

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

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KIRK DAHL, et al., Individually and )  
 On Behalf of All Others Similarly Situated, )  
 )  
 Plaintiffs, )  
 )  
 v. )  
 )  
 BAIN CAPITAL PARTNERS, LLC, et al. )  
 )  
 Defendants. )

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Civil Action No. 07-12388-EFH

**MEMORANDUM OF NEW YORK TIMES COMPANY  
IN FURTHER SUPPORT OF MOTION TO INTERVENE AND UNSEAL**

Pursuant to the Court’s September 14, 2012 Order (Doc. No. 733), the New York Times Company, (the “*Times*”), respectfully submits this response to the defendants’ memorandum concerning the latest, sealed version of the Fifth Amended Complaint, and their associated redaction log. (Doc. No. 740 and Exhibit A).

According to Defendants’ redaction log, the latest, sealed version of the Fifth Amended Complaint contains only four redactions. Without conceding that defendants are legally entitled to redact those four items, the *Times* hereby waives any objection to the redactions for the purposes of resolving its motion, and consents to the public filing of the Fifth Amended Complaint with only those four redactions in place.

Defendants, however, have caused undue delay by filing their latest redactions to the Fifth Amended complaint under seal. The Court’s September 14 Order did not contemplate such a sealed filing. (Doc. 733 at 6). Because there no longer appears to be any dispute among the parties concerning the scope of the redactions to the Fifth Amended Complaint, the Court should now cause the redacted version of the Fifth Amended Complaint that was manually filed by the

defendants on Friday, October 5, 2012, to be entered on the Court's public docket and made publicly available. Alternatively, the Court should order the defendants to publicly file that version of the Fifth Amended Complaint forthwith.

Respectfully Submitted,

THE NEW YORK TIMES COMPANY

By Its Attorneys,

/s/ Jeffrey J. Pyle

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CERTIFICATE OF SERVICE

I, Jeffrey J. Pyle, hereby certify that this document filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing ("NEF"), on October 9, 2012.

/s/ Jeffrey J. Pyle

Jeffrey J. Pyle