

Honorable Marsha J. Pechman

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

CITY OF SEATTLE, a first-class charter
city,

Plaintiff,

v.

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

Defendant.

No. C07-01620-MJP

DECLARATION OF JONATHAN
HARRISON IN SUPPORT OF THE
CITY OF SEATTLE'S MOTIONS IN
LIMINE

Note on Motion Calendar:

June 6, 2008

I, Jonathan Harrison, declare under penalty of perjury under the laws of the State of Washington that the following is true and correct. I am over the age of 18, have personal knowledge of the matters stated below, and, if called to testify, could and would so testify.

1. I am an attorney at Kirkpatrick & Lockhart Preston Gates Ellis, LLP, and am licensed to practice law in the State of Washington. I represent the City of Seattle ("City") in the above-captioned matter.

2. Attached hereto as **Exhibit A** is a true and correct copy of the *Survey of Adults in the Seattle Metropolitan Area and in the City of Seattle* (PBC 107175-107517) ("Field Survey"), which The Professional Basketball Club, LLC ("PBC") produced to the City during discovery in this case.

DECLARATION OF JONATHAN HARRISON
IN SUPPORT OF THE CITY OF SEATTLE'S
MOTIONS IN LIMINE - 1
Case No. C07-01620-MJP

K:\2065932\00001\20743_KLV\20743P20H3

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

1 3. Attached hereto as **Exhibit B** is a true and correct copy of the National
2 Basketball Association Franchise Purchase Agreement By and Among The Professional
3 Basketball Club, LLC, and The Basketball Club of Seattle, LLC (“Sonics Purchase
4 Agreement”), July 14, 2006, which PBC produced to the City during discovery in this case.

5 4. Attached hereto as **Exhibit C** is a true and correct copy of a July 18, 2006
6 letter from Clayton Bennett to Howard Schultz (“Good Faith Letter”).

7 5. Attached hereto as **Exhibit D** is a true and correct copy of the Premises Use &
8 Occupancy Agreement (“Lease”) between the City and SSI Sports, Inc., March 2, 1994.

9 6. Attached hereto as **Exhibit E** is a true and correct copy of the First Amended
10 Complaint for Relief Arising Out of Fraud, Misrepresentation and Breach of Contract, May
11 20, 2008, which was printed from Western District of Washington Case No. 08-CV-00623-
12 MJP, Dkt. No. 6.

13 7. Clayton Bennett of PBC was deposed on April 23, 2008. Attached as **Exhibit**
14 **F** are true and correct excerpts of a true and correct transcription of Bennett’s April 2008
15 deposition (“Bennett Dep.”).

16 8. Attached hereto as **Exhibit G** is a true and correct copy of an excerpt from a
17 true and correct transcription of the parties’ Pretrial Conference with the Court on January 29,
18 2008.

19 9. Attached hereto as **Exhibit H** is a true and correct copy of Seattle City Council
20 Ordinance 117049, February 14, 1994. Ordinance 117049 was obtained from the Seattle City
21 Clerk’s Office. The attachments to the Ordinance are not included in Exhibit H.

22 10. Attached hereto as **Exhibit I** are true and correct copies of the City of Seattle
23 Charter (“Charter”), Art. IV, §§ 7, 14, and Art. V, § 7, which were printed from the City of
24 Seattle’s website (<http://clerk.ci.seattle.wa.us/~public/charter.htm>) on May 24, 2008.

25 11. Attached hereto as **Exhibit J** is a true and correct copy of Seattle City Council
26 Ordinance 122492, September 10, 2007. Ordinance 122492 was printed from the Seattle

1 City Clerk's website (<http://clerk.ci.seattle.wa.us/~public/CBOR1.htm>) on May 27, 2008.

2 12. Attached hereto as **Exhibit K** is a true and correct copy of PBC's Answer to
3 Request for Admission No. 7.

4 13. Daniel Barth, interim President and CEO of PBC, was deposed on April 25,
5 2008. Attached as **Exhibit L** are true and correct excerpts of a true and correct transcription
6 of Barth's April 2008 deposition ("Barth Dep.").

7 14. Attached hereto as **Exhibit M** is true and correct copy of the Instrument of
8 Assumption, dated October 23, 2006, among the City, PBC, and The Basketball Club of
9 Seattle, LLC.

10 15. Attached hereto as **Exhibit N** is a true and correct copy of the PBC press
11 release, dated April 16, 2007, entitled "Statement by Clay Bennett on Lack of Action of
12 Legislation Authorizing King County to Develop a Multipurpose Events Center."

13 16. Attached hereto as **Exhibit O** is a true and correct copy of an email from
14 Clayton Bennett to Joel Litvin, of the National Basketball Association, dated April 23, 2007.

15 17. Attached hereto as **Exhibit P** is a true and correct copy of the Seattle Times
16 article, written by Jim Brunner, dated July 27, 2007, and entitled "Initiative aimed at holding
17 Sonics to KeyArena lease." The article was printed from the Seattle Times website on May
18 27, 2008 (http://seattletimes.nwsources.com/html/localnews/2003808219_keyarena27m.html).

19 18. Attached hereto as **Exhibit Q** is a true and correct copy of the Seattle Times
20 article, written by Jim Brunner, dated August 2, 2007, and entitled "Sonics owner won't meet
21 with Nickels if KeyArena on agenda." The article was printed from the Seattle Times website
22 on May 27, 2008

23 (http://seattletimes.nwsources.com/html/localnews/2003818556_webbennett03m.html).

24 19. Attached hereto as **Exhibit R** is a true and correct copy of PBC's September
25 2007 arbitration demand.

26 20. Attached hereto as **Exhibit S** is a true and correct copy of the engagement

DECLARATION OF JONATHAN HARRISON
IN SUPPORT OF THE CITY OF SEATTLE'S
MOTIONS IN LIMINE - 3
Case No. C07-01620-MJP

K:\2065932\00001\20743_KLV\20743P20H3

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

1 letter from B. Gerald Johnson to Thomas A. Carr enclosing the Kirkpatrick & Lockhart
2 Preston Gates Ellis LLP Terms of Engagement for Legal Services, dated September 21, 2007.

3 21. Wally Walker was deposed on May 9, 2008. Attached as **Exhibit T** are true
4 and correct excerpts of a true and correct transcription of Walker's May 2008 deposition
5 ("Walker Dep.").

6 22. Tim Ceis was deposed on April 28, 2008. Attached as **Exhibit U** are true and
7 correct excerpts of a true and correct transcription of Ceis' April 2008 deposition ("Ceis
8 Dep.").

9 23. Attached hereto as **Exhibit V** is a true and correct copy of the Seattle Times
10 article, written by Matt Griffin, dated March 26, 2008, and entitled "KeyArena: capturing an
11 opportunity." The article was printed from the Seattle Times website on May 27, 2008
12 (http://seattletimes.nwsources.com/html/opinion/2004305563_mattgriffin26.html).

13 24. Attached hereto as **Exhibit W** is a true and correct copy of the subpoena issued
14 to Matt Griffin on May 20, 2008.

15 25. Attached hereto as **Exhibit X** is a true and correct copy of PBC's May 9, 2008
16 Second Supplemental Fed. R. Civ. P. 26(a) Disclosure.

17 26. PBC and a third party designated the following deposition testimony as either
18 confidential or attorneys-eyes-only:
19

Deposition	Page & Line
Clay Bennett	Page 334/Lines 18-25
Clay Bennett	Page 339/Line 22 through
Clay Bennett	Page 340/Line 10
Clay Bennett	Page 100/Lines 2-7
Clay Bennett	Page 98/Lines 5-15
Clay Bennett	Page 115/Lines 16 through
Clay Bennett	Page 152/Line 22
Clay Bennett	Page 150/Line 11 through
Clay Bennett	Page 151/Line 5

20
21
22
23
24
25
26
DECLARATION OF JONATHAN HARRISON
IN SUPPORT OF THE CITY OF SEATTLE'S
MOTIONS IN LIMINE - 4
Case No. C07-01620-MJP

K:\2065932\00001\20743_KLV\20743P20H3

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

Deposition	Page & Line
Clay Bennett	Page 152/Lines 2-22
Clay Bennett	Page 154/Line 15 through
Clay Bennett	Page 155/Line 9
Clay Bennett	Page 157/Line 24 through
Clay Bennett	Page 158/Line 20
Clay Bennett	Page 100/Lines 2-7
Clay Bennett	Page 129/Lines 1-8
Clay Bennett	Page 136/Line 24 through
Clay Bennett	Page 137/Line 7
Clay Bennett	Page 118/Line 1 through
Clay Bennett	Page 119/Line 1
Clay Bennett	Page 118/Lines 20-24
Clay Bennett	Page 127/Lines 14 through
Clay Bennett	Page 128/Line 6
Clay Bennett	Page 127/Lines 14-25
Clay Bennett	Page 298/Lines 12-23
Tim Ceis	Page 38

I declare under penalty of perjury that the foregoing is true and correct:

EXECUTED this 27th day of May, 2008 at Seattle, Washington.

/s/ Jonathan Harrison

Jonathan Harrison

DECLARATION OF JONATHAN HARRISON
IN SUPPORT OF THE CITY OF SEATTLE'S
MOTIONS IN LIMINE - 5
Case No. C07-01620-MJP

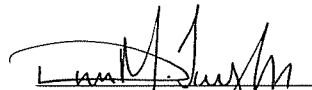
K:\2065932\00001\20743_KLV\20743P20H3

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

1
2
3 CERTIFICATE OF SERVICE
4

5 I hereby certify that on May 27, 2008, I electronically filed the foregoing with the
6 Clerk of the Court using the CM/ECF system which will send notification of such filing to the
7 following:

8 Mr. Bradley S. Keller
9 Mr. Paul R. Taylor
10 Byrnes & Keller LLP
11 1000 2nd Avenue
12 38th Floor
13 Seattle, WA 98104-1094

14
15
16
17
18
19
20
21
22
23
24
25
26

Dawn M. Taylor, Legal Assistant