

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

INSIGNIA SYSTEMS, INC.,

Plaintiff,

v.

NEWS AMERICA MARKETING
IN-STORE, INC.,

Defendant.

NEWS AMERICA MARKETING
IN-STORE, INC.,

Counterclaim-
Plaintiff,

v.

INSIGNIA SYSTEMS, INC. and
SCOTT DRILL,

Counterclaim-
Defendants.

Civil No. 04 4213 (JRT/AJB)

**NEWS AMERICA'S
OPPOSITION TO
PLAINTIFF'S MOTION TO
COMPEL PRODUCTION
OF MATERIALS
FOR USE AT TRIAL**

TABLE OF CONTENTS

PRELIMINARY STATEMENT 3

BACKGROUND 5

A. The *Valassis* State Case 5

B. The *Valassis* Federal Case..... 6

C. The Roles of Drs. Murphy and Topel in *Valassis* 6

D. Insignia’s Requests For Drs. Murphy’s and Topel’s *Valassis* Materials..... 6

E. Insignia’s Requests For Information About The 2002 Meeting Minutes 7

F. This Motion to Compel..... 8

ARGUMENT 9

I. INSIGNIA’S SUPPLEMENTAL SUMMARY JUDGMENT ARGUMENTS, PREMISED ON THE VERDICT AND TESTIMONY IN THE *VALASSIS* STATE CASE, ARE WITHOUT MERIT 9

A. The Legal Standards Governing The *Valassis* State Case Are Different From The Antitrust Standards Governing This Case..... 9

B. The Legal Theories Relevant To The *Valassis* State Case Are Different From Those Pursued In This Case 11

C. The *Valassis* State Case Does Not Create Material Factual Disputes Here 12

II. NEITHER DR. MURPHY’S BACKUP NOR DR. TOPEL’S REPORT FROM THE *VALASSIS* PROCEEDINGS NEED BE PRODUCED..... 13

III. NEWS AMERICA HAS ALREADY SHOWN THAT IT CONDUCTED A SUFFICIENT SEARCH FOR THE MINUTES THAT INSIGNIA SEEKS..... 14

CONCLUSION..... 15

TABLE OF CASES

	<u>Page No.</u>
<i>Brunswick Corp. v. Pueblo Bowl-O-Mat, Inc.</i> , 429 U.S. 477 (1977).....	10
<i>Craftsmen Limousine, Inc. v. Ford Motor Co.</i> , 491 F.3d 380 (8th Cir. 2007).....	10
<i>HDC Med., Inc. v. Minntech Corp.</i> , 474 F.3d 543 (8th Cir. 2007).....	10
<i>Insignia Sys., Inc. v. News Am. Mktg. In-Store, Inc.</i> , 2006 WL 1851137 (D. Minn. June 30, 2006)	10, 11
<i>Minn. Ass'n of Nurse Anesthetists v. Unity Hosp.</i> , 5 F. Supp. 2d 694 (D. Minn. 1998).....	10
<i>Mino v. Clio Sch. Dist.</i> , 661 N.W.2d 586 (Mich. App. 2003).....	9
<i>Read v. Med. X-Ray Ctr.,P.C.</i> , 110 F.3d 543 (8th Cir. 1997).....	10
<i>Veteran Med. Prods., Inc. v. Bionix Dev. Corp.</i> , 2009 WL 891724 (W.D. Mich. Mar. 31, 2009)	9

Defendant News America Marketing In-Store, LLC respectfully submits this memorandum of law in opposition to plaintiff Insignia Systems, Inc.'s April 24, 2009 motion to compel News America to produce materials for use at trial (Dkt. 542).¹ Specifically, Insignia seeks to compel production of the report prepared by Dr. Robert Topel and the backup data for the report prepared by Dr. Kevin Murphy on behalf of News America in (1) a case pending in Michigan state court concerning claims of tortious interference and unfair competition under Michigan law (*Valassis Commc'ns, Inc. v. News America Inc. et al.*, Case No. 07-706634-CZ (Michigan Cir. Ct., Wayne County) (the "Valassis State Case")) (Ex. 1)² and (2) a federal case concerning federal antitrust claims focused on alleged foreclosure in a purported market for free-standing inserts ("FSIs") (*Valassis Commc'ns v. News America Inc. et al.*, Case No. 06-10240 (E.D. Mich.) (the "Valassis Federal Case")) (Ex. 2).³ Insignia also seeks to compel News

¹ Insignia did not notice a hearing date when it filed the motion to compel, therefore there previously was no briefing schedule. See May 11, 2009 Hr'g Tr. at 64-65. At the summary judgment hearing, the Court held the motion to compel in abeyance and declined to set a briefing schedule at that time. *Id.* On July 31, Insignia filed a brief styled as a "supplemental memorandum" in support of the motion to compel. Dkt. 572. On August 5, the Court's Calendar Clerk advised the parties that News America should submit its opposition by today and the motion to compel would be decided without a hearing. Cantor Decl. ¶ 2.

² "Ex." refers to exhibits to this Opposition, which are attached to the Declaration of Matthew L. Cantor submitted herewith ("Cantor Decl."). "Pl. Ex." refers to exhibits to Insignia's motion to compel. "News America SJ Mot." refers to News America's January 30, 2009 Motion for Summary Judgment (Dkt. 473). "News America SJ Reply" refers to News America's March 11, 2009 Reply in support of its motion for summary judgment (Dkt. 519). "Pl. SJ Opp." refers to Insignia's February 7, 2009 Opposition to News America's summary judgment motion (Dkt. 515).

³ Dr. Murphy, an economist, has been designated by News America as an expert in this proceeding and in the *Valassis* State and Federal Cases. Dr. Topel, also an

America “to make a complete showing of its efforts” to produce minutes which Insignia claims exist from a December 9, 2002 News America Executive Committee meeting.

PRELIMINARY STATEMENT

Insignia’s motion should be denied on several grounds.

First, the motion should be denied because News America’s motion for summary judgment should be granted, rendering Insignia’s motion to compel moot. On July 31, 2009, Insignia filed a memorandum styled as a “supplement” to the motion to compel. Dkt. 572. A cursory review of that filing, however, demonstrates that its real purpose was to supplement Insignia’s summary judgment opposition. It contends that the jury verdict and trial testimony of Drs. Murphy and Topel in the *Valassis* State Case conflict with News America’s summary judgment arguments before this Court. Those contentions are wholly without merit.

The legal standards governing the Michigan state tortious interference and unfair competition claims asserted in the *Valassis* State Case are irrelevant to this proceeding.⁴ So are the legal theories being pursued there. They have no bearing on whether Insignia’s evidence meets the exacting damages or antitrust standards (of market

economist, has *not* been designated as an expert in this proceeding. He has been designated in the *Valassis* State and Federal cases to provide testimony to rebut plaintiff Valassis’ damages expert. Both Drs. Murphy and Topel testified in the *Valassis* State Case trial. Cantor Decl. ¶ 5.

⁴ Insignia attempted to assert a Minnesota law unfair competition claim in this case by amending its complaint at the eleventh hour. The Court denied that motion. Dkt. 448.

definition, market power, market-wide anticompetitive effects, or antitrust injury) at issue in *this* case.

Moreover, the core allegations at issue in the *Valassis* State Case have not been pursued here. These allegations concern (1) whether bundled discount offerings by News America could serve as a predicate for tortious interference with business expectancies under Michigan law and (2) whether alleged News America statements regarding these bundled offerings could constitute false or misleading statements, and thus, unfair competition under Michigan law. Here, Insignia's expert, Dr. Overstreet, confirmed that he had no opinion regarding alleged predatory bundling whatsoever. For these reasons alone, Insignia's new summary judgment arguments should be rejected. They should also be rejected, however, because they are based on an inaccurate portrayal of Drs. Murphy's and Topel's *Valassis* State Case trial testimony. Nothing that these experts stated in the *Valassis* State Case is inconsistent with Dr. Murphy's testimony or News America's summary judgment position in this case.

In any event, neither the *Valassis* State Case verdict nor any of the testimony that Insignia references in its supplemental memorandum is relevant to News America's arguments here, or rebuts the undisputed facts that warrant summary judgment for News America.

Second, Insignia's motion to compel production of the Topel report and the Murphy *Valassis* backup data should be denied because Insignia did not request those materials until well after the close of discovery in this case. Further, prior Court Orders held that those materials need not be produced, and they are not relevant to Insignia's case.

Third, Insignia's motion to compel News America to provide further information regarding its search for the minutes that it claims to exist should be denied, as News America has already shown, to the Court's satisfaction, that it conducted a sufficiently diligent search for those minutes.

BACKGROUND

A. The *Valassis* State Case

The *Valassis* State Case concerns claims for unfair competition and tortious interference under Michigan state law. Ex. 1 (*Valassis* State Case Complaint). Plaintiff Valassis repeatedly stated therein that it was *not* pursuing antitrust claims in that case. In fact, the operative complaint states:

[I]t is the purpose and effect of this amended complaint to *separate and disengage the federal antitrust claims* pending in the United State[s] District Court for the Eastern District of Michigan in Case No. 2:06-CV-10240 *from the claims pending in this court so that the claims are independent and not overlapping in legal theory or in the elements of the claims or defenses*. VALASSIS intends to litigate its claims for tying, predatory pricing, unlawful bundled pricing, and exclusive dealing as violations of the federal antitrust laws in federal court and its tort claims, as alleged herein and as will be determined during discovery and proven at trial, in this Court.

Id. ¶ 5 (emphasis added). A jury verdict was rendered for the plaintiff in the *Valassis* State Case.⁵

⁵ Numerous errors of law were committed in the *Valassis* State Case, including a ruling that permitted Valassis to seek damages on its tortious interference claim for business that it ultimately won. News America is moving for judgment notwithstanding the verdict to contest this and other rulings and will appeal if necessary. Cantor Decl. ¶ 9.

B. The *Valassis* Federal Case

The *Valassis* Federal Case concerns antitrust claims predicated upon alleged foreclosure caused by News America in an alleged market for FSIs. Ex. 2 (*Valassis* Federal Case Complaint). News America has moved for summary judgment in the *Valassis* Federal Case. Oral argument on that motion is scheduled for September 3, 2009. Cantor Decl. ¶ 10.

C. The Roles of Drs. Murphy and Topel in *Valassis*.

Dr. Murphy submitted reports in the *Valassis* State and Federal Cases on the subject of liability. Dr. Topel, who is not serving as an expert in this case, submitted reports to rebut the damages methodology espoused by plaintiff *Valassis*' experts in the *Valassis* State and Federal Cases. Both Drs. Murphy and Topel testified in the *Valassis* State Case. Cantor Decl. ¶ 5.

D. Insignia's Requests For Drs. Murphy's and Topel's *Valassis* Materials

This is Insignia's *third* attempt to obtain Dr. Murphy's backup data and Dr. Topel's report from the *Valassis* State and Federal Cases. Insignia initially requested those materials, along with all of News America's *Valassis* expert reports and backup data, in August 2007 during fact discovery. Ex. 3 (Doc. Req. No. 29). News America objected to the request on relevance and other grounds and declined to produce the materials. *Id.* Insignia did not follow up on those objections.

Insignia then sought to obtain News America's *Valassis* expert materials through a subpoena to Valassis. Dkt. 445. News America moved to strike the subpoena. *Id.* This Court granted the motion as to the *Valassis* expert materials (and other information). *Id.*

On December 17, 2008, Insignia requested *Valassis* expert materials *again* from News America. Ex. 4. This time, however, Insignia sought only the reports and depositions of the two experts News America designated in both the *Valassis* Cases and in this case, Drs. Murphy and Blattberg. *Id.* Insignia did *not* request any backup information to any *Valassis* reports or Dr. Topel's report. *Id.* News America agreed to produce Drs. Murphy's and Blattberg's *Valassis* reports and depositions to reduce the cost of motion practice before the Court. Ex. 5. In so doing, News America explicitly rejected any implication that those materials were relevant to this case. *Id.*

Over three months later, well after discovery was closed in this matter, Insignia resurrected its request for backup materials to Dr. Murphy's *Valassis* report and Dr. Topel's *Valassis* report. Pl. Ex. A. News America declined to produce those materials. Pl. Ex. B.

E. Insignia's Requests For Information About The 2002 Meeting Minutes

Likewise, this is Insignia's *third* request for an Order compelling News America to provide additional information about its search for the meeting minutes addressed in the motion. As counsel for News America has explained, it has searched far and wide for the minutes but to no avail. *See* Ex. 7 at 33-35 (July 31, 2008 Hr'g Tr.) (describing News America's efforts to locate the minutes). Indeed, counsel for News America offered Insignia an attorney certification regarding its efforts, but Insignia rejected that offer. *Id.*

Rather, in July 2008, Insignia moved this Court to compel News America to provide further information regarding the search. Ex. 7.

In August 2008, Magistrate Judge Boylan denied Insignia's motion, holding that News America had "sufficiently responded" to Insignia's request for the minutes. Dkt. 387 at 2. In September 2008, Insignia sought *again* to require News America to provide additional information about its search, by seeking reconsideration of Magistrate Judge Boylan's August 2008 ruling. Dkt. 405. Magistrate Judge Boylan denied this request as well. Dkt. 413. Instead, Magistrate Judge Boylan directed News America only "to conduct further reasonable discovery efforts and inquiry into the whereabouts of" the minutes. *Id.* at 2. News America conducted such further reasonable efforts, but the minutes have not been located. Cantor Decl. ¶ 17.

F. This Motion to Compel

Insignia filed this motion on April 24, 2009. Dkt. 542. It filed its "supplemental memorandum" in further support of the motion on July 31. Dkt. 572. News America submits this opposition in accordance with the schedule set by the Court on August 5. Cantor Decl. ¶ 2. *See supra* note 1.

ARGUMENT

I. INSIGNIA’S SUPPLEMENTAL SUMMARY JUDGMENT ARGUMENTS, PREMISED ON THE VERDICT AND TESTIMONY IN THE VALASSIS STATE CASE, ARE WITHOUT MERIT.

Insignia’s suggestion that the verdict and the Murphy/Topel testimony in the *Valassis* State Case contravene News America’s summary judgment position is wrong. The operative complaint in the *Valassis* State Case is clear: it does *not* concern federal antitrust claims. Ex. 1 ¶ 5 (quoted *supra* p. 5). The verdict there should thus have no effect on the Court’s evaluation of summary judgment here. Summary judgment should be granted to News America.

A. The Legal Standards Governing The *Valassis* State Case Are Different From The Antitrust Standards Governing This Case.

To prevail on a tortious interference with business expectancies claim under Michigan law, a plaintiff must prove (1) the existence of a valid business relationship or expectancy that is not necessarily predicated on an enforceable contract, (2) knowledge of the relationship or expectancy on the part of the defendant interferer, (3) an intentional interference by the defendant inducing or causing a breach or termination of the relationship or expectancy, and (4) resulting damage to the plaintiff. *See, e.g., Mino v. Clio Sch. Dist.*, 661 N.W.2d 586, 597-98 (Mich. App. 2003). To prevail under Michigan unfair competition law, a plaintiff must prove that a defendant engaged in acts of deception, dishonesty or theft that were relied upon by consumers and injured the plaintiff. *See, e.g., Veteran Med. Prods., Inc. v. Bionix Dev. Corp.*, No. 1:05-cv-655, 2009 WL 891724, at *7-8 (W.D. Mich. Mar. 31, 2009).

A plaintiff, such as Insignia, suing under federal and Minnesota antitrust law must satisfy very different burdens.⁶ First, each of its antitrust claims require proof of “antitrust injury,” or injury that flowed from a harm to *competition* -- not just to itself. *See Brunswick Corp. v. Pueblo Bowl-O-Mat, Inc.*, 429 U.S. 477, 489 (1977) (injury to antitrust plaintiff must “flow from a harm to competition”); *Read v. Med. X-Ray Ctr., P.C.*, 110 F.3d 543, 544, 547 (8th Cir. 1997); *Minn. Ass’n of Nurse Anesthetists v. Unity Hosp.*, 5 F. Supp. 2d 694, 702 (D. Minn. 1998).⁷ Further, for each of its antitrust claims Insignia must “show that the [alleged] restraint has ‘detrimental effects’ upon the competitiveness of the market,” such as increasing price or reducing market-wide output. *Craftsmen Limousine, Inc. v. Ford Motor Co.*, 491 F.3d 380, 388, 390 (8th Cir. 2007).⁸ For its monopolization claims, Insignia “must establish that the defendant has a dominant market share in a well-defined relevant market.” *HDC Med., Inc. v. Minntech Corp.*, 474 F.3d 543, 547 (8th Cir. 2007).⁹ And to prevail upon its antitrust conspiracy claims, Insignia must establish that News America combined or conspired with others to

⁶ The standards governing Insignia’s Minnesota antitrust claims are identical to those governing its federal antitrust claims. *See Insignia Sys., Inc. v. News Am. Mktg. In-Store, Inc.*, Civil No. 04-4213 (JRT/AJB), 2006 WL 1851137, at *2-7 (D. Minn. June 30, 2006) (the “2006 Decision”).

⁷ Insignia has failed to demonstrate any antitrust injury. *See News America SJ Mot.* at 21-27.

⁸ Insignia has failed to establish any harm to competition. *See News America SJ Mot.* at 24-25.

⁹ Insignia has failed to quantify News America’s share in any economically coherent relevant market or otherwise quantify the share of the market from which it has been allegedly foreclosed. *See News America SJ Reply* at 10.

foreclose Insignia. 2006 Decision at *3.¹⁰ Accordingly, as Insignia faces very different burdens from what Valassis faced in the *Valassis State Case*, the *Valassis State Case* is not relevant here.

B. The Legal Theories Relevant To The *Valassis State Case* Are Different From Those Pursued In This Case.

The *Valassis State Case* is also irrelevant because of the factual and economic theories pursued there. That case concerned whether Valassis – a distributor of FSIs – lost a business expectancy as a result of News America offering certain customers discounts on in-store advertising and FSI pricing when those services were purchased together. *See* Ex. 1 ¶¶ 9, 10. This type of claim has not been remotely pursued here. *See, e.g.*, News America SJ Mot. at 28; *id.* X6 at 62, 324-25 (Insignia’s expert, Dr. Overstreet, testified that he had no opinion on whether News America engaged in predatory or anticompetitive bundling). Moreover, Valassis’ unfair competition claims concerned News America’s offering of in-store and FSI services together in particular instances. That has nothing to do with this case.

Indeed, Valassis claimed repeatedly that it was not pressing antitrust theories in its State Case. Ex. 1 ¶ 5; Cantor Decl. ¶ 4. That case is thus of no moment in this case.

¹⁰ Insignia has failed to establish that combination or conspiracy occurred under Section 1. *See* News America SJ Mot. at 37-38.

C. The *Valassis* State Case Does Not Create Material Factual Disputes Here.

As set forth more fully in News America's Summary Judgment papers and the May 11, 2009 hearing before the Court, the undisputed facts and Insignia's admissions demonstrate that:

- Insignia has failed to present a damages model which disaggregates its alleged damages from losses that Insignia itself or parties other than News America caused (News America SJ Mot. at 40-42; News America SJ Reply at 7-8);
- Insignia's expert admitted that News America *does not have* monopsony power over retailers and News America *cannot force* CPGs to purchase from it, evidencing no market power (News America SJ Reply at 10-11);¹¹
- News America's average in-store advertising prices have fallen substantially during the relevant time period (News America SJ Mot. at 9, 24);¹²

¹¹ Insignia's supplemental memorandum grossly mischaracterizes Dr. Murphy's *Valassis* State Case testimony in an effort to support its meritless claim that such testimony undermines News America's summary judgment arguments. See Pl. Supp. Mem. at 3-4 (Dkt. 572). Contrary to Insignia's misrepresentation, Dr. Murphy's testimony in the *Valassis* State Case was consistent with his opinion here, that falling in-store prices demonstrated News America's *inability to coerce CPGs* to do FSI business with News America. Ex. 6 at 100-03; *id.* at 115-20 (*Valassis* State Case Trial Tr.). See News America SJ Mot. X1 (Murphy Report) at 22-23 & Ex. 12. Also contrary to Insignia's contention -- and consistent with Dr. Murphy's testimony here -- Dr. Murphy testified in the *Valassis* State Case that News America could and did compete for in-store advertising in various ways -- via signing bonuses to CPGs, reduced in-store prices or reduced FSI prices -- and offered in-store discounts as part of a combined in-store/FSI offering to make its in-store advertising business competitively attractive -- *not* to increase its FSI share. Ex. 6 at 115-20; *id.* at 100-03. See News America SJ Mot. X1 (Murphy Report) at 22-23 & Ex. 12. In any event, none of Dr. Murphy's testimony or any events in the *Valassis* State Case contradict the undisputed facts that warrant summary judgment here.

¹² There was no showing in the *Valassis* State Case that average prices either in the in-store or FSI businesses were increased as a result of News America's actions. Cantor Decl. ¶ 8.

- at-shelf and overall in-store advertising output has expanded (News America SJ Mot. at 9, 25; Insignia SJ Opp. at 9);
- Insignia has not incurred any antitrust injury or foreclosure, as it accounts for 90% of at-shelf price sign revenue, its revenues grew by 34% in 2008, and it co-exists in thousands of retail stores with News America (News America SJ Mot. at 25-27; News America SJ Reply at 11-12);
- Insignia has failed to quantify News America’s market share or the share of the relevant market from which Insignia was foreclosed (News America SJ Reply at 10); and
- Insignia’s market definition claims are contravened by the holding in *Menasha v. News America* (News America SJ Mot. at 33-36).

Nothing about the *Valassis* State Case creates material, genuine factual disputes relevant to News America’s summary judgment motion.

II. NEITHER DR. MURPHY’S BACKUP NOR DR. TOPEL’S REPORT FROM THE VALASSIS PROCEEDINGS NEED BE PRODUCED.

Insignia’s prior attempts to obtain Dr. Topel’s report were correctly rejected by News America and the Court. Insignia apparently recognized this, as it omitted the report from its second request to News America for *Valassis* expert materials. Further, Dr. Topel’s report is irrelevant here. It was submitted in the *Valassis* proceedings merely to rebut the *Valassis* plaintiff’s damages methodology. Cantor Decl. ¶ 5. It has nothing to do with this case, as News America noted in rejecting Insignia’s original request for it. Ex. 5.¹³ This latest attempt to secure the Topel report – long after the close of discovery

¹³ Insignia’s claim that Dr. Topel’s report is relevant in this case because Dr. Murphy’s report “expressly relies upon” it is misleading. Pl. Mot. to Compel ¶ 1 (Dkt. 542). Dr. Murphy’s report cites Dr. Topel’s report *once*, in a footnote to his rebuttal report as a “*see, e.g.*” regarding an analysis by a *Valassis* plaintiff’s expert. Cantor Decl. ¶ 7. In any event, Dr. Murphy’s opinions in the *Valassis* State and Federal cases are

and the filing of summary judgment motions – is just a desperate effort by Insignia to avoid summary judgment.

Insignia's request for the backup material to Dr. Murphy's *Valassis* report also should be denied. As with Dr. Topel's report, Insignia's prior requests for this material were correctly rejected, and Insignia appropriately abandoned its efforts to obtain it. And the Murphy *Valassis* backup is irrelevant here. Dr. Murphy's *Valassis* report – and, therefore, its backup data – addressed News America's bundled discounts and their impact on Valassis. Neither of those are at issue here.

III. NEWS AMERICA HAS ALREADY SHOWN THAT IT CONDUCTED A SUFFICIENT SEARCH FOR THE MINUTES THAT INSIGNIA SEEKS.

News America has made more than reasonable efforts to locate the requested meeting minutes for as long as Insignia has sought them, consistent with its obligations under the Federal Rules and Magistrate Judge Boylan's September 2008 Order. *See* Ex. 7 at 33-35 (describing News America's efforts to locate the minutes); Dkt. 387 at 2 (directing News America to conduct "further reasonable [] efforts" to locate the minutes); Fed. R. Civ. P. 26(b)(2) (prohibiting unreasonable discovery demands). Indeed, Magistrate Judge Boylan has already held -- *twice* -- that News America "sufficiently responded" to Insignia's request for the meeting minutes. *See* Dkt. 387 at 2; Dkt. 413.

irrelevant to this case, therefore, whether those opinions "relied" on Dr. Topel's is of no moment.

This third attempt by Insignia to obtain additional information about the minutes should be denied.¹⁴

CONCLUSION

For the foregoing reasons, Insignia's motion to compel should be denied and News America should be granted summary judgment.

Dated: August 20, 2009

By: **s/ Matthew L. Cantor**

Matthew L. Cantor
Kerin E. Coughlin
Admitted *pro hac vice*
CONSTANTINE CANNON LLP
450 Lexington Avenue, 17th Floor
New York, New York 10017
(212) 350-2700
mcantor@constantinecannon.com
kcoughlin@constantinecannon.com

Todd Wind
FREDRIKSON & BYRON
200 South Sixth Street
Suite 400
Minneapolis, Minnesota 55402
(612) 492-7046
twind@fredlaw.com

Richard L. Stone
Admitted *pro hac vice*
HOGAN & HARTSON LLP
1999 Avenue of the Stars, Suite 1400
Los Angeles, CA 90067
(310) 785-4600
rlstone@hhlaw.com

Counsel for News America

¹⁴ To the extent that Insignia continues to seek the materials demanded in this motion *despite* the Court's prior Orders rejecting such efforts (*see* Dkt. 445 rejecting efforts to obtain Murphy and Topel materials; Dkt. 387 & 413 rejecting efforts to obtain further information about the meeting minutes), Insignia's motion to compel should be stricken as an improper motion for reconsideration. *See* D. Minn. LR 7.1(g) (prohibiting motions to reconsider absent leave of court and noting that leave "will be granted only upon a showing of compelling circumstances" -- which are not present here).