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11 IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

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13 STATE OF ARIZONA, EX REL.
TERRY GODDARD, ATTORNEY
14 GENERAL,

Case No.: _____

15 Plaintiff,

16 v.

VERIFIED COMPLAINT

17 GANNETT CO., INC.;
18 CITIZEN PUBLISHING COMPANY;
LEE ENTERPRISES,
19 INCORPORATED;
STAR PUBLISHING COMPANY; and
TNI PARTNERS,

20 Defendants.

21 The State of Arizona, acting under the direction of the Arizona Attorney General,
22 brings this civil antitrust action to obtain equitable and other relief to prevent and restrain
23 the Defendants Gannett Co., Inc. and Citizen Publishing Company (collectively
24 "Gannett"), Lee Enterprises, Incorporated and Star Publishing Company (collectively
25 "Lee"), and TNI Partners ("TNI") from violating Section 1 of the Sherman Act, 15 U.S.C.
26 § 1, and the Uniform State Antitrust Act., Ariz. Rev. Stat. Ann. § 44-1402.

27 State of Arizona complains and alleges as follows:
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I. NATURE OF THE ACTION

1. For more than a century, competition between the *Tucson Citizen* and the *Arizona Daily Star* has benefitted readers in Pima County, giving them the choice of two high-quality daily local newspapers. Now, however, Gannett and Lee plan to eliminate that competition by closing the *Citizen* on May 16, 2009 and sharing the profits generated by the *Star* after it becomes the monopoly daily local newspaper. Their agreement to stop competing violates the antitrust laws, and it will irreparably harm Tucson-area consumers, many of which will lose their newspaper of choice. Newspaper readers and the Tucson community as a whole will be harmed by the elimination of the historic quality competition that has spurred the *Star* and *Citizen* to journalistic excellence.

II. JURISDICTION AND VENUE

2. Gannett, Lee, and TNI are engaged in, and their activities substantially affect, interstate commerce. Through the subsidiaries and the partnership they control, Gannett and Lee sell advertising, which is published in the *Citizen* and *Star*, to national advertisers located throughout the United States. In addition, Gannett, Lee, and TNI regularly publish wire service news, syndicated material, and other information in the *Citizen* and *Star* that is gathered from other states and nations.

3. The Court has subject matter jurisdiction under 15 U.S.C. § 4, and 28 U.S.C. §§ 1331, 1337(a), 1345, and 1367 to prevent and restrain Defendants from violating 15 U.S.C. § 1 and Ariz. Rev. Stat. Ann. § 44-1402.

4. Defendants maintain offices, transact business, and may be found in Tucson, Arizona. Most of the events giving rise to the violations alleged herein occurred in Tucson, Arizona. Accordingly, this Court has personal jurisdiction over Defendants, and venue is proper in this judicial district under 15 U.S.C. § 22 and 28 U.S.C. § 1391(b).

III. DEFENDANTS

5. Gannett Co., Inc., through its wholly-owned subsidiary Defendant Citizen Publishing Company, is the owner and publisher of the *Citizen*. Gannett is a corporation

1 organized under the laws of the State of Delaware, with its principal place of business in
2 McLean, Virginia. Gannett is a media company that publishes 85 daily newspapers,
3 including *USA Today*, and nearly 850 non-daily publications. The company also operates
4 23 television stations with a market reach of more than 20.8 million households
5 nationally.

6 6. Citizen Publishing Company is a corporation organized under the laws of
7 the State of Arizona, with its principal place of business in Tucson, Arizona. Citizen
8 Publishing Company is the Gannett Co., Inc. subsidiary that owns and publishes the
9 *Citizen*.

10 7. Lee Enterprises, Incorporated, through its wholly-owned subsidiary
11 Defendant Star Publishing Company, is the owner and publisher of the *Star*. It is
12 incorporated under the laws of the State of Delaware, with its principal place of business
13 in Davenport, Iowa. Lee is a newspaper company that owns 49 daily newspapers and
14 more than 300 weekly newspapers and speciality publications in 23 states.

15 8. Star Publishing Company is a corporation organized under the laws of the
16 State of Arizona, with its principal place of business in Tucson, Arizona. Star Publishing
17 Company is the Lee Enterprises, Incorporated subsidiary that owns and publishes the *Star*.

18 9. TNI Partners is a general partnership with its principal place of business in
19 Tucson, Arizona. It is responsible for printing, circulating, promoting, and marketing
20 both the *Citizen* and the *Star*. Citizen Publishing Company and Star Publishing Company
21 are general partners in TNI Partners; they each own a fifty percent interest in TNI
22 Partners; and they each have equal rights to the profits from TNI Partners's operations and
23 to appoint members of TNI Partners's Board of Directors.

24 **IV. BACKGROUND**

25 10. The *Tucson Citizen* is an afternoon newspaper that serves the Tucson area
26 and is published daily every Monday through Saturday. Apart from the *Citizen*, the
27 Tucson area's only other daily local newspaper is the morning *Arizona Daily Star*, which
28 is published every day, including Sundays. Since 1940, the two newspapers have had a

1 joint operating agreement (“JOA”), under which their news and editorial departments
2 have operated separately, but all other aspects of their operations – including printing,
3 distribution, and sales – have been delegated to a jointly owned agent, currently TNI.

4 11. Within the JOA, Gannett and Lee have continued to compete to provide the
5 highest quality news to Tucson-area newspaper readers. TNI’s website states that the
6 newspapers “compete vigorously” for readers by investing in high-quality reporting, and
7 the *Citizen*’s editor recently explained, “what we do makes the Star better, the Star makes
8 us better, and because of that, the community gets better information.”

9 12. Gannett and Lee each have independent economic incentives to increase the
10 value of its respective newspaper ownership interest by attracting readers to its own
11 newspaper. The number of newspapers circulated or sold is an important yardstick for
12 measuring the franchise or sales value of a newspaper asset. In general, a newspaper that
13 invests in increasing its quality and its appeal will attract and retain readers and
14 advertisers, will have a longer lifespan, and will have an increased market value.
15 Maintaining or increasing the value of a newspaper within a JOA will maximize its
16 purchase price in the event of a sale. The relative value of a newspapers in a JOA also
17 can affect the outcome of, among other things, renegotiations of the terms of a JOA.

18 13. Gannett and Lee plan to close the *Citizen* and share the profits generated by
19 the *Star* after it becomes a monopoly newspaper. Because they each have a right to half
20 of TNI’s profits, they share incentives to reduce TNI’s expenses by closing the *Citizen*
21 and, after the *Citizen* closes, reducing spending on the *Star*. Indeed, Gannett and Lee
22 discussed closing the *Citizen* as a way to increase their profits. On January 15, 2009, they
23 committed in writing to continue sharing profits from the *Star* after the *Citizen* closed or
24 was sold. When potential buyers offered to purchase all of the *Citizen* assets that Gannett
25 was offering to sell, Gannett rejected the offer, even though it has no plans to use those
26 assets after the *Citizen* closes. Despite Gannett’s refusal to sell those assets, Lee remains
27 committed to sharing equally with Gannett the profits generated by the *Star* after the
28 *Citizen* closes and the *Star* becomes Tucson’s only remaining daily local newspaper.

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2 **V. ANTICOMPETITIVE EFFECTS**

3 14. The agreement between Gannett and Lee to close the *Citizen* and share the
4 *Star*'s monopoly profits will substantially lessen competition in the Tucson Area daily
5 local newspaper market. This agreement will have, among others, the following adverse
6 effects on competition: (a) reduced output (both quantity and quality) of newspapers;
7 and (b) increased quality-adjusted prices to readers and advertisers. Moreover, these
8 anticompetitive effects are not likely to be prevented in the foreseeable future by the *de*
9 *novo* entry of daily local newspapers into the market because such entry is time-
10 consuming and difficult. No other firm, without the *Citizen* assets, is likely to challenge
11 the *Star*'s monopoly position.

12 **VI. VIOLATIONS**

13 **COUNT ONE**

14 (Violation of Section 1 of the Sherman Act)

15 15. Each and every allegation in paragraphs 1 through 14 of this Complaint is
16 hereby realleged with the same force and effect as though said paragraphs were here set
17 forth in full.

18 16. Defendants, which are separate entities, have combined, conspired, and
19 agreed to restrain trade, which will affect interstate or foreign commerce. Their
20 agreement unreasonably restrains trade and commerce in violation of Section 1 of the
21 Sherman Act, 15 U.S.C. § 1.

22 **COUNT TWO**

23 (Violation of the Uniform State Antitrust Act)

24 17. Each and every allegation in paragraphs 1 through 16 of this Complaint is
25 hereby realleged with the same force and effect as though said paragraphs were here set
26 forth in full.

27 18. Defendants, which are separate entities, have combined, conspired, and
28 agreed to restrain trade, which will affect interstate or foreign commerce. Their

1 agreement unreasonably restrains trade and commerce in violation of Uniform State
2 Antitrust Act, Ariz. Rev. Stat. Ann. § 44-1402.

3 **VII. REQUESTED RELIEF**

4 19. The State of Arizona requests that the Court:

5 (a) adjudge and decree that Defendants have violated Section 1 of the
6 Sherman Act, 15 U.S.C. § 1;

7 (b) adjudge and decree that Defendants have violated the Uniform State
8 Antitrust Act, Ariz. Rev. Stat. Ann. § 44-1402 by violating Section 1 of the Sherman Act;

9 (c) preliminarily enjoin Defendants from dismissing editorial staff, taking
10 action to eliminate or reduce publication or distribution of the *Tucson Citizen* from levels
11 equivalent to those on January 15, 2009, or otherwise reducing or eliminating competition
12 among Tucson-Area daily local newspapers;

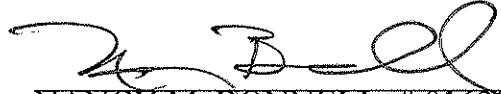
13 (d) permanently enjoin Defendants from dismissing editorial staff, taking
14 action to eliminate or reduce publication or distribution of the *Tucson Citizen* from levels
15 equivalent to those on January 15, 2009, or otherwise reducing or eliminating competition
16 among Tucson-Area daily local newspapers, until the earlier of (1) the termination of the
17 Joint Operating Agreement dated December 22, 1998, including all amendments and
18 extensions; or (2) Gannett sells the *Tucson Citizen* to a buyer approved by this Court;

19 (e) award the State of Arizona such other and further relief as the Court may
20 deem just and proper to redress and prevent recurrence of the above violations, to
21 dissipate their anticompetitive effects, and to restore effective competition in the Tucson
22 Area daily local newspaper market; and

23 (f) award the State of Arizona the costs of this action.
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1 Dated: May 15, 2009

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3 TERRY GODDARD
ATTORNEY GENERAL

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