

IN THE COURT OF COMMON PLEAS
CUYAHOGA COUNTY, OHIO

ELIZABETH SHAKER, on behalf of)
herself and all others similarly situated,)
3806 Tuxedo Avenue)
Parma, OH 44134)

and)

JEFF NIESEL, on behalf of)
himself and all others similarly situated,)
6731 Sebert Avenue)
Cleveland, OH 44105)

and)

CARLOS E. RAMOS, on behalf of)
himself and all others similarly situated,)
2237 Olive Avenue)
Cleveland, OH 44107)

and)

KEVIN FLANIGAN, on behalf of)
himself and all others similarly situated,)
3189 River Run Drive)
Avon, OH 44011)

and)

JOSEPH M. KULCSAR, on behalf of)
himself and all others similarly situated,)
14209 Tuckahoe Avenue)
Cleveland, OH 44111)

and)

DAVID EDEN, on behalf of)
himself and all others similarly situated,)
22500 Halburton Road)
Beachwood, OH 44122)

and)

STEVE ANTOL, on behalf of)

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CASE NO.: 04-538011
CLASS ACTION COMPLAINT

Judge: KATHLEEN ANN SUTULA

CV 04 538011

CLASS ACTION COMPLAINT

(Jury Demand Endorsed Hereon)

himself and all others similarly situated,)
11864 Clifton Boulevard)
Lakewood, OH 44107)

and)

RAYMOND A. LEONARDI, on behalf of)
himself and all others similarly situated,)
13326 Harlow Avenue)
Cleveland, OH 44094)

and)

SCOTT KILGORE, on behalf of)
himself and all others similarly situated,)
1889 West 71st Street)
Cleveland, OH 44102)

and)

PAMELA B. ZOSLOV, on behalf of)
herself and all others similarly situated,)
2291 S. Overlook Road)
Cleveland Heights, OH 44106)

and)

BETH WELLINGTON-PRICE, on behalf)
of herself and all others similarly situated,)
4259 Bennington Boulevard)
Brunswick, OH 44130)

and)

TED SCHWARZ, on behalf of)
himself and all others similarly situated,)
1801 West 32nd Street)
Cleveland, OH 44113)

Plaintiffs,)

vs.)

VILLAGE VOICE MEDIA, INC.)
c/o National Registered Agents, Inc.)
875 Avenue of the Americas)

Suite 501)
New York, New York 10001)

and)

VILLAGE VOICE MEDIA, LLC)
c/o Its Chairman or CEO)
David Schneiderman)
36 Cooper Square)
New York, New York 10003-7118)

and)

NT MEDIA, LLC)
c/o Its Chairman or CEO)
Jim Larkin)
1201 E. Jefferson)
Phoenix, Arizona 85034)

and)

NEW TIMES MEDIA)
c/o Its Chairman or CEO)
Jim Larkin)
1201 E. Jefferson)
Phoenix, Arizona 85024)

and)

CLEVELAND SCENE PUBLISHING, LLC)
c/o Its Statutory Agent)
CSC-Lawyers Incorporating Service)
50 W. Broad Street)
Columbus, OH 43215)

and)

SCENE MAGAZINE)
c/o Its Editor)
Pete Kotz)
1468 West 9th Street)
Suite 805)
Cleveland, OH 44113)

and)

JOHN DOES 1 THROUGH 30)
 (name and address currently unknown))
)
 Defendants.)

Plaintiffs, through counsel, on behalf of themselves and all other persons similarly situated throughout the United States, allege as follows:

INTRODUCTION

1. Plaintiffs are individuals who worked as employees for at least one of the Defendants and/or their subsidiaries on or about October 1, 2002.

2. Defendants Village Voice Media, Inc. and Village Voice Media, LLC (hereinafter referred to collectively as "Village Voice") are the largest publishers of alternative newsweeklies in the United States.

3. Immediately prior to October 1, 2002 Village Voice owned the Cleveland newsweekly titled "The Cleveland Free Times."

4. Defendants NT Media LLC and New Times Media (hereinafter referred to collectively as "New Times") are also large publishers of alternative newsweeklies in the United States, currently operating eleven newspapers.

5. Immediately prior to October 1, 2002, New Times owned and/or operated Defendants Cleveland Scene Publishing, LLC and Scene Magazine (hereinafter referred to collectively as "Scene Magazine") as well as New Times LA, a newsweekly in Los Angeles, California.

6. On or about October 2, 2002, defendant Village Voice entered into two written contracts with defendant New Times, pursuant to which New Times agreed to discontinue publication of its Los Angeles newsweekly, New Times LA, in exchange for Village

Voice's agreement to discontinue publication of its Cleveland newsweekly, the Cleveland Free Times.

7. This arrangement ended competition between Village Voice and New Times in the Los Angeles and Cleveland markets.

8. As part of the foregoing agreement to allocate markets and reduce outputs, defendant Village Voice also paid \$9 million to defendant New Times for this agreement.

9. On or about October 2, 2002, plaintiffs (and those similarly situated) who were working for The Cleveland Free Times and New Times I.A were terminated from their employment.

10. On January 27, 2003, the United States filed an antitrust action in the U.S. District Court for the Northern District of Ohio alleging that the foregoing market allocation agreement was per se unlawful under the Sherman Act (15 U.S.C. 1) and the Hart—Scott—Rodino Act (15 U.S.C. 18A). That same day, the United States, defendant Village Voice, and defendant New Times agreed to the terms of a proposed consent decree requiring them to terminate their illegal market allocation agreement, to sell the assets of the shuttered newsweeklies to new market entrants, to allow advertisers to terminate their contracts, as well as to take other actions to ameliorate the effects of their unlawful conduct. (A copy of the Complaint, Competitive Impact Statement, Final Judgment, and Stipulated Agreement are attached hereto collectively as Exhibit "1").

11. Both the Attorney Generals of the States of Ohio and California commenced parallel state actions. Defendants Village Voice and New Times consented to the entry of judgment against them by each state without trial or adjudication.

12. As such, Plaintiffs were wrongfully terminated as a result of defendants' admittedly unlawful actions.

PARTIES, JURISDICTION AND VENUE

13. At all times relevant, all named Plaintiffs reside in County of Cuyahoga, State of Ohio.

14. Upon information and belief, numerous additional Plaintiffs, once added, reside throughout the United States, although believed to be primarily in the Los Angeles, CA area.

15. During the relevant time period, Defendants owned and operated newswEEKlies (Scene Magazine and The Cleveland Free Times) which were and/or are located in the City of Cleveland, County of Cuyahoga, State of Ohio.

16. Many of the events giving rise to this litigation occurred in Cuyahoga County.

17. At all times relevant to this lawsuit, Defendants acted in concert with each other.

18. This Court has jurisdiction over this proceeding as it is based on activity conducted in the State of Ohio and throughout the United States, and as the misconduct alleged herein was intentionally directed at residents of the State of Ohio, and throughout the nation.

19. Venue is proper in this judicial district under Ohio R. Civ. P. 3 (B)(3) because Defendants' misconduct that gives rise to Plaintiffs' claims occurred, and continues to occur, in part, in Cuyahoga County.

CLASS ALLEGATIONS

20. Plaintiffs bring this class action pursuant to Ohio Rules of Civil Procedure 23(A), 23(B)(2), and 23(B)(3) on behalf of a general class (the "Class") consisting of:

All persons in the United States who were terminated from employment from The Cleveland Free Times and New Times LA as a result of the unlawful acts engaged in by Defendants Village Voice and New Times on or about October 2, 2002.

21. Excluded from the Class are: (i) any Class member who timely elects to be excluded from the Plaintiff Class; and (ii) all members of the judiciary of this Court and their immediate families.

22. The proposed Class is sufficiently definite so that it is administratively feasible to determine whether a particular individual is a member.

23. The proposed Class consists of hundreds of members and therefore is so numerous that joinder is impractical. Further, the amount of damages accruing to each class member is too small to justify pursuing a judicial remedy individually, and few if any such individuals would have sufficient economic incentive to prosecute the causes of action set forth herein. Accordingly, utilization of the class action mechanism is the most economically feasible means of determining the merits of this litigation.

24. A class action is superior to all other available methods for the fair and efficient adjudication of this controversy.

25. Plaintiffs' claims are typical of the claims of the Class because they were terminated from employment as a result of Defendants unlawful actions on or about October 2, 2002.

26. The identity of the class should be and is readily ascertainable from the employment records of Defendants Village Voice and New Times.

27. There are questions of law and fact common to the Class, which include, but are not limited to:

- a. Whether Plaintiffs have been discharged in violation of the public policies of the States of Ohio and California when Defendants engaged in their admittedly unlawful conduct;
- b. Whether Defendants engaged in a civil conspiracy to terminate and/or otherwise harm Plaintiffs;
- c. Whether Defendants intentionally interfered with the business relationships between Plaintiffs and their respective employers; and
- d. Whether Plaintiffs and Class members are entitled to compensatory and punitive damages, and the amount of such damages.

28. Plaintiffs will fairly and adequately represent and protect the interests of the Class. Plaintiffs are members of the Class, and are willing to serve as representatives of the Class. Plaintiffs have retained counsel with substantial experience in litigating employment cases. Plaintiffs and Plaintiffs' counsel are committed to vigorously prosecuting this action on behalf of the Class, and have the financial resources to do so. Neither Plaintiffs nor Plaintiffs' counsel have any interest adverse to the interests of the Class.

29. Class certification pursuant to Ohio R.Civ.P. 23(B)(2) is appropriate because the Defendants' course of dealing with members of the Class adversely affects all members of the Class, thereby making appropriate final relief with respect to the Class as a whole.

30. Class certification pursuant to Ohio R.Civ.P. 23(B)(3) is appropriate because the damages suffered by individual Class members are small compared to the burden and expense of individual prosecution of the litigation needed to address Defendants' conduct. Further, it would be virtually impossible for the members of the Class individually to effectively redress the wrongs that they have individually suffered. Even if Class members themselves could afford such individual litigation, the court system could not, given the size of the Class. In

addition, individualized litigation increases the delay and expense to all parties and to the court system. Individualized litigation also presents a potential for inconsistent or contradictory judgments. By contrast, class litigation presents far fewer management difficulties, allows adjudication of claims that might otherwise go unaddressed because of the expense of bringing individual litigation, and provides the benefits of uniform adjudication, economies of scale, and comprehensive supervision by a single court.

FIRST CAUSE OF ACTION

(Wrongful Discharge in Violation of Public Policy--Ohio)

31. Plaintiffs incorporates by reference paragraphs 1-30 above as if fully recited herein.
32. Defendants' decision to terminate Plaintiffs' employment violated the public policy of Ohio as reflected in state and/or federal statutes, administrative rules and regulations and constitutions, including but not limited, 15 U.S.C. 1 (The Sherman Act) and 15 U.S.C. 18A (The Hart—Scott—Rodino Act) and parallel Ohio state statutes and case law, including but not limited to, Section 1331 *et seq.* of the Ohio Revised Code.
33. As a direct and proximate result of Defendants' conduct, Plaintiffs have suffered and continue to suffer non-economic and economic injuries, including but not limited to pain and suffering and the loss of salary, benefits, and other privileges and conditions of employment, for which Defendants are liable.
34. Defendants' conduct was willful, wanton, reckless and/or malicious, for which Defendant is liable for compensatory and punitive damages and attorneys fees.

SECOND CAUSE OF ACTION

(Wrongful Discharge in Violation of Public Policy – California)

35. Plaintiffs incorporates by reference paragraphs 1-34 above as if fully realleged herein.

36. Defendants' decision to terminate Plaintiffs' employment violated the public policy of California as reflected in state and/or federal statutes, administrative rules and regulations and constitutions, including but not limited, 15 U.S.C. 1 (The Sherman Act) and 15 U.S.C. 18A (The Hart--Scott--Rodino Act) and parallel California state statutes and case law, including but not limited to, the Cartwright Act (California Business and Professional Code Sections 16700 *et seq.* and 16720 *et seq.*) and California's Unfair Practices Act (California Business and Professional Code 17000 *et seq.* and 17200 *et seq.*)

37. As a direct and proximate result of Defendants' conduct, Plaintiffs have suffered and continue to suffer non-economic and economic injuries, including but not limited to pain and suffering and the loss of salary, benefits, and other privileges and conditions of employment, for which Defendants are liable.

38. Defendants' conduct was willful, wanton, reckless and/or malicious, for which Defendant is liable for compensatory and punitive damages and attorneys fees.

THIRD CAUSE OF ACTION

(Civil Conspiracy)

39. Plaintiffs incorporates by reference paragraphs 1-38 above as if fully realleged herein.

40. Defendants maliciously combined to cause injury to Plaintiffs by engaging in an unlawful act.

41. The conduct constituted a civil conspiracy to injure Plaintiffs.

42. As a direct and proximate result of Defendants' conduct, Plaintiffs have suffered and continue to suffer non-economic and economic injuries, including but not limited to pain and suffering and the loss of salary, benefits, and other privileges and conditions of employment, for which Defendants are liable.

43. Defendants' conduct was willful, wanton, reckless and/or malicious, for which Defendant is liable for compensatory and punitive damages and attorneys fees.

FOURTH CAUSE OF ACTION
(Intentional Interference with Business Relations)

44. Plaintiffs incorporates by reference paragraphs 1-43 above as if fully realleged herein.

45. Plaintiffs and their respective employers had a business relationship.

46. Each Defendant was aware of this business relationship.

47. Each Defendant intentionally interfered with that relationship and caused a breach and/or termination of that relationship.

48. As a direct and proximate result of Defendants' conduct, Plaintiffs have suffered and continue to suffer non-economic and economic injuries, including but not limited to pain and suffering and the loss of salary, benefits, and other privileges and conditions of employment, for which Defendants are liable.

49. Defendants' conduct was willful, wanton, reckless and/or malicious, for which Defendant is liable for compensatory and punitive damages and attorneys fees.

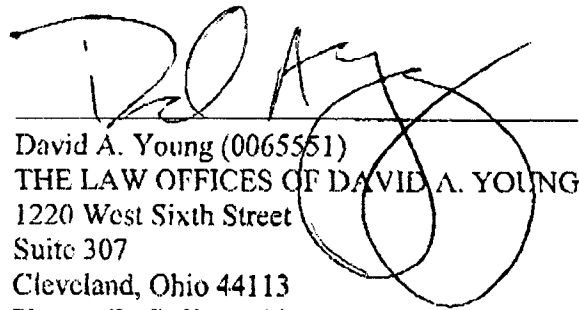
WHEREFORE, Plaintiffs, on behalf of themselves and all others similarly situated, pray that the Court enter judgment against Defendants and in favor of Plaintiff and Class members, and award the following relief:

- A. For an order certifying the Class and appointing Plaintiffs and their counsel to represent the Class;
- B. For an order declaring that Defendants have wrongfully discharged Plaintiffs in violation of the public policies of the States of Ohio and California;
- C. For an order declaring that Defendants have engaged in an unlawful civil conspiracy;
- D. For an order declaring that Defendants have intentionally interfered with business relations;
- E. For an order awarding Plaintiffs and Class members restitution and other equitable relief as the Court deems appropriate;
- F. For an order creating a constructive trust for the benefit of Plaintiffs and Class members in an amount equal to the damages awarded by this Court and/or a jury;
- G. For an order awarding Plaintiffs and Class members compensatory and punitive damages in an amount greater than \$25,000.00;
- F. For fees and expenses incurred in the pursuit of this action; and
- G. For an order awarding such other and further relief as this Court deems just and proper.

JURY DEMAND

Pursuant to Ohio Civil Rule 38(B), Plaintiffs respectfully demand trial by jury.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'D. Young', is written over a horizontal line. The signature is stylized and somewhat cursive.

David A. Young (0065551)
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Cleveland, Ohio 44113
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