

1 Gordon L. Lang (*pro hac vice* application pending)  
NIXON PEABODY LLP  
2 401 9<sup>TH</sup> Street, N.W.  
Washington, D.C. 20004-2128  
3 Telephone: (202) 585-8319  
Facsimile: (202) 585-8080  
4

5 John H. Riddle (State Bar No. 51418)  
NIXON PEABODY LLP  
Two Embarcadero Center, Suite 2700  
6 San Francisco, CA 94111-3996  
Telephone: (415) 984-8200  
7 Facsimile: (415) 984-8300

8 Attorneys for Defendants  
GANNETT CO., INC. AND STEPHENS GROUP, INC.  
9

10 UNITED STATES DISTRICT COURT  
11 NORTHERN DISTRICT OF CALIFORNIA  
12

13 CLINTON REILLY,

14 Plaintiff,

15 vs.

16 MEDIANEWS GROUPS, et al.,

17 Defendant.  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

CASE NO.: C06-04332 SI

**PROOF OF SERVICE**

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**CERTIFICATE OF SERVICE**

I, the undersigned, certify that I am employed in the City and County of San Francisco, CA; that I am over the age of 18 years and not a party to the within action; and that my business address is Two Embarcadero Ctr., Suite 2700, S.F., CA 94111-3996. On July 25, 2006, I served the following document(s):

**APPLICATION OF GORDON L. LANG FOR ADMISSION *PRO HAC VICE*;  
(PROPOSED) ORDER GRANTING APPLICATION FOR ADMISSION OF ATTORNEY  
*PRO HAC VICE*;**

**MEMORANDUM OF GANNETT CO., INC. AND STEPHENS GROUP, INC. IN  
OPPOSITION TO A TEMPORARY RESTRAINING ORDER**

**(PROPOSED) ORDER DENYING MOTION AND APPLICATION FOR TEMPORARY  
RESTRAINING ORDER**

on the parties stated below, through their attorneys of record, by placing true copies thereof in sealed envelopes addressed as shown below by the following means of service:

X : By First-Class Mail — I am readily familiar with the firm's practice for collection and processing of correspondence for mailing. Under that practice, the correspondence is deposited with the United States Postal Service on the same day as collected, with first-class postage thereon fully prepaid, in San Francisco, California, for mailing to the office of the addressee following ordinary business practices.

\_\_\_ : By Personal Service — I caused each such envelope to be given to a courier messenger for same day personal delivery to the office of the addressees listed below.

\_\_\_ : By Overnight Courier — I caused each such envelope to be given to an overnight mail service at S.F., California, to be hand delivered to the office of the addressee on the next business day.

\_\_\_ : By Facsimile — From facsimile number (415) 984-8300 at \_\_\_\_\_, I caused each such document to be transmitted by facsimile machine, to the parties and numbers listed below, pursuant to Rule 2008. The facsimile machine I used complied with Rule 2003(3) and no error was reported by the machine.

x : By Electronic Service — I caused each such document to be transmitted electronically to the e-mail address as shown on the attached service list of attorneys of record.

Addressee(s)

**See Attached Service List of Attorneys of Record.**

I declare under penalty of perjury that the foregoing is true and correct. Executed on July 25, 2006, at San Francisco, California.

  
\_\_\_\_\_  
Heidi Merker

SERVICE LIST

Reilly v. MediaNews Group, Inc., et al.; U.S.D.C. No. C-06-04332-SI

Joseph M. Alioto, Esq.  
Alioto Law Firm  
555 California Street, Suite 3160  
San Francisco, CA 94104

Telephone: (415) 434-8900  
Facsimile: (415) 434-9200  
Email: jmalimoto@aliotolaw.com  
esexton@aliotolaw.com  
tpier@aliotolaw.com

For: Plaintiff Clinton Reilly

Gary L. Halling, Esq.  
Michael W. Scarborough, Esq.  
Sheppard, Mullin, Richter & Hampton LLP  
Four Embarcadero Center, 17th Floor  
San Francisco, California 94111-4106

Telephone: (415) 434-9100  
Facsimile: (415) 434-3947  
Email: GHalling@sheppardmullin.com  
MScarborough@sheppardmullin.com

For: Defendants  
Media News Group, Inc. and California  
Newspapers Partnership

Steven C. Douse, Esq.  
Alan L. Marx, Esq.  
King & Ballow  
Union Street Plaza 1100  
315 Union Street  
Nashville, TN 37201

Telephone: (615) 259-3456  
Facsimile: (615) 254-7907  
Email: sdouse@kingballow.com  
amarx@kingballow.com

For: Defendants MediaNews Group, Inc.  
and California Newspapers Partnership

Daniel R. Shulman, Esq.  
Gray, Plant, Mooty, Mooty & Bennett, P.A.  
500 IDS Center  
80 South Eighth Street  
Minneapolis, MN 55402

Telephone: (615) 632-3335  
Facsimile: (615) 632-4335  
Email: daniel.shulman@gpmlaw.com

For: Plaintiff Clinton Reilly

Daniel M. Wall, Esq.  
Gregory P. Lindstrom, Esq.  
Latham & Watkins LLP  
505 Montgomery Street, Suite 2000  
San Francisco, CA 94111

Telephone: (415) 391-0600  
Facsimile: (415) 395-8095  
Email: dan.wall@lw.com  
gregory.lindstrom@lw.com

For: Defendant The Hearst Corporation

Jonathan M. Jacobson, Esq.  
Charles E. Biggio, Esq.  
Wilson Sonsini  
Goodrich & Rosati  
Professional Corporation  
12 East 49th Street, 30th Floor  
New York, NY 10017-8203

Telephone: (212) 999-5800  
Facsimile: (212) 999-5899  
Email: jjacobson@wsgr.com  
cbiggio@wsgr.com

1 Boris Feldman, Esq.  
Michael Berta, Esq.  
2 Coleen Bal, Esq.  
Wilson Sonsini  
3 Goodrich & Rosati  
Professional Corporation  
4 650 Page Mill Road  
Palo Alto, CA 94304-1050  
5  
6 Telephone: (650) 493-9300  
Facsimile: (650) 565-5100  
7 Email: mberta@wsgr.com  
cball@wsgr.com  
boris.feldman@wsgr.com  
8

9 For: Limited Intervenor  
10 THE McCLATCHY COMPANY  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28






1 Local Rules and the Alternative Dispute Resolution programs of this Court; and,

2 3. An attorney who is a member of the bar of this Court in good standing and who  
3 maintains an office within the State of California has been designated as co-counsel in the above-  
4 entitled action. The name, address and telephone number of that attorney is:

5 John H. Riddle  
6 Nixon Peabody LLP  
7 2 Embarcadero Center, Suite 2700  
8 San Francisco, CA 94111  
9 (415)-984-8238

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

11 DATED: July 21, 2006

12   
13 Gordon L. Lang  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28



1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION

CLINTON REILLY,

Plaintiff,

vs.

MEDIANEWS GROUP, et al.,

Defendant.

No. C06-043322-SI

**(PROPOSED) ORDER GRANTING  
APPLICATION FOR ADMISSION OF  
ATTORNEY PRO HAC VICE**

Gordon L. Lang, an active member in good standing of the bar of the United States District Court for the District of Columbia, whose business address and telephone number is: Nixon Peabody LLP, 401 9<sup>th</sup> Street, N.W., Suite 900, Washington, D.C. 20004, (202) 585-8319, having applied in the above-entitled action for admission to practice in the Northern District of California on a *pro hac vice* basis, representing defendants Gannett Co., Inc. and Stephens Group, Inc.

IT IS HEREBY ORDERED THAT the application is granted, subject to the terms and conditions of Civil L.R. 11-3. All papers filed by the attorney must indicate appearance *pro hac vice*. Service of papers upon and communication with co-counsel designated in the application will

///

///

1 constitute notice to the party. All future filings in this action are subject to the requirements  
2 contained in General Order No. 45, *Electronic Case Filing*.  
3  
4  
5

6 DATED: \_\_\_\_\_

\_\_\_\_\_  
United States District Judge

7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28



1 Gordon L. Lang (*pro hac vice* application pending)  
NIXON PEABODY LLP  
2 401 9<sup>TH</sup> Street, N.W.  
Washington, D.C. 20004-2128  
3 Telephone: (202) 585-8319  
Facsimile: (202) 585-8080  
4

5 John H. Riddle (State Bar No. 51418)  
NIXON PEABODY LLP  
Two Embarcadero Center, Suite 2700  
6 San Francisco, CA 94111-3996  
Telephone: (415) 984-8200  
7 Facsimile: (415) 984-8300

8 Attorneys for Defendants  
GANNETT CO., INC. AND STEPHENS GROUP, INC.  
9

10 UNITED STATES DISTRICT COURT  
11 NORTHERN DISTRICT OF CALIFORNIA  
12

13 CLINTON REILLY,

14 Plaintiff,

15 vs.

16 MEDIANEWS GROUPS, et al.,

17 Defendant.  
18

CASE NO.: C06-04332 SI

**MEMORANDUM OF GANNETT CO., INC.  
AND STEPHENS GROUP, INC. IN  
OPPOSITION TO A TEMPORARY  
RESTRAINING ORDER**

Date: July 27, 2006  
Time: 2:00 p.m.  
Department: Courtroom 10  
Judge: Hon. Susan Illston

19 Gannett Co., Inc. ("Gannett") and Stephens Group, Inc. (now known as SF Holdings Corp.)  
20 ("Stephens") oppose Plaintiff Reilly's request for a temporary restraining order. As our  
21 co-Defendants establish in their opposition papers, Plaintiff Reilly has no likelihood of success on the  
22 merits, cannot establish injury — let alone irreparable injury, and the balance of hardships and public  
23 interest dictate that Reilly's motion be denied. Gannett and Stephens write separately here to  
24 emphasize a few points.  
25

26 First, the only matter properly before the Court is the acquisition by California Newspapers  
27 Partnership ("CNP") of the McClatchy-owned *San Jose Mercury News* and *Contra Costa Times*.

1 CNP owns and operates daily newspapers in California (see Complaint, ¶ 8), and is a single entity  
2 under the antitrust laws. See Texaco Inc. v. Dagher, 126 S. Ct. 1276, \_\_\_ U.S. \_\_\_ (2006).

3 Gannett and Stephens are minority partners in CNP (holding interests of 19.49% and 26.28%,  
4 respectively); MediaNews Group (“MNG”) holds the balance.

5  
6 Neither CNP, Gannett, nor Stephens is a party to the potential transaction under which Hearst  
7 would acquire an interest in MNG. And any interest acquired by Hearst would specifically exclude  
8 MNG’s interests in CNP. Reilly’s attempt to weave all he dislikes into a single conspiratorial cloth  
9 must be disregarded.<sup>1</sup>

10 Second, Reilly’s citations to Palmer v. BRG of Georgia, 498 U.S. 46 (1990); United States v.  
11 Topco Associates, Inc., 405 U.S. 596 (1972); United States v. Sealy, Inc., 388 U.S. 350 (1967); and  
12 Timken Roller Bearing Co. v. United States, 341 U.S. 593 (1951), do not support his conspiracy  
13 theory. In each of those cases, the defendants expressly agreed that they would not compete in  
14 specified territories or for specific customers. Reilly cites no evidence of such an agreement here.  
15 The agreements of which Reilly complains have been a matter of public record since on or about  
16 April 28, 2006<sup>2</sup>, but Reilly cites no provision in any of them purporting to prohibit competition  
17 among the parties.  
18

19  
20  
21 <sup>1</sup> Reilly may also have complained about the potential acquisition by CNP of the Monterey  
22 Herald—a newspaper publishing more than a 100 miles from San Francisco. But that acquisition is  
23 off the table. Under the Contribution Agreement between the CNP partners, MNG had the option of  
24 placing the Monterey Herald in CNP, or in a separate partnership in which MNG would be the  
25 majority owner, and Stephens a 32.64% minority owner. MNG chose the latter option. As Reilly’s  
26 focus on the Greater Bay Area concedes, an MNG/Stephens partnership’s acquisition of Monterey  
27 presents no competitive issues. Stephens owns no newspapers individually in California. Complaint,  
28 ¶7.

25 <sup>2</sup> MNG Form 8-K,  
26 [http://www.sec.gov/Archives/edgar/data/918944/000103570406000296/0001035704-06-  
27 000296-index.htm](http://www.sec.gov/Archives/edgar/data/918944/000103570406000296/0001035704-06-000296-index.htm)

1 Finally, as co-Defendants have established, Reilly has made no showing of threatened injury,  
2 let alone irreparable injury. Reilly's attempt to claim he will be deprived of "news, editorial,  
3 entertainment and advertising content," Plaintiff's Mem. at 7, is simply unavailing. Reilly, of course,  
4 has shown no reason why CNP's acquisitions would cause such a content loss. But the central point  
5 is that Reilly cannot be harmed due to the plethora of content available in the Bay Area from  
6 television, radio, magazines, other newspapers, the Internet, etc. See Reilly v. Hearst, 107 F.2d 1192,  
7 1200 (N.D. Cal. 2000) ("the presence and importance of non-newspaper media in the market for  
8 information has exploded"). Reilly lacks the threat of injury, and he cannot be entitled to relief under  
9 any theory.  
10

11  
12 CONCLUSION

13 Plaintiff's motion for a temporary restraining order should be denied.

14  
15 DATED: July 25, 2006

Respectfully submitted,

NIXON PEABODY LLP

16  
17  
18  
19  
20 By: 

JOHN H. RIDDLE  
Attorneys for Defendants  
GANNETT CO., INC. and  
STEPHENS GROUP, INC.



1 Gordon L. Lang (*pro hac vice* application pending)  
2 NIXON PEABODY LLP  
3 401 9<sup>TH</sup> Street, N.W.  
4 Washington, D.C. 20004-2128  
5 Telephone: (202) 585-8319  
6 Facsimile: (202) 585-8080

7 John H. Riddle (State Bar No. 51418)  
8 NIXON PEABODY LLP  
9 Two Embarcadero Center, Suite 2700  
10 San Francisco, CA 94111-3996  
11 Telephone: (415) 984-8200  
12 Facsimile: (415) 984-8300

13 Attorneys for Defendants  
14 GANNETT CO., INC. AND STEPHENS GROUP, INC.

15 UNITED STATES DISTRICT COURT  
16 NORTHERN DISTRICT OF CALIFORNIA

17 CLINTON REILLY,

18 Plaintiff,

19 vs.

20 MEDIANEWS GROUPS, et al.,

21 Defendant.

CASE NO.: C06-04332 SI

[PROPOSED] ORDER DENYING MOTION  
AND APPLICATION FOR TEMPORARY  
RESTRAINING ORDER

Date: Thursday, July 27, 2006  
Time: 2:00 p.m.  
Place: Courtroom 10, 19th Floor  
Judge: Hon. Susan Illston

22 Plaintiff's Motion and Application for Temporary Restraining Order ("Motion") came on for  
23 hearing on July 27, 2006. Having considered the papers filed in support of and in opposition to the  
24 Motion and the arguments of counsel, and good cause being shown,

25 IT IS HEREBY ORDERED that the Motion is DENIED in its entirety.

26 Dated: \_\_\_\_\_

27  
28  
\_\_\_\_\_  
THE HONORABLE SUSAN ILLSTON