

**UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK**

VAGUELY QUALIFIED PRODUCTIONS
LLC,

Plaintiff,

v.

METROPOLITAN TRANSPORTATION
AUTHORITY (the “MTA”); THOMAS F.
PRENDERGAST, in his official capacity as
Chairman and Chief Executive Officer of the
MTA, and JEFFREY B. ROSEN, in his
official capacity as the Director of the MTA
Real Estate Department,

Defendants.

Case No. 1:15-cv-04952-CM

DECLARATION OF NEGIN FARSAD

Pursuant to 28 U.S.C. § 1746, I, Negin Farsad, declare as follows:

1. I respectfully submit this declaration in support of Plaintiff Vaguely Qualified Productions LLC’s Motion for Preliminary Injunction. It is based upon my personal knowledge unless otherwise noted.

Introduction and Background

2. I am a writer, comedian, director, and actor. I obtained a Bachelor’s Degree in Theatre Arts and Government from Cornell University. I then attended Columbia University, where I obtained two Master’s degrees; the first in African-American Studies and the second from Columbia University’s School of International & Public Affairs with a focus on Urban Management. While obtaining my Master’s degrees, I would study by day and write and perform comedy by night. After approximately a year as a policy advisor for the City of New York, I decided to pursue a career in the performing arts.

3. I wrote and developed the MTV series, *Detox*, the PBS animated series, *1001 Nights*, and the Nickelodeon series, *Class Parents*. As a stand-up comedian, I have opened for Al Franken, Janeane Garofalo, and Colin Quinn, among many others. I was named one of the 50 Funniest Women by the Huffington Post. I am also a TED Fellow and delivered a TEDTalk about my work in Social Justice Comedy.

4. In 2005, I founded Vaguely Qualified Productions LLC (“VQP”). VQP, a limited liability company formed pursuant to the laws of the state of New York, is a for-profit video production company. VQP’s commercial content specializes in comedic, social commentary media content. I have served as Director of VQP since founding the company. As Director, I manage all matters for VQP and am ultimately responsible for creating and supervising all content produced and released by VQP.

5. In 2005, VQP produced its first feature length film, which I directed, called *Nerdcare Rising*, a documentary about a new wave of hip hop called Nerdcare. Most recently, VQP produced a feature film called *3rd Street Blackout* about a technology-obsessed couple in New York City that is forced to examine their relationship after a blackout caused by Hurricane Sandy. I co-directed and co-starred in the film with Jeremy Redleaf. The film also featured Janeane Garofalo, Ed Weeks, and John Hodgman, and it premiered to critical acclaim at the Los Angeles Film Festival.

Production of *The Muslims Are Coming!* Feature Film

6. In 2013, VQP produced a feature film documentary, *The Muslims Are Coming!*, that follows a band of American Muslim comedians as they perform stand-up comedy and interact with residents in big cities, small towns, and rural villages across the United States. I co-directed and co-starred in the film with VQP’s consultant, Dean Obeidallah, and the film featured appearances by Jon Stewart, Lewis Black, David Cross, Janeane Garofalo, Rachel

Maddow, Aasif Mandvi, Soledad O'Brien, Colin Quinn, and many others. Underlying the film's content is the message that American Muslims are ordinary people. The film received critical praise when it was released and is currently available for purchase on DVD and Blu-Ray and through various online mediums including Netflix, Amazon, iTunes, and Xbox. The message of *The Muslims Are Coming!* is consistent with other works produced by VQP, which specializes in smart, insightful, and comedic social justice media.

The Proposed Advertising Campaign

7. In about September 2014, VQP launched a campaign to purchase Metropolitan Transportation Authority ("MTA") advertising space that would promote *The Muslims Are Coming!* using the same comedic message depicted the film—that American Muslims are ordinary people. The campaign was called *The Fighting-Bigotry-with-Delightful Posters Campaign!* Dean Obeidallah and I considered the campaign to be the next step to the feature film.

8. The timing of the campaign was driven, in part, by VQP's ongoing contractual relationship with online distributors, such as Netflix and Amazon.

9. The timing of the campaign was also, in part, influenced by the American Freedom Defense Initiative's ("AFDI") announcement that it planned to purchase advertising space in the subway system to display a series of incendiary advertisements advocating for particular foreign policy positions while criticizing Islam and Muslims. VQP's goal in launching the campaign was not to oppose AFDI's political positions, but to use comedy to promote the central theme of the movie it had produced—that American Muslims are ordinary people. Through the campaign, VQP raised the funds necessary to purchase advertising space in the subway system.

10. In October 2014, after raising the necessary funds to purchase advertising space, VQP prepared six advertisements for display in the subway system (the “Advertisements”). The Advertisements are tongue-in-cheek statements that are intended to make people laugh and prompt the viewer to purchase or rent *The Muslims Are Coming!* In developing the Advertisements, VQP purposefully avoided making any political or socially controversial statements in its posters, choosing instead to offer silly statements. The bottom of each poster includes the Internet URL, www.themuslimsarecoming.com (the “Website”). The Website promotes *The Muslims Are Coming!* and offers the film and related merchandise for sale. One of the Advertisements prominently features the logo of the film displayed in type-face evocative of horror films from the 1950s. True and correct copies of the six Advertisements, as submitted to the MTA after making all modifications it required, are attached hereto as **Exhibits 1 through 6**.

11. On behalf of VQP, I corresponded with OUTFRONT Media Inc. (“Outfront Media”), the MTA’s advertising agent, along with Dean Obeidallah. We first submitted the Advertisements for approval to the MTA, Thomas F. Prendergast, and Jeffrey B. Rosen (collectively, “Defendants”) via Outfront Media, on or about November 10, 2014. A true and correct copy of the November 10, 2014 email (excluding attachments) to Outfront Media is attached hereto as **Exhibit 7**.

12. On or about November 17, 2014, Outfront Media informed us that Defendants had received our artwork. A true and correct copy of the November 17, 2014 email from Outfront Media is attached hereto as **Exhibit 8**. To my knowledge, the initially submitted artwork was consistent with MTA’s advertising standards in force at that time. A true and correct copy of the MTA Advertising Standards as amended by MTA Board, Sept. 27, 2012, is attached hereto as **Exhibit 9**.

13. On or about December 7, 2014, we requested an update from Outfront Media about Defendants' approval process. On or about December 8, 2014, Defendants, through Outfront Media, required that VQP remove the word "penis" from a joke in one Advertisement and resubmit the artwork. A true and correct copy of the December 8, 2014 email from Outfront Media requiring removal of the word "penis" is attached hereto as **Exhibit 10**.

14. VQP complied with the requirement, and on or about December 11, 2014, we resubmitted two alternative versions of the Advertisement to Defendants, via Outfront Media, including one that substituted the word "genitals" and another that used the words "weird stuff." A true and correct copy of the December 11, 2014 email (excluding attachments) to Outfront Media is attached hereto as **Exhibit 11**.

15. We had raised the funds for the advertising campaign with the expectation that the Advertisements would run in 2014. On or about December 16, 2014, more than one month after we initially submitted the Advertisements to Outfront Media, and not having heard back regarding Defendants' approval, we informed Outfront Media of our expectations and requested an update on the approval process. A true and correct copy of the December 16, 2014 email to Outfront Media is attached hereto as **Exhibit 12**. In response to our request for an update, on or about December 16, 2014, Outfront Media informed us that Defendants had the advertisements and had not approved them yet. A true and correct copy of the December 16, 2014 email from Outfront Media is attached hereto as **Exhibit 13**.

16. After yet another two weeks passed and we were becoming increasingly frustrated by the amount of time it was taking for Defendants to approve our Advertisements, we again requested an update on the process from Outfront Media, on or about December 30, 2014. A true and correct copy of the December 30, 2014 email to Outfront Media is attached hereto as **Exhibit 14**. Receiving no response, on or about January 12, 2015, we again contacted Outfront

Media and expressed our concern about Defendants' delay in approving our Advertisements and wondered whether the MTA was delaying approval because they had some issue with depicting Muslims in a positive light. A true and correct copy of the January 12, 2015 email to Outfront Media is attached hereto as **Exhibit 15**. On or about that same day, we asked Outfront Media for some estimate on when we might hear back from Defendants, in order to be able to provide transparency to our funders. On or about January 12, 2015, in response, Outfront Media noted that the approval process was taking "longer than usual." A true and correct copy of the January 12, 2015 email from Outfront Media is attached hereto as **Exhibit 16**.

17. On or about January 15, 2015, we demanded a response from Defendants no later than January 16, 2015, noting that VQP funders were upset that Defendants would not provide a timeline for approving our positive, apolitical Advertisements. A true and correct copy of the January 15, 2015 email to Outfront Media is attached hereto as **Exhibit 17**. On or about January 15, 2015, Defendants informed us, through Outfront Media, that they required us to re-submit the Advertisements without the joke, "Please draw your penis here." A true and correct copy of the January 15, 2015 email from Outfront Media is attached hereto as **Exhibit 18**. On the same day, we informed Outfront Media that we had already addressed this requirement and had submitted two sets of posters without the word, "penis." A true and correct copy of the January 15, 2015 email to Outfront Media is attached hereto as **Exhibit 19**. Also on that same day, we demanded a reason for Defendants' required changes, noting that Defendants were requiring us to remove or modify humorous statements from our Advertisements, for no legitimate reason. A true and correct copy of the January 15, 2015 email to Outfront Media is attached hereto as **Exhibit 20**.

18. On or about January 21, 2015, we resubmitted yet another version of the Advertisements to Outfront Media. A true and correct copy of the January 21, 2015 email (excluding attachments) to Outfront Media is attached hereto as **Exhibit 21**. On or about January

22, 2015, Outfront Media informed us that they had sent the Advertisements to the MTA for approval. A true and correct copy of the January 22, 2015 email from Outfront Media is attached hereto as **Exhibit 22**. On that same day, we noted to Outfront Media that we were hoping to have the Advertisements displayed no later than in February.

19. More than two months after we first submitted the Advertisements, on or about January 30, 2015, we again followed up with Outfront Media to determine whether there was any update on the process. On or about January 30, 2015, in response, Outfront Media informed us that the Advertisements were “[s]till with the MTA.” A true and correct copy of the January 30, 2015 email from Outfront Media is attached hereto as **Exhibit 23**. We informed Outfront Media that we would seek help from New York City elected officials in moving this excruciatingly and unreasonably slow approval process along.

20. On or about February 3, 2015, Outfront Media informed us that Defendants had requested more information about VQP itself, and that Outfront Media had sent Defendants a “link showing all the companies” with which VQP had worked. A true and correct copy of the February 3, 2015 email from Outfront Media is attached hereto as **Exhibit 24**. It was unclear why Defendants required this information and they provided no explanation for their demand.

21. On or about February 6, 2015, Outfront Media informed us that Defendants approved the Advertisements, with two exceptions. First, the phrase “stepping in poop” needed to be removed from a poster that listed things Muslims hate, even though, as with its previous requirement that we remove the word “penis,” that phrase did not violate the 2012 MTA Advertising Standards. Second, Defendants would not accept a poster that said, “Those terrorists are all ~~Muslims~~ nutjobs.” A true and correct copy of the February 6, 2015 email from Outfront Media is attached hereto as **Exhibit 25**. On or about February 11, 2015, we demanded an explanation for this additional requirement, noting that the MTA was unfairly scrutinizing our

harmless Advertisements and demanding additional changes to Advertisements that they had seen several months prior. A true and correct copy of the February 11, 2015 email to Outfront Media is attached hereto as **Exhibit 26**. On or about February 11, 2015, Outfront Media informed us that the rejection of “nutjobs” was on account of the font type used for that particular advertisement. A true and correct copy of the February 11, 2015 email from Outfront Media is attached hereto as **Exhibit 27**. Also, on or about February 11, 2015, Outfront Media informed us that Defendants would not accept the word, “poo,” because they “do not want certain words used.” A true and correct copy of the February 11, 2015 email from Outfront Media is attached hereto as **Exhibit 28**.

22. After again redesigning the two posters, we submitted them to Outfront Media on February 28, 2015. A true and correct copy of the February 28, 2015 email (excluding attachments) to Outfront Media is attached hereto as **Exhibit 29**.

23. After almost four months since originally submitting the Advertisements, on or about March 5, 2015, we again requested an update on the process. On that same day, Outfront Media responded that they “think the MTA will approve” the last two Advertisements. A true and correct copy of the March 5, 2015 email from Outfront Media is attached hereto as **Exhibit 30**.

24. On or about March 12, 2015, we again contacted Outfront Media by e-mail to request an update on the process.

25. On or about March 25, 2015, we informed Outfront Media that we learned through the New York City Public Advocate’s Office that Defendants had approved all but the two revised Advertisements. A true and correct copy of the March 25, 2015 email to Outfront Media is attached hereto as **Exhibit 31**. On that same day, Outfront Media initially responded that they were still waiting for approval for the two revised posters. A true and correct copy of

the March 25, 2015 email from Outfront Media is attached hereto as **Exhibit 32**. Later that day, Outfront Media informed us that Defendants had indeed approved the Advertisements. A true and correct copy of the March 25, 2015 email from Outfront Media is attached hereto as **Exhibit 33**.

26. On or about April 3, 2015, we signed and returned an initial contract, that we understood was approved by Defendants, to display the Advertisements in the New York City subway system from April 13, 2015, through May 10, 2015. A true and correct copy of the April 3, 2015 email to Outfront Media (with attachments) is attached hereto as **Exhibit 34**. On or about April 6, 2015, Outfront Media informed us that they had received the executed contract, and asked us when they would receive the posters. A true and correct copy of the April 6, 2015 email from Outfront Media is attached hereto as **Exhibit 35**.

27. In order to allow for preparation and printing time after the MTA's many adjustments to the schedule, on or about April 9, 2015, Outfront Media sent us a revised contract, that we understood to be approved by Defendants, to display the Advertisements in the New York City subway system from April 27, 2015, through May 24, 2015. A true and correct copy of the April 9, 2015 email from Outfront Media (with attachment) is attached hereto as **Exhibit 36**.

28. On or about April 14, 2015, we returned an executed contract to Outfront Media to post the Advertisements in 144 subway stations across New York City from April 27, 2015 through May 24, 2015. A true and correct copy of the April 14, 2015 email to Outfront Media (with attachment) is attached hereto as **Exhibit 37**. As per the contract, we submitted payment to Defendants in the amount of \$15,000. A true and correct copy of the April 2, 2015 credit card authorization form is attached hereto as **Exhibit 38**.

29. On or about April 22, 2015, Outfront Media sent us the list of locations where our posters would be displayed. There were 144 locations on the list. A true and correct copy of the April 22, 2015 email from Outfront Media (with attachment) is attached hereto as **Exhibit 39**.

30. On or about April 22, 2015, Outfront Media informed us that it would endeavor to post some copies of the Advertisements by April 27, 2015, but that in any event, the Advertisements would be posted in the subway system by April 28, 2015. True and correct copies of the April 22, 2015 emails from Outfront Media is attached hereto as **Exhibit 40** and **Exhibit 41**.

31. VQP expended resources, including a substantial amount of time and money, to promote and maximize the exposure of its advertising campaign by hiring a public relations firm and launching a public relations campaign.

32. More than five months after we originally submitted the Advertisements, on or about April 28, 2015, Outfront Media informed us that the posters were finally being prepped for display for that day. A true and correct copy of the April 28, 2015 email from Outfront Media is attached hereto as **Exhibit 42**.

33. Despite Defendants' approval and Outfront Media's assurances, the Advertisements were not posted in the subway system on April 27 or April 28, 2015, nor on any day thereafter.

34. On or about May 1, 2015, Outfront Media informed us that someone from MTA would call us. A true and correct copy of the May 1, 2015 email from Outfront Media is attached hereto as **Exhibit 43**.

35. On or about May 1, 2015, Peter Siström, Deputy General Counsel for MTA, and Peter Lyons, Associate Director of the MTA Real Estate Department, both on behalf of Defendants, called and informed me via telephone that they would not permit display of the

Advertisements in the subway system because of the MTA's Revised Policy. Mr. Siström and Mr. Lyons were extremely rude in delivering this unexpected news and informed me not to waste my time with any further action.

36. On or about May 6, 2015, we requested a decision in writing from Defendants' counsel. A true and correct copy of the May 6, 2015 email to Defendants' counsel is attached hereto as **Exhibit 44**.

37. On or about May 6, 2015, Defendant Rosen, on behalf of Defendants, issued a decision rejecting VQP's Advertisements. Outfront Media forwarded us this email on May 7, 2015. A true and correct copy of the May 6, 2015 email from Defendants is attached hereto as **Exhibit 45**.

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

Executed on August 10, 2015.



Negin Farsad