

**UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
Charlottesville Division**

ELIZABETH SINES, SETH WISPELWEY,
MARISSA BLAIR, TYLER MAGILL, APRIL
MUNIZ, HANNAH PEARCE, MARCUS
MARTIN, NATALIE ROMERO, CHELSEA
ALVARADO, and JOHN DOE,

Plaintiffs,

v.

JASON KESSLER, RICHARD SPENCER,
CHRISTOPHER CANTWELL, JAMES
ALEX FIELDS, JR., VA, ANDREW
ANGLIN, MOONBASE HOLDINGS, LLC,
ROBERT “AZZMADOR” RAY, NATHAN
DAMIGO, ELLIOT KLINE a/k/a/ ELI
MOSLEY, IDENTITY EVROPA,
MATTHEW HEIMBACH, MATTHEW
PARROTT a/k/a DAVID MATTHEW
PARROTT, TRADITIONALIST WORKER
PARTY, MICHAEL HILL, MICHAEL
TUBBS, LEAGUE OF THE SOUTH, JEFF
SCHOEP, NATIONAL SOCIALIST
MOVEMENT, NATIONALIST FRONT,
AUGUSTUS SOL INVICTUS, FRATERNAL
ORDER OF THE ALT-KNIGHTS,
MICHAEL “ENOC” PEINOVICH, LOYAL
WHITE KNIGHTS OF THE KU KLUX
KLAN, and EAST COAST KNIGHTS OF
THE KU KLUX KLAN a/k/a EAST COAST
KNIGHTS OF THE TRUE INVISIBLE
EMPIRE,

Defendants.

Civil Action No. 3:17-cv-00072-NKM

**PLAINTIFFS’ MOTION FOR SANCTIONS AGAINST DEFENDANT VANGUARD
AMERICA**

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Plaintiffs respectfully submit this memorandum of law in support of their motion pursuant to Rule 37 of the Federal Rules of Civil Procedure and the Court's inherent authority for sanctions against Defendant Vanguard America ("VA").

PRELIMINARY STATEMENT

Here we are again: another day, another Defendant flouting discovery obligations. But VA's abject defiance of all Court orders and processes sets it apart from the other non-compliant Defendants: VA's own lawyer finds its conduct in discovery indefensible. Counsel for VA said it best: "Vanguard is a problem." Because of VA's failure to produce its electronic devices to the third-party vendor, this Court issued an order to show cause, affording VA fourteen days to demonstrate "why it should not be held in contempt of court for its failure to obey Fed. R. Civ. P. 37(b)(2)(A)(vii)." In response, VA characteristically thumbed its nose, providing no explanation for its failure to comply with multiple court orders. While contempt is appropriate at this point, given the central role VA played in this conspiracy and thus the amount of important evidence their bad faith defiance might keep from the jury, Plaintiffs will be severely prejudiced without additional case-related remedies.

As a primary organizer of the events in Charlottesville, and the Defendant who marched in lockstep with James Fields on August 12th up to the moment he drove his car through a crowd of people, VA has the most to lose in this case, and therefore the most to hide. Like other Defendants, VA paid lip service to this litigation until it came time to surrender the evidence of the actual communications its members had with others about these events. Once directly ordered by the Court to provide its electronic devices, VA simply disappeared, leaving Plaintiffs significantly prejudiced in their ability to discover and authenticate evidence of critical documents and communications.

Plaintiffs seek a remedy expressly contemplated by the Federal Rules and tailor-made to this particular form of prejudice: that the Court deem certain facts established that Plaintiffs believe they could otherwise prove if VA had simply complied with this Court's orders. Sanctions are additionally needed to restore order to this judicial process and stem the tide of Defendants running from accountability by following each other out the back door, never to be heard from again. Plaintiffs seek the following sanctions under Rule 37 and this Court's inherent authority:

1. That the Court deem the facts listed in the attached Exhibit 1 established for purposes of this action;
2. That the Court deem "authentic" for purposes of satisfying Rule 901 of the Federal Rules of Evidence any documents Plaintiffs have a good faith basis to believe were in fact created by Defendant VA, including, but not limited to, all documents from the social media accounts listed in Exhibit 1;¹
3. That the Court instruct the jury that Defendant VA chose to intentionally withhold its documents and that the jury may draw adverse inferences from that fact, including that VA chose to withhold such documents because it was aware that such documents contained evidence that Defendant VA conspired to plan racially-motivated violence at the Unite the Right event; and
4. Reasonable expenses, including attorney's fees.

FACTUAL BACKGROUND

I. Vanguard America Played a Significant Role in the Conspiracy

VA was one of the early architects of the Defendants' conspiracy to commit racially motivated violence in Charlottesville. Members of VA planned and attended a May 13, 2017 event ("Charlottesville 1.0") in Charlottesville. (First Amended Complaint ("FAC"), ECF No. 175 at ¶¶ 50-53; Ex. 2 at 1 (Vanguard America, *On Charlottesville --Why We Fight*, BLOODANDSOIL.ORG (June 1, 2017).) As VA members would later do on August 11th, on May 13th, they marched to

¹ Plaintiffs reserve the right to request that additional facts or documents be deemed established or authentic as additional facts or documents are revealed in discovery.

the statue of Robert E. Lee carrying lit torches while chanting racist, anti-Semitic chants. (*See* FAC, ECF No. 175 at ¶¶ 50-53; Ex. 2 at 2.) Buoyed by the perceived success of the May 13th event, Defendant and co-conspirator Jason Kessler sought a permit for the Unite the Right “rally” on the weekend of August 11th. (*Id.* at ¶¶ 53-55.)

VA then coordinated closely with several other Defendants as part of a “joint operation” to plan, promote, and direct the events in Charlottesville on August 11th and 12th. (*Id.* at ¶¶ 319.) VA created an invite-only channel on a private server on Discord, a social media platform, so that its members could privately communicate with one another about their plans for the weekend events in Charlottesville. (*Id.* at ¶¶ 72-81.) Other Defendants, like Defendant Ray, and other “rally” organizers also communicated with VA’s members over the group’s private server – called “Southern Front” – about their plans for Charlottesville. (*See e.g., id.* at ¶¶ 93, 116; Ex. 3 (Excerpt from Southern Front Discord Server on May 17, 2017.) On its private channel, its private server, and elsewhere, VA’s leaders published advertisements for the Unite the Right “rally,” offered to bring members to Charlottesville on a “hate bus,” and gave members directives about how to dress and arm themselves. (FAC, ECF No. 175 at ¶¶ 114-115; Ex. 4 (Excerpt from @VanguardAm’s Twitter Profile on Aug. 11, 2017); (Ex. 5 (First Excerpt from Southern Front Discord Server on Jun. 26, 2017); Ex. 6 (Second Excerpt from Southern Front Discord Server on Jun. 26, 2017).) Indeed, Thomas Ryan Rousseau, a leader of VA, informed his constituents about his understanding of the concealed carry laws in Virginia and how best to bring knives to the “rally.” (*See* Ex. 7 at 7 (Anti-Defamation League, *VA*, ADL.ORG, <https://www.adl.org/resources/backgrounders/vanguard-america> (last visited April 8, 2019); Ex. 8 at 2-3 (Southern Poverty Law Center, *Thomas Rosseau*, SPLCENTER.ORG, <https://www.splcenter.org/fighting-hate/extremist-files/individual/>

thomas-rousseau (last visited on April 8, 2019); FAC, ECF No. 175 at ¶¶ 114-115; Ex. 9 (Excerpt from Southern Front Discord Server on Aug. 7, 2017).) Following Rousseau’s lead, VA members posted messages on Southern Front during the events on August 12th encouraging one another to “incite a riot already,” and to “[b]eat [Antifa’s] shit in.” (Ex. 10 (First Excerpt from Southern Front Discord Server on Aug. 12, 2017); Ex. 11 (Second Excerpt from Southern Front Discord Server on Aug. 12, 2017).)

In addition to planning and promoting the Events, VA played a significant role in Charlottesville on the ground during the weekend of August 11th. VA leaders and members communicated with one another on Discord throughout the weekend of August 11th, tracking the events in real-time on-line and encouraging its members to behave violently. (*See e.g.*, FAC, ECF No. 175 at ¶¶ 167, 185, 218; Ex. 12 (E-mail from J. Kolenich to Plaintiffs’ Counsel regarding VA’s Resp. and Objs. to Pls. First Interrogs. and Reqs. for Prod. of Docs. (Apr. 18, 2018)); Ex. 13 (Third Excerpt from Southern Front Discord Server on Aug. 12, 2017).)² On Friday, August 11th, hordes of white supremacists arrived at Nameless Field wearing the VA uniform—white polo shirt and khaki pants—as planned on Discord. (*See* FAC, ECF No. 175 at ¶ 153; Ex. 14 (Excerpt from Southern Front Discord Server on Jun. 21, 2017).) The following day, in addition to showing up in large numbers in matching VA uniforms, many members brought homemade shields and flags bearing VA’s logo. (*Id.* at ¶¶ 153, 197.) VA members led Defendants and other co-conspirators on a march in formation to Emancipation Park, where they chanted racist and anti-Semitic slogans. (*Id.* at ¶ 197.) After Governor McAuliffe declared a state of emergency on August 12th, VA

² We have omitted the attachment to Exhibits 12, 33, and 26 from this public filing either because counsel for Defendants designated the attachment as Highly Confidential or because the material is designated as Highly Confidential by agreement of the parties pursuant to the Confidentiality Order. Plaintiffs omit these attachments without waiver of any objection to Defendants’ designations. Should the Court wish to review the omitted attachments, Plaintiffs are prepared to file them under seal or in another manner the Court prefers.

followed Defendants Ray, Cantwell and others to McIntire Park, where Defendants and co-conspirators threatened and assaulted counter-protestors. (*Id.* at ¶¶ 228-229.)

Notably, Defendant James Fields spent much of August 12th with members of VA. (*Id.* at ¶ 197.) Fields was one of the first co-conspirators to arrive at Emancipation Park on August 12th. (*See* Ex. 15 (Hawes Spencer, *Summer of Hate*, photograph insert following 118, (Univ. of VA Press 2018)).) On that morning, as if previously discussed, he arrived fully-clad in the VA uniform and assembled with other VA members. (FAC, ECF No. 175 at ¶¶ 197.) Fields admits to communicating with individuals “wearing white polo shirts with the VA symbol” on August 12th. (Ex. 16 (E-mail from D. Campbell to Counsel regarding Fields’ Amended Resps. and Objs. to Pls.’ Interrogs. and Reqs. for Prod. of Docs. (April 16, 2018)).)³ Fields appears to have spent most of the day with VA; throughout the morning and afternoon of the 12th, Fields was seen marching in the VA uniform, with VA members, while carrying a shield decorated with a VA logo. (*See* FAC, ECF No. 175 at ¶ 197; Ex. 17 at 1 (Jason Wilson, *Charlottesville: Man Charged with Murder was Pictured at Neo-Nazi Rally*, THE GUARDIAN (Aug. 13, 2017), <https://www.theguardian.com/us-news/2017/aug/13/charlottesville-james-fields-charged-with-was-pictured-at-neo-nazi-rally-vanguard-america>)).) Months before attending the “rally,” Fields made his intentions known when he posted a meme on Instagram depicting a car crashing into a group of protestors. (*See* Ex. 18 (Jasmine Turner, *Fields’ Instagram Posts Depicting Car Running Into Crowd to be Shown*, NBC12.COM (Nov. 30, 2018), <http://www.nbc12.com/2018/11/30/fields-instagram-posts-depicting-car-running-into-crowd-allowed-trial/>)). And on the afternoon of

³ Although counsel for Fields did not designate his Amended Responses and Objections to Plaintiff’s First Interrogatories confidential, we have omitted the attachment to Ex. 16 from this public filing because the attachment contains confidential information, such as phone numbers. Should the Court wish to review the omitted attachment, Plaintiffs are prepared to file it under seal or in another manner the Court prefers.

August 12th, after spending the day with VA members, Fields acted exactly as planned—he crashed his car into a crowd of counter-protesters and bystanders, killing Heather Heyer and injuring Plaintiffs and many others. On August 13th, VA members ratified and celebrated Fields’ violent rampage from the day before, describing Fields as a “USA Patriot” and suggesting Vanguard America should hand out “dodge challengers instead” of shields. (*See* FAC, ECF No. 175 at ¶¶ 266, 270; Ex. 19 (First Excerpt from Southern Front Discord Server on Aug. 13, 2017); Ex. 20 (Second Excerpt from Southern Front Discord Server on Aug. 13, 2017).) VA also celebrated its own violent conduct, calling August 12th “the biggest victory for our movement history...[w]e gave many people shields, we fought and shed blood for our people today.” (Ex. 21 (Third Excerpt from Southern Front Discord Server on Aug. 13, 2017). Indeed, its members appeared to measure the organization’s success by the extent of the harm they caused, bragging that VA members “fucked up many commies,” and “hospitalized dozens.” (Ex. 22 (Fourth Excerpt from Southern Front Discord Server on Aug. 13, 2017).

II. Vanguard America has Failed to Meaningfully Participate in Discovery and Flagrantly Disregarded this Court’s Orders

Plaintiffs issued an electronic summons in this action to VA on October 19, 2017. (ECF No. 50.) Dillon Hopper a/k/a Dillon Irizarry was served with a summons as the representative for VA on November 17, 2017. (ECF No. 157.) On January 25, 2018 Plaintiffs served a request for documents on all defendants which sought, generally speaking, all documents related the events described in the complaint, broken down into eight separate categories. (*See* Pls. [Corrected] First Set of Reqs. for Prod. of Docs., ECF No. 432-1.) This straightforward request sought electronic documents, including, for example, e-mails, text messages, and content posted on social media, and also instructed VA to preserve all documents and communications relevant to this lawsuit. (*Id.* at 3; 5-6.) On the same date, Plaintiffs served VA with a set of interrogatories, asking VA to

identify, among other things, all means of communication used to communicate about the events listed in the complaint, as well as the electronic devices used for such communication. (*See* Pls. First Set of Interrogs., ECF No. 432-2.) VA did not respond.

On March 3, 2018, Plaintiffs served counsel for VA with a letter regarding Defendants' failure to respond to Plaintiffs' discovery requests and reminding Defendants of their obligation to preserve all documents responsive to Plaintiffs' discovery requests. (*See* Ex. 23 (Letter from J. Fink to E. Woodard & J. Kolenich) (Mar. 9, 2018).) One and a half months later, VA responded to Plaintiffs' requests. (*See* Ex. 12.) In its belated response, VA represented under oath that the "Charlottesville Planning Server" on Discord was the only way VA communicated about the events of this lawsuit. (*Id.* at 1.) With respect to the electronic devices used to communicate concerning the events, VA represented that it used "VA member desktop computers or mobile devices." (*Id.* at 2.) In response to Plaintiffs' request for responsive documents, VA represented it has "none in [its] possession" and that "no special steps were taken" to preserve responsive documents and communications, despite having been served with a summons for this action in October of 2017. (*See id.* at 2-3.)

Plaintiffs followed up on VA's response with a letter to its attorneys two weeks later describing the inadequacy of Defendants' responses. (Letter from G. Tenzer to J. Kolenich and E. Woodard (Apr. 24, 2018), ECF No. 432-4.) Among other things, Plaintiffs requested that by May 1, 2018, VA confirm for each of Plaintiffs' requests for production that VA, in fact, had no responsive documents or communications in its possession. (*See id.* at 2.) Plaintiffs also asked VA (1) to provide the necessary Stored Communications Act ("SCA") consents to Plaintiffs so that Plaintiffs could collect relevant documents from providers of VA's electronic communication services, and (2) to execute Plaintiffs' Proposed Order and Stipulation for the Production of

Electronically Stored Information (“ESI”) and Proposed Evidence Preservation Stipulation and Order (the “Proposed Orders”). (*See id.* at 2-3; Ex. 24 (E-mail from C. Greene to J. Kolenich (April 24, 2018).) Plaintiffs asked that Defendants provide the SCA consents and execute the orders by May 4, 2018. (ECF No. 432-4 at 2-3.) On May 10, 2018, having received nothing from Defendants, Plaintiffs sent another letter to Defendants again asking them to sign the SCA consents and the Proposed Orders. (Ex. 25 (Letter from G. Tenzer to J. Kolenich (May 10, 2018).) In that letter, Plaintiffs notified VA of various deficiencies in VA’s response to Plaintiffs’ discovery requests, including VA’s “failure to identify the ‘Southern Front’ Discord server” as a means by which VA communicated about the events at issue in this lawsuit. (*Id.* at Ex. A, 4.) Plaintiffs also asked that VA, in accordance with Plaintiffs’ fourth interrogatory, state the nature, type, location, and identity of the person who has custody of the devices used by VA to communicate about the events. (*Id.* at 4.)

Despite numerous letters, e-mails and attempts to negotiate, nine months after Plaintiffs’ first document request, Plaintiffs still had not received a single document nor had they received executed versions of the Proposed Orders from VA. Having received nothing from VA – as well as a host of other Defendants – Plaintiffs were forced to file a Motion to Compel Defendants to Permit Inspection and Imaging of Electronic Devices on October 2, 2018. (*See* Mot. to Compel Defs. to Permit Inspection and Imaging of Electronic Devices, ECF No. 354.) Generally speaking, Plaintiffs sought to compel Defendants, including VA, to submit their electronic devices and social media accounts that contained potentially relevant documents to a neutral, third-party vendor (the “third-party vendor”) for imaging and preservation of the evidence contained on their electronic devices. VA, through Mr. Kolenich, opposed that motion. (*See* Resp. in Opp. to Mot. to Compel Inspection and Imaging of Electronic Devices, Oct. 16, 2018, ECF No. 356.) After the parties

fully briefed the issue, the Court granted Plaintiffs’ motion on November 13, 2018. (*See* Order, Nov. 13, 2018, ECF No. 379.) During argument on the motion, the Court noted that “these discovery requests were issued in January; now it is November. And it is a significant delay.” (Tr. of Telephonic Mot. Hrg, Nov. 9, 2018, ECF No. 385 at 8.)

On November 19, 2018, the Court issued the Stipulation and Order for the Imaging, Preservation, and Production of Documents (the “Imaging Order”). (*See* ECF No. 383.) In the Imaging Order, the Court ordered the parties to identify all electronic devices and social media accounts with information responsive to the opposing party’s discovery requests on a certification (the “Certification”). (*Id.* at 8.) The Court ordered the parties to provide the Certifications to opposing counsel by December 3, 2018. (*Id.* at 8.) The Court further ordered the Defendants to make their electronic devices and social media accounts available to the third-party vendor by December 17, 2018. (*Id.*) On December 7, 2018, VA provided a Certification to Plaintiffs that Plaintiffs now know is woefully incomplete. (*See* Ex. 26 (E-mail from J. Kolenich to Counsel regarding VA Certification (Dec. 7, 2018)).)

On its Certification, VA, an organization of approximately 200 members, listed a single electronic device – a cell phone. (*See* Ex. 26 at 1; Ex. 7 at 4.) But, in its verified response to Plaintiffs’ interrogatories, VA admitted to communicating about the events at issue in this case on “VA member desktop computers or mobile devices.” (Ex. 12.)

Likewise, the Certification listed only social media accounts for Dillon Hopper, but Plaintiffs have good reason to suspect VA has numerous other social media accounts with relevant content. (*See* Ex. 26 at 1.) Plaintiffs are aware of at least two separate Twitter accounts, @VanAmOfficial and @VanGuardAm, that published material about the Unite the Right “rally” before and after the “rally.” (*See* Ex. 4; Ex. 27 (First Excerpt from @VanAmOfficial’s Twitter

Profile on Dec. 1, 2017); Ex. 28 (Excerpt from @VanAmOfficial's Twitter Profile on Dec. 14, 2017); Ex. 29 (Second Excerpt from @VanAmOfficial's Twitter Profile on Dec. 1, 2017)). Additionally, VA identified only two Discord accounts on its Certification, both of which seem to belong to Dillon Hopper. But, Hopper appears to have left off numerous other Discord accounts including those of Thomas Rosseau, for example, who were empowered to speak on behalf of VA on Discord. (*See e.g.*, Ex. 30 (Excerpt from TradWorker Discord Server on Feb. 1, 2017); Ex. 31 (Excerpt from Southern Front Discord Server on Jun. 20, 2017).)

Plaintiffs also have good reason to believe that Hopper is not the sole custodian of documents for VA. For one thing, VA's response to Plaintiffs' interrogatories reflects that the group used various members' electronic devices to communicate about the events at issue in this case. (Ex. 26; Ex. 12.) For another, Plaintiffs understand that Thomas Rosseau took over VA's servers prior to the events in Charlottesville and led VA's members in Charlottesville during the Unite the Right "rally." (*See* Ex. 8 at 2-3.) Given these deficiencies in VA's Certification, Plaintiffs have requested, but have not yet received, an updated, complete Certification from each Defendant, including VA. (*See* Tr. of Telephonic Hrg., Mar. 18, 2019, ECF 455 at 20-21).)

As the Court knows, Defendants, including VA, caused substantial delays in discovery by taking months to negotiate and execute the imaging contract with the third-party vendor. (*See* Mot. for Sanctions against Def. Schoep, Feb. 27, 2019, ECF No. 432 at 6-7). As a result of these delays, the Court moved the fact discovery deadline back to April 17, 2019. (*See* Order, Jan. 4, 2019, ECF No. 397.) During a February 12 telephonic hearing regarding the discovery vendor contract, Plaintiffs specifically requested that the Defendants' electronic devices be turned over and access to social media accounts be provided at the time the contract is executed. (*See* Mot. for Sanctions against Def. Schoep, Feb. 27, 2019, ECF No. 432-7 at 12-13.) The Court asked Mr.

Kolenich whether there was any problem with that. (*Id.*) Mr. Kolenich replied, “No. As I understand it, there’s no -- most of my clients are squared away with just sending it in these Faraday bags that the vendors will send. One or two of them, like, if there’s a larger device, if there’s someplace they can meet near where the client is. . . . I don’t foresee it being a problem. All of my people, as best I can tell . . . I understand that they’re going to have to turn these devices over and they’re prepared to do it.” (*Id.* at 13.) With respect to social media accounts, Plaintiffs asked that defense counsel “start pulling those all together to provide to the vendor so that once they get the devices and the account, they can immediately start performing the work that they need.” (*Id.* at 14-15.)

The Court held a telephonic hearing on February 21, 2019 regarding an update as to the status of the electronic device collection and production process. Not a single Defendant had yet provided the vendor with a single electronic device and the Defendants were just beginning the process of providing the vendor with their social media account credentials. (Tr. of Telephonic Hrg., Feb. 21, 2019, ECF No. 432-11 at 6.) On March 1, 2019, the Court held another telephonic hearing and again asked about progress on discovery. (Tr. of Telephonic Hrg., Mar. 1, 2019, ECF No. 441 at 18.) Again, Plaintiffs informed the Court that Defendants had turned over no electronic devices. (*Id.* at 18.) Two days later, the Court issued an order requiring all Defendants to “produce their electronic devices and social media account credentials to access” ESI “to the third-party vendor by the end of the day on Friday, March 8, 2019.” (Order, March 4, 2019, ECF No. 440 at 3.) March 8th came and went and still VA had not provided any electronic devices to the third-party vendor.

By the next telephonic hearing, several Defendants had sent electronic devices to the third-party vendor. Though VA provided partial account credentials to a few accounts, VA still had not

sent a single device.⁴ (*See* Ex. 32 (E-mail from M. Bloch to the Court (Mar. 18, 2019); Tr. of Telephonic Hrg., Mar. 18, 2019, ECF No. 455 at 14).) Counsel for VA candidly admitted that:

Vanguard is a problem. Vanguard has not turned over the devices they were supposed to turn over and is not listening to counsel on the necessity of hurrying up and providing this stuff, so I really don't have anything to say in regard to them other than it might be useful for the Court to give them sort of a warning shot that, you know, you're not kidding, sanctions possible in this circumstance, and give them one last chance to comply. . . So I think if the Court could send, you know, some sort of -- some sort of warning before actually imposing sanctions or making us go through motion practice, with Vanguard that might be useful to at least bring this to a conclusion that either he is or is not going to cooperate.

(Tr. of Telephonic Hrg., Mar. 18, 2019, ECF No. 455 at 14.) In response to the Court's statement that the Court might issue an order to show cause, counsel for VA stated: "the show cause order is sort of exactly what I was envisioning. I can't -- I can't deny that it had not been complied with. There's been no indication that I can give the Court that there's been any effort to comply on that one client." (*Id.* at 15.) Lest there be any doubt as to VA's willful disobedience of this Court's orders, Counsel continued: "Vanguard richly deserves the order to show cause; I can't say otherwise." (*Id.* at 23.)

Two days later, on March 20, 2019, the Court issued an Order to Show Cause. (*See* Order to Show Cause, March 20, 2019, ECF No. 452.) The Court ordered VA to file a written response showing why it should not be held in contempt for its failure to obey the Court's November 19, 2018 Imaging Order (ECF No. 383) and the Court's March 4, 2019 Order (ECF No. 440) requiring Defendants to provide their electronic devices to the third-party vendor by March 8, 2019. (*See* Order to Show Cause, March 20, 2019, ECF No. 452.) The Court gave VA fourteen days to file a

⁴ In total, VA provided credentials to a single e-mail account for Dillon Hopper and an SCA consent for his Discord posts. Through third-party discovery, Plaintiffs received content from the Discord server "Southern Front," although it is difficult for Plaintiffs to authenticate the documents without the participation of any members of VA.

written response. (*See id.* at 2.) On the fourteenth day, April 3, 2019, counsel for VA affirmed that he had provided a copy of the Order to Show Cause to VA, spoke to VA on the phone, and “explained what [the Order] means.” (Resp. to Order to Show Cause, Apr. 3, 2019, ECF No. 458 at 1.) Unable to defend VA’s conduct, counsel for VA honorably admitted: “I have not received any information, as of April 3, 2019, indicating compliance with pending Court orders or showing cause why compliance should be excused.” (ECF No. 458-1 at 1.)

Nearly fifteen months have passed since Plaintiffs’ initial discovery request to VA. In that time, VA provided a Certification that omits electronic devices and social media accounts that Plaintiffs have reason to believe contain documents and communications that are responsive to Plaintiffs’ discovery requests. And, as of April 9, 2019 when the parties received the most recent third-party vendor report, VA had yet to provide the third-party vendor with any electronic devices. (Ex. 33 (E-mail from Third-Party Vendor to Plaintiffs’ Counsel and Defendants’ Counsel regarding iDS Weekly Status Report (April 9, 2019)).⁵

ARGUMENT

A court has wide discretion to impose sanctions under Rule 37 and its inherent authority when a party fails to serve its answers, objections, or written response to discovery requests or to comply with discovery ordered by the court. *See* Fed. R. Civ. P. 37(b)(2) & (d)(3); *Mut. Fed. Sav. & Loan v. Richards & Ass’n*, 872 F.2d 88, 94 (4th Cir. 1989). It is generally recognized that sanctions are intended to: (1) penalize culpable parties; (2) deter others from engaging in similar conduct; (3) compensate the court and other parties for expense caused; and (4) compel discovery. *See* Gregory P. Joseph, *Sanctions: The Federal Law of Litigation Abuse*, § 49 (2013) (citing

⁵ We have made a redaction to Ex. 33, and omitted the attachment, consistent with the mandates of the Confidentiality Order. Should the Court wish to review the omitted and redacted material, Plaintiffs are prepared to file it under seal or in another manner the Court prefers.

Carlucci v. Piper Aircraft Corp., 775 F.2d 1440, 1453 (11th Cir. 1985)). Thus, the range of available sanctions “serve both normative—designed to punish culpable conduct and deter it in others—and compensatory—designed to put the party adversely affected by the spoliation in a position that is as close to what it would have been in had the spoliation not occurred—functions.” *Victor Stanley, Inc. v. Creative Pipe, Inc.*, 269 F.R.D. 497, 534 (D. Md. 2010). “Rule 37 is flexible,” and courts are permitted to “use as many and as varied sanctions as are necessary to hold the scales of justice even.” *Victor Stanley, Inc. v. Creative Pipe, Inc.*, No. 06-CV-2662, 2016 WL 1597119, at *4 (D. Md. Apr. 20, 2016) (citation omitted).

Rule 37 specifies a nonexclusive list of substantive, case-related sanctions for failure to obey a discovery order, ranging from an order establishing certain facts to the entry of a default judgment. *See* Fed. R. Civ. P. 37(b)(2)(A); *Camper v. Home Quality Mgmt. Inc.*, 200 F.R.D. 516, 517–18 (D. Md. 2000). Rule 37 also provides that the Court *must* order the payment of expenses by the disobedient party, including “the reasonable expenses, including attorney’s fees, caused by the failure, unless the failure was substantially justified or other circumstances make an award of expenses unjust.” Fed. R. Civ. P. 37(b)(2)(C); Fed. R. Civ. P. 37(d)(3). A court may also award sanctions for discovery violations pursuant to its inherent authority. *See, e.g., Projects Mgmt. Co. v. Dyncorp Int’l LLC*, 734 F.3d 366, 375 (4th Cir. 2013) (“[A] court acting under its inherent authority may impose sanctions for any conduct utterly inconsistent with the orderly administration of justice.” (Citation and internal quotation marks omitted)); *Sampson v. City of Cambridge*, 251 F.R.D. 172, 178–79 (D. Md. 2008).

The Fourth Circuit has developed a four-part test for determining what sanctions to impose under Rule 37: “(1) whether the noncomplying party acted in bad faith;⁶ (2) the amount of prejudice that noncompliance caused the adversary; (3) the need for deterrence of the particular sort of noncompliance; and (4) whether less drastic sanctions would be effective.” *Anderson v. Found. for Advancement, Educ. & Emp’t of Am. Indians*, 155 F.3d 500, 504 (4th Cir. 1998). The presence or absence of any one of these factors is not dispositive. *See, e.g., Victor Stanley*, 269 F.R.D. at 533.

Additionally, the Court has the power to sanction parties under its inherent authority. The factors courts consider largely mirror those courts apply under Rule 37:

(1) the degree of the wrongdoer’s culpability; (2) the extent of the client’s blameworthiness if the wrongful conduct is committed by its attorney, recognizing that [the court] seldom dismiss[es] claims against blameless clients; (3) the prejudice to the judicial process and the administration of justice; (4) the prejudice to the victim; (5) the availability of other sanctions to rectify the wrong by punishing culpable persons, compensating harmed persons, and deterring similar conduct in the future; and (6) the public interest.

Projects Mgmt., 734 F.3d at 374 (quoting *United States v. Shaffer Equip. Co.*, 11 F.3d 450, 462–63 (4th Cir. 1993)).

Each of the four prongs of the Rule 37 test—as well as the factors courts consider under their inherent authority—are easily satisfied here. VA’s bad faith here has manifested in two ways—(1) its refusal to provide the third-party vendor with electronic devices, and (2) its failure to fully disclose relevant social media accounts and credentials. VA’s willful defiance of its

⁶ While bad faith is relevant to the analysis and evident in the case of VA, the Fourth Circuit does not require that a court find bad faith in order to impose the type of sanctions being sought here. *See Silvestri v. Gen. Motors Corp.*, 271 F.3d 583, 593 (4th Cir. 2001) (holding that dismissal for spoliation is “usually justified only in circumstances of bad faith or other like action. But even when conduct is less culpable, dismissal may be necessary if the prejudice to the defendant is extraordinary, denying it the ability to adequately defend its case.”); *Sampson*, 251 F.R.D. at 179 (“Although, some courts require a showing of bad faith before imposing sanctions, the Fourth Circuit requires only a showing of fault, with the degree of fault impacting the severity of sanctions.”).

discovery obligations has significantly hindered Plaintiffs' ability to establish vital facts and authenticate critical documents they otherwise would have been able to, had VA simply participated in discovery and complied with this Court's orders. Moreover, VA's bad faith disobedience seems to have encouraged similar behavior from other Defendants—like Defendants Jeff Schoep, Elliot Kline, Matthew Heimbach, and potentially others—who have also flouted this Court's discovery orders. Sanctions are appropriate. Specifically, Plaintiffs seek the following sanctions:

1. That the Court deem the facts listed in the attached Exhibit 1 established for purposes of this action;
2. That the Court deem “authentic” for purposes of satisfying Rule 901 of the Federal Rules of Evidence any document Plaintiffs have a good faith basis to believe was in fact created by Defendant VA, including, but not limited to, all documents from the social media accounts listed in Exhibit 1;⁷
3. That the Court instruct the jury that Defendant VA chose to intentionally withhold its documents and that the jury may draw adverse inferences from that fact, including that VA chose to withhold such documents because it was aware that such documents contained evidence that Defendant VA conspired to plan racially-motivated violence at the Unite the Right event;
4. Reasonable expenses, including attorney's fees.

The requested sanctions are necessary to put Plaintiffs in the position they would have been in had VA complied with its discovery obligations in this case and are designed to deter other Defendants from continuing to defy this Court's orders.

I. VA Has Acted in Bad Faith

There is little doubt that VA has acted in bad faith, as statements from its own lawyer make clear. Courts have considered a number of non-exclusive factors in determining whether to

⁷ Plaintiffs reserve the right to request that additional facts or documents be deemed established or authentic as additional facts or documents are revealed in discovery.

presume bad faith, including, as discussed *infra*, whether a decision not to participate appears to be a conscious one, whether there is a legitimate explanation for the failure to participate, and the length of time a party has failed to participate, among others.

Representations from VA's attorney, who referred to VA as "a problem" and candidly admitted that there's been "no indication . . . that there's been any effort to comply" by VA, firmly establish that VA's decision to cease participation in discovery was willful. *Dusé v. Barnes & Noble, Inc.*, No. 1:11-CV-875, 2011 WL 13192908, at *2 (E.D. Va. Dec. 22, 2011) (finding that where a party "made a conscious decision not to participate" in the case, "[s]uch a refusal amounts to bad faith"), *report and recommendation adopted*, No. 1:11-CV-875, 2012 WL 12973545 (E.D. Va. Jan. 6, 2012), *aff'd*, 473 F. App'x 189 (4th Cir. 2012). Additionally, VA has made "no effort to explain or justify [its] failure to engage in meaningful discovery, and given [its] persistent failure to cooperate, [its] silence leaves the court with no choice but to presume bad faith." *Sawyers v. Big Lots Stores, Inc.*, No. 7:08-CV-258, 2009 WL 55004, at *3 (W.D. Va. Jan. 8, 2009); *Robinson v. Yellow Freight Sys.*, 132 F.R.D. 424, 428 (W.D.N.C. 1990) ("Plaintiff has utterly failed to come forward with any legitimate reason that explains his refusal to attend the two (2) scheduled depositions in Kingstree. Thus, the Court concludes that Plaintiff chose to disregard this Court's discovery orders in bad faith.").

In the nearly fifteen months since Plaintiffs served VA with a document request, VA has produced only a fraction of the universe of documents it possesses and has taken affirmative steps to evade court orders and make it more difficult for Plaintiffs to obtain relevant documents, such as omitting social media accounts and electronic devices from its Certification. This substantial delay and substantial non-performance bolsters the otherwise overwhelming evidence of bad faith. *See, e.g., Green v. John Chatillon & Sons*, 188 F.R.D. 422, 424 (M.D.N.C. 1998) (noting

“[n]oncompliance with discovery orders can serve as a basis for a finding of bad faith,” and dismissing plaintiff’s claims with prejudice where plaintiff’s “complete failure to provide discovery over *eight months* after the original requests and over two months after being ordered by Magistrate Judge Eliason to do so satisfies the four-part test required by *Mutual Federal*.” (emphasis added)); *Daye v. Gen. Motors Corp.*, 172 F.R.D. 173, 177 (M.D.N.C 1997) (“The failure of Plaintiffs and Colbert to honor the Orders of this Court and Colbert’s failure to initiate any contact with Defendant’s counsel for over six months constitutes both unjustifiable negligence as well as bad faith.”).

II. Plaintiffs Have Been Severely Prejudiced by VA’s Failure to Respond to Discovery

The prejudice caused by VA’s failure to produce any electronic devices and the overwhelming majority of social media accounts used by its members to plan this conspiracy is substantial, particularly in a case where Plaintiffs need to prove a conspiracy. Courts have consistently found prejudice where parties are hampered in their ability to prove material components of their case due to the opposing party’s failure to produce documents. “The purpose of pre-trial discovery is for a litigating attorney to obtain information from the opposing party, information which in many cases is not otherwise available” and “an absolute lack of discovery results in clear prejudice.” *Pruitt v. Bank of Am., N.A.*, No. 8:15-CV-1310, 2016 WL 7033972, at *3 (D. Md. Dec. 2, 2016) (citation omitted); *see also id.* at *2 (“Interrogatories[, document requests,] and depositions are important elements of discovery; [a party] would be hard-pressed to conduct its case without them. When a [party] refuses to respond to such requests, it can have a debilitating effect on the rest of the litigation.”). Due to Defendants’ repeated and ongoing discovery misconduct, “this case has taken up an inordinate amount of judicial resources, and resulted in significant procedural and substantive prejudice to Plaintiff[s]” who have “been stymied at every turn . . . to get the evidence [they] need[] to prosecute [their] claims.” *First*

Mariner Bank v. Resolution Law Grp., P.C., No. 12-CV-1133, 2014 WL 1652550, at *19 (D. Md. Apr. 22, 2014); *see also Diamond v. Mohawk Indus., Inc.*, No. 6:12-CV-00057, 2014 WL 1404563, at *5 (W.D. Va. Apr. 10, 2014) (finding defendant was “greatly prejudiced by the inability to . . . communicate with [plaintiff] in any regular fashion about the case, or receive responsive documents from him”). “Significant prejudice” is also present where, as here, “the evidence sought by [Plaintiffs’] discovery requests ‘goes to the heart’ of [their] claim.” *Hendricks*, 2017 WL 2711131, at *4; *see also Knight v. Boehringer Ingelheim Pharm., Inc.*, 323 F. Supp. 3d 837, 845 (S.D.W. Va. 2018) (“[P]rejudice arises when a party cannot present evidence essential to its underlying claim.” (citation and internal quotation marks omitted)).

Discovery is especially critical in a conspiracy case. There is already an “inherent difficulty in proving conspiracy,” *Precision Piping & Instruments, Inc. v. E.I. duPont De Nemours & Co.*, 707 F. Supp. 225, 228 (S.D.W. Va. 1989), and the Fourth Circuit has held that “[a]cknowledging the difficulty of proving the existence of a conspiracy by direct evidence, . . . ‘a conspiracy may be proved wholly by circumstantial evidence . . . of a defendant’s relationship with other members of the conspiracy, the length of this association, the defendant’s attitude and conduct, and the nature of the conspiracy,’” *United States v. Masi*, 135 F.3d 771, at *6 (4th Cir. 1998) (table decision) (quoting *United States v. Burgos*, 94 F.3d 849, 858 (4th Cir. 1996)). The absence of documents that Plaintiffs can authenticate as having been generated by VA impedes Plaintiffs’ ability to prove the manner in which VA’s members communicated and conspired with other Defendants, particularly with Defendant Fields, thus jeopardizing Plaintiffs’ ability to prove their case against other Defendants as well.

Defendants’ failure to participate in discovery has resulted in textbook prejudice here. During the period of this case where VA was participating, VA, through Dillon Hopper, admitted

in sworn interrogatory responses to using “VA member desktop computers or mobile devices” to communicate about the events in Charlottesville. Yet VA has refused to produce a single one of those computers and devices. In a conspiracy case, VA is withholding evidence of communications amongst co-conspirators, arguably the most critical category of evidence that exists in this type of case. The prejudice of a nearly wholesale failure to produce such evidence cannot be overstated. Plaintiffs are aware of the existence of damning evidence VA has in its possession – evidence that likely corroborates the substantial circumstantial evidence of planning the critical moments of the events in this case, such as the Fields car attack – and yet VA has intentionally denied Plaintiffs access to a huge volume of that evidence. Even those documents Plaintiffs have obtained through other means become difficult to authenticate without VA’s participation in the discovery process. For example, VA created a server on Discord, Southern Front, to organize its members for the Unite the Right event. Plaintiffs have worked diligently to mitigate the prejudice from VA’s nearly complete failure to produce by attempting to obtain VA’s documents from third parties, like Discord. While that process has yielded a substantial number of Discord posts that purport to be authored by members of VA on the Southern Front server and other servers, Plaintiffs are unable to authenticate these documents or gain any understanding of the volume of documents VA continues to withhold without being able to get discovery from its electronic devices and its additional social media accounts. Yet, without Court intervention, that is exactly where Plaintiffs find themselves.

III. Deterrence Is Required Where, as Here, Multiple Defendants Have Resisted Compliance with Discovery

As more and more Defendants continue to defy discovery orders, sanctions become increasingly necessary for deterrence purposes. As the Fourth Circuit has held, “not only does the noncomplying party jeopardize his or her adversary’s case by such indifference, but to ignore such

bold challenges to the district court's power would encourage other litigants to flirt with similar misconduct." *Mut. Fed. Sav. & Loan*, 872 F.2d at 92; *see also Nat'l Hockey League v. Metro. Hockey Club, Inc.*, 427 U.S. 639, 643 (1976) (holding that sanctions "must be available to the district court in appropriate cases, not merely to penalize those whose conduct may be deemed to warrant such a sanction, but to deter those who might be tempted to such conduct in the absence of such a deterrent").

The discovery disobedience by other Defendants is well-catalogued at this point. There are multiple sanctions motions pending and potentially more on the way. As this motion is filed, multiple Defendants still have not complied with the Court's latest deadline—March 8—to produce their electronic devices and social media credentials to the third-party vendor, and Plaintiffs continue to encounter certain resistance. Unpunished, VA's overt defiance will only further encourage and empower other Defendants to do the same in a discovery process that has a long way to go. The extent of continued non-compliance or late compliance among Defendants underscores the need for stiff sanctions against parties, like VA, whose lawyers chose to move to withdraw from the case, rather than even attempt to justify their behavior. *Silvestri*, 271 F.3d at 590 ("The courts must protect the integrity of the judicial process because, as soon as the process falters . . . the people are then justified in abandoning support for the system." (Alteration, citation, and internal quotation marks omitted)). The need to deter this type of conduct "is manifest. Civil cases simply cannot proceed without participation by all parties in discovery." *Pruitt*, 2016 WL 7033972, at *2. "Continued contumacious behavior and abuse through non-compliance with [a Court's] orders cannot be tolerated. And with discovery's important role in modern litigation, deterrence is greatly needed." *Flame S.A. v. Industrial Carriers, Inc.*, 39 F. Supp. 3d 752, 765 (E.D. Va. 2014).

IV. Lesser Sanctions Would Not Be Effective

Pursuant to Rule 37 and the Court's inherent authority, severe sanctions are warranted for VA's misconduct.⁸ *Butler v. DirectSat USA, LLC*, No. 10-CV-2747, 2013 WL 6629240, at *1 (D. Md. Dec. 16, 2013) ("A party's total failure to comply with the mandates of discovery, with no explanation for that failure, can certainly justify this harshest of sanctions."); *Nucor Corp. v. Bell*, 251 F.R.D. 191, 194 (D.S.C. 2008) (finding "harsher sanctions" permitted where "the spoliation was so prejudicial that it prevents the non-spoliating party from maintaining [their] case"). Rule 37(b)(2)(ii) expressly provides for sanctions that both remedy the substantial prejudice Plaintiffs have suffered and constitute the most appropriate disincentive to other Defendants contemplating similar transgressions.

Regarding the first and second requested sanctions, Plaintiffs are asking that the Court deem certain facts established that Plaintiffs have a good faith basis to believe they would in fact establish if VA had produced its documents and devices as required in this case. Rule 37(b)(2)(A)(i) expressly contemplates this particular sanction for exactly this purpose, allowing a court to "direct[] that . . . designated facts be taken as established for purposes of the action, as the prevailing party claims." *See, e.g., Wachtel v. Health Net, Inc.*, 239 F.R.D. 81, 104 (D.N.J. 2006) (holding that certain facts would "be deemed admitted for all purposes" in light of "the significance of the documents withheld from Plaintiffs, the deliberate and willful nature of the non-disclosure, and the prejudice suffered by Plaintiffs"). If VA turned over its documents and participated in the rest of discovery, Plaintiffs would be able to confront its members with its documents and establish

⁸ Plaintiffs believe that VA's failure to comply with discovery and with the Court's orders could warrant the granting of a default judgment, arguably a more severe sanction than what is sought here. Such a sanction would frankly leave Plaintiffs worse off, however, given the amount of damning evidence VA may possess that may never see the light of day. In a conspiracy case, such a result would hinder Plaintiffs' ability to prove their case against other Defendants and perversely would therefore constitute somewhat of a windfall for VA.

the authenticity of documents they authored in furtherance of this conspiracy. Any lesser sanction would fail to alleviate the substantial prejudice Plaintiffs have suffered from the inability to obtain and authenticate many of the Defendants' documents and place them before a jury. Moreover, any sanction that does not impose a case-related consequence would allow Defendants to avoid accountability entirely simply by opting out of the process. Defendants should not be rewarded for their disobedience.

As to the third requested sanction—adverse inferences—a failure to preserve and produce documents is, in effect, no different from intentional spoliation. “Under the spoliation of evidence rule, an adverse inference may be drawn against a party who destroys relevant evidence.” *Vodusek v. Bayliner Marine Corp.*, 71 F.3d 148, 155 (4th Cir. 1995); *see also Beaven v. U.S. Dep’t of Justice*, 622 F.3d 540, 554–55 (6th Cir. 2010) (affirming district court “imposing a non-rebuttable adverse inference after finding that the Defendants’ destruction of [evidence] severely compromised the Plaintiffs’ case by depriving the Plaintiffs of the most relevant piece of evidence to prove their claims” (internal quotation marks omitted)). “Such an instruction can be critical to assisting the innocent party in establishing the nature of the evidence that has gone missing” and “ameliorate any prejudice to the innocent party by filling the evidentiary gap created by the party that destroyed evidence.” *Ottoson v. SMBC Leasing & Fin., Inc.*, 268 F. Supp. 3d 570, 584 (S.D.N.Y. 2017) (citation and internal quotation marks omitted).

These remedies are the only way to properly “level[] the evidentiary playing field and . . . sanction[] the improper conduct.” *Vodusek*, 71 F.3d at 156. Moreover, given that this Court’s “direct, unequivocal order[s] ha[ve] been met with . . . silence”, “there is nothing to indicate that a less drastic sanction would lead to different results.” *Pruitt*, 2016 WL 7033972, at *3.

Because Defendant VA has willfully disobeyed multiple Court orders, withheld social media accounts and electronic devices, and failed to meaningfully participate in discovery in this case, the above-requested sanctions are the minimum necessary and appropriate to remedy the prejudice Plaintiffs have suffered from Defendant's defiance, and to deter other Defendants from following suit.

CONCLUSION

For the foregoing reasons, Plaintiffs request that this Court grant their motion for sanctions against Defendant VA in its entirety, order the requested relief, and order such other relief as the Court deems just and proper.

Dated: April 11, 2019

Respectfully submitted,

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Counsel for Plaintiffs

RULE 37 CERTIFICATION

Plaintiffs hereby certify pursuant to Rule 37(a)(1) that they have attempted to meet and confer with VA, as detailed on pages three through thirteen. Plaintiffs certify that they are unable to obtain the requested discovery without court action.

Dated: April 11, 2019

Respectfully submitted,

/s/
Robert T. Cahill (VSB 38562)
Counsel for Plaintiffs

CERTIFICATE OF SERVICE

I hereby certify that on April 11, 2019, I filed the foregoing with the Clerk of Court through the CM/ECF system, which will send a notice of electronic filing to:

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*Counsel for Jeff Schoep, Nationalist Front,
and National Socialist Movement*

I further hereby certify that on April 11, 2019, I also served the following non-ECF participants, via U.S. mail, First Class and postage prepaid, addressed as follows:

Loyal White Knights of the Ku Klux Klan
a/k/a : Loyal White Knights Church of
the Invisible Empire, Inc.
c/o Chris and Amanda Barker
2634 U.S. HWY 158 E
Yanceyville, NC 27379

Moonbase Holdings, LLC
c/o Andrew Anglin
P.O. Box 208
Worthington, OH 43085

Andrew Anglin
P.O. Box 208
Worthington, OH 43085

East Coast Knights of the Ku Klux Klan
a/k/a East Coast Knights of the
True Invisible Empire
26 South Pine St.
Red Lion, PA 17356

Fraternal Order of the Alt-Knights
c/o Kyle Chapman
52 Lycett Circle
Daly City, CA 94015

Augustus Sol Invictus
9823 4th Avenue
Orlando, FL 32824

I further hereby certify that on April 11, 2019, I also served the following non-ECF participants, via electronic mail, as follows:

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/s/
Robert T. Cahill (VSB 38562)
COOLEY LLP

Counsel for Plaintiffs

EXHIBIT 1

A. Plaintiffs respectfully request that the following facts be established for purposes of this action:

1. Defendant Vanguard America entered into an agreement with one or more co-conspirators to plan the Unite the Right event that took place in Charlottesville, Virginia on August 11 and 12, 2017.
2. Defendant Vanguard America entered into an agreement with one or more co-conspirators to engage in racially motivated violence in Charlottesville, Virginia on August 11, 2017.
3. Defendant Vanguard America entered into an agreement with one or more co-conspirators to engage in racially motivated violence at the Unite the Right event in Charlottesville, Virginia on August 12, 2017.
4. Defendant Vanguard America was motivated by animus against racial minorities, Jewish people, and their supporters when conspiring to engage in acts of intimidation and violence on August 11 and 12, 2017 in Charlottesville, Virginia.
5. It was reasonably foreseeable to and intended by Defendant Vanguard America that its co-conspirators would commit acts of racially-motivated violence and intimidation at the torch light event in Charlottesville, Virginia on August 11, 2017.
6. It was reasonably foreseeable to and intended by Defendant Vanguard America that its co-conspirators would commit acts of racially-motivated violence and intimidation at the Unite the Right event in Charlottesville, Virginia on August 12, 2017.

7. It was reasonably foreseeable to and intended by Defendant Vanguard America that its co-conspirator would engage in racially-motivated violence by intentionally driving a car into a crowd of counter-protestors on August 12, 2017.
8. Defendant Vanguard America committed multiple overt acts in furtherance of the conspiracy it entered into to commit racially-motivated violence at the Unite the Right event in Charlottesville.
9. Defendant Vanguard America attended the torch light march on August 11, 2017 and committed acts of intimidation and violence in furtherance of the conspiracy.
10. Defendant Vanguard America attended the Unite the Right event on August 12, 2017 and committed acts of intimidation and violence in furtherance of the conspiracy.
11. After the Unite the Right event in Charlottesville, Virginia on August 11 and 12, 2017, Defendant Vanguard America ratified the racially-motivated violence that occurred at the event.

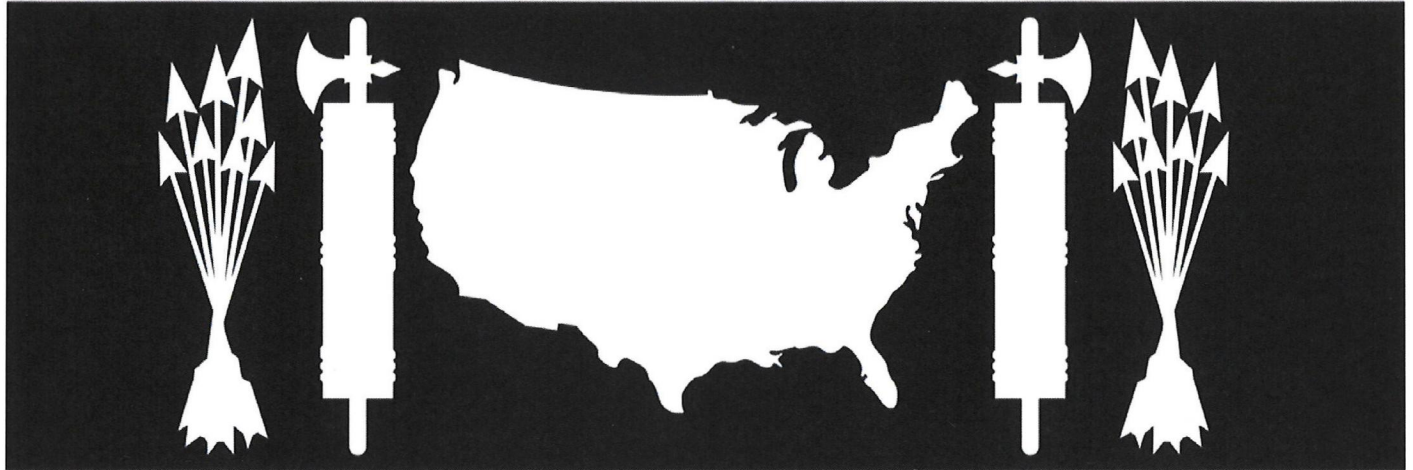
B. Plaintiffs respectfully request that all documents Plaintiffs have a good faith basis to believe were in fact created by Defendant Vanguard America be deemed “authentic” for purposes of satisfying Rule 901 of the Federal Rules of Evidence. In particular, Plaintiffs have a good faith basis to believe that the following social media accounts, identified by the platform name, followed by the handle (or username), belong to Defendant Vanguard America. Plaintiffs reserve the right to amend this list if Plaintiffs identify accounts of additional individuals whose statements can fairly be offered against Vanguard America as a statement of Vanguard America pursuant to Federal Rule of Evidence 801(2).

Plaintiffs respectfully request that all documents from the following social media accounts be deemed “authentic” for purposes of satisfying Rule 901 of the Federal Rule of Evidence:

1. Discord – Dillon1488
2. Discord – White-PowerStroke
3. Discord – WhitePower_Stroke (Discord ID: 375095101719838723)
4. Discord – White-PowerStroke(Dillon) (Discord ID: 200103874801958912)
5. Discord – White_PowerStroke(Dillon) (Discord ID: 329868457824878593)
6. Discord – Thomas Ryan (Discord ID: 255039575758602240)
7. Discord – Thomas Ryan (Discord ID: 363070228864696330)
8. Discord – Commander#770
9. Email – Dillon_hopper@protonmail.com
10. Email – Tutanota
11. Facebook – vanguard.america
12. Gab – WomenofVanguard
13. Twitter - @VanAmOfficial
14. Twitter - @VanguardAm

EXHIBIT 2

MENU



On Charlottesville – why we fight

june 1, 2017 by admin, posted in articles

On Saturday May 13th, Vanguard America sent some of its best to stand alongside Identity Evropa, League of the South, and the Traditionalist Worker Party to protest the proposed removal of a statue of General Lee in Charlottesville, Virginia. The purpose of the gathering was not simply over some metal sculpture atop a pedestal in a small Southern City. It was about defending the images of White history, White heroes, and White America. The Jews and their liberal shabbos goyim, in a feverish haste and hubris, have decided to prematurely declare themselves the winner of their War of Attrition against the White man by tearing down our monuments. Just as the Christ-Killers vandalized statues and temples during Rome's fall (hence why most ancient busts lack noses), they now seek to blaspheme our history and heritage to spiritually drain White America.

The event was a smashing success. Writers at the (((Huffington Post))) and the (((Daily Progress))) were “literally shaking💎?” as they furiously wrote their hit-pieces on the event. Their articles lamented the imminent Confederate Nazi takeover of the United States, yet simultaneously slandered the crowd of fit and disciplined White men and women as being perma-virgin basement dwellers. Their mistake, of course, was that said basement dwellers were actually busy making an appearance at the embarrassing Boston “free speech rally💎?”



Many local “conservative” politicians soon engaged in a competition of who could cuck the fastest and hardest, revealing their true nature as controlled opposition for the ZOG machine, with the notable exception of **current gubernatorial candidate Corey Stewart**. The Mayor of Charlottesville took the event as a go-ahead to denounce White interests and White identity, promising to erect statues commemorating lynching and other such morbid acts to prop up the Jewish Cult of Death that has gripped our Nation’s popular culture for the last century.

The day was practically ours from the start. After a breakfast at Chik-Fil-A, the last stand of implicit whiteness and anti-homo propaganda, the group met at one of the local parks to get into formation. Before long, a few washed-up spinsters babysitting brown children at the playground approached us, armed with their smart phones to take video and pester the group, hoping to send “evidence” to their Jewish masters for doxxing purposes. Their attempt to bother us amounted to nil as we soon unfurled our flags and embarked on our glorious march through the city. As we approached Lee Park, we passed a wedding ceremony for a beautiful White couple and wished for them to have many healthy offspring. As we gathered at the park, Richard Spencer, Sam Dickson, Nathan Damigo, and Mike Enoch delivered high-energy speeches to the crowd. Riled up with the spirits of our ancestors within us, we chanted in perfect unison: “You Will Not Replace Us!”. The sound rang throughout the entire city. The BLM crowd eventually took notice as we dispersed, and confronted us with a pathetic showing of attempted resistance to inevitable victory of Global White Supremacy™. **(For video of this portion, click here).**

As we left the rally to prepare for the next phase of events, many young Jewish college students left the multicultural (anti-White) festival at another nearby park to follow us down the street ranting and raving. As usual, these groups wait until the rally is over and then follow people as they leave so they can say that they “drove us out”. They genuinely think that they chased us away, because the only form of protest they understand is the “occupy” technique of loitering for hours smoking weed and playing terrible drum music; inconveniencing local businessmen is apparently the highest form of resistance for them. For Antifa, it is incomprehensible that we could show up for a rally, say our peace, and leave having delivered a powerful and coherent message. These worthless commies, feeling petered-out from having to walk almost half a mile, resorted to singing “Shoo fly, don’t bother

me / Say no to white supremacy♦? to the tune of a nursery song. Truthfully speaking, that was the most painful experience of the day for me.

The banquet went by without a hitch and our speakers once again gave inspiring lectures about the movement's future.

Finally, the greatest spectacle of the event came as we lit our torches for the night march. As we approached Lee Park for the last time, our footsteps shook the whole city. Torchlit vigils and other silent rituals are an important part of our heritage to remember the dead and heal the Spiritual Sickness that has plagued our people for so long. Indeed, this Spiritual Sickness is the root of all our problems. Even if we were to expel every Jew and non-White in this country tomorrow, we would still be a nation of depressed, addicted, degenerate, and deracinated people. This movement must begin as a spiritual movement. That does not mean we must choose to be Orthodox, Catholic or Pagan; it means that we must build a new society, culture, and identity based on beauty, aesthetics, rituals, health, history, and nature. We must create our own rituals, our own art, our own music. We must create a culture of life that channels the spirits of those past to guide us as we carve out our future. We must solve our own people's problems before we can truly face our enemies. To quote a wise /pol/lak, "If you want to gas the Jews, you must first gas the Jew within yourself♦?".

After a few words from Spencer and Dickson, we blew out our torches, our spiritual cups filled for perhaps the first time in all of our lives and once again shouted our deafening chants, shaking the entire city with our might.

10/9/2017

On Charlottesville – why we fight – Vanguard America

There will be many more of these events. This march on Charlottesville was just the beginning of the inevitable Revolution of our people.

Hail Victory!

SHARE THIS:



PREVIOUS POST

Strength Through Unity

NEXT POST

Silver or Lead

Proudly powered by **WordPress** | Theme: Karuna by **Automattic**.

EXHIBIT 3



Thomas Ryan

2017-05-17 02:41:17



@everyone We're decentralizing the main server chat, this will house every VA member in the South.

This is for interstate cooperation and to foster a more localized community than can be seen with a full national chat.

Also it gets rid of the clutter.

EXHIBIT 4



Vanguard America @VanguardAm · Aug 11



The government, local, state, and national, is lurching into action to control #Cville. Our speech is truly dangerous to the status quo.



3



23



59

EXHIBIT 5



Thomas Ryan

2017-06-26 22:26:54



Y'all need to reserve seats for the hate bus' trip to Virginia.

EXHIBIT 6

Thomas Ryan #updates [server: Southern Front] [view](#)

Jun 26, 2017 10:25:16 PM

We are renting a 15 seat van to go to Charlottesville, on August 12th for the Unite The Right event. This event is a **"BIG DEAL"** and offers the chance to link up Vanguard guys from accross the nation.

The event itself is on Saturday, the van crew will be leaving Thursday, and getting back in Texas Monday. If you are somewhere along the way, and would like to be picked up, let us know.

Due to fuel costs and insurance for the van itself, the total travel budget for each rider will be around \$150 to properly reimburse our guys for being nice enough to organize this. That's about \$400 cheaper than a plane ticket, and you get to hang with the boys. It does not include food, or hotels, although that could be covered by others.

*****Make your reservations for seats now and contact me for more details.*****

@everyone



Thomas Ryan #updates [server: Southern Front] [view](#)

Jun 27, 2017 01:30:59 AM

@everyone Your book discussion will be scheduled by your State Commander for tomorrow afternoon/evening. When tomorrow is up to him, find out when it is ASAP if you do not know.

There will be another discussion in this server for all those without a State Commander, that will occur at 7 p.m. Central.

Thomas Ryan #updates [server: Southern Front] [view](#)

Jun 29, 2017 05:19:48 AM

@everyone If your state chat is inactive or you do not have one, your local members are few or inactive, ask me to create a state channel for you in this server and I can help facilitate growth.

EXHIBIT 7

[Home](#) / [Education](#) / **Vanguard America**[ANTI-SEMITISM IN THE US](#) [EXTREMISM, TERRORISM & BIGOTRY](#)

Vanguard America



Vanguard America (VA)

VA is a white supremacist group that opposes multiculturalism and believes America should be an exclusively white nation.

VA spreads their hateful propaganda via the internet and by distributing fliers, posters, and stickers.

VA is particularly focused on recruiting young men and has engaged in outreach efforts to attract students on American college campuses.

VA has participated in white supremacist rallies and protests around the country.

VA members have targeted Jewish institutions with hateful propaganda.

Infighting has led to the formation of two competing splinter groups, Patriot Front and the National Socialist Legion.

Vanguard America (VA) is a white supremacist group that opposes multiculturalism and believes that America should be an exclusively white nation. Their right-wing nationalist slogan, "Blood and Soil," romanticizes the notion that people with "white blood" have a special bond with "American soil." This philosophy originated in Germany (as Blut und Boden) and was popularized by Hitler's regime. VA uses "For Race and Nation" as an alternative slogan. Along those lines, the VA manifesto (as of April 2018) maintains that "The racial stock of this nation was created for white Christian Anglo/Europeans by white Christian Anglo/Europeans. All other ethnicities, races, religions and demographics are absolutely not compatible with this nation's original culture. With such being stated, a mass exodus, isolation, apartheid, segregation and/or separation must be implemented to retain the good order and longevity of the country."

Originally, VA (then called American Vanguard), was firmly in the alt-right hemisphere, and focused on white identity. Over time, however, VA has increasingly embraced a neo-Nazi ideology. In one iteration of their manifesto, posted in February 2017, the VA explained that America was built on the foundation of White European culture and that the "glory of the Aryan nation must be recaptured." VA has also warned against the influence of "the international Jew," tweeting in July 2017, "Those behind the subversive elements eroding our culture often have something in common. Jewish

BEWARE



THE INTERNATIONAL JEW
VANGUARD AMERICA - BLOODANDSOIL.ORG

In 2017, VA broadened their ties to the neo-Nazi movement when they participated in white supremacist rallies in Pikeville, Kentucky (April), and Shelbyville, Tennessee (October). These events were organized by the **Nationalist Front** (NF), an umbrella organization of neo-Nazis, traditional white supremacists and racist skinheads. VA became a member of the NF following the April rally.

Organizational structure

Dillon Ulysses Hopper (previously known as Dillon Irizarry), a Marine Corps veteran from New Mexico, has been leading the group since early 2016. During an April 2017 speech at a private NF gathering in Kentucky, Irizarry said that VA started in California in 2015. Irizarry also said that the "future is about the youth" and (for that reason) his group base is 18 to 24 years old. At the time, he also claimed approximately 200 members in 20 states.



Dillon Hopper speaks during "White Lives Matter" rally in Shelbyville, TN.

VA has some paramilitary characteristics. In states with open carry laws, members, including Hopper, who uses the title "Commander," have openly carried firearms during rallies and protests. The standard uniform for members consists of khaki pants and a white polo shirt. At several venues, members have stood and marched in military-style formations, and utilized military facing movements and rest positions.

Membership is typically male. However, VA does have a women's division. In June 2017, VA tweeted, "The woman has her own battlefield. With every child that she brings into the world, she fights her battle for the nation. Strong nations grow from strong families. Vanguard America Women's Division."

From November 2016 to April 2017, Vanguard America increased its ranks, and counted active members in Arkansas, California, Florida, Indiana, Maryland, Massachusetts, New Jersey, Oregon, Texas and Washington.

Diminishing Returns

The group's high point was June 17, 2017, when several dozen VA members participated in a "Texas is Ours" rally at the state capital in Austin. Hopper spoke at the event, and was joined by Thomas Rousseau, the leader of VA's Texas chapter. After the event Hopper complained that Rousseau led event organizers to believe that Rousseau, not Hopper, was VA's leader, and that Rousseau's lengthy speech at the rally further confused people about the group's leadership.



VA members stand in formation during the "Texas is Ours" rally.

A few days after the Austin rally, Rousseau began his takeover of the VA's servers and its website. In an exchange that was posted on Twitter, Hopper detailed Rousseau's apparent betrayal, writing, "On June 20, Thomas underhandedly and deceitfully exiled me from all Vanguard discord servers that HE controlled due to 'security reasons.' I logged off...and when I got back an hour later I was banned from every single server, including the women's server. It was literally a coup with the guise that I left to handle family matters."

Just a few weeks later, with Hopper conspicuously absent, Rousseau led several dozen Vanguard America Texas members and associates at the August 12th "Unite the Right" rally in Charlottesville, Virginia. Though Rousseau led the Unite the Right contingent, it was Hopper who faced derision in the rally's aftermath when event images showed James Alex Fields Jr., who is accused of plowing his car into a group of counter-protesters and killing Heather Heyer, at the event standing shoulder-to-shoulder with Vanguard America members, and carrying a shield bearing the group's fascist symbol. VA has denied that Fields was ever a member of their group.

In late August 2017, as Hopper isolated himself from the fallout from Unite the Right, Rousseau seized the moment. Rather than take over the troubled Vanguard America name, he opted to rebrand VA's "bloodandsoil.org" as the [Patriot Front](#) website. The move allowed Rousseau's followers to distance themselves from both Vanguard America and any association with James Fields. Ironically, many of those who defected to Rousseau's Patriot Front also attended "Unite the Right" under the Vanguard America umbrella.

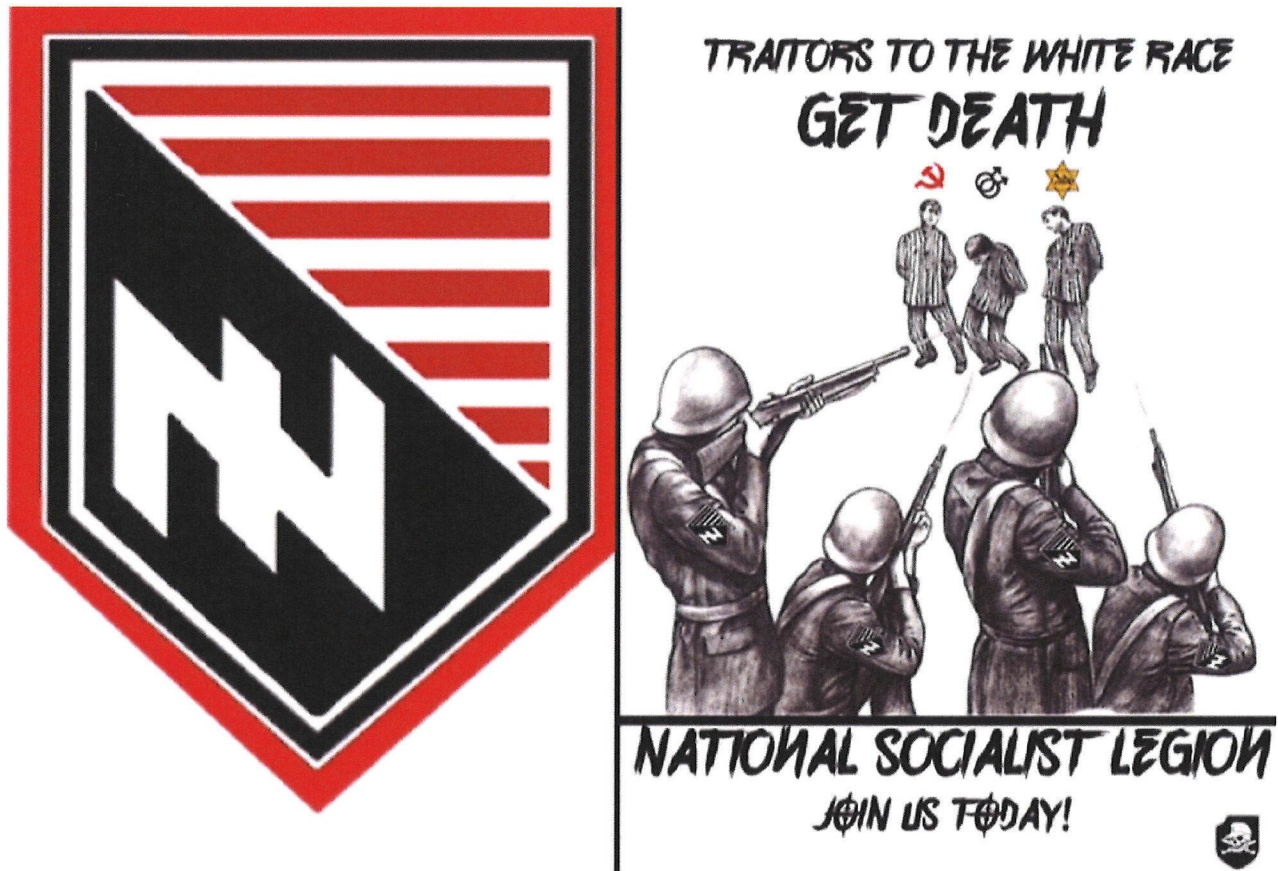
Following the August split, Patriot Front slowly siphoned away VA members from other parts of the country, and VA membership and activity dropped off dramatically. When Hopper spoke at the October 2017 "White Lives Rally" in Shelbyville he was supported by a crew of just seven VA members.



VA members pose with Hopper (center) during the Shelbyville rally.

VA was further diminished in January 2018, when more infighting and accusations of ineffective leadership led to the formation of a second splinter group, National Socialist Legion (NSL). NSL is a neo-Nazi group whose strategy (according to a March 2018 4chan post) is to set up homesteading cells around the country “for future white migration and eventual white revolt and secession.”

VA members from Texas and Tennessee played a role in NSL’s creation. As of April 2018, the ADL has documented NSL activity (mostly in the form of flier distributions) and identified members in California, Tennessee, Texas, Indiana, Florida, North Carolina and Colorado.



NSL’s symbol and one of the group’s fliers (found in Colorado)

Activity

Vanguard America is best known for posting white supremacist flyers at universities across the country throughout the 2016-2017 school year; ADL counted thirty-two incidents during that time in Arkansas, California, Florida, Indiana, Maryland, New Jersey, Oregon, Texas, Virginia and Washington. The group's campus fliering continued during the 2017-2018 school year, but to a lesser extent and with a smaller geographical reach: just fourteen incidents in Arizona, Tennessee, Texas, and Massachusetts.

In addition to distributing racist and anti-Semitic fliers on campus, Vanguard America has directly targeted Jewish and Hispanic institutions with hateful propaganda. Incidents include:

Dallas, Texas, March 3, 2018: Racist, anti-immigration VA fliers were found at the Casa Guanajuato Community Center.

Rome, Georgia, October 13, 2017: An anti-Semitic VA flier was posted at a synagogue: "America will bathe in the light of the black sun! The tide of Jewish Globalism wanes."

Houston, Texas, July 16, 2017: Two synagogues reported anti-Semitic VA flyers taped to signs, doors and gates on their property.

Lakewood, New Jersey, July 2, 2017: An anti-Semitic VA banner was hung at the Holocaust memorial.

Shreveport, Louisiana, March 11, 2017: VA stickers were reported at two synagogues.

Vanguard America has also organized small public events and participated in events organized by other white supremacist groups. These events have included events focused on the preservation of Confederate monuments, anti-Muslim protests and events billed as "free speech rallies." Recent public activity includes:

Providence, Rhode Island, January 20, 2018: A VA banner bearing the words, “feminists deserve the rope” was hung over a nearby overpass during the Women’s March.



Toledo, Ohio, December 4, 2017: VA posters were placed over a Black Lives Matter banner at Toledo University and on the door of the Lucas County Democratic Party office

Shelbyville, Tennessee, October 28, 2017: Approximately seven VA members, led by Hopper, attended a Nationalist Front-organized “White Lives Matter” rally.

Charlottesville, Virginia, August 12, 2017: Several dozen VA members, along with other groups associated with the Nationalist Front, participated in the Unite the Right rally.

Austin, Texas, July 16, 2017: VA members waved a “For Race and Nation” banner from a highway overpass.

Washington D.C., June 25, 2017: VA members participated in a free speech rally with Richard Spencer and Identity Evropa.

Austin, Texas, June 17, 2017: VA members participated in a “Texas is Ours” rally at the Austin Capitol, along with members of [the Daily Stormer Book Clubs](#). Speakers included white supremacists Mike “Enoch” Peinovich, Sacco Vandal, Johnny “Monoxide” Ramondetta and Robert “Azzmador” Ray.

Harrisburg, Pennsylvania, June 10, 2017: VA members participated in an anti-Muslim march.

Houston, Texas, June 10, 2017: VA members, along with other white supremacists, protested the removal of the Sam Houston monument.

Charlottesville, Virginia, May 13, 2017: VA members participated in a white supremacist rally against the removal of confederate monuments.

Pikeville, Kentucky, April 29, 2017: VA members participated in a neo-Nazi rally organized by the Nationalist Front.

Auburn, Alabama, April 18, 2017: VA members attended a Richard Spencer speech at Auburn University.

 ANTI-SEMITISM IN THE US EXTREMISM, TERRORISM & BIGOTRY

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Support ADL's Work

EXHIBIT 8



THOMAS ROUSSEAU

Thomas Ryan Rousseau began revealing adherence to white supremacy as a member of his high school newspaper. This aided in his rapid ascension into leadership on the racist right, first with Vanguard America and later with his founding of Patriot Front.



EXTREMIST INFO

Born: 1998

Group: [Patriot Front](#)

Location: Dallas, Texas

Ideology: [White Nationalist](#)

About Thomas Rousseau

Thomas Ryan Rousseau grew up in the suburbs of Dallas, Texas, where he attended Coppel High School. While enrolled, he was [involved](#) with *The Sidekick*, the Coppel High School student newspaper where he was the staff cartoonist during his senior year. He also contributed to video production and wrote a number of opinion columns for the paper. This appears to be where the young [white supremacist](#) cultivated the propaganda production skills that propelled his rapid ascension into leadership on the racist right, first with [Vanguard America](#) and later with his founding of [Patriot Front](#).

In his own words

"A nation within a nation is our goal. Our people face complete annihilation as our culture and heritage are attacked from all sides."

— Patriot Front [manifesto](#)

“The State was founded on liberal ideals, even from inception, but many acts of the people counteracted its original foundation and ensured a White American homeland for a time. However, due to the basis of the State’s founding, these bulwarks against the eventual degeneration of the Republic were temporary and ultimately futile.”

— Patriot Front [manifesto](#)

“An African may have lived, worked, and even been classed as a citizen in America for centuries, yet he is not American. He is, as he likely prefers to be labeled, an African in America. The same rule applies to others who are not of the founding stock of our people, or do not share the common unconscious that permeates throughout our greater civilization, and the European diaspora. The American identity was something uniquely forged in the struggle that our ancestors waged to survive in this new continent. America is truly unique in this pan-European identity which forms the roots of our nationhood. To be an American is to realize this identity and take up the national struggle upon one’s shoulders. Not simply by birth is one granted this title, but by the degree to which he works and fulfills the potential of his birth.”

— Patriot Front [manifesto](#)

“America our nation stands before an existential threat. The lives of your children, and your children’s children, and your prosperity beyond that, dangle above a den of vipers. A corrupt, rootless, global, and tyrannical elite has usurped your democracy and turned it into a weapon, first to enslave and then to replace you.”

— University of Texas at Austin [demonstration](#), November 3, 2017

Background

While working for his high school newspaper, Rousseau frequently wrote opinion columns in support of conservative topics including the controversial “[campus carry](#)” law in Texas and North Carolina’s since gutted “[bathroom bill](#).” He was also an ardent supporter of Donald Trump during the 2016 election. In an October 26, 2016 [column](#), Rousseau wrote — using rhetoric that would reappear in his future Patriot Front propaganda — that “Trump’s campaign is about more than just the election of who is president. It is a referendum on American democracy. A simple decision between who is really in control of this nation, a corrupt establishment with wishes to usurp democracy, or the American people.”

In a separate, [since removed](#), opinion column published days after the election titled, “Trump: The silent majority no longer silent,” Rousseau wrote, “The truth is white voters, especially the working class, have had more than enough of being called racist, sexist, xenophobic, islamophobic, homophobic and the rest of the usual trite buzzwords. ... The forgotten majority of the American electorate has shown that much to the dismay of the globalist agenda, that they have not yet been replaced by the tens of millions of blue-voting immigrants from abroad. That they can still hold up some semblance of a resistance against the decay of their nation.”

His [first column](#) for the student newspaper on February 28, 2016, was titled, “Diversity Club brings friendly atmosphere to students of varied backgrounds.”

Rousseau was also a Boy Scout attempting to become an Eagle Scout before his 18th birthday.

On August 12, 2017, Rousseau led members of Vanguard America at the deadly “[Unite the Right](#)” rally in Charlottesville, Virginia. He is in the foreground of several photos depicting James Alex Fields, Jr., the young man facing [first-degree murder](#) charges for allegedly ramming his vehicle into a crowd of protesters and killing 32-year-old Heather Heyer. Fields marched with members of Vanguard America and carried a shield bearing the organization’s emblem.

In an August 14, 2017, post to a Vanguard America Discord server, Rousseau told members that, “The statement [issued by Vanguard America about Fields] never said that what he did was wrong, just clarified that he wasn’t a member. People aren’t buying it anyways.”

Vanguard America dissolved into chaos in the immediate aftermath of "Unite the Right," particularly at the leadership level. Dillon Irizarry, Vanguard America's "commander" publicly accused Rousseau of seizing the organization's [Discord] servers and web domain. On August 14, 2017, Vanguard America's official Twitter account announced that Rousseau had been removed from leadership in the group.

On May 5, 2017, on behalf of Irizarry, Rousseau announced that Vanguard America would be breaking its Discord servers into regions. Rousseau was a moderator, with authority to ban users at his discretion which allowed him to wrest control of the organization's chat servers from Irizarry.

In an August 30, 2017, post to "Southern Front," formerly Vanguard America's southern region chat server, Rousseau announced his new organization, Patriot Front.

Due to the unwillingness to meet any semblance of a compromise to resolve ongoing disputes with disagreeing parties, we are rebranding and reorganizing as a new entity. Vanguard America, as you know it, will now be the "Patriots Front." ... Our website is under construction, and will be back online via the same domain. Our focus will remain much the same, as will our overall [sic] goals, this restructuring will happen alongside the creation of an extended manifesto, and a top-down reform of the entity's ranking system. ... This change comes alongside many new visuals, and a new overall look. The new name was carefully chosen, as it serves several purposes. It can help inspire sympathy among those more inclined to fence-sitting, and can be easily justified to our ideology [sic] and worldview. The original American patriots were nothing short of revolutionaries. The word patriot itself comes from the same root as paternal and patriarch. It means loyalty to something intrinsically based in blood.

Rousseau's design skills are his greatest asset among his followers, hence the promise of fresh visuals for Patriot Front. He also designed the insignia used by Exodus Americanus, a white supremacist radio program hosted on the Right Stuff that frequently features headliners from the racist right.

On September 24, 2017, members of Patriot Front confronted a group of Houston anarchists at a book fair at the Multicultural Education and Counseling through the Arts community center. A course was being taught on how to "refuse fascism" titled, "Punching Nazis." Masked members of Patriot Front, a Texas Daily Stormer Book Club, and the Houston Goylers, a Right Stuff "Pool Party," held banners that read "for race and nation," lit flares, and chanted, "blood and soil," while the anarchists held the doors to the community center closed to keep out members of Patriot Front.

Patriot Front quickly turned footage of the short confrontation into a propaganda video that was posted to the group's YouTube page on October 15, 2017.

With the formation of Patriot Front, Rousseau instituted strict rules on dual membership, requiring members to disclose affiliations with other organization. He also required members to disclose activity on a regular basis or risk being purged from the organization. Typical offerings include distributing flyers and banner drops, proof of which are posted to Patriot Front's social media accounts almost every day.

Records obtained by the *Texas Observer* show that the FBI has been monitoring Rousseau since at least May 2017, while he was still a student at Coppell High School, for his own flyer distribution on Dallas area campuses.

Rousseau's rebranding of Vanguard America as Patriot Front is aesthetic, rather than ideological. The group's manifesto is adorned with images of George Washington, George Patton, Robert E. Lee, Andrew Jackson and Henry Ford. Its text focuses on the familiar themes of apocalyptic modernity, European ancestry and white homelands, but is now couched in Americana.

A nation within a nation is our goal. Our people face complete annihilation as our culture and heritage are attacked from all sides. ... The State was founded on liberal ideals, even from inception, but many acts of the people counteracted its original foundation and ensured a White American homeland for a time. However, due to the basis of the State's founding, these bulwarks against the

eventual degeneration of the Republic were temporary and ultimately futile. ... An African may have lived, worked, and even been classed as a citizen in America for centuries, yet he is not American. He is, as he likely prefers to be labeled, an African in America. The same rule applies to others who are not of the founding stock of our people, or do not share the common unconscious that permeates throughout our greater civilization, and the European diaspora.

The rhetorical shift came at a notable moment of self-reflection across the white supremacist movement as organizations and leaders that participated in the Charlottesville rally were widely condemned. The negative response from the mainstream public resulted in an identity crisis, particularly around the issue of optics and whether to continue using well-known racist symbols or to fall back on the image of the American flag. Patriot Front, under Rousseau's leadership, represents one distinct outgrowth of this dispute.

Under Rousseau's direct leadership, Patriot Front's Texas chapter is its most active — relying mostly on flyering, banner drops and occasionally demonstrations. When the organization ventures off the internet, its activities are primarily conducted in the dead of night, anonymously. Numbers at demonstrations are typically few, and tightly choreographed. They usually feature a scripted speech by Rousseau, in order to maximize propaganda value.

On November 3, 2017, roughly 30 members of Patriot Front marched through the University of Texas at Austin to the campus's George Washington statue where Rousseau delivered a torchlit speech. The following day, Patriot Front members convened at Austin's Monkeywrench Books with members of Daily Stormer and The Right Stuff meet-up groups for a flash demonstration. At both events, participants displayed American flags and the Texas state flag while wearing masks featuring skulls or American iconography.

These disciplined demonstrations illustrate Rousseau's tight control of Patriot Front and its public appearance. The group emphasizes image-driven activism as pre-packaged propaganda. Its incessant social media posts celebrating members' activism in local communities — which has recently expanded to include park clean-ups — suggests that Rousseau expects members to take initiative independently and perform activism that can be branded. Since its foundation, Patriot Front activity has expanded into dozens of states.

Patriot Front has also declined to participate in large rallies with other hate groups, preferring instead to work with small, local chapters that allow Patriot Front to remain the center of attention while controlling their message and presentation.

RELATED NEWS & ARTICLES

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[White Nationalist Group Identity Evropa Rebrands Following Private Chat Leaks, Launches 'American Identity Movement'](#)

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[Masked fascists of Patriot Front attack San Antonio ICE protest camp](#)

HATE & EXTREMISM

[Street Fighter](#)

EXHIBIT 9

Kevin FL #general [server: Southern Front] [view](#)
Aug 07, 2017 10:48:01 PM

@Pale Horse - FL Sounds like they are scared lol

Kevin FL #general [server: Southern Front] [view](#)
Aug 07, 2017 10:49:37 PM

I always carry a collapsible baton now it's my new favorite

Thomas Ryan #general [server: Southern Front] [view](#)
Aug 07, 2017 10:50:50 PM

It's concealed carry only.

Concealed knives have dozens of laws around them. Open knives do not, but it looks really dumb to carry an open large knife so we're not doing that.

Thomas Ryan #general [server: Southern Front] [view](#)
Aug 07, 2017 10:51:04 PM

Not sure about batons.

EXHIBIT 10



The Don GA

2017-08-12 16:11:35



Just incite a riot already

EXHIBIT 11



Norman - WA

2017-08-12 16:16:59



Antifa throws shit like fucking faggots



The Don GA

2017-08-12 16:17:42



Beat their shit in

EXHIBIT 12

From: [James Kolenich](#)
To: [Yotam Barkai](#); [Sequin L. Strohmeier](#); [Christopher Greene](#)
Subject: Discovery responses
Date: Wednesday, April 18, 2018 9:14:40 PM
Attachments: [RayDiscovery.pdf](#)
[VAdiscreponse.pdf](#)

Please find attached discovery responses from Robert "Azzmador" Ray and Vanguard America. These responses are provided as highly confidential pursuant to the confidentiality agreement governing this case.

Jim

--

James E. Kolenich
Kolenich Law Office
9435 Waterstone Blvd. #140
Cincinnati, OH 45249
513-444-2150
513-297-6065(fax)
513-324-0905 (cell)

EXHIBIT 13

The Don GA #general [server: Southern Front] [view](#)

Aug 12, 2017 03:10:26 AM

<https://twitter.com/Hatewatch/status/896193241514737664>

Eric TX #general [server: Southern Front] [view](#)

Aug 12, 2017 03:12:07 AM

DO IT

Eric TX #general [server: Southern Front] [view](#)

Aug 12, 2017 03:12:18 AM

TIME TO PHYSICALLY REMOVE THEM

EXHIBIT 14



Kevin FL

2017-06-21 22:35:38



Another dumb question do we have a Uniform or dress code for rallys and public events?



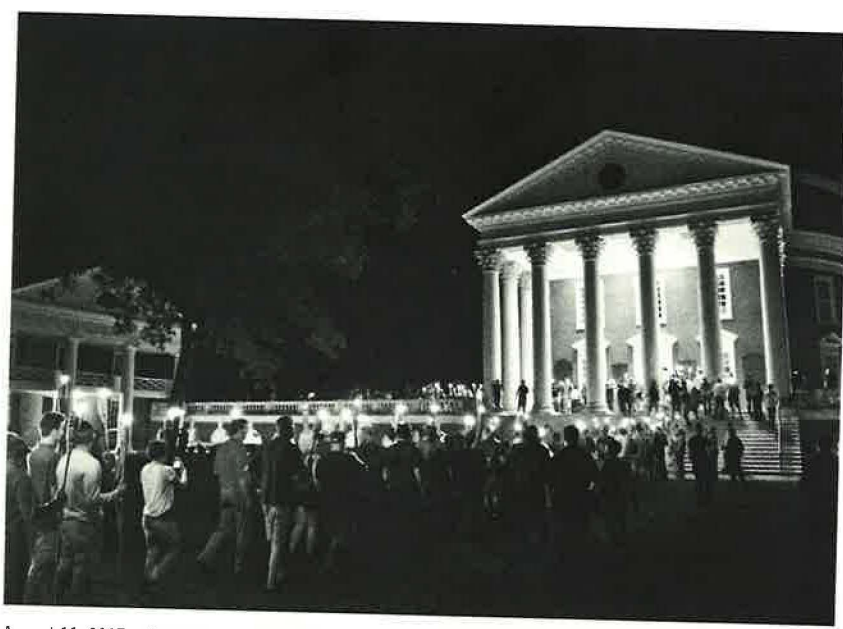
Thomas Ryan

2017-06-21 22:37:39



White polos and khakis, brown or black belt and boots

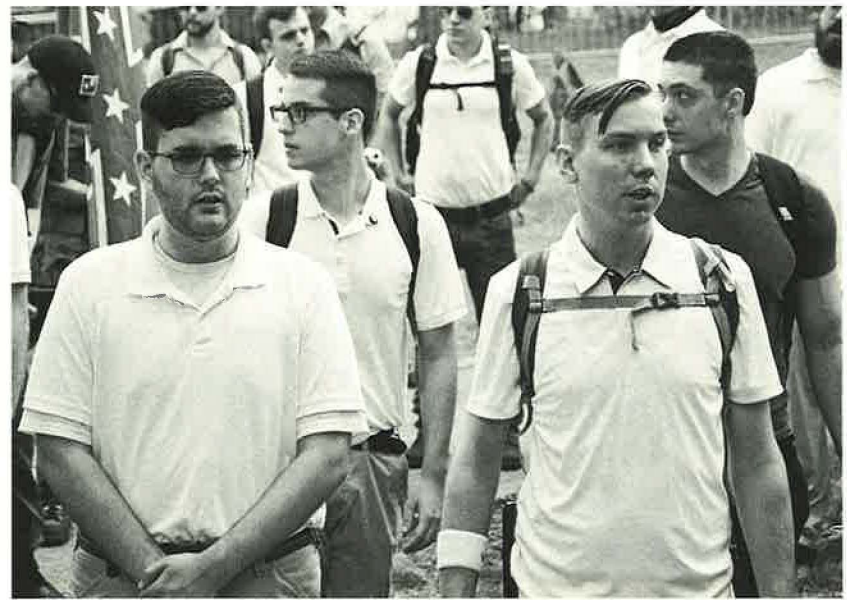
EXHIBIT 15



August 11, 2017—Several hundred people carrying tiki torches chant, “You will not replace us” and “Jews will not replace us,” as they march toward the Rotunda at the University of Virginia. (Hawes Spencer)



August 11, 2017—Self-described racist podcaster Christopher Cantwell leads torch-carrying men toward the UVA Rotunda. Cantwell would later be arrested for discharging a chemical irritant. (Stephanie Keith)



James Alex Fields Jr. (left), one of the first people to arrive in Emancipation Park, strikes up a conversation and then chants alt-right slogans with Nigel Krofta of Charleston, South Carolina, who would lose his job as a welder on Monday. (Hawes Spencer)



Michael Tubbs brings a contingent of the League of the South to Charlottesville. Tubbs previously spent about four years in prison for stealing military guns and explosives in a scheme that allegedly included plotting against businesses with Jewish and African American owners. (Ian Reid)

EXHIBIT 16

From: [David Campbell](#)
To: [rcahill@colley.com](#); [Roberta Kaplan](#); [Julie Fink](#); [Karen Dunn](#); [William Isaacson](#); [Levine, Alan](#); [dmills@cooley.com](#); [Philip Bowman](#); [Yotam Barkai](#)
Cc: [bryan@bjoneslegal.com](#); [isuecrooks@comcast.net](#); [jek318@gmail.com](#); [mpeinovich@gmail.com](#); [richardbspencer@icloud.com](#)
Subject: James Fields' Answers to Interrogatories and Requests for Production
Date: Monday, April 16, 2018 4:53:53 PM
Attachments: [Fields First Answers to Interogs and RFPs.pdf](#)

All,

Attached, please find James Fields' Answers to Plaintiffs' Interrogatories and Requests for Production of Documents. Please advise whether you require newspaper and internet articles produced in physical form or pdf for the production of documents. As indicated in the response, these documents were located by "Googling" James Fields and August 12, 2017, Charlottesville Rally. I can have these documents scanned and emailed within in 24 hours or will be happy to mail hard copies. However, if you require hard copies, I ask that you provide one or two law offices for production of the physical documents due to the number of associated counsel for Plaintiffs. Alternatively, I can provide a list of each article and the website or newspaper with date.

Thanks,

Dave

David L. Campbell
DUANE, HAUCK, GRAVATT & CAMPBELL, P.C.
100 West Franklin Street
Richmond, Virginia 23220
Telephone No.: (804) 644-7400
Facsimile: (804) 303-8911

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EXHIBIT 17

The Guardian



This article is more than **1 year old**

Charlottesville: man charged with murder was pictured at neo-Nazi rally

Pictures from earlier on day of clashes show James Fields with white supremacist group Vanguard America

Jason Wilson in Charlottesville, Virginia

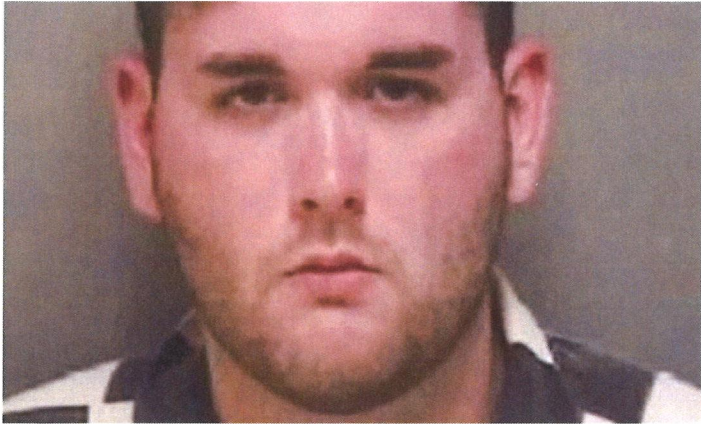
Sun 13 Aug 2017 12.36 EDT

The man accused of murdering a woman by deliberately driving into her during protests against a far-right rally was photographed earlier in the day standing with the white supremacist, neo-Nazi group Vanguard America.

James Fields, 20, of Maumee, Ohio, allegedly killed Heather Heyer, aged 32, and injured 19 others when he rammed his car into a group peacefully protesting on Saturday in Charlottesville, Virginia.

Photographs from earlier that day appear to show Fields rallying with Vanguard America and carrying a shield bearing the group's insignia. He wears the white polo shirt and khaki pants that

are the group's uniform.



James Fields. Photograph: Albemarle-Charlottesville regional jail/EPA

Vanguard America were a highly visible presence at the Unite the Right rally on Saturday, where they marched in military-style formation, and the torchlight rally the previous night on the University of Virginia campus. On the group's Twitter account, and on social media accounts belonging to regional chapters, there was extensive promotion of the Unite the Right rally in the weeks leading up to the event.

The group's motto, "blood and soil" was a popular chant at both events. It is derived from the Nazi slogan "*blut und boden*", which links conceptions of racial purity with a particular national territory.

Col Martin Kumer, the superintendent of Albemarle-Charlottesville regional jail, told the Guardian that Fields had been charged with second degree murder, three counts of malicious wounding and failing to stop at an accident that resulted in a death.

Witnesses said those hit by the car were peacefully protesting against the white supremacist rally and footage showed the vehicle crashing into another car, throwing people over the top of it. The incident with the car left 19 people injured, five critically.

Fields was one of four people who have been arrested over the violence on Saturday which included fighting and skirmishing between far-right protesters and counter-protesters.

Virginia police have not yet provided a motive for the attack using the vehicle but an Federal Bureau of Investigation field office said US attorneys and the FBI had opened a civil rights investigation into the crash.

The mother of Fields told the Associated Press on Saturday night that she knew her son was attending a rally in Virginia but did not know it was a white supremacist rally.

"I thought it had something to do with Trump. Trump's not a white supremacist," Samantha Bloom said, before becoming visibly upset as she learned of the injuries and deaths. "He had an African-American friend so ...," she said before her voice trailed off.

Fields had lived with his mother, reportedly a paraplegic, until around five or six months ago, the two of them having moved to Maumee from Florence, Kentucky, about a year ago for Bloom's work.

Neighbours of Bloom told a reporter from the Toledo Blade newspaper that they knew little about the 20-year-old although one resident, Laurie Schoonmaker, recalled that Fields often blasted polka music from his car when he was there. She had not seen him in months, she added.

According to an uncle who spoke to the Washington Post, Fields' father was killed by a drunk driver only a few months before the boy was born. His father left him money which the uncle kept in a trust.

"When he turned 18, he demanded his money and that was the last I had any contact with him," said the uncle, who spoke on condition of anonymity, adding that his nephew was "not really friendly, more subdued" when they met at family gatherings.

Fields' now deactivated Facebook page contained Nazi imagery including a photograph of Hitler as a baby, a picture of the Reichstag in Berlin, and a photograph of him posing with his car, the New York Daily News reported.

Derek Weimer, who taught Fields history when he was a student at Cooper high school in Union, Kentucky, told the TV station WCPO that he remembered a boy who was "very quiet and very bright," but one who believed in white supremacy and the Nazi ideology.

Military records appear to show that Fields served in the US army between August and December 2015.

Weimer said he recalled Fields had wanted to join the army after graduating but had been turned down because the teenager had been prescribed medicine for a psychotic disorder. "When you bring that in to the picture, and you bring the views, and you bring in the views of Nazism and white supremacy... you start to see it is like a perfect storm."

American Fascism

Vanguard America's manifesto, American Fascism, details its desire for a white ethnostate, the restoration of strictly patriarchal families and limiting the influence of "international Jews".

Of Vanguard America, the Anti-Defamation League (ADL) says the group "is particularly focused on recruiting young men and has engaged in unprecedented outreach efforts to attract students on American college campuses". Its leader, military veteran Dillon Irizarry, has said "the future is the youth".

During the 2016-2017 school year, chapters were active in posting flyers on college campuses in 10 states, from Arkansas to Oregon. On the group's website, printable flyers bear slogans including "Beware the International Jew", "Imagine a Muslim-Free America", and "Fascism: The Next Step for America".

According to the ADL, the group claims 200 members in 20 states, and has paramilitary tendencies. Members have carried firearms at events in open carry states.

Leader Irizarry claims the group started in California. According to the Southern Poverty Law Center, the group split from "alt right" group American Vanguard. This group in turn arose from the neo-Nazi "Iron March" web forum. Other users of that forum have been involved in alleged violence: in May, Devon Arthurs, who had been active on the forum, was arrested for the murder of two roommates, who were also members of the forum.

On Twitter on Saturday night, Vanguard America denied that Fields was a member, despite his presence with the group, and his uniform dress, saying that “shields were freely handed out to anyone in attendance”.

In a previous tweet commenting on the rally, they wrote: “Our members carry a purpose within them that drives them to risk their life and wellbeing for the cause. Bystanders won’t understand.”

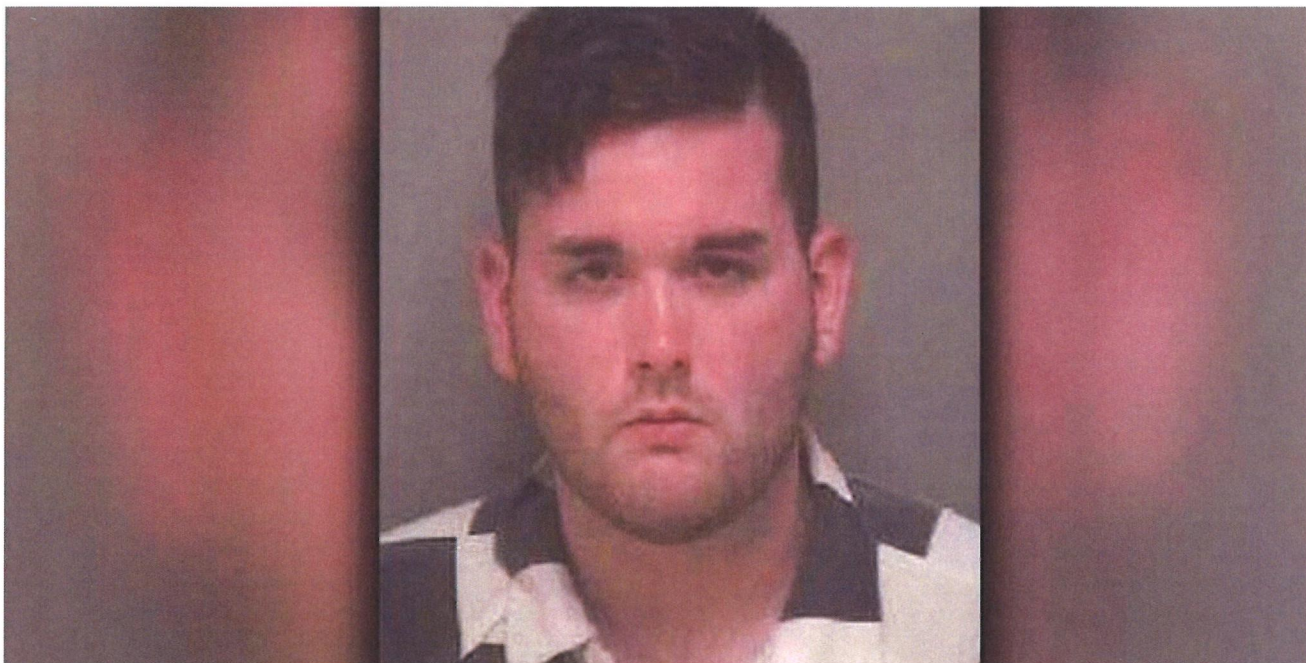
Federal authorities are also looking into a helicopter crash on Saturday that killed two Virginia state police officers who were involved in efforts to quell the clashes.

The Associated Press contributed to this report

EXHIBIT 18



Fields' Instagram posts depicting car running into crowd to be shown



Police say 20-year-old James Alex Fields drove his Dodge Challenger into a crowd of counter-protesters as they walked in the opposite direction on the street, killing 1 woman. (Source: Albemarle-Charlottesville County Regional Jail)

By **Jasmine Turner** | November 30, 2018 at 11:02 AM EST - Updated November 30 at 8:38 PM

CHARLOTTESVILLE, VA (WWBT) - The James Fields Jr. state murder trial entered day five on Friday as court documents reveal The Commonwealth plans to show two Instagram posts from Fields account months before the crash.

In those posts in May, a private message written by Fields said “When I see protesters blocking,” accompanied by a photo of a car running into people. The Commonwealth argues the photos show intent, motive and state of mind, while the defense, in court documents said memes, or photos like the ones posted, are generally amusing or interesting items not associated with crime or politics.

Fields of Maumee, Ohio, is charged with first-degree murder, as well malicious wounding, malicious assault and failure to stop - leaving the scene of an accident in the deadly Unite the Right Rally that killed Heather Heyer and injured nearly 20 other people.

A second post, which was public at the time, read, "You Have the Right to Protest, But I'm Late for Work," accompanied by the same photograph of a car running into a group of people blocking the car.



This Instagram post will be used as evidence in the Fields trial. (Source: Commonwealth of Virginia)

WITNESSES:

Forensic Detective Jeremy Carper was the first to take the stand Friday, he says the Dodge Challenger Fields was driving as he plowed into a crowd, had a broken windshield and a missing passenger mirror. Det. Carper processes the scene of Fields arrest, where the front of the car was mangled. The mirror was later recovered and taken into evidence where brown stains and potential blood evidence was swabbed. The mirror itself was in an evidence bag that was shown in court. Det. Carper says potential blood evidence and soft tissue were found on the car and says a water bottle and sunglasses were among evidence collected, as well as cell phone from inside of the car. As the scene of the crash was processed, swabs of blood were taken from the streets. Several pieces of evidence, many of them swabs remained sealed, but were held up for jurors to see.

Lizete Short was driving a burgundy mini van with her 10 year old daughter, her 22 year old god daughter and 5 year old “god granddaughter” when they ended up at the intersection where counter protesters were marching. Short says she saw two groups that day, one group “did not look very friendly,” had guns and were holding confederate flags. She rolled up the windows of the van at that point. After seeing that group, she could hear more people in the distance, and saw another group singing, chanting, laughing and all around happy near the Downtown Mall. She told jurors she felt comfortable to roll down the window again. Short described for the scene for the jury saying “the street was engulfed with people,” she even got out of her car because she felt safe and started taking a photo of a moment in history. At one point Short, saw **Brian Henderson** who testified to be hit and injured in the crash. The two were familiar with one another and briefly spoke before the crash. The Commonwealth had Short point herself out in a photo taken of the crowd. She could be seen taking photos/filming. Eventually Short “heard something,” and soon after she was hit by her own van, from the impact of the crash since the van was parked at the intersection. Short doesn’t remember much after that, but says she was either dragged or lifted and was screaming, shaking and bleeding as she was asking for her family. She learned her god daughter had gotten the children out of the car safely.

Tay Washington was driving a silver Camry that day. Her sister was in the car and the two went by the Friendship Court neighborhood to see a friend who they learned was not home. Near Friendship Court, they saw people looking over a fence and became curious. Washington pulled over at one point to take a photo of the crowds. As she headed towards the Downtown Mall area, she says there were several roadblocks and barriers. Washington noticed a grey Challenger behind her, but didn’t think much of it. She soon encountered the counter protesters again, chanting, and says they did not seem hostile. Washington told jurors “I’ve never seen so many white people standing up for black people,” and described the scene as a “wow factor.” Washington eventually had to stop at the same intersection as **Lizete Short**, as they waited for people to walk around their cars, she testified to noticing the Challenger slowly back up. When the crash happened, she heard a boom, and thought it was a bomb, and didn’t realize her car had

been hit. "Blanking out" for a second, Washington says when her vision corrected, she was scared, as she saw a woman sliding down her front windshield.

Jean Peterson has lived in Charlottesville ever since attending UVA in the early 2000's, and wanted to protest the alt-right on August 12th, 2017. After taking part in counter protests in the morning, before an unlawful assembly was declared, Peterson went with friends to Justice Park, where they got word that "the alt-right were harassing people of color at Friendship Court," and says activists headed to offer support. She led a group to Friendship Court where she says they were told everything was okay. When Peterson and others got to 4th and Water Streets, she described a joyful and celebratory mood, happy to be around like minded activists. She says they passed cars that were waiting at the intersection and then the crash "happened like that." Peterson told the jury she saw Heather Heyer flying in the air, and remembered seeing her eyes. After the crash, Peterson wondering why her legs weren't working, says her head was stabilized out of fear she might have been paralyzed by the impact. Photos of her injury were shown in court, Peterson taking deep breaths as she reviewed the photos. She suffered bruising all over her body, her right leg was crushed by the front and back tires of the car. It required 3 metal plates and roughly 18 screws, and some of her bones had to be removed, Peterson described it as doctors needing to piece her leg back together. She has gone through 5 surgeries and will need a 6th next year. At times, she struggles to move without assistance, in court she was aided to the witness stand by a bailiff and Senior Assistant Commonwealth's Attorney, Nina Alice-Antony, and also used a cane once her testimony concluded.

On what was supposed to be his last day with the Daily Progress in Charlottesville, **Ryan Kelly** was working as photojournalist on assignment covering the protests and counter-protests on August 12th, 2017. As counter protesters headed to 4th and Water Streets he followed the march taking photos. Kelly says he spotted the Challenger slowly back up in the downtown mall, thinking the driver was trying to get out of the area. Kelly told the jury he heard screeching tires, an engine revving, and the car sped past him as he held down the shutter and continued to take photos. As a photojournalist, he knew he needed to keep documenting and follow the car with his camera. At one point, Kelly was among several people who tried to chase the car down, but says it got away too fast. One of Kelly's photos shows crash victim, **Marcus Martin** in mid air, after Martin pushed his wife out of the way to save her. The defense questioned Kelly about whether or not he saw anyone strike the Challenger while he was taking photos, or if he saw brake lights on the car at any point. Kelly's photos have been seen all over the world. He won a Pulitzer Prize for breaking news photography in 2018.

Wednesday Bowie came to Charlottesville the night before the rally to participate as a counter protester. When the unlawful assembly was declared, she left with a group to another park, where counter protesters had filed for a permit to hold a rally. Only at the park for about 30 minutes, she says the group got word of a conflict near Friendship Court. They eventually ended

up heading towards the downtown mall surrounded by a “celebratory mood,” as people chanted “whose streets? our streets!” Bowie noticed the two cars stopped at the intersection as the group continued to march, and eventually remembers seeing a flash of silver. She heard the crash, that sounded like a gunshot, and she immediately started running towards the car with a medic alongside her to help injured people. Bowie told jurors she made it 2 feet from the bumper of the car when the reverse lights came on and she was hung up on the trunk of the car. She was thrown into a parked truck, and knocked unconscious. After being pulled off the street, Bowie came to and remembers being in excruciating pain, bleeding with several lacerations, wanting to call her husband and hearing people screaming “medic!” over and over. Bowie’s pelvis was fractured and she needed emergency surgery, also learning that her right femoral artery has been torn by a piece of broken pelvic bone and she was suffering from internal bleeding. Her other injuries included road rash, a fractured right orbital socket, a broken tailbone and nerve damage from the orbital socket fracture. More than a year later Bowie cannot walk long distances or sit for long periods of time without pain. The defense asked Bowie if she saw anyone strike the car at any point, which Bowie replied with, she did not.

The Commonwealth’s final witness of the day, **Detective Steve Young**, is scheduled to continue testimony into the next week. Friday, he told the jury about retracing Fields movements from the day of the crash in their investigation of what led up to the crash. Detective Young says Fields got to Charlottesville from Ohio around 3 Am and surveillance shows him eating alone at a Waffle House dressed in a white polo shirt and khakis. Fields eventually parked at a McDonald’s and walked towards the downtown area. Detective Young spent much of his testimony reviewing video evidence from the day. At one point he identified specific victims in video of the crash, **Heather Heyer**, **Austin Hiudari**, a then student hit and injured, and who also testified Thursday , and **Jean Peterson**.

[Jury seated, testimony begins in James Field Jr. trial]

Testimony in Fields' trial began Thursday after three days of jury selection with the commonwealth calling seven people to the witness stand.

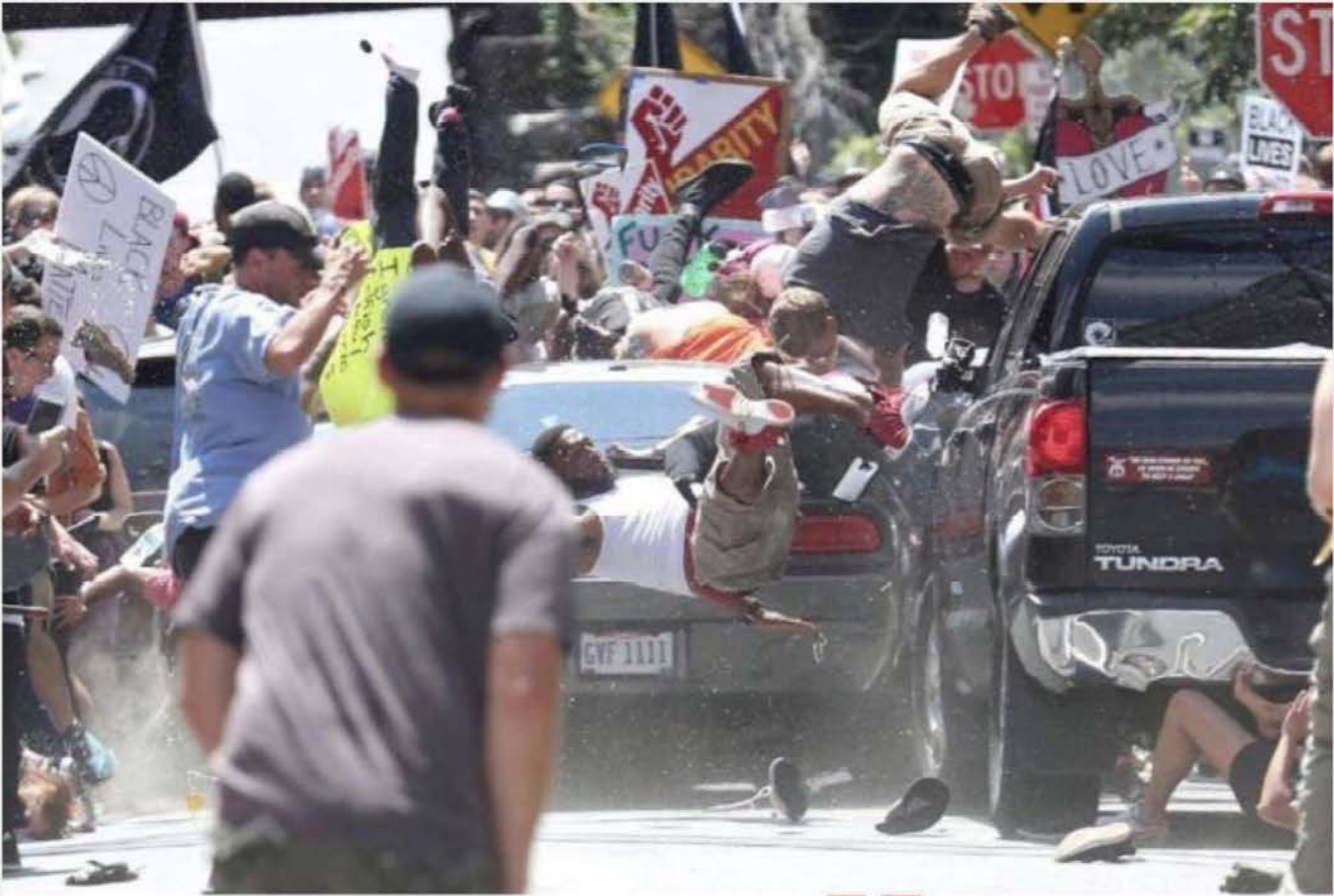
Most of the witnesses were cross examined by the defense who asked them to describe what was happening before they got to Water Street, and before the crashed happened. Most described the clashes, things being thrown in the air, and people dressed with helmets and shields

The 12-person jury and four alternates consist of seven men and nine women.

Testimonies will resume Monday morning.

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EXHIBIT 19



CAN'T DODGE THIS

EXHIBIT 20

Eric TX #general [server: Southern Front] [view](#)

Aug 13, 2017 04:00:36 AM

You guys want some synagogue blueprints?

Ronny TX #general [server: Southern Front] [view](#)

Aug 13, 2017 04:01:12 AM

Only if they come with bomb recipes

Eric TX #general [server: Southern Front] [view](#)

Aug 13, 2017 04:01:52 AM

Let's have a meetup at our clubhouse full of automatic weapons

The Don GA #general [server: Southern Front] [view](#)

Aug 13, 2017 04:02:17 AM

<https://twitter.com/ABC/status/896516491960610816>

TheDriver #general [server: Southern Front] [view](#)

Aug 13, 2017 04:05:02 AM

C U C K S

The Don GA #general [server: Southern Front] [view](#)

Aug 13, 2017 04:05:24 AM

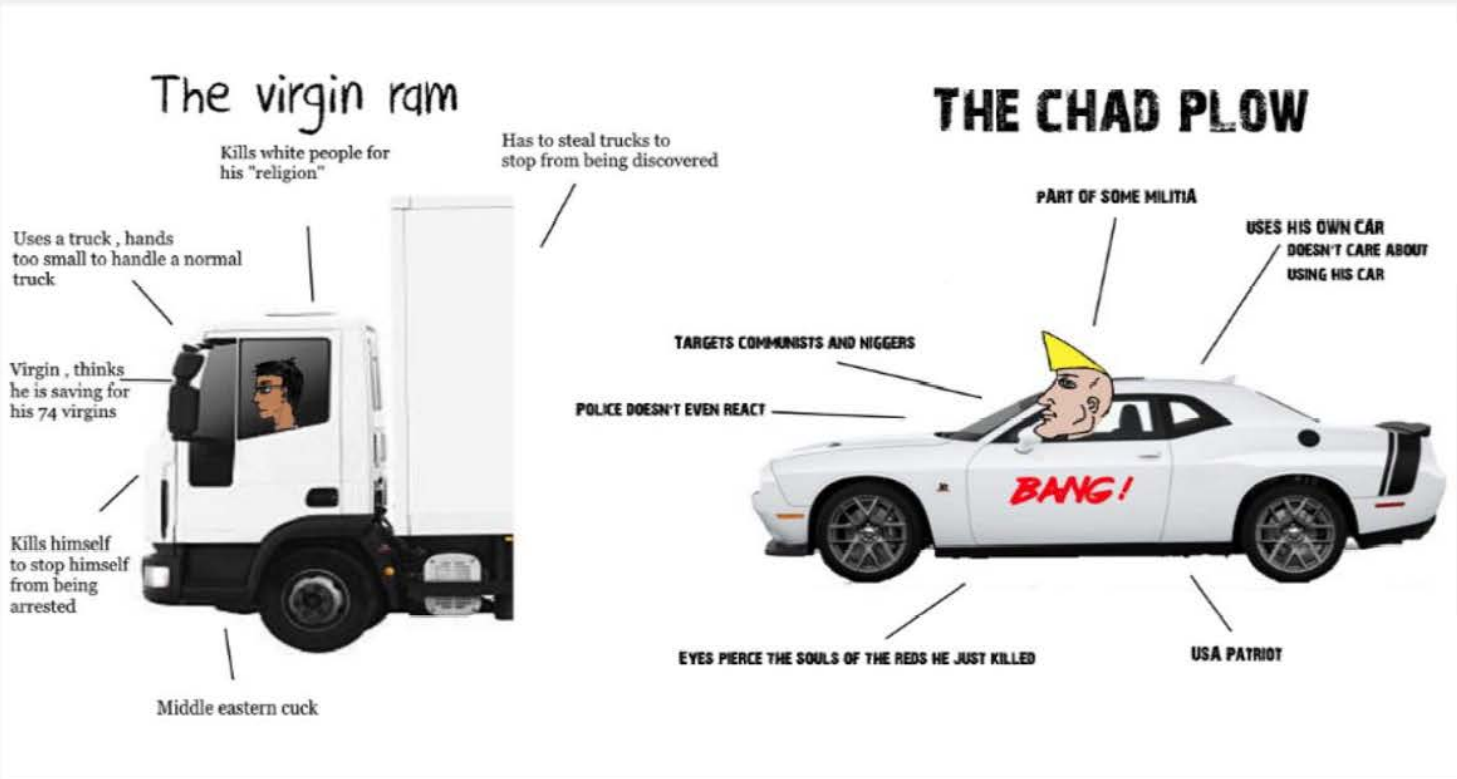


EXHIBIT 21

Phillip-TX #general [server: Southern Front] [view](#)
Aug 13, 2017 07:20:34 AM

This was the biggest victory for our movement history. It was glorious. <https://www.dailystormer.com/charlottesville-complete-victory-event-debriefing/>

Phillip-TX #general [server: Southern Front] [view](#)
Aug 13, 2017 07:41:29 AM

We gave many people shields, we fought and shed blood for our people today. Where where you?

EXHIBIT 22

[Phillip-TX](#) [#general](#) [server: Southern Front] [view](#)
Aug 13, 2017 08:45:56 AM

"WE WON. WE SHOWED THAT OUR IDEAS HAVE TO BE SHUT DOWN WITH VIOLENCE. THEY HAVE NO OTHER CHOICE."

[Phillip-TX](#) [#general](#) [server: Southern Front] [view](#)
Aug 13, 2017 08:46:09 AM

Andrew Anglin

[Phillip-TX](#) [#general](#) [server: Southern Front] [view](#)
Aug 13, 2017 08:46:35 AM

We fucked up many commies

[Phillip-TX](#) [#general](#) [server: Southern Front] [view](#)
Aug 13, 2017 08:46:50 AM

We hospitalized dozens

[Phillip-TX](#) [#general](#) [server: Southern Front] [view](#)
Aug 13, 2017 08:47:19 AM

We got our guys out, without police help. We won.

[Phillip-TX](#) [#general](#) [server: Southern Front] [view](#)
Aug 13, 2017 08:53:26 AM

Now you make the next rally and fight for your people.

EXHIBIT 23

March 9, 2018

By E-MAIL

Elmer Woodard
5661 US Hwy 29
Blairs, VA 24527
issuecrooks@comcast.net

James E. Kolenich
Kolenich Law Office
9435 Waterstone Blvd. #140
Cincinnati, OH 45249
jek318@gmail.com

Re: Sines v. Kessler, et al., Case No. 3:17-cv-00072

Dear Counsel:

We write concerning the failure of Defendants Jeff Schoep, Nationalist Front, National Socialist Movement, Matthew Parrott, Matthew Heimbach, Robert Ray, Traditionalist Worker Party, Elliot Kline, Jason Kessler, Vanguard America, Nathan Damigo, Identity Europa, Inc. (Identity Evropa), and Christopher Cantwell ("Defendants") to timely respond to Plaintiffs' outstanding discovery requests, and to obtain confirmation that Defendants are, and have been, complying with Defendants' respective obligations to preserve any and all Communications and Documents relevant to this litigation.¹

Failure to Respond to Plaintiffs' Discovery Requests

On January 25, 2018, Plaintiffs served Defendants with Plaintiffs' [Corrected] First Set of Requests for Production of Documents to All Defendants ("First RFPs") and Plaintiffs' First Set of Interrogatories to All Defendants ("First Interrogatories," and collectively with the First RFPs, the "First Discovery Requests"). Defendants' deadline to respond to the First Discovery Requests was February 26, 2018. *See* FED. R. CIV. P. 34(b)(2)(A).² Since you have not timely

¹ Capitalized terms used in this letter have the same meaning as in Plaintiffs' [Corrected] First Set of Requests for Production of Documents to All Defendants, served on counsel for all Defendants on January 25, 2018, including the definitions of "Communications," "Documents," and "Social Media."

² Defendant Peinovich's and Defendant Fields' motions to stay discovery do not relieve any Defendant of the obligation to respond. *See, e.g., Alston v. Becton, Dickinson & Co.*, No. 1:12-cv-452, 2014 WL 338804, at *2 (M.D.N.C. Jan. 30, 2014) ("the mere filing of a motion to stay does not effect a stay").

objected to Plaintiffs' First RFPs, please confirm by no later than March 15, 2018, that you will begin producing documents responsive to the First RFPs by no later than March 23, 2018, and provide a reliable estimate of when you expect to complete your production. If we do not hear back from you by March 15, 2018, we will seek relief from the Court.

Similarly, with respect to Plaintiffs' First Interrogatories, if we do not hear from you by March 15, 2018, that we will receive your belated responses by March 23, 2018, we will also seek relief from the Court.

Preservation of Relevant Information

Last week, it came to Plaintiffs' attention that one Defendant was encouraging anyone "involved in any altercation in Cville" to disable their social media accounts in order to avoid "getting a ride," and another Defendant "began the process of deleting [his] FB acct" in response to Plaintiffs' document requests. See Mar. 2, 2018 email from Pls. to Magistrate Judge Hoppe. Any such deletion of relevant Communications or Documents, including Social Media, would be in violation of the duty to preserve documents.³

Accordingly, Plaintiffs request that by no later than March 15, 2018, each Defendant provide written confirmation that Defendant: (1) is (and has been) complying with the obligation to preserve any and all Communications and Documents relevant to this litigation; (2) agrees to take all necessary steps to have Defendant's computers, mobile devices, and other electronic devices and data, including webmail, Social Media, and cloud storage accounts, that may contain information relating to this action imaged by a third party vendor agreed upon by Plaintiffs; and (3) agrees to stop the deletion of and immediately recover any Social Media accounts or data containing information relating to this action that Defendant has deleted or attempted to delete.

Plaintiffs look forward to receiving your timely response to this letter, including Defendants' responses to Plaintiffs' First Discovery Requests, and reserve all rights with respect thereto. Should you wish to discuss these requests, Plaintiffs are available to meet and confer by phone at your soonest convenience.

Sincerely,



Julie E. Fink

cc: Karen Dunn (via e-mail)
Alan Levine (via e-mail)
Roberta Kaplan (via e-mail)

³ See, e.g., *Silvestri v. Gen. Motors Corp.*, 271 F.3d 583, 591 (4th Cir. 2001) (a party has a duty to preserve evidence as soon as a party "reasonably should know that the evidence may be relevant to anticipated litigation"); *Jenkins v. Woody*, No. 3:15CV355, 2017 WL 362475, at *14 (E.D. Va. Jan. 21, 2017) (observing that the duty to preserve evidence "is triggered, *at the latest*, when the defendant is served with the complaint") (citations omitted, emphasis added).

EXHIBIT 24

From: [Christopher Greene](#)
To: ["James Kolenich"; "jsuecrooks@comcast.net"; "David Campbell"; "Mike Peinovich"; "richardbspencer@icloud.com"; "Bryan Jones"](#)
Cc: [Roberta Kaplan; Julie Fink; Gabrielle Tenzer; Karen Dunn; "Philip Bowman"; "alevine@cooley.com"; "Mills, David"](#)
Subject: Sines v. Kessler, et al.
Date: Tuesday, April 24, 2018 8:00:59 PM
Attachments: [2018.04.24 Proposed ESI Stipulation.docx](#)
[2018.04.24 Proposed Evidence Preservation Stipulation and Order.docx](#)

All,

Pursuant to the Court's direction at the March 16, 2018 telephonic conference, Plaintiffs propose that the parties enter into the attached Proposed Order and Stipulation for the Production of Electronically Stored Information and Proposed Evidence Preservation Stipulation and Order. Please let us know by May 1, 2018, if each Defendant is prepared to enter into the attached stipulations or if you have any comments on the attached.

Regards,

Christopher B. Greene
Kaplan & Company, LLP
(929) 294-2528

EXHIBIT 25

May 10, 2018

Via Email

James E. Kolenich, Esq.
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Elmer Woodard, Esq.
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Re: *Sines v. Kessler*, 17 Civ. 0072 (NKM) (W.D. Va.)

Dear Messrs. Kolenich and Woodard:

I write on behalf of Plaintiffs in the above-captioned action regarding the responses and objections (“Responses”) of Defendants Cantwell, Damigo, Heimbach, Identity Evropa, Kessler, National Socialist Movement (“NSM”), Nationalist Front, Parrott, Ray, Schoep, Traditionalist Worker Party (“TWP”), and Vanguard America (collectively, “Defendants”) to Plaintiffs’ First Set of Interrogatories, served on January 25, 2018 (“Interrogatories”).¹ For the reasons set forth below, Defendants’ Responses are deficient. Plaintiffs look forward to receiving Defendants’ response to this letter by no later than May 17, 2018, and are available to meet and confer regarding Defendants’ Responses at your soonest possible convenience over the next week.

As an initial matter, Plaintiffs note that Defendants’ failure to fully respond to Plaintiffs’ discovery requests in a timely manner is hampering Plaintiffs’ ability to obtain relevant discovery, including from third parties. Plaintiffs appreciate your agreement during our May 3, 2018 meet and confer to, among other things, provide SCA consents as well as a list of Defendants’ electronic devices, email accounts, and Discord handles, all of which is consistent with many of the points set forth below. If, however, Defendants continue to withhold responsive information that in any way prevents Plaintiffs from obtaining third-party discovery or unnecessarily increases the costs of obtaining that discovery, Plaintiffs reserve the right to seek relief from the Court.

Defendants Have Waived Any Objections to the Interrogatories: Defendants do not object to any of the Interrogatories, and have therefore waived any objections. *See* Fed. R. Civ. P. 33(b)(4) (“Any ground not stated in a timely objection is waived unless the court, for good cause, excuses the failure.”); *Ayers v. Cont’l Cas. Co.*, 240 F.R.D. 216, 222 (N.D.W. Va. 2007) (“[T]he failure to raise an objection within the time period allowed by the Rules will result in

¹ Capitalized terms used in this letter have the same meaning as in the Interrogatories.

waiver of the objection unless the party seeking to raise the objection can show good cause for the failure.”).

Defendants Have Failed to Properly Verify Their Responses: Pursuant to Rules 33(b)(3) and (5), a party is required to answer interrogatories “in writing under oath” and “must sign them.” Fed. R. Civ. P. 33(b)(3), (5). Several of the Defendants, including but not limited to NSM, Nationalist Front, and Schoep, have not properly verified their Responses, but instead have had them notarized without any signature and/or verification by the Defendant. Plaintiffs request that, pursuant to Rule 33(b), each of the Defendants that have not already done so properly verify their Responses or any revised Responses that they serve in response to this letter.

Defendants Have Failed to Provide Adequate Responses Where Accounts and Websites Have Been Suspended or Deleted: Suspension, deactivation, or deletion of Social Media accounts or posts does not shield otherwise relevant material from discovery.² See, e.g., *Romano v. Steelcase Inc.*, 30 Misc. 3d 426, 435 (N.Y. Sup. Ct. 2010) (ordering plaintiff to deliver to defendant a consent and authorization as required by social media website operators to gain access to plaintiff’s social media records “including any records previously deleted or archived by said operators”). Consequently, Defendants who responded that their accounts, messages, or posts were “banned,” “shut down,” “deleted,” “suspended,” or provided a similar response must answer the Interrogatories in full and to the best of their knowledge. See Fed. R. Civ. P. 33(b)(3) (requiring that interrogatories be answered “fully in writing under oath”); Instr. I of Pls.’ First Set of Interrogs.

Defendants Have Failed to Answer Interrogatories on Behalf of Persons or Entities Acting for Them or on Their Behalf: Defendants, particularly those that are not natural persons, should be sure that they have fully answered each Interrogatory, bearing in mind that the Interrogatories are addressed to and include “any persons or entities acting for them or on their behalf, including but not limited to all representatives, servants, agents, employees, officers, affiliates, subsidiaries, parent companies, third parties, attorneys, as well as any entities over which any of the Defendants have control.” Definition 8 of Pls.’ First Set of Interrogs. For example, Defendant Nationalist Front answered “none” in response to Interrogatory No. 1. Given that Defendants Schoep and Heimbach, both agents of Nationalist Front, communicated regarding the Events, “none” is a clearly incomplete response to this interrogatory.

Interrogatory No. 1: Interrogatory No. 1 requests that each Defendant identify all means of communication used by the Defendant to communicate concerning the Events, and all of the names, aliases, phone numbers, and Social Media Handles used in connection with those communications. Defendants’ responses are incomplete. Defendants: (1) omit all or some means of communication clearly used to communicate regarding the Events; and (2) fail to provide full account information associated with each means of communication identified.

² Moreover, although Defendant Kessler states that his Facebook account no longer exists, an account appearing to be associated with Defendant Kessler is currently accessible. See <https://www.facebook.com/authorjasonkessler/>.

By way of example only, Defendants—including Cantwell, Damigo, Heimbach, Kessler, NSM, Parrott, Ray, and Schoep—did not respond that they used phone calls, text messages, or emails to communicate regarding the Events, despite providing their phone numbers and email addresses in response to Interrogatory No. 4, which asked Defendants to identify all Electronic Devices used to communicate concerning the Events. Defendant Cantwell’s failure to identify phone calls or text messages as a means of communication is particularly problematic given that his initial document production contains several recorded calls between himself and other individuals regarding the Events, as well as a spreadsheet of text messages. Attached as Exhibit A is a chart setting forth additional examples of other deficiencies that should be corrected in each Defendant’s Response to Interrogatory No. 1.³

Plaintiffs request that Defendants supplement their Responses to include *each and every* means of communication used to communicate regarding the Events. For each of these means of communication, including those previously disclosed, Defendants should provide *all* names, aliases, email addresses, phone numbers, and Social Media Handles used in connection with those communications, even if those accounts were subsequently suspended or deleted. Defendants should insure that they have provided their Discord 18-digit identifiers or Discord user handles including their four-digit numbers.

Interrogatory No. 2: Interrogatory No. 2 requests that each Defendant identify any “channel” or “server” on Discord to which the Defendant had access. Defendants’ responses are inadequate in several respects. First, several Defendants, including NSM, Nationalist Front, and Schoep, each responded “none” or some variation thereof. Plaintiffs request that each of these Defendants who gave such a Response either confirm in writing that their Response to Interrogatory No. 2 is complete or supplement the Response accordingly. Second, numerous other Defendants, including Cantwell, Damigo, Heimbach, Kessler, Parrott, Ray, TWP, and Vanguard America, responded to Interrogatory No. 2 by referring to their Response to Interrogatory No. 1. But Interrogatory No. 1 asks Defendants to identify the “means of communication” used to communicate concerning the Events, whereas Interrogatory No. 2 specifically asks for *any* “channel” or “server” on Discord to which each Defendant had access from January 1, 2015, to the present.

Plaintiffs request that Defendants amend their Responses to provide the information requested in Interrogatory No. 2, including not only the Discord server names, but also the channel names on each of those servers, to which they had access.

Interrogatory No. 3: Interrogatory No. 3 requests that each Defendant identify all persons with whom the Defendant communicated concerning the Events. Defendants’ Responses are once again incomplete, in addition to their non-compliance with Instruction D of the Interrogatories. By way of example only, in response to Interrogatory No. 3, Defendant Cantwell identified only Defendants Kessler, Mosley, and Spencer, and an individual known to Cantwell as “Curt.” An initial review of Cantwell’s document production, however, reveals several recorded calls with other individuals, including a woman, about the Events. Moreover, in a documentary produced by *Vice* about the events in Charlottesville, Mr. Cantwell can be seen

³ This letter and the attached chart are not meant to identify all deficiencies, but instead provide examples that Defendants may use in preparing any supplemental Responses.

interacting with his “Radical Agenda” group, but none of the individuals in that group appear to have been identified in Mr. Cantwell’s Response to Interrogatory No. 3. Attached as Exhibit A is a chart setting forth additional examples of why Defendants’ Responses to Interrogatory No. 3 appear to be incomplete.⁴ In addition, Defendant Nationalist Front’s Response of “none,” and Defendants Identity Evropa, TWP, and Vanguard America’s complete non-responses to Interrogatory No. 3 should be amended.

Plaintiffs request that, based on the foregoing, each Defendant supplement its Response to Interrogatory No. 3. For any person about whom full details are not known—such as the “anonymous posters on Discord” that Mr. Kessler has included in his Response—Defendants should, pursuant to Instruction I, set forth all information that is known to them about those individuals.

Interrogatory No. 4: Interrogatory No. 4 asks Defendants to identify all Electronic Devices used by them to communicate concerning the Events, whether before, during, or after the Events. Plaintiffs request that Defendants Cantwell, Damigo, Heimbach, Kessler, NSM, Parrott, Ray, and Schoep clarify whether they used computers or other similar devices, in addition to cell phones, to communicate concerning the Events. Plaintiffs also request that Defendants Identity Evropa, TWP, and Vanguard America revise their non-Responses, which state that their communications were handled by certain members or simply state “VA member desktop computers or mobile devices.” For all Electronic Devices listed in response to Interrogatory No. 4, each Defendant is requested to state the nature, type, and location of the device and identify the person (natural or non-natural) who has custody or control over the device, consistent with Instruction D.iii.

Again, Plaintiffs look forward to receiving Defendants’ response to this letter by no later than May 17. Plaintiffs reserve all rights with respect to the Interrogatories and Defendants’ Responses.

Sincerely,



Gabrielle E. Tenzer

cc: Plaintiffs’ Counsel of Record

⁴ See footnote 3.

Exhibit A*

Defendant	Response to Interrog. No. 1 Deficiencies	Response to Interrog. No. 3 Deficiencies
Cantwell	<ul style="list-style-type: none"> Failed to provide complete account information for each means of communication listed. Failed to provide the 18-digit account identifier or user handle (including its four-digit number) associated with Discord account. 	<ul style="list-style-type: none"> See Letter.
Damigo	<ul style="list-style-type: none"> Did not include phone or email, but provided phone number and email address in response to Interrogatory No. 4. Failed to provide complete account information for each means of communication listed. Failed to provide the 18-digit account identifier or user handle (including its four-digit number) associated with Discord account. 	<ul style="list-style-type: none"> Responded that Eli Mosley (a/k/a Elliot Kline) is the <i>only</i> person with whom Damigo communicated regarding the Events, but Damigo can be seen in multiple videos speaking with numerous persons in Charlottesville during the Events.
Heimbach	<ul style="list-style-type: none"> Did not include phone, text messages, email, or Periscope, but provided phone numbers and email addresses in response to Interrogatory No. 4. Failed to provide complete account information for each means of communication listed. Failed to provide the 18-digit account identifier or user handle (including its four-digit number) associated with Discord account. 	<ul style="list-style-type: none"> Led a contingent of TWP members during the Events, including multiple TWP “officers,” but such officers, including Derrick Davis, are not included in the Response. Gave interviews to reporters who are not included in the Response.

* The deficiencies identified in this chart are in addition to those specified in the letter. Together, the letter and the chart are not meant to identify all deficiencies, but instead provide examples that Defendants may use in preparing any supplemental Responses.

Exhibit A*

Defendant	Response to Interrog. No. 1 Deficiencies	Response to Interrog. No. 3 Deficiencies
Identity Evropa	<ul style="list-style-type: none"> Failed to provide complete account information for each means of communication listed. Should confirm that Bitchute was not used as a means of communication. Failed to provide the 18-digit account identifier or user handle (including its four-digit number) associated with Discord account. 	<ul style="list-style-type: none"> See Letter.
Kessler	<ul style="list-style-type: none"> Did not include phone, text messages, email, or Periscope, but provided phone numbers and email addresses in response to Interrogatory No. 4. Failed to provide complete account information for each means of communication listed. Failed to provide the 18-digit account identifier or user handle (including its four-digit number) associated with Discord account. 	<ul style="list-style-type: none"> Gave several interviews regarding the Events, and coordinated with Charlottesville city officials concerning the Events, but none of these conversations is reflected in the Response.
National Socialist Movement	<ul style="list-style-type: none"> Did not include Gab, phone, or email, but provided phone number and email address in response to Interrogatory No. 4. Failed to provide complete account information for each means of communication listed. Should confirm that Bitchute was not used as a means of communication. Failed to provide the 18-digit account identifier or user handle (including its four-digit number) associated with Discord account. 	<ul style="list-style-type: none"> Failed to specify members of organization with whom Defendant communicated.

* The deficiencies identified in this chart are in addition to those specified in the letter. Together, the letter and the chart are not meant to identify all deficiencies, but instead provide examples that Defendants may use in preparing any supplemental Responses.

Exhibit A*

Defendant	Response to Interrog. No. 1 Deficiencies	Response to Interrog. No. 3 Deficiencies
Parrott	<ul style="list-style-type: none"> States “responsive TWP information from Discord been published at unicornriot.ninja,” but does not say anything about Defendant Parrott’s information on Discord. 	<ul style="list-style-type: none"> After August 12, 2017, Defendant Parrott published an account of his experience in Charlottesville in which he described numerous interactions with assorted “fighters,” Identity Evropa members (including specifically “two Identity Evropa allies” who rode in his car on August 12), TWP members, NSM members, League of the South members, Daryl Lamont Jenkins, Andy Nowicki, and Father Matthew Raphael Johnson, none of whom are included in the Response. Defendant Parrott was also arrested on August 12, 2017, and spent time in police custody, which suggests he communicated with police officers about the Events, even though no police officers are included in the Response.
Nationalist Front	<ul style="list-style-type: none"> Failed to provide the 18-digit account identifier or user handle (including its four-digit number) associated with Discord account. 	<ul style="list-style-type: none"> See Letter.
Ray	<ul style="list-style-type: none"> Did not include phone, text messages, or email, but provided phone numbers and email addresses in response to Interrogatory No. 4. Failed to provide the 18-digit account identifier or user handle (including its four-digit number) associated with Discord account. 	<ul style="list-style-type: none"> Failed to include in the Response any of the reporters with whom he discussed the Events in widely distributed news reports, including the <i>Vice</i> report.

* The deficiencies identified in this chart are in addition to those specified in the letter. Together, the letter and the chart are not meant to identify all deficiencies, but instead provide examples that Defendants may use in preparing any supplemental Responses.

Exhibit A*

Defendant	Response to Interrog. No. 1 Deficiencies	Response to Interrog. No. 3 Deficiencies
Schoep	<ul style="list-style-type: none">• Did not include phone, email, Discord, or Gab, but provided a phone number and email address in response to Interrogatory No. 4.• Did not include personal website, www.jeffschoep.com.• Failed to provide complete account information for each means of communication listed.	<ul style="list-style-type: none">• Failed to specify members of organization with whom Schoep communicated.
TWP	<ul style="list-style-type: none">• Failed to provide complete account information for each means of communication listed.• Failed to provide the 18-digit account identifier or user handle (including its four-digit number) associated with Discord account.	<ul style="list-style-type: none">• See Letter.
Vanguard America	<ul style="list-style-type: none">• Failed to provide complete account information for each means of communication listed.• Failed to identify the “Southern Front” Discord server.• Failed to provide the 18-digit account identifier or user handle (including its four-digit number) associated with Discord account.	<ul style="list-style-type: none">• See Letter.

* The deficiencies identified in this chart are in addition to those specified in the letter. Together, the letter and the chart are not meant to identify all deficiencies, but instead provide examples that Defendants may use in preparing any supplemental Responses.

EXHIBIT 26

From: [James Kolenich](#)
To: [Gabrielle E. Tenzer](#)
Cc: [Elmer Woodard](#); [Bryan Jones](#); [John DiNucci](#); [Roberta Kaplan](#); [Julie Fink](#); [Levine, Alan](#); [Mills, David](#); [pbowman@cooley.com](#); [Karen Dunn](#); [Wisaacson@bsflp.com](#); [jphillips@bsflp.com](#); [Rottenborn, Ben](#)
Subject: Re: Sines v. Kessler
Date: Friday, December 7, 2018 9:30:17 PM
Attachments: [VAesiDEC.pdf](#)

Please find attached ESI declaration of defendant Vanguard America which is provided as Highly Confidential.

Jim

On Fri, Dec 7, 2018 at 12:13 PM James Kolenich <jek318@gmail.com> wrote:
Gabrielle,

Please find attached ESI declaration of Traditionalist Worker Party and of Matt Parrott. Provided as highly confidential.

Jim

On Fri, Dec 7, 2018 at 10:47 AM James Kolenich <jek318@gmail.com> wrote:
Gabrielle:

Please find attached ESI declarations from defendants Identity Evropa, Jeff Schoep, National Socialist Movement, and Nationalist Front.

The attached are provided as Highly Confidential.

Jim

On Wed, Dec 5, 2018 at 5:23 PM James Kolenich <jek318@gmail.com> wrote:
Gabrielle,

Please find attached ESI declarations from defendants Kessler, Damigo, and Cantwell. The others remain in progress.

Jim

On Tue, Dec 4, 2018 at 2:53 PM James Kolenich <jek318@gmail.com> wrote:
Gabrielle,

I mis-calendared this deadline. I will get the necessary documents to you tomorrow.

Thanks,

Jim

On Tue, Dec 4, 2018 at 9:58 AM Gabrielle Tenzer <gtenzer@kaplanhecker.com> wrote:

Counsel –

Pursuant to Paragraph 5 of the Stipulation and Order for the Imaging, Preservation, and Production of Documents, entered on November 19, 2018 (ECF No. 383, the “Order”), all parties were to have completed the Certification attached as Exhibit A to the Order and provide those Certifications to opposing counsel by yesterday, December 3. Plaintiffs provided their Certifications to you last evening. As of this email, we have not received any of the Defendants’ Certifications. We request that those Certifications be provided immediately.

Plaintiffs reserve all rights with regard to Defendants’ compliance with the Order.

Sincerely,

Gabrielle

Gabrielle Tenzer | Kaplan Hecker & Fink LLP

350 Fifth Avenue | Suite 7110
New York, New York 10118
(W) [929.294.2536](tel:929.294.2536) | (M) [646.856.7275](tel:646.856.7275)
gtenzer@kaplanhecker.com

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--

James E. Kolenich
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9435 Waterstone Blvd. #140
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513-444-2150
513-297-6065(fax)
513-324-0905 (cell)

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EXHIBIT 27



The Daily Progress @DailyProgress · 6h

"I talked to a dozen officers who said they were disappointed" in their inability to do their jobs. Officers said they felt like they "had their thumbs up their asses." Not a failure of will, a failure of planning. -- Heaphy



2



6



16



Vanguard America

@VanAmOfficial

Follow

Replying to @DailyProgress @occdissent

As an officer of the law, your SWORN duty is to uphold peace and to protect the citizens in which you are tasked to care for. To HELL with the higher command when an officer sees Lawlessness! TO HELL with their political agendas! Better to be fired with honor than work with shame

1:23 PM - 1 Dec 2017



EXHIBIT 28



NBC Chicago @nbcchicago · 23h

Charlottesville suspect charged with first degree murder for allegedly ramming a car into a group of protesters



Charlottesville Suspect Charged With 1st-Degree Murder

The man accused of ramming a car into a crowd of people protesting a white nationalist rally in Charlottesville, Virginia, this summer now face...
nbcchicago.com

14 14 47



Vanguard America

@VanAmOfficial

Follow

Replying to @nbcchicago

First degree murder for not hitting Heyer with his car.

7:03 PM - 14 Dec 2017

1 Retweet 6 Likes



1 6

EXHIBIT 29



Hunter Wallace @occdissent · 4h

So, we have been vindicated. As I have said all along, it was Charlottesville that blew the UTR rally



1



11



31



Vanguard America

@VanAmOfficial

Follow

Replying to @occdissent

So, if we have been vindicated, does that mean these frivolous lawsuits can be thrown out? If we were not at fault at all for the chaos because the city itself refused to establish order, then maybe these queers should sue the city instead.

1:13 PM - 1 Dec 2017

1 Like



1



EXHIBIT 30



White-PowerStroke(Dillon)

2017-02-01 01:51:55



I am the current Senior Commanding Officer for the American Vanguard.

EXHIBIT 31



White-PowerStroke(Dillon)

2017-06-20 02:03:56



@everyone I'm on hiatus until further notice. Thomas is in charge.

EXHIBIT 32

From: [Michael Bloch](#)
To: [hoppe.ecf@vawd.uscourts.gov](#); [karend@vawd.uscourts.gov](#)
Cc: [isuecrooks@comcast.net](#); "[James Kolenich](#)"; "[Bryan Jones](#)"; "[John DiNucci](#)"; [lisa_lorish@fd.org](#); [Roberta Kaplan](#); [Julie Fink](#); "[Levine, Alan](#)"; "[Mills, David](#)"; "[Bowman, Philip M.](#)"; "[Rottenborn, Ben](#)"; "[Karen Dunn](#)"; "[Jessica Phillips](#)"; "[William Isaacson](#)"; [dcampbell@dhdgclaw.com](#); [commander@newsaxon.org](#); [jeffschoep@gmail.com](#); [Gabrielle E. Tenzer](#)
Subject: Sines v. Kessler, Case No. 17 Civ. 72
Date: Monday, March 18, 2019 10:53:10 AM
Attachments: [2019.03.18 iDS Status Report2.pdf](#)

Dear Judge Hoppe:

In advance of our conference this afternoon, we are submitting to the Court the latest status report from the third-party vendor, detailing the extent of Defendants' compliance with their discovery obligations as of today. As Your Honor will note, while Defendants have made some progress, there are a number of social media accounts and electronic devices that have yet to be provided to the vendor, ten days after the date by which Your Honor ordered "all devices and social media account credentials provided to the vendor." (3/1/19 Transcript at 19.) Additionally, what may not be evident from the face of the report is that **six** defendants (Parrot, Ray, Kessler, Hill, Tubbs, and Identity Evropa) failed to disclose certain of their social media accounts that contained responsive documents in their sworn discovery certifications, only confirming the existence of such accounts once Plaintiffs or the vendor brought the undisclosed accounts to the attention of Defendants' attorneys. As reflected in the attached report, the following Defendants continue to withhold certain social media accounts and electronic devices:

- **Matthew Parrott** – Defendant Parrot has not provided three electronic devices – his cell phone, one laptop and one server.
- **Vanguard America ("VA")** – Defendant VA has not provided the cell phone associated with the organization or full credentials to one of the associated email accounts.
- **Identity Evropa ("IE")** – As noted in Plaintiffs' March 12 letter to the Court, Defendant IE failed to disclose multiple Discord servers on their sworn certifications and interrogatory responses. Subsequently, at Plaintiffs' request, Mr. Patrick Casey, the current leader and authorized representative of IE, provided an SCA consent for one of his Discord handles that may give Plaintiffs access to those servers, which Plaintiffs are attempting to confirm with Discord.
- **Robert "Azzmador" Ray** – Defendant Ray has not provided one of his laptops or full credentials for three social media accounts: Gab.ai, Krypto Report (a podcast), and the comment section of the Dailystormer website, stating that he "does not remember" either certain usernames or passwords associated with those accounts.
- **Matthew Hill** – Defendant Hill has not provided credentials for a VK account, and multiple Twitter accounts, which he also failed to disclose on his sworn certification.
- **Michael Tubbs** – Defendant Tubbs has not provided credentials to a VK account, which he failed to disclose on his sworn certification.

Additionally, although Defendant Schoep provided his cell phone to the vendor (on March 11, 2019, three days past the Court's deadline), the vendor was unable to obtain any information from the device due to water damage. Mr. Schoep reported that the phone "fell in the toilet last year."

The Stipulation and Order for the Imaging, Preservation, and Production of Documents was signed by Your Honor on November 19, 2018, nearly four months ago. According to that order, Defendants were given 28 days from the entry of that order to make their electronic devices and social media accounts available to the third-party vendor for imaging. (ECF 383 at 8.) While negotiation of the vendor contract took months, Defendants were certainly on notice at that point that their devices and credentials needed to be provided in short order. On February 12, 2019, Your Honor inquired of each defense counsel whether their clients would have any problem providing access to their electronic devices and social media accounts at the time the contract was entered into, which Your Honor ordered was to be done by February 15, 2019. (2/12/19 Transcript at 12-15.) The Defendants had no objections to that. On March 1, after more delays, Your Honor made clear that all devices and accounts must be provided by March 8. (3/1/19 Transcript at 19.) Given the number and clarity of Your Honor's rulings that continue to go unheeded, as well as how far away we remain from full compliance, we respectfully suggest that a daily financial penalty may be in order at this point for each day any particular Defendant continues to withhold relevant discovery. *See, e.g., In re TJN, Inc.*, 207 B.R. 495, 498 (Bankr. D.S.C. 1996)(enforcing a prior sanctions order which stated that "[f]ailure to comply with this Order shall result in sanctions against the Defendants . . . at a rate of \$2,500 per day, said amount to continue to accrue daily, including weekends and holidays, up to the day and time that full and complete responses to Plaintiff's Discovery Requests and the Order are submitted to the Plaintiff."). We are, of course, willing to brief that issue more fully if the Court would prefer. We look forward to discussing this and other matters on the upcoming conference.

Respectfully submitted,

Michael Bloch | Kaplan Hecker & Fink LLP

Counsel

350 Fifth Avenue | Suite 7110

New York, New York 10118

(W) [929.367.4573](tel:929.367.4573) | (M) [646.398.0345](tel:646.398.0345)

mbloch@kaplanhecker.com

EXHIBIT 33

From: [Caitlin Fila](#)
To: [Christopher Greene](#); [Michael Bloch](#); [Gabrielle E. Tenzer](#); [Alex Conlon](#); [Bryan Jones](#); [James Kolenich](#); [John DiNucci](#); [Jeff Schoep](#)
Cc: [iDS_SINKS-02678](#)
Subject: Sines v. Kessler: iDS Weekly Status Report
Date: Tuesday, April 9, 2019 11:00:27 AM
Attachments: [image007.png](#)
[image008.png](#)
[image009.png](#)
[2019.04.09_iDS Status Report.xlsx](#)

All,

Please find our weekly status report attached above and some notes below.

Discord Collections:

As a reminder, we submitted a request on behalf of the defendants for Discord using the "Request all of my Data" function. We believe that Discord will send an email to the Defendants when the request has been completed. If Defendants could please forward those emails to my attention, that will allow us to complete the collection.

Twitter Requests:

We have not received a response yet to our inquiry to Twitter on the exact information needed in the written consent from the users.

I have included below a chart tracking the Twitter accounts that are reported to be disabled and if we received the associated email address for the account.

Defendant	Twitter Account	Email Address Provided?
Nathan Damigo	@NathanDamigo	Yes
Michal Hill	JamesHill120651	Unable to locate
Michal Hill	MickCollins1951	Yes
Michal Hill	BigChief1951	Unable to locate
Michal Hill	51CeannCinnidh	Yes
Michal Hill	71Rhodie	Yes
Michal Hill	@MichaelHill51	No
Robert Ray	Azzmador	Yes
Jeff Schoep	effschoep@nsm88	No

Search Term Hits

We noticed there was a syntax issue on a few of the search terms. We have corrected those terms and the report attached reflects the revised hit counts.

Thank you,
Caitlin

Caitlin Fila 
PMO Manager

iDiscovery Solutions

3000 K Street NW, Suite 330

Washington, DC 20007

Direct: 202.552.4442

Mobile: 571.438.0084



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