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ALAMEDA COUNTY

APR 16 2010

CLERK OF THE SUPERIOR COURT
By A. SALTA

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SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF ALAMEDA

IN RE SEARCH WARRANT ISSUED
DECEMBER 12, 2009

DECLARATION OF J.T. JOHNSON IN
SUPPORT OF MOTION TO QUASH
SEARCH WARRANT AND RETURN
PROPERTY

1 my days as a graduate student in the early 1970s, and have continued to be so involved during my
2 academic and professional journalist career. I have been closely following the evolution of a variety
3 of media forms, formats and digital applications broadly related to communications across and
4 within various aspects of not only American culture, but globally. As a professor who taught mass
5 communications and journalism survey courses for nearly 30 years I have been very much aware
6 of the evolution of independent media in general. Because I lived and worked in the San Francisco
7 Bay Area for much of that time, I was, of course, familiar with *Indybay* and the independent media
8 movement-globally.

9 6. It is clear that we are in the early decades of the third revolution in humanity's history of
10 communications. This evolution (as is true of those gone before) is marked by the emergence of new
11 forms, new methods of fact-gathering, analysis and distribution of what is considered news. "Citizen
12 journalism" and "online journalism" are little different in the history of communication from the
13 development of scrolls, codices, illuminated manuscripts, newsletters, telegraph messages, radio
14 broadcasts, and television documentaries. The major, long-term trend of this evolution is that for
15 millennia we have seen a shift in power, a shift away from narrow, rigid institutional sources and
16 toward individuals who have the opportunity—on their own—to access data, analyze that data, and
17 report the results of that analysis to audiences of varying size. Citizen journalism and online
18 journalism are just some of the latest examples of that evolution.

19 7. While *Indybay* is illustrative of this shift toward democratized information dissemination,
20 it also easily meets the definition of a periodical publication, a wire service, and press association
21 as those terms have historically been construed.

22 8. *Indybay* is a periodical publication, its periodicity being 24 hours a day seven
23 days a week, with articles published as they are generated.

24 9. A wire service is an organization or institution created to facilitate the distribution of news
25 and data in all their possible forms and formats to a variety of institutional and individual customers
26 or subscribers. Subscribers may or may not be required or expected to pay a fee for this content.
27 *Indybay* is a wire service, in that it is a channel to distribute news to a variety of citizens,
28 institutions, and agencies who choose to accept that news.

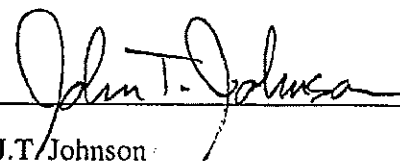
10. A press association can be synonymous with a wire service. It can also take on the definition of a collective trade association with the goal of facilitating collaborative efforts in the marketing, publicity, training and tracking and commenting on legal issues relevant to all members of the association. *Indybay* is a press association in that it serves to institutionalize the distribution of news and data supplied by its members and contributors.

11. The artifacts and technologies of the "digital revolution" do not alter the underlying nature of news outlets like *Indybay*. When viewed in the context of the medium's content, there is little difference between the stories reported by *The London Gazette* (1666) or *Publick Occurrences Both Forreign and Domestick* (Boston 1690) and the content of *Indybay*. That is to say, the presentation and delivery technologies are, in this case, of no real importance, especially when defining the purpose and function of media institution.

12. To say that *Indybay* is a periodical publication, wire service and press association is to say that it is a classic example of an evolving media entity, one that integrates the form and format of past institutions that were once defined somewhat differently given the available technology, but the function of which is the same. *Indybay* meets all of my definitions of an institution of journalism practice and distribution.

I declare under penalty of perjury of the laws of the State of California that the foregoing is true and correct and executed this 14th day of April, 2010 in Santa Fe, New Mexico.

By:


J.T. Johnson