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THE HONORABLE RICARDO S. MARTINEZ

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

GINA KIM, on behalf of a class consisting
of herself and all other persons similarly
situated,

No. 2:11-cv-00214-RSM

Plaintiffs, and as to Ms.
Kim, counterclaim
defendant,

**DECLARATION OF STELLMAN
KEEHNEL IN SUPPORT OF
DEFENDANT COACH, INC.’S
OPPOSITION TO SPECIAL MOTION
TO STRIKE**

v.

COACH, INC., a Maryland corporation,
and COACH SERVICES, INC., a
Maryland corporation,

Defendants, and, as to
Coach, Inc., counterclaim
plaintiff.

I, Stellman Keehnel, declare as follows:

1. Declarant: I am an attorney licensed to practice law in the state of Washington and am admitted to practice before this Court. I am the lead attorney representing Coach, Inc. (“Coach”) in the above-captioned lawsuit. I chair the Litigation Group in the Seattle office of DLA Piper LLP. I have personal knowledge of the facts stated below and am competent to testify thereto.

2. Exhibit A: Attached hereto as Exhibit A is a true and correct copy of the transcription prepared by DLA Piper of the February 9, 2011 KING 5 television newscast in

1 which plaintiffs Jay Carlson and Christopher Carney appeared. The relevant portion of the
2 newscast can be viewed at [http://www.king5.com/news/local/Woman-threatened-with-a--2-](http://www.king5.com/news/local/Woman-threatened-with-a--2-million-lawsuit-for-selling-bags-on-EBay-115680179.html)
3 [million-lawsuit-for-selling-bags-on-EBay-115680179.html](http://www.king5.com/news/local/Woman-threatened-with-a--2-million-lawsuit-for-selling-bags-on-EBay-115680179.html). Coach's defamation claims (which
4 were removed from this lawsuit last week) were predicated on a statement made by Mr.
5 Carlson during the newscast and a statement made by Mr. Carney during the newscast.

6 3. Exhibit B. Attached hereto as Exhibit B are true and correct copies of some of
7 the complaints received by Coach following the broadcast of the statements made by Messrs.
8 Carlson and Carney in the KING 5 newscast on February 9, 2011. Coach received numerous
9 complaints from its customers indicating they would not purchase Coach products in the future
10 because of customers' belief that Coach, *inter alia*, was attempting to "intimidate" and "bully"
11 Ms. Kim (*see* p. 10, 13, 14, 15, 16, 17), that Coach is "immoral" (*see* 15), and that Coach is
12 "Nazi's [sic]" (*see* p. 11). The attached selection of customer complaints was produced from
13 Coach's files in New York. Names and e-mail addresses have been redacted to protect privacy.

14 4. On March 24, 2011, Coach filed an amended counterclaim as a matter of right
15 under Fed.R.Civ.P. 15(a)(1)(A). Later that night, at 8:49pm, my colleague, Patrick Eagan,
16 queried Messrs. Carlson and Carney via e-mail whether they would withdraw their special
17 motion to strike in light of Coach's amended counterclaim that eliminated the counterclaims
18 challenged in the special motion to strike. Mr. Carlson responded with an e-mail at 9:01pm in
19 which he informed us that he and Mr. Carney would not withdraw their motion. Mr. Carlson
20 also questioned whether Coach could file its amended counterclaim without his permission.
21 Mr. Eagan responded with an e-mail at 9:51pm in which he provided courtesy copies of
22 *Verizon Del., Inc. v. Covad Comm. Co.*, 377 F.3d 1081 (9th Cir. 2004), and *Arata v. City of*
23 *Seattle*, No. C10-1551-RSL, 2011 WL 248200 (W.D. Wash. Jan. 25, 2011). Mr. Eagan further
24 explained that Rule 15 grants Coach leave to amend its pleading as a matter of course with 21
25 days of service of the pleading (without exception). On March 25, 2011, Mr. Carlson, in a

1 4:24pm e-mail, affirmed his and Mr. Carney's refusal to withdraw their special motion to
2 strike.

3 I declare under the penalties for perjury under the laws of the United States that the
4 foregoing is true and correct.

5 Signed at Seattle, Washington, on March 28, 2011.

6
7 s/ *Stellman Keehnel*
8 Stellman Keehnel, WSBA No. 9309
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1 **CERTIFICATE OF SERVICE**

2 I hereby certify that on March 28, 2011, I electronically filed the foregoing with the
3 Clerk of the Court using the CM/ECF System which will send notification of such filing to all
4 counsel of record.

5 Dated this 28th day of March, 2011.

6 *s/Stellman Keehnel*
7 _____
8 Stellman Keehnel, WSBA No. 9309

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