and/or players, to the greater Seattle, Washington community.
5 14. The PBC's calculation of rental payments and admissions taxes due to the City under
6 the remaining two years of the Lease, as reflected in ¶ 6(a) of the PBC's February 15,
7 2008 Offer of Judgment.
8 15. The PBC's request to the NBA for approval to relocate the Sonics franchise to
9 Oklahoma City, including any communications of any kind with any representative of
10 the NBA or other NBA franchise owners.
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26 NOTICE OF VIDEO TAPED
30(b)(6) DEPOSITION OF THE
PROFESSIONAL BASKETBALL CLUB - 5

Case No. C07-1620 MJP

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KIRKPATRICK & LOCKHART
PRESTON GATES ELLIS LLP
925 FOURTH AVENUE
SUITE 2900
SEATTLE, WASHINGTON 98104-1158
TELEPHONE: (206) 623-7580
FACSIMILE: (206) 623-7022

EXHIBIT 3

RECEIVED

The Honorable Marsha J. Pechman

2008 JAN -9 P 4: 01

BYRNES & KELLER LLP

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

CITY OF SEATTLE, a first-class charter
city,

Plaintiff,

v.

THE PROFESSIONAL BASKETBALL
CLUB, LLC, an Oklahoma limited liability
company,

Defendant.

No. C07-1620 MJP

PLAINTIFF CITY OF SEATTLE'S
FED. R. CIV. P. 26(a) DISCLOSURE
STATEMENT

Pursuant to Fed. R. Civ. P. 26(a)(1)(A)-(D), plaintiff the City of Seattle ("the City"),
states as follows:

GENERAL RESPONSE

1. The City expressly reserves its right to supplement or amend this disclosure at
a future date.

2. In making the disclosure contained below, the City does not waive, but instead
expressly reserves, any and all objections, including but not limited to the attorney-client
privilege, the work-product doctrine, relevance, materiality and overbreadth, to the

CITY OF SEATTLE'S RULE 26(a)
DISCLOSURE STATEMENT - 1
Case No. C07-1620 MJP

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KIRKPATRICK & LOCKHART
PRESTON GATES ELLIS LLP
925 FOURTH AVENUE
SUITE 2900
SEATTLE, WASHINGTON 98104-1158
TELEPHONE: (206) 623-7580
FACSIMILE: (206) 623-7022

ORIGINAL

discoverability of information defendant The Professional Basketball Club ("PBC") may seek in this action.

FED. R. CIV. P. 26(A) RESPONSES

A. FED. R. CIV. P. 26(A)(1)(A): "THE NAME AND, IF KNOWN, THE ADDRESS AND TELEPHONE NUMBER OF EACH INDIVIDUAL LIKELY TO HAVE DISCOVERABLE INFORMATION RELEVANT TO DISPUTED FACTS ALLEGED WITH PARTICULARITY IN THE PLEADINGS, IDENTIFYING THE SUBJECTS OF THE INFORMATION."

The City's Response:

To the extent known to the City at this time, the following are the names and last known addresses of the individuals, other than the City's litigation counsel (and their agents), who may have information that bears on the disputed facts alleged with particularity in the pleadings:

1. Bill Ackerley
[Contact information unknown at this time]

Knowledge of negotiation of Lease.
2. Virginia Anderson
President, Safeco Insurance Foundation
1001 Fourth Avenue, Suite 1400
Seattle, WA 98185
(206) 473-5890

Former Director of Seattle Center. Knowledge of negotiation of Lease, and of finances relating to SuperSonics, KeyArena and City of Seattle.
3. Clayton I. Bennett
Seattle SuperSonics
1201 Third Avenue, Suite 1000
Seattle, WA 98101
(206) 281-5800

Knowledge of allegations in Arbitration Demand, and of claims and defenses asserted herein.
4. William B. Beyers
Department of Geography
Smith Hall
University of Washington

1 Seattle, WA 98195
2 (206) 543-5871

3 Conducted KeyArena Economic Impact Assessment. Knowledge of research
4 on impact on City of Seattle and community of presence of SuperSonics
franchise.

- 5 5. Bob Blackburn
6 12134 SE 16th Place
7 Bellevue, WA 98005
8 (425) 746-2434

9 Former SuperSonics broadcaster. Knowledge of impact on City of Seattle and
10 community of presence of SuperSonics franchise.

- 11 6. Tim Ceis
12 Deputy Mayor
13 City Hall
14 600 Fourth Avenue, 7th Floor
15 P.O. Box 94749
16 Seattle, WA 98124-4749
17 (206) 684-8106

18 Knowledge of finances relating to SuperSonics, KeyArena and City of Seattle.

- 19 7. Cheryl Chow
20 Seattle Public Schools
21 2445 3rd Avenue South
22 Seattle, WA 98134
23 (206) 252-0000

24 Former member of City Council. Knowledge of negotiation of Lease, related
25 legislation, and budget issues.

- 26 8. Diane Clausen
Seattle Public Utilities
700 Fifth Avenue, Suite 4900
Seattle, WA 98124
(206) 684-8151

Knowledge of negotiation of Lease, related legislation, and budget issues.

9. John Coney
3227 13th Ave. W.
Seattle, WA 98119
(206) 283-2049

Member of KeyArena Subcommittee. Knowledge of work and conclusions of
Subcommittee.

1
2 10. Jill Crary
3 Senior Project Manager
4 Seattle Center
5 305 Harrison Street
6 Suite 100
7 Seattle, WA 98109
8 (206) 684-7107

9 Knowledge of finances relating to SuperSonics, KeyArena and City of Seattle,
10 and of work and conclusions of KeyArena Subcommittee.

11 11. Dwight Dively
12 Director, City of Seattle Department of Finance
13 City Hall
14 600 Fourth Avenue, 6th Floor
15 P.O. Box 94747
16 Seattle, WA 98124-4747
17 (206) 684-5212

18 Knowledge of finances relating to SuperSonics, KeyArena and City of Seattle.

19 12. James Donaldson
20 2843 34th Ave. W.
21 Seattle, WA 98199
22 (206) 709-4000

23 Former SuperSonics player. Knowledge of impact on City of Seattle and
24 community of presence of SuperSonics franchise.

25 13. Sue Donaldson
26 Executive Director
Washington Appleseed
1900 N. Northlake Way, #215
Seattle, WA 98103
(206) 632-7197

Former member of City Council. Knowledge of negotiation of Lease, related
legislation, and budget issues.

14. Edward Dunn
Capital Budget Manager
Seattle Center
305 Harrison Street
Suite 200
Seattle, WA 98109
(206) 684-7212

Knowledge of finances relating to SuperSonics, KeyArena and City of Seattle,
and of work and conclusions of KeyArena Subcommittee.

1 15. Jim Hill
2 Kemper Development Company
3 575 Bellevue Square
4 Bellevue, WA 98004
5 (425) 460-5792

6 Member of KeyArena Subcommittee. Knowledge of work and conclusions of
7 Subcommittee.

8 16. Thomas Israel
9 Director of Finance and Administration
10 Seattle Center
11 305 Harrison Street
12 Suite 215
13 Seattle, WA 98109
14 (206) 684-7298

15 Knowledge of finances relating to SuperSonics, KeyArena and City of Seattle,
16 and of work and conclusions of KeyArena Subcommittee.

17 17. Martha Lester
18 Seattle City Council Central Staff
19 City Hall
20 600 Fourth Avenue, 2nd Floor
21 P.O. Box 34025
22 Seattle, WA 98124-4025
23 (206) 684-8149

24 Knowledge of negotiation of Lease, related legislation, and budget issues.

25 18. Terry McLaughlin
26 Seattle SuperSonics
27 1201 Third Avenue, Suite 1000
28 Seattle, WA 98101
29 (206) 281-5800

30 Knowledge of negotiation of Lease.

31 19. Louise Miller
32 17005 191st Avenue NE
33 Woodinville, WA 98072-9175
34 (425) 788-3404

35 Member of KeyArena Subcommittee. Knowledge of work and conclusions of
36 Subcommittee.

37 20. Robert Nellams
38 Director, Seattle Center
39 305 Harrison Street
40 Suite 215
41 Seattle, WA 98109

1 (206) 684-7334

2 Knowledge of finances relating to SuperSonics, KeyArena and City of Seattle.

- 3 21. Greg Nickels
4 Mayor
5 City Hall
6 600 Fourth Avenue, 7th Floor
7 P.O. Box 94749
8 Seattle, WA 98124-4749
9 (206) 684-4000

10 Knowledge of impact on City of Seattle and community of presence of
11 SuperSonics franchise.

- 12 22. The Professional Basketball Club, LLC (members):

13 Aubrey K. McClendon
14 Jeffrey Records
15 Tom L. Ward
16 William M. Cameron
17 Bob Howard
18 Everett R. Dobson
19 Domer "Jay" Scaramucci, Jr.

20 Knowledge of allegations in Arbitration Demand, and of claims and defenses
21 asserted herein.

- 22 23. Steve Pyeatt
23 14700 114th Avenue NE
24 Kirkland, WA 98034
25 (206) 276-6708

26 Co-founder of Save Our Sonics. Knowledge of impact on City of Seattle and
community of presence of SuperSonics franchise.

- 27 24. Bill Rhoda
28 CSL International
29 1907 East Wayzata Blvd., Suite 250
30 Wayzata, MN 55391-2017
31 (952) 476-5900

32 Consultant to KeyArena Subcommittee. Knowledge of work and conclusions
33 of Subcommittee.

- 34 25. Norman Rice
35 Daniel J. Evans School of Public Affairs
36 Parrington Hall
University of Washington
Seattle, WA 98195

1 (206) 221-3892

2 Former Mayor of Seattle. Knowledge of impact on City of Seattle and
3 community of presence of SuperSonics franchise.

- 4 26. Brian Robinson
5 2622 NW Market Street, Suite A
6 Seattle, WA 98107
7 (206) 349-6447

8 Co-founder of Save Our Sonics. Knowledge of impact on City of Seattle and
9 community of presence of SuperSonics franchise.

- 10 27. Charles Royer
11 Urban Health Initiative
12 316 Occidental Avenue S., Suite 300
13 Seattle, WA 98104
14 (206) 812-1193

15 Former Mayor of Seattle. Knowledge of impact on City of Seattle and
16 community of presence of SuperSonics franchise.

- 17 28. Bryce Seidl
18 President and CEO, Pacific Science Center
19 200 Second Avenue North
20 Seattle, WA 98109
21 (206) 443-2889

22 Member of KeyArena Subcommittee. Knowledge of work and conclusions of
23 Subcommittee.

- 24 29. Matthew Wade
25 Athlete Foundations, LLC
26 551 N. 170th Place
Shoreline, WA 98133
(206) 227-9387

Knowledge of impact on City of Seattle and community of presence of
SuperSonics franchise.

30. Bob Watt
1301 Spring Street
Unit 11A
Seattle, WA 98104

Former Deputy Mayor of Seattle. Knowledge of negotiation of Lease, related
legislation, and budget issues.

31. Tom Weeks
(206) 937-4516

Former member of City Council. Knowledge of negotiation of Lease, related legislation, and budget issues.

32. Carl Weinstein
6515 106th Ave. NE
Kirkland, WA 98033
(206) 853-4833

Former Director of Marketing and Business Development for Seattle Center. Knowledge of relationship between SuperSonics and Seattle Center, and of finances relating to SuperSonics, KeyArena and the City of Seattle.

33. Shelly Yapp
Chief Financial Officer
Seattle Housing Authority
120 Sixth Avenue North
P.O. Box 19028
Seattle, WA 98109-1028
(206) 615-3300

Former Director of Redevelopment, Seattle Center. Knowledge of finances relating to SuperSonics, KeyArena and City of Seattle, and of work and conclusions of KeyArena Subcommittee.

34. Other Current or Former Sonics Employees and Employees of Community Organizations the Sonics Have Supported
[Contact information unknown at this time]

Knowledge of impact of presence of SuperSonics franchise on City of Seattle and community.

35. Representatives of the National Basketball Association
[Contact information unknown at this time]

Knowledge of allegations in Arbitration Demand, and of claims and defenses asserted herein.

B. RULE 26(A)(1)(B): "A COPY OF, OR A DESCRIPTION BY CATEGORY AND LOCATION OF, ALL DOCUMENTS, DATA COMPILATIONS, AND TANGIBLE THINGS IN THE POSSESSION, CUSTODY, OR CONTROL OF THE PARTY THAT ARE RELEVANT TO DISPUTED FACTS ALLEGED WITH PARTICULARITY IN THE PLEADINGS."

1 **The City's Response:**

2 Pursuant to Rule 26(a)(1)(B) of the Federal Rules of Civil Procedure, the City states
3 that it has: copies of the Premises and Use Agreement ("the Lease") entered into between the
4 City of Seattle and SSI Sports, Inc. ("SSI"), and subsequently assumed by The Basketball
5 Club of Seattle and PBC; drafts of the Lease generated during negotiations between the City
6 and SSI; correspondence between the City and SSI during Lease negotiations; copies of
7 subsequent amendments to the Lease; financial documents related to the SuperSonics,
8 KeyArena and the City of Seattle, and studies and other documents relating to the impact of
9 SuperSonics-related activities on KeyArena and the City of Seattle. The City has already
10 produced numerous relevant documents in its possession in response to a Public Records Act
11 ("PRA") Request filed by PBC. The City produced all documents responsive to PBC's PRA
12 request on November 19, November 30 and December 3, 2007.

13 The City will make appropriate claims of privilege or similar reasons for non-
14 production with its response to any further requests for production. These disclosures are
15 based on the current status of the City's investigation. The City specifically reserves the right
16 to supplement these disclosures as its investigation warrants.

17 C. **RULE 27(A)(1)(C): "A COMPUTATION OF ANY CATEGORY OF**
18 **DAMAGES CLAIMED BY THE DISCLOSING PARTY, MAKING**
19 **AVAILABLE FOR INSPECTING AND COPYING AS UNDER RULE 34 THE**
20 **DOCUMENTS OR OTHER EVIDENTIARY MATERIALS, NOT**
21 **PRIVILEGED OR PROTECTED FROM DISCLOSURE, ON WHICH SUCH**
22 **COMPUTATION IS BASED, INCLUDING MATERIALS BEARING ON THE**
23 **NATURE AND EXTENT OF INJURIES SUFFERED."**

24 **The City's Response:**

25 This is a suit for declaratory relief. As such, the City does not presently claim
26 damages against PBC in this action. The City, however, expressly reserves the right to pursue
 claims for affirmative relief against PBC in the future as appropriate.

1
2 **D. RULE 26(A)(1)(D): "FOR INSPECTION AND COPYING AS UNDER RULE**
3 **34 ANY INSURANCE AGREEMENT UNDER WHICH ANY PERSON**
4 **CARRYING ON AN INSURANCE BUSINESS MAY BE LIABLE TO SATISFY**
5 **PART OR ALL OF A JUDGMENT WHICH MAY BE ENTERED IN THE**
6 **ACTION OR TO INDEMNIFY OR REIMBURSE FOR PAYMENTS MADE**
7 **TO SATISFY THE JUDGMENT."**

8 **The City's Response:**

9 The City has no knowledge that any insurance agreement is presently implicated in
10 this dispute.
11

12 DATED this 9th day of January, 2008.

13 KIRKPATRICK & LOCKHART
14 PRESTON GATES & ELLIS, LLP

THOMAS A. CARR
Seattle City Attorney

15 By: Michelle Jensen
16 Slade Gorton, WSBA No. 20
17 Paul J. Lawrence, WSBA No. 13557
18 Jeffrey Johnson, WSBA No. 23066
19 Jonathan Harrison, WSBA No. 31390
20 Michelle Jensen, WSBA No. 36611

By: Michelle Jensen For
Gregory C. Narver, WSBA No. 18127
Assistant City Attorney

21 Attorneys for Plaintiff City of Seattle

Attorneys for Plaintiff City of Seattle

EXHIBIT 4

PRELIMINARY ESTIMATES BASED ON CURRENTLY AVAILABLE DATA

ATTORNEYS EYES ONLY

PBC Financial Obligation 2008-2010

NON OPERATIONAL FEE PAYMENTS

	07/08 Actual/Est. Sonics only	Estimated 08-09 Sonics Only	% From 07-08	Estimated 09-10 Sonics Only	% From 08-09
Suite Rentals	\$605,762	A \$424,033	-30%	\$436,754.10	3%
Leased Suites	\$1,289,116	B \$709,014	-45%	\$730,284.08	3%
Club Seats	\$456,335	B \$310,308	-32%	\$319,617.31	3%
Admissions Taxes	\$1,292,690	C \$924,273	-29%	\$952,001.55	3%
Title Sponsorship	\$884,646	D \$905,032	2%	\$932,182.45	3%
Parking	\$20,925	E \$14,961	-29%	\$20,925.00	3%
Total Payments Non-Operational Fees	\$4,549,473	\$3,287,621	-27.7%	\$3,391,764	3%

OPERATIONAL FEES

Sonics Preseason Rent	\$65,021	F	\$39,012	-40%	\$40,182.75	3%
Quarterly Rent	\$1,170,641	G	\$1,205,760	3%	\$1,241,933.22	3%
Total Payments Operational Fees	\$1,235,662		\$1,244,773	0.7%	\$1,282,116	3%
Total Due Seattle Center	\$5,785,135		\$4,532,394	-21.7%	\$4,673,880	3%

NOTES:

- A= Actual Suite Rentals through April 2008 and estimated \$25K for remainder of the year.
- B= Based on actual contractual suite obligations and club seat ticket revenues for 2008.
- C= Based on actual admission tax payments through March 2008 and Estimate for April 2008.
- D= Based on amounts provide by Seattle Center for Title Sponsorship
- E= Based on prior year parking cost. Majority of parking costs have yet to be billed to Sonics as of April 2008.
- F= Based on actual rent at 8.5% of gross proceeds for preseason games
- G= Based on Seattle Center quarterly invoice for 2008 rent.

Suites
 Total Contractual Suite Payments
 Seattle Center Share
 Seattle Center Revenue from Contractual Obligations

	2007-08	2008-09	2009-010
Total Contractual Suite Payments	\$2,148,526	\$653,812	\$578,508
Seattle Center Share	60%	60%	60%
Seattle Center Revenue from Contractual Obligations	\$1,289,116	\$392,287	\$347,105

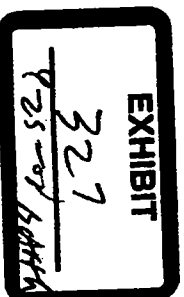


EXHIBIT 5

From: Greg Nickels [gjnicks@Seattle.Gov]
Sent: Tuesday, April 01, 2008 6:59 PM
To: Regina LaBelle
Subject: Attorney Client Communication
Importance: High

I think I sent this one to you before -- I was cc'ed on it.

>>> Dwight Dively 3/10/2008 10:36:39 AM >>>

Mr. Rossi,

Mayor Nickels asked me to send you some information about the possible tax revenue benefits of Sonics games to the State. I do not have access to the State's tax databases but have done some estimates based on information available to the City of Seattle or provided by the team two years ago. Matt Griffin asked me for similar information over the weekend in response to a question from Senator Hewitt, and I sent him the following estimates of annual State revenues earlier today:

Sales and B&O on concessions: \$643,000. This is based on about \$15 per person per game.

Team B&O: \$1,100,000. This is an extrapolation of what the team pays the City. I do not know if the State has made any special tax agreement with the team that would change this figure.

Sales and B&O on Sonics-related parking: \$25,000

Miscellaneous sales and B&O: \$279,000. This is based on an extrapolation of the City's tax revenues from visiting teams and game-related retail activity. It is probably a low estimate.

Overall, these figures suggest the State collects at least \$2 million annually in Sonics-related taxes. The previous ownership's "benefits" study included a higher figure, but I can't verify that. State staff could prepare a more detailed analysis.

As has already been discussed, a \$300 million renovation of KeyArena would generate \$19.5 million in State sales tax revenue. B&O taxes would also be paid by contractors, subcontractors, and materials suppliers, and the City's experience is that the compounding effect typically results in something around 1.5 times the tax rate. This means that the renovation project would generate at least \$2 million in State B&O tax revenue.

I hope this information is useful. Please let me know if you have other questions.

4/2/2008

KALD_02000894

Dwight Dively
Director of Finance
City of Seattle

4/2/2008

KALD_02000895