

## SPJ LEGAL DEFENSE FUND APPLICATION

**1. Name of Organization/Individual:**

Portland Business Journal

**2. Postal Address of Organization/Individual:**

851 S.W. Sixth Ave., Suite 500  
Portland, OR 97204

**3. Organization's Federal Tax Number/EIN: (if applicable)**

43-1366184

**4. Name of Official Signatory for Organization:**

Craig Wessel, publisher

**5. Phone Number of Contact for Organization:**

Suzanne Stevens, editor: 503-219-3480

**6. Point of Contact email address:**

sstevens@bizjournals.com

**7. Date of Funding Request:**

Immediate. A funding commitment is needed in order to initiate litigation.

**8. Amount of Request:**

The Portland Business Journal seeks institutional and financial support from the Society of Professional Journalists and the National Freedom of Information Coalition in order to unseal court records that will show how much Nike's board of directors knew about allegations of sexual harassment and gender discrimination.

The Portland Business Journal is willing to invest \$2,500 in the effort, but needs a financial backstop if costs exceed that amount. The Business Journal's attorney estimates costs should not exceed \$13,750, which means the Business Journal could need as much as \$11,250 in financial support.

**9. Please give a brief description (100 words or less) of the case. If an appeal, please provide history.**

In the wake of complaints about sexual harassment of women and gender discrimination, Nike shareholders sued the company's board of directors on Aug. 31. They argued directors knew about the problems and didn't do enough to protect shareholders. Nike argued to have the most important facts in the lawsuit filed under seal, characterizing them as "trade secrets." Because plaintiff's attorneys are bound by a confidentiality order, they could not challenge Nike's effort to seal parts of the complaint. A judge agreed to Nike's request, but said he would revisit the issue if challenged by the media. (See Dropbox link for legal documents and related news coverage.)

**10. Please state how the funds will be used. Please note, the LDF reimburses legal expenses only.**

The Portland Business Journal wants to work with local press champion Jeff Merrick to challenge the seal. Merrick is well respected in Portland journalism circles. His market rate is \$495 per hour. He has agreed to work for the reduced rate of \$350 per hour. He has further agreed to do the first 35 hours of work for \$2,500.

In order to contest the seal, Merrick needs to file a motion and argue at a hearing. The work will likely cost less than \$2,500. The Business Journal is willing to pay the first \$2,500 of costs.

But the Business Journal needs to prepare for the contingency Nike will make the effort more expensive by filing individual responses on behalf of each named defendant. If that happens, the work could take as many as 80 hours of work. Merrick has agreed to work for \$250 per hour after 35 billable hours. That would mean an additional 45 hours of work, meaning we could need as much as \$11,250 in legal support.

Merrick is happy to answer questions about the potential costs and legal issues in the case:

Jeff Merrick  
Merrick Law, LLC  
811 SW Naito Pkwy., Suite 420  
Portland, OR 97204  
Mobile: 503-720-3613  
jmerrick@jeffmerrick.com

*Do not include in response to either Item 12 or Item 13 the value of in-kind support.*

**11. Please indicate how much in outside support your organization has raised specifically for the case for which this funding request is being submitted. Identify the source(s) of those funds.**

The Portland Business Journal has not raised any outside funding, but it is also applying for funding from the National Freedom of Information Coalition and the Press Freedom Defense Fund.

**12. Not counting what you hope to receive from this award, how much additional outside support do you expect your organization will raise for this case during the six-month period immediately following the date of this funding application.**

The Portland Business Journal does not expect this matter to require additional funding beyond this single motion and a resulting hearing.

**13. If this is an ongoing case, how was the project funded last year and how will it continue be funded?**

Not applicable.

**14. Briefly describe, and provide a valuation for, any in-kind support for the case. *Your valuation of in-kind support should not include time or volunteer services provided directly by your board or staff, although in-kind contributions of those individuals, companies, employers or professional organizations should be included.***

The Business Journal's coverage of Nike is led by veteran reporter Matthew Kish, a longtime SPJ member and a former board member of the SPJ chapters in Oregon and at Columbia University. Kish also recently joined the Oregon chapter's FOI committee. In his work with SPJ, Kish has organized four statewide journalism conferences and written an annual report for the Columbia University chapter. Questions about his qualifications and SPJ volunteer work can be directed to SPJ Sunshine Award winner Nick Budnick: 503-961-5025.

**15. How will this case be publicized?**

Kish is a recent Knight-Bagehot fellow at Columbia University where he studied with Walt Bogdanich and Steve Coll. He was the only reporter who attended the hearing at which Nike argued to seal the lawsuit. His reporting on the company is aggressive, important and fair.

The Portland Business Journal has been recognized with three national general excellence awards in the past four years and has won numerous SABEW awards, among other accolades.

**16. If a journalist or member of a news organization, what broad journalistic purpose will be served by this case?**

Nike is a Fortune 100 company and this lawsuit is the most important corporate litigation related to the #MeToo movement. It has sweeping ramifications for how companies address claims of sexual harassment and gender discrimination.

Support from the Society of Professional Journalists and National Freedom of Information Coalition would send a powerful message and hopefully deter similar efforts by corporations to suppress information that is in the public interest.

**17. Please list previous funding your organization has received in the last three years from the National Freedom of Information Coalition or the Legal Defense Fund.**

This is the Portland Business Journal's first application for funding from the Legal Defense Fund or National Freedom of Information Coalition. It is a rare and important request.

**Attachments:**

1. Please provide, as Attachment A, a Budget, on official letterhead, with the estimated costs for the case.

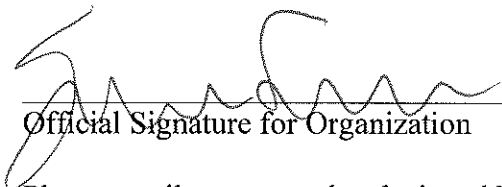
a. The following statement must be included at the bottom of the invoice: *"I certify that to the best of my knowledge and belief the data above is correct, and that all outlays will be made in accordance with the grant agreement, and that payment is due and has not been previously requested."*

b. An official signature for the organization/individual must be directly under the statement.

2. Please provide as links or attachment(s) in PDF any supporting documentation, including pleadings, copy of lawsuit or initial complaints, news coverage or any other memoranda related to the litigation.

Notes:

- All funds received must be used strictly in accordance with the proposal and budget submitted to the NFOIC and/or SPJ LDF. Any funds that are not expended must be returned to the NFOIC.
- All recipients of funds from the NFOIC and/or SPJ LDF must report at specific times on the project.
- A six-person committee reviews LDF requests for up to \$5,000. Anything above \$5,000 requires a vote of the full SPJ board.
- Information from this application could be used on the SPJ Web site or by SPJ in other ways to promote understanding of a First Amendment legal issue and the events. Your personal information, such as your phone number and address will not be made public.
- If project funding is approved, you will receive notification from the LDF Chair and/or a NFOIC Knight FOI Fund Award Letter and a NFOIC Knight FOI Fund Consulting Agreement form, which must be fully executed prior to payment being issued.

  
\_\_\_\_\_  
Official Signature for Organization

9/14/18  
\_\_\_\_\_  
Date

Please email your completed, signed NFOIC Knight FOI Fund Application to [nfoic@nfoic.org](mailto:nfoic@nfoic.org) with "FOI Fund" in the subject line

Email your LDF application to [legaldefense@spj.org](mailto:legaldefense@spj.org).

PLEASE MAIL ANY SUPPORTING DOCUMENTS THAT CANNOT BE SENT ELECTRONICALLY TO:

Baker Hostetler  
Washington Square, Suite 1100  
1050 Connecticut Avenue,  
NW Washington, DC 20036  
(202) 861-1660