

**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., VANGUARD  
AMERICA, ANDREW ANGLIN,  
MOONBASE HOLDINGS, LLC, ROBERT  
“AZZMADOR” RAY, NATHAN DAMIGO,  
ELLIOT KLINE a/k/a/ ELI MOSELY,  
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**

**JURY TRIAL DEMANDED**

**PLAINTIFFS’ MOTION TO ENJOIN DEFENDANT CANTWELL FROM  
MAKING UNLAWFUL THREATS AGAINST PLAINTIFFS AND PLAINTIFFS’  
COUNSEL**

Plaintiffs move this Court pursuant to its inherent authority to issue an Order directing Defendant Cantwell to stop making unlawful threats against Plaintiffs and Plaintiffs' Counsel.

### **PRELIMINARY STATEMENT**

Before the events in Charlottesville, in August of 2017, Defendant Cantwell urged his followers to join him in a race war and in “gas[sing] kikes.” Then, on August 11, 2017, Cantwell marched with his co-conspirators in Charlottesville screaming “Jews will not replace us!” as he terrorized students and employees on the University of Virginia campus. That night, he followed through on his threat and assaulted counter-protestors and passersby with illegal gas. The following day, as he continued to terrorize the residents of Charlottesville, he said to his co-conspirators “We’ll f—ing kill these people if we have to.” He was subsequently arrested for multiple felonies, including for maliciously causing bodily injury to a counter-protestor by dispensing a caustic substance, in violation of Va. Code Ann. §§ 18.2-52.

Cantwell’s rhetoric has only escalated in its vitriol and violence since the events in Charlottesville. He has likened himself to the perpetrators of mass shootings and advocated for the mass murder of those with opposing political views. And recently, he focused his hateful rhetoric on one person in particular—Roberta Kaplan, lead counsel for the Plaintiffs. In response to an article in a Jewish publication about Ms. Kaplan, Cantwell wrote: “After this stupid kike whore loses this fraudulent lawsuit, we’re going to have a lot of fucking fun with her.”

Cantwell’s threat against Ms. Kaplan is troubling, distracting and distressing. And if it goes unaddressed by this Court, Plaintiffs justifiably fear that Cantwell’s threatening behavior will escalate, as it has in the past, and jeopardize Plaintiffs’ and their counsel’s safety, and Plaintiffs’ right to a fair trial. Rather than waiting for just such a catastrophe, Plaintiffs ask this Court to issue a prophylactic order prohibiting Cantwell from making unlawful threats against Plaintiffs and their

counsel. The proposed order, which is well within this Court's inherent power, would give Plaintiffs and their counsel a necessary, additional layer of protection and peace of mind, and would only require Cantwell to refrain from conduct that is already prohibited by law.

### **FACTUAL BACKGROUND**

On Tuesday, June 18, Defendant Christopher Cantwell posted a message about Roberta Kaplan, counsel to the Plaintiffs in this action, on Telegram.com, a social media website. *See* Ex.

1. Cantwell posted a link to an article about Ms. Kaplan by the Jewish Telegraphic Agency.

*Id.* The article discusses Ms. Kaplan's Jewish identity and her role as lead counsel on a case that overturned a federal ban on gay marriage. *Id.*; Ron Kampeas, *This Jewish Lawyer Wants to Break the Back of the Violent White Nationalist Movement*, JEWISH TELEGRAPHIC AGENCY (Jun. 17, 2019) <https://www.jta.org/2019/06/17/united-states/this-jewish-lawyer-wants-to-break-the-back-of-violent-white-nationalists>. The article also includes excerpts of remarks she made recently at a Manhattan synagogue where she spoke about her wife. *Id.* Above a picture of Ms. Kaplan from the article, Defendant Cantwell wrote: "After this stupid kike whore loses this fraudulent lawsuit, we're going to have a lot of fucking fun with her." Ex. 1. As of this writing, Cantwell's message has been viewed by hundreds of other users on Telegram. *Id.*

This was certainly not the first offensive message Cantwell posted about Plaintiffs' counsel. *See e.g.*, Ex. 2 (describing Plaintiffs' counsel as "the lying kike filth suing me"). Cantwell's post is not even the first menacing post made by a Defendant in this case about Ms. Kaplan and her role in this litigation. *See e.g.*, Ex. 3 (Excerpted post from Jason Kessler's public Twitter profile (Feb. 10, 2018)). But Cantwell's post went beyond menacing and offensive language: it was a thinly-veiled threat to harm Ms. Kaplan in the future and to encourage others to

harm her, and one that was linked to her participation as an attorney in this very case. Cantwell's prior statements and actions demonstrate that his threats of violence must be taken seriously.

### **A. Cantwell's Escalating Violent Rhetoric**

Cantwell speaks and writes about violence frequently. He has called "for the assassination of ordinary law enforcement officers and other government workers." *See Christopher Cantwell, S. POVERTY L. CTR.*, <https://www.splcenter.org/fighting-hate/extremist-files/individual/christopher-cantwell> (last visited Jul. 2, 2019). Just a few months before the violence in Charlottesville, while speaking about Jews in an interview, Cantwell said, "let's fucking gas the kikes and have a race war because once I realized they were responsible for communism...that's a fucking really good reason to fucking genocide a group of people." *Id.* After the violence in Charlottesville while speaking about Heather Heyer, who died after Cantwell's co- Defendant, James Alex Fields Jr. killed her by driving into her with his car, Cantwell ominously warned "Soon these Red motherfuckers are going to be jealous of Heather Heyer." *See* Ex. 4 (Excerpted post from Cantwell's public Gab profile (Aug. 11, 2018)).

In the nearly two years since Heyer's murder, Cantwell's public statements have only become more violent. Recently, Cantwell commented on a mass shooting in a mosque in New Zealand in which fifty people died. In response to that tragedy Cantwell wrote: "I'm pretty sure it would be against the rules for me to say that would be mass shooters should find left wing activists and gun them down instead of random people in mosques and synagogues. So I won't do that. I just really want these people to shut the f\*\*k up, and that seems like the most obvious and enjoyable way of accomplishing this goal." Daniel Moritz-Rabson, *'Crying Nazi' Christopher Cantwell Reportedly Banned from Gab After Post Advocated Shooting Leftists*, NEWSWEEK (Mar. 19, 2019), <https://www.newsweek.com/social-media-site-gab-bans-crying-nazi-killing-leftists-1367679>.

In addition to general invectives about violence against categories of people Cantwell hates, including Jews and left-wing activists, Cantwell has resorted to threats of violence to intimidate and harass particular individuals. Cantwell has made threats of violence against a reporter covering litigation stemming from the events at issue in this case. During the recent criminal trial of Defendant James Fields for murder, for example, Cantwell targeted a freelance reporter, Molly Conger, who was covering the Fields case. In a Gab post, above a link to Conger's podcast about the Fields trial, Cantwell wrote:

I beg of Dino Capuzzo and the other FBI agents hovering over my social media posts, to take a genuine interest in Justice. You are fully aware of the lies of the monsters who commit perjury against us. If you will not act upon the information we provide to you, then what other choice do we have but to take the law into our own hands? How am I any better than Dylann Roof or Robert Bowers, if my peaceful and lawful actions produce the catastrophe that awaits us all? For America to survive, we must address these issues, and if the government will not do so, the private sector will.<sup>1, 2</sup>

See Chauncey Alcorn, *"Crying Nazi" Christopher Cantwell Uses Gab to Threaten Reporter Covering Charlottesville Trial*, MIC (Nov. 28, 2018), <https://www.mic.com/articles/192663/crying-nazi-christopher-cantwell-gab-to-threaten-reporter-charlottesville-trial>. In other statements, Cantwell made plain his intentions for Conger. On Gab, for example, above a link to another episode of Conger's podcast, Cantwell wrote: "Dear Molly

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<sup>1</sup> Dylann Roof was convicted of killing nine African-Americans inside of a historic African-American church in Charleston, South Carolina. Alan Blinder & Kevin Sack, *Dylann Roof Is Sentenced to Death in Charleston Church Massacre*, N.Y. TIMES (Jan. 10, 2017), <https://www.nytimes.com/2017/01/10/us/dylann-roof-trial-charleston.html>. Robert Bowers is accused of killing eleven people in a shooting at a Pittsburgh Synagogue and is awaiting trial. Marina Pitofsky, *Accused Gunman in Pittsburgh Shooting Pleads Not Guilty to 19 New Charges*, USA TODAY (Feb. 11, 2019), <https://www.usatoday.com/story/news/2019/02/11/pittsburgh-shooting-bowers-pleads-not-guilty-19-new-charges-hate-crimes/2836417002/>.

<sup>2</sup> Cantwell has favorably invoked Roof before. On February 2, 2019, Cantwell "posted a picture of himself with a Dylann Roof haircut [a distinctive hair style] and the word soon on his Gab account." Todd Neikirk, *The "Crying Nazi" Christopher Cantwell Posts Picture of Himself with Dylann Roof Haircut and the Word Soon*, HILLREPORTER.COM (Feb. 3, 2019), <https://hillreporter.com/the-crying-nazi-christopher-cantwell-posts-picture-of-himself-with-dylann-roof-haircut-and-the-word-soon-23257>.

Conger, You will pay for your lies.” *Id.* Cantwell has targeted other journalists critical of white supremacy with similar threats in the past. *See* Affidavit of Oren Segal, Ex. 5, ¶ 13.

### **B. Cantwell’s Recent Prosecution**

Cantwell’s threats are all-the-more concerning because Cantwell doesn’t just talk about and endorse violence—he acts on his threats. During the events in Charlottesville, Cantwell behaved violently towards counter-protestors and was prosecuted for his conduct. *See* Justin Wm. Moyer, ‘Crying Nazi’ Pleads Guilty to Assault Committed During Charlottesville Rally, WASH. POST (Jul. 20, 2018), [https://www.washingtonpost.com/local/public-safety/crying-nazi-barred-from-virginia-after-pleading-guilty-to-assault-during-charlottesville-rally/2018/07/20/164480a4-8c5f-11e8-81bf-28c7cd96bbc2\\_story.html?utm\\_term=.7bac0383cbdb](https://www.washingtonpost.com/local/public-safety/crying-nazi-barred-from-virginia-after-pleading-guilty-to-assault-during-charlottesville-rally/2018/07/20/164480a4-8c5f-11e8-81bf-28c7cd96bbc2_story.html?utm_term=.7bac0383cbdb). After telling his followers to “fucking gas the kikes” *supra*, Cantwell followed through, and was arrested for charges stemming from his unlawful dispersal of a caustic substance that injured counter-protestors. *See* Avi Selk, *The Rise and Humiliating Fall of Chris Cantwell, Charlottesville’s Starring ‘Facist,’* WASH. POST (Aug. 19, 2017), <https://www.washingtonpost.com/news/the-intersect/wp/2017/08/18/the-rise-and-humiliating-fall-of-charlottesvilles-starring-fascist/>; Ex. 6 (Photograph of Cantwell (Aug. 11, 2017), 3:17-cv-00089, ECF No. 4-13). Cantwell was indicted by a grand jury for two felonies based on his violent conduct during the events at issue in this case. He was indicted for violating Va. Code Ann. § 18.2-312, which makes it a crime to maliciously release pepper spray at a public gathering and cause injury to another, and for violating Va. Code Ann. § 18.2-52, which makes it a crime to maliciously cause injury to another using a caustic substance. *See* Ex. 7 (CR17000784-00 Docket Sheet, Albemarle County Circuit Court – Criminal Division); Ex. 8 (CR17000845-00 Docket Sheet, Albemarle County Circuit Court – Criminal Division).

Cantwell was arrested on August 23, 2017, *id.*, and he was held in jail on a \$25,000 bond. See Elspeth Reeve & Tess Owen, *Crowd-Funding Hate; The Internet Bailed White Supremacist Chris Cantwell out of Jail*, VICE (Dec. 11, 2017), [https://news.vice.com/en\\_us/article/d3xxnq/the-internet-bailed-charlottesville-white-supremacist-chris-cantwell-out-of-jail](https://news.vice.com/en_us/article/d3xxnq/the-internet-bailed-charlottesville-white-supremacist-chris-cantwell-out-of-jail). But, after launching a fundraising campaign on social media platforms like Hatreon and GoyFundMe, Cantwell's supporters raised money to pay his bond and he was released in December 2017.<sup>3</sup> *Id.*

### **1. Cantwell's Persistent Threats Against and Intimidation of Victims During Recent Prosecution**

While released on bond, Cantwell continued to flout the law. Cantwell violated the conditions of his bond by getting arrested for public obscenity and intoxication, and, more troublingly, by making threatening posts on social media regarding the victims of his crime. See Ex. 9 (GC18001568-00 Docket Sheet, Loudoun County, General District Court); Lauren Berg, *Cantwell's Bond Restrictions Tightened After Loudoun Arrest*, THE DAILY PROGRESS (Apr. 26, 2018), [https://www.dailyprogress.com/news/local/county/cantwell-s-bond-restrictions-tightened-after-loudoun-arrest/article\\_45a406c4-49c2-11e8-98b2-6be8812ffe9f.html](https://www.dailyprogress.com/news/local/county/cantwell-s-bond-restrictions-tightened-after-loudoun-arrest/article_45a406c4-49c2-11e8-98b2-6be8812ffe9f.html). The prosecutor for the Commonwealth of Virginia brought Cantwell's threats against his victims to the court's attention and moved to revoke Cantwell's bond. In one of the examples the prosecutor brought before the court, Cantwell "reposted a photo that depicted a little girl marching against gun violence with a sign that read, 'Am I next?' The second panel of the post showed a photo of Cantwell that said, 'one can hope.'" *Id.* In another familiar example, Cantwell posted about "gassing 'kikes and trannies'", which appeared to be directed towards one of the people he pepper-

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<sup>3</sup> Hatreon and GoyFundMe are "crowdfunding site[s] ...meant to give alt-right personalities and others a way to raise money for projects deemed too risqué for mainstream crowdfunding platforms." Kevin Roose, *The Alt-Right Created a Parallel Internet. It's an Unholy Mess*, N.Y. TIMES (Dec. 11, 2017), <https://www.nytimes.com/2017/12/11/technology/alt-right-internet.html>.

sprayed on August 11, Emily Gorcenski, a vocal advocate for transgender rights. *See* Samantha Baars, *Booze Bracelet: Cantwell's Public Intoxication Charge Violates Terms of Bond*, C-VILLE (May 1, 2018), <https://www.c-ville.com/booze-bracelet-cantwells-public-intoxication-charge-violates-terms-bond/>; Mihir Zaveri, *Christopher Cantwell, White Nationalist in Vice Video, Is Barred from Virginia*, N.Y. TIMES (Jul. 21, 2018), <https://www.nytimes.com/2018/07/21/us/christopher-cantwell-crying-nazi-virginia.html>.

These were not Cantwell's first posts designed to intimidate his victims—the prosecutor had repeatedly asked Cantwell to stop making threats against the victims before moving to revoke his bond. Berg, *supra*. Cantwell's torrent of harassment and intimidation against Gorcenski also included public statements where he called her “a fucking tranny”; a “suicide waiting to happen”; permitted a commenter on his blog to post her home address with the message “someone should go talk to it,” referring to Gorcenski; published a song to his blog with pictures of Gorcenski titled “Gassing kikes and Trannies”; published a drawing showing a caricature of Gorcenski being hit by a Dodge Challenger; and threatened Gorcenski on Gab with the post “Hello enemy stalker. Your entire life is a lie, and you will soon be punished for your sins,” among other things. *See* Ex. 10, Amended (First) Counterclaims of Defendants Emily Gorcenski and Kristopher Goad (Mar. 20, 2018), 3:17-CV-00089, ECF No. 25, ¶¶ 27(a)-30(a); Ex. 11 (Post from Cantwell's blog, (Dec. 10, 2017), 3:17-CV-00089, ECF No. 25-2); Ex. 12 (Excerpted post from Cantwell's blog, 3:17-CV-00089, ECF No. 25-3); Ex. 13at 2 (Excerpted posts from Cantwell's public Gab profile, 3:17-CV-00089, ECF No. 25-4). Even after Cantwell's own lawyer, Elmer Woodard, directed him to remove the threatening posts and stop making new ones, Cantwell persisted. Ex. 14, ¶¶ 8-11 (Motion to Revoke or Modify Bond, *Commonwealth of Virginia v. Christopher Charles Cantwell*, CR17-784, CR17-845, Albemarle County, Circuit Court (Jul. 6, 2018)). In his



application to the court to revoke Cantwell's bond, the prosecutor pleaded: "[Cantwell's not taking these [bond] conditions seriously," "[w]e just want the threats to stop." Berg, *supra*. Cantwell's bond conditions were modified and he was ordered not to have contact with or speak publicly about the victims. *Id.*

Despite the court's order, Cantwell continued to identify and refer to his victims in public statements. *See* Ex. 14, ¶ 16. As the prosecutor noted in the Commonwealth's second motion to revoke or modify Cantwell's bond, Cantwell's conduct imperiled "[t]he right of victims in pending cases to prepare for trial free of harassment or intimidation," which is "essential to the administration of justice." *Id.* ¶ 13. On July 20, 2018, Cantwell pled guilty to violating the conditions of his bond, in violation of Va. Code Ann. § 18.2-456. *See* Ex. 15 (CR-17000784-01 Docket Sheet, Albemarle County Circuit Court – Criminal Division).

## **2. Cantwell Admission of Violent Conduct**

Cantwell also ultimately pled guilty to multiple crimes in connection with his conduct on August 11, 2017. Specifically, Cantwell pled guilty to two counts of assault and battery in violation of Va. Code Ann. § 18.2-57. *See* Ex. 7; Ex. 8. Cantwell was sentenced to two concurrent sentences of twelve months in jail, with five months suspended. *Id.* As part of his plea, he was required to leave Virginia immediately, not to return to Virginia for five years, not to possess a firearm in Virginia, and not to have contact, direct or indirect, with the victims of the case. *See Cantwell Enters Plea Deal on Charges of Assault and Battery*, NBC29.COM (Jul. 29, 2018), <https://www.nbc29.com/story/38694309/chris-cantwell-court-7-20-2018>.

### **C. Cantwell's Use of Telegram Amplifies the Danger of his Threat**

Perhaps of greatest concern here is the fact that Cantwell's threat against Ms. Kaplan is not limited to violent acts to be committed by Cantwell himself. Rather, the manner in which it was published raises the very real specter that those who read the threat may heed his call to behave

violently towards Ms. Kaplan. Significantly, Cantwell posted the threat on Telegram, which is a social media platform that has recently become popular with white supremacists, and has been popular with other extremist groups, including ISIS, for several years. See Michael Edison Hayden, *Far-Right Extremists Are Calling for Terrorism on the Messaging App Telegram*, S. POVERTY L. CTR. (Jun. 27, 2019), <https://www.splcenter.org/hatewatch/2019/06/27/far-right-extremists-are-calling-terrorism-messaging-app-telegram>. Telegram has numerous moderated conversation streams, known as channels, where users “promote terror” and “discuss weaponry, including the subject of building guns with 3D printers and homemade methods,” and moderators encourage users to “attack synagogues, mosques and other houses of worship.” *Id.* Telegram has an active user base and tracks its users’ activities. In just forty-eight hours, more than 2,000 users viewed a particular post with instructions on using a 3D printer to print a firearm. *Id.* Prominent white supremacists, including Defendant Andrew Anglin, have encouraged their followers to use Telegram. *Id.*

Cantwell began using Telegram and advocating that his followers use Telegram in March of 2019, after he was banned from Gab. See Chris Cantwell, *I Think I’ve Been Banned from Gab*, ChristopherCantwell.com (Mar. 18, 2019), <https://christophercantwell.com/2019/03/18/i-think-ive-been-banned-from-gab/>; Chris Cantwell, *Radical Agenda Telegram Group*, ChristopherCantwell.com (Mar. 24, 2019), <https://christophercantwell.com/2018/03/24/radical-agenda-telegram-group/>. Getting banned from Gab isn’t easy—it is a social media platform that was expressly created “as a sanctuary for people who had been kicked off of Twitter for violating its community standards.” Joshua Brustein, *Gab, an Online Haven for White Supremacists, Plots Its Future*, BLOOMBERG (Oct. 30, 2018), <https://www.bloomberg.com/news/articles/2018-10-30/gab-an-online-haven-for-white-supremacists-plots-its-future>. But Telegram has proven to be

an even more welcoming venue for those who violate other social media platforms' community standards. When he started using Telegram, Cantwell hailed Telegram's lack of rules and monitoring, stating "[t]he only people I've ever heard of getting banned from Telegram are literal ISIS accounts." Chris Cantwell, *Radical Agenda Telegram Group*, *supra*. Oren Segal, the Director of the Anti-Defamation League's Center on Extremism and an expert in terrorism, notes that, like Cantwell himself, Telegram users tend to have been banned from mainstream social media platforms for their inflammatory, extremist remarks. *See* Ex. 5, ¶¶ 2-6, 20-21. Consequently, the hundreds of people who viewed Cantwell's threat against Ms. Kaplan may be more likely to share his beliefs and more prepared to act on them than those who use mainstream social media platforms. *Id.* at ¶ 17.

#### **D. Online Threats like Cantwell's Often Precede Real-Life Violence**

Cantwell's threat against Ms. Kaplan is the kind of inflammatory online message that has "significant potential to lead to on-the-ground violence" either from Cantwell or from someone who shares Cantwell's views and sees Cantwell's threat. *Id.* at ¶ 11. White supremacists who regularly use social media often mobilize their followers to aid them in harassing a particular disfavored group or individual. *Id.* at ¶¶ 12-14. Cantwell has successfully used this strategy before, and he has built a strong fanbase on Telegram and through his podcast, "Radical Agenda," that he could easily mobilize now. *Id.* at ¶¶ 12-14; 22-24. Even if Cantwell takes no further steps to marshal his followers against Ms. Kaplan, identifying her as a target has already put a bull's eye on her back. *Id.* at ¶ 17. In the white supremacist online world, particularly on a platform like Telegram, threats from an influential actor "certainly increase the risk that violence will occur." *Id.* at ¶ 19.

Moreover, recent history has taught us that we cannot afford to ignore this type of threat posted by violent extremists on the internet. Before Robert Bowers murdered eleven people in a

synagogue in Pittsburgh, he announced his intentions on Gab: “HIAS [a Jewish nonprofit organization] likes to bring invaders in that kill our people. I can’t sit by and watch people get slaughtered. Screw your optics, I’m going in.” Kevin Roose, *On Gab, an Extremist-Friendly Site, Pittsburgh Shooting Suspect Aired His Hatred in Full*, N.Y. TIMES (Oct. 28, 2018), <https://www.nytimes.com/2018/10/28/us/gab-robert-bowers-pittsburgh-synagogue-shootings.html>. Prior to that announcement, Bowers had been sharing his extremist views with other Gab users and speaking frequently of violence. *Id.* “Gab’s reputation for accommodating extremism may have been what drew Mr. Bowers to the side.” *Id.* Similarly, before Brenton Harrison Tarrant committed New Zealand’s deadliest mass murder, Tarrant shared his extremist views, his manifesto, and his intentions online. Kevin Roose, *A Mass Murder of, and for, the Internet*, N.Y. TIMES (Mar. 15, 2019), <https://www.nytimes.com/2019/03/15/technology/facebook-youtube-christchurch-shooting.html>. He even livestreamed videos of himself committing this massacre in real-time online. *Id.* Tarrant’s attack appears to have been designed for and inspired by “distinct internet subcultures” steeped in modern extremism. *Id.* Given this backdrop, Ms. Kaplan took Cantwell’s threat seriously and acted accordingly. On June 19, one day after Cantwell’s post, Ms. Kaplan took precautionary measures: she contacted law enforcement regarding Cantwell’s threat, and notified the Court. *See* Ex. 16 (E-mail from M. Bloch to Judge Hoppe (Jun. 19, 2019)).

#### **E. Cantwell Has Behaved Violently Before**

There is ample reason for the Court to take the proposed prophylactic measure in response to Cantwell’s threat. Unrelated to Cantwell’s conduct in Charlottesville, he has at least four prior criminal convictions, including a conviction for unlawful possession of a weapon. *See* Ex. 17 (New York State Unified Court System Criminal History Record Search Program results for

Christopher Cantwell).<sup>4</sup> Cantwell came to Charlottesville armed for a fight. *Charlottesville: Race and Terror*, VICE News Tonight (Aug. 14, 2017), <https://www.youtube.com/watch?v=RIrcB1sAN8I> (showing Cantwell in a hotel room with the weapons he brought to Charlottesville including two ak47 assault rifles, a pistol in the front of his waistband, a pistol in the back of his waistband, a pistol strapped to his calf, and a knife strapped to his other leg (19:09-19:43)). Cantwell has expressed his aim to engage in more violence and he certainly has the means to do so. In his words, “I’m carrying a pistol. I go to the gym all the time. I’m trying to make myself more capable of violence. I’m here to spread ideas, talk, in the hopes that somebody more capable will come along and do that.” Rachel Janik, *Christopher Cantwell “In the Process” of Turning Himself in to Police*, S. POVERTY L. CTR. (Aug. 23, 2017), <https://www.splcenter.org/hatewatch/2017/08/23/christopher-cantwell-process-turning-himself-police>. He has shown himself to be plenty capable of following through on threats of violence. He pleaded guilty to two counts of assault and battery for which he served five months in jail. And experts have observed a direct connection between threats like the one Cantwell made against Ms. Kaplan and “actual, real world consequences for the targeted individuals and communities.” See Ex. 5, ¶ 15.

To fully litigate this case, Plaintiffs and Plaintiffs’ counsel will need to depose the Defendants, including Cantwell. Plaintiffs and Plaintiffs’ counsel will need to attend court appearances where Cantwell is present. Plaintiffs’ counsel will need to examine Cantwell in front of a jury. Plaintiffs’ ability to take any of these necessary steps will be impaired if Plaintiffs must worry about violence from Cantwell, other Defendants, or their followers, during the court proceedings.

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<sup>4</sup> Exhibit 17 has been partially redacted to protect Cantwell’s personal identifying information and information regarding criminal cases that have been dismissed.

Plaintiffs respectfully request that this Court grant this motion and issue Plaintiffs' proposed order ("Proposed Order"), which would enjoin Cantwell from making unlawful threats against Plaintiffs and Plaintiffs' counsel during the pendency of this case. *See* Proposed Order. The Proposed Order falls squarely within the power of the Court and the bounds of the First Amendment, and granting the Proposed Order provides Plaintiffs with the minimum protection necessary to safely proceed with this case.

### **ARGUMENT**

This Court has the power to enjoin Defendant Cantwell from making unlawful threats against the Plaintiffs and Plaintiffs' counsel and should do so. Courts are vested with the inherent power to "manage their own affairs so as to achieve the orderly and expeditious disposition of cases." *Link v. Wabash R. Co.*, 370 U.S. 626, 630–631 (1962). The Court's "broad power necessarily inheres to the court as a means of 'protecting the due and orderly administration of justice and [of] maintaining the authority and dignity of the court.'" *In re White*, No. 2:07-CV-342, 2013 WL 5295652, at \*65 (E.D. Va. Sept. 13, 2013) (quoting *Roadway Exp., Inc. v. Piper*, 447 U.S. 752, 764 (1980)); *see United States v. Shaffer Equip. Co.*, 11 F.3d 450, 461 (4th Cir. 1993) ("Due to the very nature of the court as an institution, it must and does have an inherent power to impose order, respect, decorum, silence, and compliance with lawful mandates. This power is organic, without need of a statute or rule for its definition, and it is necessary to the exercise of all other powers"). If the Court's inherent powers are to mean anything, they must include the authority to impose lawful, prophylactic constraints that permit a party to have a sense

of security during the course of litigation in the face of threatening behavior from an opposing party.

Courts routinely exercise their inherent power to sanction litigants for the kind of conduct that Cantwell engaged in here. *See Kilborn v. Bakhir*, No. 01-CV-1123, 2004 WL 2674491, at \*4 (E.D. Va. Jan. 9, 2004) (awarding attorney’s fees and costs where defendant’s attorney made threats against and intimidated plaintiff, plaintiff’s counsel, and plaintiff’s witnesses, among other types of misconduct), *aff’d*, 102 F. App’x 328 (4th Cir. 2004); *Frumkin v. Mayo Clinic*, 965 F.2d 620, 626-27 (8th Cir. 1992) (finding lower court’s decision to issue “restraining order, backed up with assurance that it would dismiss [plaintiff’s] suit if he disobeyed the restraining order, adequately protected both [defendant] and the integrity of the court” where plaintiff called defendants and said “[b]efore I die, I’m going to . . . take you with me,” and noting that dismissal might also have been appropriate); *Carroll v. Jaques Admiralty Law Firm, P.C.*, 110 F.3d 290, 291-92 (5th Cir. 1997) (upholding financial sanction where defendant threatened and cursed at plaintiff’s attorney during deposition); *Cameron v. Lambert*, No. 07-CV-9258, 2008 WL 4823596, at \*4 (S.D.N.Y. Nov. 7, 2008) (dismissing case where plaintiff behaved inappropriately during deposition by, *inter alia*, “threatening [defense counsel with] physical force, disparaging counsel” and “using profanity”).

The case of *Richardson v. Cabarrus County Board of Education* is instructive. 151 F.3d 1030, 1998 WL 371999 (4th Cir., Jun. 9, 1998). Richardson, a middle school employee, sued the school board for racial discrimination in connection with a poor job evaluation and repeated failures to promote him. *Id.* at \*1. After a mistrial on Richardson’s claims, Richardson reached a settlement with the school board. *Id.* But, shortly after the settlement, the district court, after conducting a hearing, determined that Richardson sent several unsigned letters to Jessie

Blackwelder, the assistant superintendent of the school board, who had been a central defense witness at trial. *Id.* In his first letter to Ms. Blackwelder, Richardson said “it was time ‘to get [her] back,’ and referred to ‘incriminating evidences’ which would be revealed ‘to Mr. Richardson’s attorney . . . [and] to . . . [the presiding judge at trial], too’ unless Mr. Richardson received an administrative position ‘immediately.’” *Id.* (citation omitted). The letter also threatened that Ms. Blackwelder would reach “sudden retirement” if she did not satisfy Richardson’s demands. *Id.* (citation omitted). In a second letter to Ms. Blackwelder, Richardson referred to her using “a string of sexually-oriented epithets.” *Id.* at \*2. He warned that she “would be ‘SICK, CRAZY, AND RETIRED’ if she did not ‘READ MY FIRST LETTER, IF YOU KNOW WHAT I MEAN!’” *Id.* (citation omitted). In Richardson’s final letter, which was addressed to Ms. Blackwelder’s husband, Richardson wrote: “SHE WILL LEARN NOT TO ‘[expletive deleted]’ WITH ME.” *Id.* (citation omitted).

The district court found that Richardson’s letters amounted to improper intimidation based on the “‘threatening’ tone of the letters and implicit threats therein.” *Id.* at \*4. The court dismissed Richardson’s action to enforce the settlement agreement with the school board, assessed attorneys’ fees and costs against Richardson, and barred Richardson from filing a related action against the school board. *Id.* at \*1. While recognizing the severity of the sanctions, the Fourth Circuit affirmed the lower court’s decision, reasoning that “a court must be free to protect its integrity, send a message to the public, and prevent a misbehaving litigant from profiting from his own wrongdoing.” *Id.* at \*6. Cantwell’s threat against Ms. Kaplan is no different than the threats Richardson made against his employer. And the need to protect the integrity of this judicial process and to send a message to the other Defendants and the public is even more pressing here



where Cantwell has a history of violence, the means to follow through on his threat, and a loyal following from others similarly inclined and equipped.

Plaintiffs ask the Court to exercise its inherent power to enjoin Defendant Cantwell from engaging in conduct that the law already prohibits. Specifically, Plaintiffs ask the Court to order Cantwell not to make unlawful threats against Plaintiffs and Plaintiffs' counsel. *See* (Proposed Order). The Proposed Order would be an effective tool to deter further threatening conduct for several reasons. If granted, the Proposed Order puts Cantwell on notice that such conduct is impermissible. In addition, violating the Proposed Order could subject Cantwell to potential civil and criminal consequences. If this Court issues the Proposed Order and Cantwell violates it, this Court would be empowered to hold Cantwell in contempt. *See* 18 U.S.C. § 401(3) ("A court of the United States shall have power to punish by fine or imprisonment, or both, at its discretion, such contempt of its authority" as "[d]isobedience or resistance to its lawful writ, process, order, rule, decree, or command"). Cantwell could also be subject to criminal prosecution for contempt if the Court issues the Proposed Order and Cantwell makes an unlawful threat that amounts to a separate criminal offense under a state or federal statute. *See* 18 U.S.C. § 402 ("Any person . . . willfully disobeying any lawful . . . order . . . of any district court of the United States . . . by doing any act or thing therein, or thereby forbidden, if the act or thing so done be of such character as to constitute also a criminal offense under any statute of the United States or under the laws of any State in which the act was committed, shall be prosecuted for such contempt . . . and shall be punished by a fine under this title or imprisonment, or both"). In other words, the Proposed Order brings any future threatening conduct by Cantwell against the Plaintiffs and their counsel squarely

within the jurisdiction of this Court, giving the Court the ability to regulate Cantwell's threatening conduct as it relates to this case and to ensure Plaintiffs' and Plaintiffs' counsel's safety.

Further, granting the Proposed Order protects Plaintiffs and their counsel without infringing on any of Cantwell's rights. Threatening speech is exempted from the First Amendment in order to protect people from the potential threatened violence and because of the harm caused by threats alone—"the fear of violence and the disruption that fear engenders." *Doe v. Rector & Visitors of George Mason Univ.*, 132 F. Supp. 3d 712, 729 (E.D. Va. 2015). Statements that amount to "true threats"—that is, "those statements where the speaker means to communicate a serious expression of an intent to commit an act of unlawful violence to a particular individual," or "where a speaker directs a threat to a person or group of persons with the intent of placing the victim in fear of bodily harm or death"—are not protected by the First Amendment. *Virginia v. Black*, 538 U.S. 343, 359-60 (2003). Numerous federal and state laws make it a crime to communicate a threat to kill or injure another—in other words, a true threat. See *Feminist Majority Found. v. Hurley*, 911 F.3d 674, 691–92 (4th Cir. 2018). Because the Proposed Order prospectively prohibits only *unlawful* threats, which by their very nature do not have the benefit of protection under the First Amendment, granting it would not infringe on Cantwell's constitutional right to free speech.<sup>5</sup>

This Court has the power to direct litigants to refrain from conduct already proscribed by law, as an additional layer of protection for parties whose safety is in jeopardy, and that is all the

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<sup>5</sup> A former Defendant, Michael Peinovich, previously sought to enjoin Ms. Kaplan from engaging in a "social media and print and television media campaign against Peinovich and the other defendants." Def. Michael Peinovich's Mtn. to Restrain [Plaintiffs] From Further Improper and Unethical Extrajudicial Statements and for Sanctions, ECF No. 258 at 18. The vast majority of the statements that were the subject of Peinovich's motion were negative characterizations of white supremacists and requests for donations in support of Plaintiffs' lawsuit. *Id.* at 1-15. None of the statement made by Plaintiffs' counsel included threats of violence. This Court correctly held that the gag order Peinovich sought would raise First Amendment concerns and that Ms. Kaplan's remarks were not unfairly prejudicial to Defendants. Order, ECF No. 285 at 2-3. In contrast, Plaintiffs are not asking this

Plaintiffs are asking the Court to do here. Under most state laws, courts are empowered to issue protective orders prohibiting a criminal defendant from engaging in unlawful conduct against a particular person, even though such conduct is already prohibited generally by law. *See, e.g.*, Va. Code Ann. § 19.2-152.10 (prohibiting person subject to order from engaging in “acts of violence, force or threat[s]” against the protected party). Indeed, this would not even be the first court in Virginia to order Cantwell to refrain from threatening others involved in litigation concerning his behavior in Charlottesville. *Berg, supra*.

Plaintiffs have a right to a fair trial, but that right will be jeopardized if their counsel continues to be subject to unlawful threats from the Defendants. Indeed, Cantwell may well be making such a threat precisely to imperil that right. The Court need not, and indeed should not, wait for Cantwell to act on his words. This Court has the “inherent” “equitable power” “over [its] own process, to prevent abuse, oppression, and injustice.” *Gumbel v. Pitkin*, 124 U.S. 131, 145–46 (1888). Plaintiffs respectfully urge the Court to use its power to protect their safety and the safety of Plaintiffs’ counsel.

## CONCLUSION

For the foregoing reasons, Plaintiffs respectfully request that the Court grant the Motion enjoining Defendant Cantwell from making unlawful threats against Plaintiffs and Plaintiffs’ counsel, enter the proposed order and order such other relief as the court deems necessary and appropriate.

Dated: July 2, 2019  
New York, New York

/s/ Michael L. Bloch  
Roberta A. Kaplan (*pro hac vice*)  
Julie E. Fink (*pro hac vice*)  
Gabrielle E. Tenzer (*pro hac vice*)

---

Court to stop Cantwell from making derogatory remarks about them or their counsel—just from making unlawful threats of violence against them.

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*Counsel for Plaintiffs*

## CERTIFICATE OF SERVICE

I hereby certify that on July 2, 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 Defendants Jeff Schoep, National  
Socialist Movement, and Nationalist Front*

I further hereby certify that on July 2, 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

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

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

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

Augustus Sol Invictus  
9823 4<sup>th</sup> Avenue  
Orlando, FL 32824

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

I further hereby certify that on July 2, 2019, I also served the following non-ECF participants, via electronic mail, as follows:

Elliot Kline  
eli.f.mosley@gmail.com

Matthew Heimbach  
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Vanguard America  
c/o Dillon Hopper  
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/s/ Michael L. Bloch  
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*Counsel for Plaintiffs*



**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., VANGUARD  
AMERICA, ANDREW ANGLIN,  
MOONBASE HOLDINGS, LLC, ROBERT  
“AZZMADOR” RAY, NATHAN DAMIGO,  
ELLIOT KLINE a/k/a/ ELI MOSELY,  
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 “ENOCH”  
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**

**JURY TRIAL DEMANDED**

**[PROPOSED] ORDER GRANTING PLAINTIFFS’ MOTION TO ENJOIN  
DEFENDANT CANTWELL FROM MAKING UNLAWFUL THREATS AGAINST  
PLAINTIFFS AND PLAINTIFFS’ COUNSEL**

Plaintiffs submitted their Motion to Enjoin Defendant Cantwell From Making Unlawful Threats Against Plaintiffs and Plaintiffs' Counsel ("Motion") with this Court on July 2, 2019. This Court, being sufficiently advised, has considered this Motion and argument, and pursuant to the Court's inherent power, **GRANTS** this Motion.

**IT IS HEREBY ORDERED** that Defendant Christopher Cantwell refrain from making unlawful threats against Plaintiffs and Plaintiffs' counsel during the course of this litigation. The Clerk of this Court is hereby directed to send a certified copy of this Order to all parties and/or counsel of record.

**IT IS SO ORDERED.**

Entered this \_\_\_\_ day of July, 2019.

---

THE HONORABLE NORMAN K. MOON  
UNITED STATES DISTRICT JUDGE

# EXHIBIT 1



Christopher Cantwell

After this stupid kike whore loses this fraudulent lawsuit, we're going to have a lot of fucking fun with her.  
<https://www.jta.org/2019/06/17/united-states/this-jewish-lawyer-wants-to-break-the-back-of-violent-white-nationalists>

Jewish Telegraphic Agency



This Jewish lawyer wants to break the back of the violent white nationalist movement - Jewish Telegraphic Agency  
Roberta Kaplan saw in online conversations between the organizers of the 2017 neo-Nazi march in Charlottesville a conspiracy to commit deadly violence.

226 edited 15:53



4



2

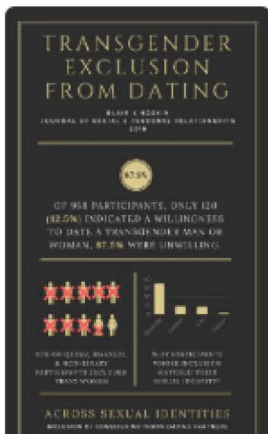
Open Comments



Christopher Cantwell

Even faggots and dykes hate trannies, and yet we are upending our entire social order for them? This is why Jews shouldn't be allowed to exist.  
<https://www.psychologytoday.com/us/blog/inclusive-insight/201906/are-trans-people-excluded-the-world-dating>

Psychology Today



Christopher Cantwell  
[@followchris](#)

296

Members

30

Photos

2

Videos

161

Links

Censoring the internet won't stop what's coming. We know what you're doing, and we will be heard, even if that means going door to door delivering the news.



DOWNLOAD TELEGRAM

to view and join the conversation

[About](#) [Blog](#) [Apps](#) [Platform](#)

# EXHIBIT 2



Christopher Cantwell @Cantwell PRO  
a day

Here we have a sample from the lying kike filth suing me.



Integrity First for America @IntegrityforUSA

Our Defendant, the "Crying Nazi," wants more violence. Retweet to tell him that's wrong.

"I'm trying to make  
myself **more capable of  
violence.**"

-Christopher Cantwell, Defendant

10:07 AM - 9 Mar 2018

2 Retweets 2 Likes



3



2



2



Paul Nehlen is My President @tiny\_shield\_NC · 5h

Replying to @IntegrityforUSA

HE'S NOT WRONG



Feelz Goodman @GoodmanFeelz · 6h

Replying to @IntegrityforUSA

So a person that wants to be more capable of defending themselves is wrong?  
🤔



1



Steve Perry @Radarchist · 11h

Replying to @IntegrityforUSA

That quote is out of context. Everyone with an IQ over 100 knows he was addressing the threat of violence perpetuated by groups like ANTIFA Just let it be known.... If you keep attacking people on the right, calling us Nazi's when we aren't. U will make some in the process.



2



48

Reply

Comments 10

Repost 8

Quote

Replies

date score

# EXHIBIT 3



**Jason Kessler**  
@TheMadDimension

Follow



This pitiful, hate-filled woman will not destroy the rights of white people on my watch. You fucked the with the wrong one,  
[@kaplanrobbie!](#)

**Early May** @Early\_\_May

Replying to @UberPewfan @kaplanrobbie and 3 others

Exactly. She's targeting white peoples' rights to freedom of assembly, a basic constitutional right. A counter-suit is in order. We need a crop of brilliant young lawyers to train to fight for our rights.

8:55 PM - 10 Feb 2018

5 Retweets 17 Likes



2



5



17





# EXHIBIT 4



**Christopher Cantwell** @Cantwell PRO

17 hours ago



Soon these Red motherfuckers are going to be jealous of Heather Heyer.



71



Comments 9



Repost 9



Quote

# EXHIBIT 5

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

ELIZABETH SINES, SETH WISELWEY,  
MARISSA BLAIR, 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., VANGUARD  
AMERICA, 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 "ENOCH"  
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**

**AFFIDAVIT OF OREN SEGAL**

I, Oren Segal, being duly sworn, hereby depose and state the following under penalty of perjury:

1. I make this affidavit based on personal knowledge.
2. I am the Director of the Anti-Defamation League's Center on Extremism ("the COE"), which is recognized as a leading authority on extremism, terrorism, and hate of all forms in the United States.
3. In that capacity, I study extremist activities and trends to help law enforcement identify extremists who have crossed the line from merely espousing hateful ideologies to actually inciting violence, so as to prevent those extremists from harming others before it is too late.
4. Each year, the COE provides trainings to tens of thousands of federal, state, and local law enforcement officials across a range of agencies, and our Advanced Training School on domestic and international terror threats has trained more than 1,100 law enforcement executives.
5. For over twenty years, I have developed a particular expertise in online hate and incitement, and have worked extensively with the tech industry on their efforts to ensure that social media platforms are not exploited to instigate violence and terrorism.
6. As Director, I have personally trained numerous law enforcement and industry officials, testified before Congress on combating hate, and offered my expertise at various conferences including a White House Summit on Countering Violent Extremism.
7. Given my background, in June 2019, attorneys from Kaplan Hecker & Fink LLP approached me for my opinion on whether they should be concerned about a threatening online post from an opposing party in this pending litigation.

8. Specifically, they informed me of a message dated June 18, 2019, posted by Defendant Christopher Cantwell on the online platform “Telegram.”

9. I reviewed the message, which referenced a news article about Plaintiffs’ attorney Roberta Kaplan, including her photograph, and further stated: “After this stupid kike whore loses this fraudulent lawsuit we’re going to have a lot of fucking fun with her.”

10. Based on my general study of hate-based threats, and my familiarity with Cantwell’s specific history of making such statements, I believe that Cantwell’s post constitutes a deliberately inflammatory threat of violence.

11. In my opinion, inflammatory online postings such as this one have a significant potential to lead to on-the-ground violence from individuals who read the posts.

12. Mr. Cantwell’s post reflects a pattern of behavior common among white supremacists who are active online, whereby controversial figures (like Mr. Cantwell) call on followers to target specific individuals or communities.

13. In fact, Mr. Cantwell himself has previously engaged in online threats against multiple journalists.

14. In some cases, these threats have led his followers to join in on harassment campaigns against the targets of Mr. Cantwell’s ire.

15. I have observed a direct connection between the type of online threat that Mr. Cantwell made toward Ms. Kaplan and actual, real world consequences for the targeted individuals and communities.

16. In the last 25 years of right-wing terrorism, we have seen that roughly half of violent incidents have been perpetrated by lone actors.

17. Messages like Mr. Cantwell's provide online reinforcement and offer specific targets for individuals who may hold violent, hateful beliefs and are prepared to act upon them.

18. These messages therefore contribute to a white supremacist online echo chamber that enables and encourages violence from individuals, even those who are not necessarily directly connected to Mr. Cantwell through any official organization.

19. While it is not always possible to draw a one-to-one connection between a particular act of violence and a specific online threat from an influential actor, such threats certainly increase the risk that violence will occur.

20. It is also significant that Mr. Cantwell made his post on Telegram, a particular social media platform that tends to draw social media users that have been banned from other more mainstream social media platforms based on their extremist views.

21. Mr. Cantwell has been banned from various other platforms, including "Gab," a platform that is notoriously reticent to regulate white supremacist hate and threats, even though it has been used by confirmed right-wing terrorists.

22. In addition to the threats he has made against Ms. Kaplan and others, Mr. Cantwell hosts a podcast called "Radical Agenda," which features discussions between Mr. Cantwell and other white supremacists where they call for violence against disfavored individuals and communities.

23. For instance, on a previous episode of Radical Agenda, fellow white supremacist Andrew Auernheimer called for the murder of Jews, stating: "there is only one thing absent free speech that we can do to express our dissent and that's to slaughter you like dogs, and you're gonna have it coming and your children will deserve to die."

24. While Mr. Cantwell's threat might not reach as large of an audience on Telegram as on other platforms, his followers, which appear to number in the hundreds, are likely to be precisely those individuals who are most dangerously committed to white supremacist ideology and capable of violence.

25. I believe that in the absence of accountability for Mr. Cantwell, Ms. Kaplan and her colleagues will face an increased danger of violence as a result of Mr. Cantwell's threatening posts.

Dated: July 2, 2019

New York, New York


  
Oren Segal

Sworn to before me this 2<sup>nd</sup> day of July, 2019



Notary public **CERTIFICATE OF CONFORMITY**

On the 2<sup>nd</sup> day of July in the year 2019, before me, the undersigned, personally appeared Mr. Oren Segal, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his individual capacity, and that by his signature on the instrument, the individual executed the instrument.

  
Notary Public  
**STEVEN M. FREEMAN**  
NOTARY PUBLIC, State of New York  
No. 02FR4841545  
Qualified in Suffolk County  
Commission Expires January 31, 2022



# EXHIBIT 6







# EXHIBIT 7

[Name List](#)[Pleadings/Orders](#)[Services](#)[Main Menu](#)[Logoff](#)**Albemarle County Circuit - Criminal Division****Case Details**

<b>Case Number:</b> CR17000784-00	<b>Filed:</b> 11/28/2017	<b>Commenced by:</b> Indictment	<b>Locality:</b> COMMONWEALTH OF VA
<b>Defendant:</b> CANTWELL, CHRISTOPHER CHARLES	<b>Sex:</b> Male	<b>Race:</b> White Caucasian (Non-Hispanic)	<b>DOB:</b> 11/12/****
<b>Address:</b> LEESBURG, VA 20175			
<b>Charge:</b> ILLEGAL USE OF GAS: MALICIOUS	<b>Code Section:</b> 18.2-312	<b>Charge Type:</b> Felony	<b>Class:</b> 6
<b>Offense Date:</b> 08/11/2017	<b>Arrest Date:</b> 08/23/2017		

**Hearings**

#	Date	Time	Type	Room	Plea	Duration	Jury	Result
1	12/04/2017	9:30AM	Grand Jury					True Bill -- Case Has Been Set
2	01/31/2018	2:00PM	Motion - Other Pre-Trial					Tried
3	02/09/2018	1:00PM	Motion - Other Pre-Trial					Tried
4	02/12/2018	9:15AM	Jury Trial				No	Continued
5	02/22/2018	10:00AM	To Be Set					Set For Trial
6	07/20/2018	3:00PM	Trial		Guilty			Sent

**Final Disposition**

<b>Disposition Code:</b> Guilty	<b>Disposition Date:</b> 07/20/2018	<b>Concluded By:</b> Guilty Plea
<b>Amended Charge:</b> ASSAULT & BATTERY	<b>Amended Code Section:</b> 18.2-57(A)	<b>Amended Charge Type:</b> Misdemeanor

<b>Jail/Penitentiary:</b> Jail	<b>Concurrent/Consecutive:</b> Sentence Is To Run Concurrently With Another	<b>Life/Death:</b>
<b>Sentence Time:</b> 12 Month(s)	<b>Sentence Suspended:</b> 5 Month(s)	<b>Operator License Suspension Time:</b>
<b>Fine Amount:</b> \$250.00	<b>Costs:</b> \$850.00	<b>Fines/Cost Paid:</b>
<b>Program Type:</b>	<b>Probation Type:</b>	<b>Probation Time:</b>

<b>Probation Starts:</b>	<b>Court/DMV Surrender:</b>	<b>Driver Improvement Clinic:</b>
<b>Driving Restrictions:</b>	<b>Restriction Effective Date:</b>	
<b>VA Alcohol Safety Action:</b>	<b>Restitution Paid:</b>	<b>Restitution Amount:</b>
<b>Military:</b>	<b>Traffic Fatality:</b>	

**Appealed Date:**

[Name List](#)[Pleadings/Orders](#)[Services](#)[Main Menu](#)[Logoff](#)

Build #: 3.8.0.1

# EXHIBIT 8

[Name List](#)[Pleadings/Orders](#)[Services](#)[Main Menu](#)[Logout](#)**Albemarle County Circuit - Criminal Division****Case Details**

<b>Case Number:</b> CR17000845-00	<b>Filed:</b> 12/04/2017	<b>Commenced by:</b> Direct Indictment	<b>Locality:</b> COMMONWEALTH OF VA
<b>Defendant:</b> CANTWELL, CHRISTOPHER R	<b>Sex:</b> Male	<b>Race:</b> White Caucasian (Non-Hispanic)	<b>DOB:</b> 11/12/****
<b>Address:</b> LEESBURG, VA 20175			
<b>Charge:</b> ILLEGAL USE OF GAS: MALICIOUS	<b>Code Section:</b> 18.2-312	<b>Charge Type:</b> Felony	<b>Class:</b> 3
<b>Offense Date:</b> 08/11/2017	<b>Arrest Date:</b> 12/07/2017		

**Hearings**

#	Date	Time	Type	Room	Plea	Duration	Jury	Result
1	12/04/2017	9:30AM	Grand Jury					True Bill
2	12/07/2017	11:30AM	Capias					Capias-Defendant Arrested
3	01/31/2018	2:00PM	Motion - Other Pre-Trial					Tried
4	02/09/2018	1:00PM	Motion - Other Pre-Trial					Tried
5	02/12/2018	9:15AM	Jury Trial				No	Continued
6	02/22/2018	10:00AM	To Be Set					Set For Trial
7	07/20/2018	3:00PM	Trial		Guilty			Sent

**Final Disposition**

<b>Disposition Code:</b> Guilty	<b>Disposition Date:</b> 07/20/2018	<b>Concluded By:</b> Guilty Plea
<b>Amended Charge:</b> ASSAULT & BATTERY	<b>Amended Code Section:</b> 18.2-57(A)	<b>Amended Charge Type:</b> Misdemeanor

<b>Jail/Penitentiary:</b> Jail	<b>Concurrent/Consecutive:</b> Sentence Is To Run Concurrently With Another	<b>Life/Death:</b>
<b>Sentence Time:</b> 12 Month(s)	<b>Sentence Suspended:</b> 5 Month(s)	<b>Operator License Suspension Time:</b>
<b>Fine Amount:</b>	<b>Costs:</b>	<b>Fines/Cost Paid:</b>

<b>Program Type:</b>	<b>Probation Type:</b>	<b>Probation Time:</b>
<b>Probation Starts:</b>	<b>Court/DMV Surrender:</b>	<b>Driver Improvement Clinic:</b>
<b>Driving Restrictions:</b>	<b>Restriction Effective Date:</b>	
<b>VA Alcohol Safety Action:</b>	<b>Restitution Paid:</b>	<b>Restitution Amount:</b>
<b>Military:</b>	<b>Traffic Fatality:</b>	

**Appealed Date:**

[Name List](#)[Pleadings/Orders](#)[Services](#)[Main Menu](#)[Logoff](#)

Build #: 3.8.0.1



# EXHIBIT 9

## Loudoun General District Court



### Traffic/Criminal Case Details

Loudoun General Distr

**Name Search**  
**Case Number Search**  
**Hearing Date Search**  
**Service/Process Search**

#### Case/Defendant Information

<b>Case Number :</b> GC18001568-00	<b>Filed Date :</b> 04/03/2018	<b>Locality :</b> B
<b>Name :</b> CANTWELL, CHRISTOPHER CHARLES	<b>Status :</b> Released On Recognizance	<b>Defense Attorney :</b>
<b>Address :</b> LEESBURG, VA 20175	<b>AKA1 :</b>	<b>AKA2 :</b>
<b>Gender :</b> Male	<b>Race :</b> White Caucasian(Non-Hispanic)	<b>DOB :</b> 11/12/****

**Name Search**  
**Case Number Search**  
**Hearing Date Search**  
**Service/Process Search**

#### Charge Information

<b>Charge :</b> PUBLIC SWEARING/INTOXICATION		
<b>Code Section :</b> 18.2-388	<b>Case Misdemeanor Type :</b>	<b>Class :</b> 4
<b>Offense Date :</b> 03/31/2018	<b>Arrest Date :</b> 03/31/2018	<b>Complainant :</b> HACHWI, N.
<b>Amended Charge :</b>	<b>Amended Code :</b>	<b>Amended Case Type :</b>

#### Hearing Information

Date	Time	Result	Hearing Type	Courtroom	Plea	Continuance Code
06/26/2018	10:00 AM	Waived	Adjudicatory	001C		

#### Service/Process

#### Disposition Information

<b>Final Disposition :</b> Prepaid		
<b>Sentence Time :</b> 00Months 000Days 00Hours	<b>Sentence Suspended Time :</b> 00Months 000Days 00Hours	
<b>Probation Type :</b>	<b>Probation Time :</b> 00Years 00Months 000Days	<b>Probation Starts :</b>
<b>Operator License Suspension Time :</b> 00Years 00Months 000Days	<b>Restriction Effective Date :</b>	
<b>Operator License Restriction Codes :</b>		

<b>Fine :</b> \$25.00	<b>Costs :</b> \$91.00	<b>Fine/Costs Due :</b>
<b>Fine/Costs Paid Paid :</b>	<b>Fine/Costs Paid Date :</b> 06/18/2018	<b>VASAP :</b>

Back to Search Results

Home | Virginia's Court System | Online Services | [Case Status and Information](#) | Court Administration | Directories | Forms |

Judicial Branch Agencies | Programs

Build #: 6.0.0.5

# EXHIBIT 10

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UNITED STATES DISTRICT COURT  
for the  
WESTERN DISTRICT OF VIRGINIA, CHARLOTTESVILLE DIVISION

Plaintiff/Counter Defendant	)	
	)	
	)	
	)	
v.	)	Case No. 3:17-CV-00089 (NKM/JCH)
	)	
Emily Gorcenski,	)	
Kristopher Goad,	)	
Defendants/Counter Claimants	)	

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**AMENDED (FIRST) COUNTERCLAIMS OF DEFENDANTS  
EMILY GORCENSKI AND KRISTOPHER GOAD**

Defendants/Counter Claimants Emily Gorcenski and Kristopher Goad (collectively, "Defendants"), by counsel, state the following:

**Introductory Statement**

Plaintiff Christopher Cantwell initiated this action by filing a complaint in this court on December 28, 2017 (the "Complaint", Dkt. 1). Defendants filed an answer to the Complaint (the "Answer") on February 12, 2018 (Dkt. 9), and in the Answer asserted a number of counterclaims. (Answer at ¶¶ 140 -182.) Plaintiff filed a motion to dismiss Defendants' counterclaims pursuant to Rule 12(b)(6) on February 27, 2018. Defendants herein restate their amended counterclaims, as set forth below, as a matter of course pursuant to Rule 15(a)(1)(B)(the "Amended Counterclaims").<sup>1</sup>

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<sup>1</sup> To avoid confusion, rather than reference the paragraph numbers in the Answer, Defendants will restart the paragraph numbering in this document at Paragraph 1, rather than carrying over the paragraphs numbers from the initial Answer and Counterclaims.

## **Parties**

1. Defendant/Counter Claimant Emily Gorcenski is an individual resident of Charlottesville, Virginia.
2. Defendant/Counter Claimant Kristopher Goad is an individual resident of Richmond, Virginia (together, with Ms. Gorcenski, “Defendants”)
3. Plaintiff/Counter Defendant Christopher Cantwell (“Mr. Cantwell” or “Plaintiff”) is the individual Plaintiff in the above-captioned action.

## **Facts of the Counterclaims**

### **Events Prior to August 11, 2017**

4. Prior to August 11, 2017, Ms. Gorcenski and Mr. Goad have been anti-racist/anti-fascist activists and advocates of equal rights for black people, LGBTQ people, immigrants, and other equally vulnerable and marginalized minority groups. The status of Ms. Gorcenski and Mr. Goad as anti-racist and anti-fascist activists promoting equal rights for black people, LGBTQ people, immigrants, and other vulnerable and marginalized minority groups was generally known and was known to the Plaintiff through the online and in-person activism of Ms. Gorcenski and Mr. Goad, to include mobilizing and organizing in support of equal rights and against the rallies organized and planned by the Plaintiff and other racist, fascist organizers throughout the summer of 2017.
5. Prior to August 11, 2017, the Plaintiff and other persons known and unknown to Ms. Gorcenski and Mr. Goad were hostile specifically toward Ms. Gorcenski and Mr. Goad for their political beliefs, activities, and associations, as well as generally hostile toward anti-racist and anti-fascist organizers and civil rights activists. Mr. Cantwell and others made public

statements and took actions evidencing their hostility toward Ms. Gorcenski and Mr. Goad. The Plaintiff (along with others named throughout this the pleadings in this matter) made numerous public and private statements explicitly demonstrating their desire to harm and kill "communists," leftists, Democrats, and other activists promoting equal rights for black people, people of color, and LGBTQ people.

#### Events of August 11, 2017

4. On the night of August 11, 2017, Plaintiff intentionally and knowingly deployed pepper spray into a group of people gathered in a crowd, causing physical injury and emotional injury to both Defendants. Plaintiff admits to deploying pepper spray in his Complaint (*see* Compl. ¶ 27) and the video and photographic evidence appended to the Plaintiff's Complaint shows Plaintiff deploying pepper spray in the area where both Defendants were present.

5. Plaintiff has admitted in various other forums that he deployed pepper spray in a crowded area in the immediate vicinity of Defendants. For example, in one blog post Plaintiff states:

*"I did pepper spray one person, using the pepper spray that I always keep on my keychain. I made no secret of this, in part because I was certain my actions were lawful. I even made one journalist's photo of the spraying my Facebook cover photo."*

6. In the photo mentioned by Plaintiff, Defendant Goad can be seen clearly in the immediate vicinity of Plaintiff's spray. See Compl. Ex. H.

7. The video evidence attached to the Complaint, along with the eye witness testimony of Ms. Gorcenski and Mr. Goad, demonstrates that Plaintiff's deployment of pepper spray was unjustified, and was done negligently, willfully, or with reckless disregard for the safety of others in the area.

8. The video evidence appended to the Complaint also shows that, on the night of August 11, on numerous occasions, Plaintiff made menacing, threatening, and/or frightening gestures and acts (including brandishing of pepper spray and making physical contact) combined with threatening comments, towards a number of people, including both Ms. Gorcenski and Mr. Goad, which gestures and comments reasonably put both Defendants in imminent fear of bodily harm. See, e.g., Compl. Exs. MP42, MP48.

9. The video evidence appended to the Complaint also shows that, on the night of August 11, on numerous occasions, Plaintiff intentionally made physical contact with and caused actual physical harm to numerous individuals, including Ms. Gorcenski and Mr. Goad, by, *inter alia*, deploying pepper spray that made contact with both Defendants, and hitting, shoving, slapping at, and/or intentionally coming into other physical contact with both Defendants. See, e.g., Compl. Exs. MP42, MP48.

#### Plaintiff's Arrest and Ongoing Criminal Proceedings Against Plaintiff

10. Shortly after August 11, Ms. Gorcenski and Mr. Goad each filed police reports with the University of Virginia Police Department related to the conduct described in paragraphs 1 through 5 above.

11. Subsequently, and at the direction of UVA Police Sergeant Acord, Mr. Goad and Ms. Gorcenski each swore out an affidavit, to the best of their knowledge at the time, to a magistrate complaining of the conduct described in paragraphs 1 through 5.

12. Upon review of these affidavits, and after conferring with law enforcement and receiving law enforcement authorization pursuant to Virginia Code § 19.2-71, a magistrate determined to issue three felony arrest warrants for Plaintiff. The warrants included charges alleging Unlawful Bodily Injury by Means of Any Caustic Substance in violation of Virginia



Code §18.2-52, and Illegal Use of Gas in violation of Virginia Code § 18.2-312. Plaintiff was eventually arrested and charged on these warrants, and was held without bail until December 7, 2017.

13. As noted in the Complaint, Ms. Gorcenski and Mr. Goad each swore out a single affidavit to the magistrate related to Plaintiff's conduct. Compl. ¶ 58. Because neither Ms. Gorcenski nor Mr. Goad is a magistrate, law enforcement officer, or representative of the Commonwealth's Attorney's office, neither Ms. Gorcenski nor Mr. Goad had any authority to issue the warrants referenced in paragraph 8, nor did the magistrate seek their input or advice about which sections of the Virginia Code the warrants should issue under. As is customary, Defendants submitted their affidavits of fact to the magistrate, and the magistrate made a decision about which Code sections under which to issue warrants.

14. Despite Plaintiff's contention to the contrary (Compl. ¶ 58), it is not uncommon or "curious" that the magistrate used the same affidavit to support more than one criminal charge; rather, such is common practice in situations where the magistrate determines that the same affidavit supports a finding of probable cause for more than one criminal charge.

15. As noted in the Complaint, ¶ 67, on August 31, 2017, the Commonwealth's Attorney sought a superseding indictment and upgraded two of the four charged against Plaintiff, upgrading them from "unlawful" to "malicious."

16. As noted in Defendants' Answer, at the preliminary hearing on November 9, 2017, the Albemarle County General District Court certified that there was probable cause to charge Plaintiff with felony Illegal Use of Gas, and certified the charge to the Grand Jury. On December 4, 2017, the Grand Jury indicted Plaintiff for one count of Illegal Use of Gas in violation of Virginia Code § 18.2-312. That indictment is now pending prosecution in the

Circuit Court for Albemarle County. See Commonwealth of Virginia v. Christopher Cantwell, Albemarle Co. Cir. Ct. CR17000784.

17. Also on December 4, 2017 the Commonwealth sought and obtained a direct indictment for a second charge of Illegal Use of Gas alleged to have occurred on August 11, 2017, Commonwealth of Virginia v. Christopher Cantwell, Albemarle Co. Cir. Ct. CR17000845. Criminal prosecution of both charges are currently ongoing, and Plaintiff's trial on those charges is scheduled for August 13.

18. Also at the November 9, 2017 preliminary hearing, the General District Court ruled that there was not sufficient probable cause for the Commonwealth to continue with the charges against Plaintiff pursuant to Virginia Code § 18.2-52, and accordingly dismissed those two charges. In Virginia criminal proceedings, as in other jurisdictions, it is not uncommon for a criminal defendant to be charged under multiple statutes for the same conduct, and for some of those charges to be dismissed while others are not dismissed.

19. After these charges were dismissed, Plaintiff's attorney moved for a reconsideration of Plaintiff's bail. Plaintiff was granted bail, and on December 7, 2017 posted bond and was released from Albemarle County Regional Jail.

20. Despite the ongoing criminal proceedings against him, and Plaintiff's acknowledgment that Ms. Gorcenski and Mr. Goad each swore out only one affidavit regarding the events in question, Plaintiff's Complaint alleges that the criminal proceedings against him have been terminated in a manner not unfavorable to him<sup>2</sup>. Given the ongoing criminal proceedings

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<sup>2</sup> In Plaintiff's Brief in Support of his 12(b)(6) motion to dismiss the initial Counterclaims, Plaintiff absurdly argues that "[Plaintiff's claims arise out of dismissed actions, not any pending one," apparently referring to the two charges under Virginia Code § 18.2-52 that were dismissed. However, the fact that two lesser felony charges arising from the same conduct are still currently pending against Plaintiff in the Albemarle County Circuit Court Renders Plaintiff's argument patently false and materially misleading to the Court.

against him in the Albemarle County Circuit Court, there is no factual or legal basis for this claim.

21. Plaintiff, who is represented by counsel in both his criminal proceedings and in the immediate civil case, is undoubtedly aware that in this case, as in every other criminal case brought by the Commonwealth, complaining witnesses have no authority over or input into the decision about whether a defendant is charged as a result of a complaint, or under which sections of the Virginia Code a defendant is charged.

22. Similarly, Plaintiff is undoubtedly aware that in this case, as in every other criminal case brought by the Commonwealth, complaining witnesses have no authority over or input into the decision about whether a defendant is held without bail pending trial.

*Plaintiff's Post-Release Harassment and Witness Intimidation of Defendants*

23. On information and belief, shortly after his arrest, Plaintiff learned that the two complaining witnesses in his criminal case were Ms. Gorcenski and Mr. Goad. Upon learning their identities, and particularly upon regaining access to the internet upon his release from jail on bail, Plaintiff began a systematic and relentless campaign—using the media, social media websites, and content posted to his blog—to harass, intimidate, and threaten Defendants, and to encourage others to do so, for the purpose of deterring Defendants from testifying as witnesses or cooperating in the criminal case against him, and to deter other victims from coming forward to cooperate in the criminal case.<sup>3</sup>

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<sup>3</sup> Video from August 11 demonstrates that a number of anti-racist protesters were injured by pepper spray (both the Plaintiff's spray and that of other white supremacists) and through other means, and the Commonwealth's Attorney has made substantial efforts to try and secure the cooperation of these other victims in the criminal case against Plaintiff, and to encourage them to report crimes committed by other individuals. Despite these

24. Subsequently, Plaintiff's statements and online conduct have constituted a relentless torrent of harassment, threats, and intimidation designed to intimidate and harass Defendants to deter them from testifying in the criminal proceedings against him, and to deter other victims from coming forward to testify against him.

25. Although the conditions of Plaintiff's bail in the criminal case prohibit him from having any direct or indirect contact with either Ms. Gorcenski or Mr. Goad, Plaintiff has engaged in a pattern of conduct wherein he identifies, targets, and harasses Defendants on his blog, on social media, and in his podcast, sending clear, if somewhat veiled instructions to his supporters that they should seek out, harass, intimidate, and threaten Defendants in lieu of Plaintiff being able to do so himself. These instructions often facilitate this harassment by providing explicit directions to Defendants' social media profiles.

26. The following paragraph 27 contains examples of these statements and conduct, each of which was made with the intent to intimidate and harass Defendants, and to place Defendants in reasonable fear of death or bodily injury, or which Plaintiff knew or should have known would intimidate or harass Defendants and place Defendants in reasonable fear of death or bodily injury, and which has in fact placed Defendants in reasonable fear of death or bodily injury.<sup>4</sup>

27. Each of the following examples was also made to deter, by intimidation or threat,

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efforts, no additional victims have come forward to cooperate in Plaintiff's case or to report other cases. On information and belief, this is due in large part to the threat of harassment and intimidation from Plaintiff and his confederates.

<sup>4</sup> Defendants/Counter Claimants Gorcenski and Goad allege herein facts demonstrative of an ongoing pattern of behavior by Cantwell and his confederates that is explicitly intended to target and frighten them. The facts alleged speak to the reasonableness of their fear; the reasonableness of their fear need not be separately alleged. Furthermore, the question of reasonableness is a fact determination to be made by a jury, and not a question of law that can be effectively reduced to writing.

Defendants from testifying in the criminal proceedings against Plaintiff and/or to seek retribution against Defendants for their having attended and testified at the preliminary hearing in the criminal proceedings against Plaintiff:<sup>5</sup>

- a) In an interview Plaintiff gave to The Daily Beast, which was recounted in an August 30, 2017 article titled “‘Crying Nazi’ Says He’s Just a ‘Goddamn Human Being’” (see **Exhibit A**), Plaintiff claimed that Ms. Gorcenski was not qualified to testify in court because she’s “a fucking tranny”.
- b) In a podcast published on October 19, 2017,<sup>6</sup> Plaintiff made statements again admitting to the intentional physical contact and physical injury he perpetrated against Defendants and other counter-protesters on the evening of August 11. In statements where the context made clear such were directed towards and intended to be heard by Defendants for the purpose of threatening, harassing, and/or

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<sup>5</sup> In Plaintiff’s brief on his Motion to Dismiss Defendant’s initial counterclaims (Dkt. No. 13, Part II), Plaintiff’s counsel seems to suggest that because many of the following involve “mere” speech, caricatures, or “parody” songs, they are categorically exempt from being taken seriously as threats. We would hasten to remind him that the context in which these “mere” statements, sketches, and putatively innocuous songs are being produced is not confined to a world of fantasy or cartoon violence. Nor are they the kinds of expressive activities clearly sheltering under the protections of the First Amendment. Rather, each instance of conduct constitutes a credible threat. Many explicitly invoke actual harm done to each of the counter-plaintiffs and people ideologically aligned with them, calling for copycat attacks and attempting to make a real-world meme of bias-motivated vehicular homicide. Many of these threats issue from the keyboards and mouths of individuals who derive significant income from the sale of English translations of Adolf Hitler’s *Mein Kampf*, and who make their living calling for the creation of a white ethno-state which will grant “licenses” to “Right Wing Death Squads.” Each threat issues not from an animated rabbit with no material presence in the real world, but from people who long for the genocidal episodes of our too-recent past, and who exhort their followers to actual violence, apparently to great effect, given the number of murders committed by members of the so-called Alt Right since 2016. See Carless, Will and Sankin, Aaron, “The Hate Report: 43 alt-right murders in four years,” *Reveal, from the Center for Investigative Reporting*, Feb. 9, 2018, available at <https://www.revealnews.org/blog/the-hate-report-43-alt-right-murders-in-four-years/> (accessed March 20, 2018). To deride as equally unreasonable the fears of Counter Claimants in the face of these threats—however brightly colored or Christmas-themed—and the fear of an imaginary cartoon-viewer for the “life” of Elmer Fudd, brings the universe of false equivalencies to a new low.

<sup>6</sup> On information and belief, Plaintiff was incarcerated at the Albemarle County Regional Jail when he recorded this podcast. During the time when he was incarcerated, Plaintiff recorded podcast episodes via telephone from the jail, which were published to his website under the title “Live from the Inside.”

intimidating them, Plaintiff stated<sup>7</sup>:

*“I let my anger build up. Put me anywhere and I will improve because I’m a white man and not some kike fucking degenerate. Sorry for the f. Lock me up it’s not bad, I can handle I wasn’t crying because I was afraid of jail. **I was brought to tears by what’s going to happen to my enemies and the fact that I’m going to do it to them.** I want to be a good person, I don’t want to hate. I want to love people, I want peace and nonviolence, but you can tell my defensive instinct. If you attack the people and things I care most about and I feel the monster inside me as the Saxon begins to hate and I become afraid of myself. Do you know the last time I actually hurt somebody was? Before August 11th? Because I don’t. It’s been years. **What scares the shit out of me is how much I enjoyed physically removing all your fag ass friends.**” (emphasis added)*

See Answer (Dkt. 9), Exhibit F, “LIVE from Seg! Ep. 011 - Heteronormative”

published on October 19, 2017 by the Plaintiff and his agent Jared Howe,

<https://radicalagenda.com/2017/10/19/live-seg-ep-011-heteronormative/>,

accessed on February 9, 2018.

- c) In blog posts, podcasts, media interviews, and through social media, Plaintiff has repeatedly referred to, and continues to refer to Ms. Gorcenski using violent, derogatory language that demonstrates a vitriolic, derogatory animus towards her and other transgender people, including referring to Ms. Gorcenski as a “tranny lunatic”, and “that tranny fucking fanatic, that suicide waiting to happen.”
- d) On November 10, 2017, the webmaster for Plaintiff’s website (or another person acting at Plaintiff’s direction or under his supervision) posted a video of Mr. Goad to Mr. Cantwell’s Youtube channel and blog along with Mr. Goad’s name, noting

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<sup>7</sup> Although Ms. Gorcenski, Mr. Goad, and their counsel would prefer not to reproduce or amplify the violence of Plaintiff’s bigoted language, in the interest of maximum transparency Plaintiff’s language will be reproduced herein verbatim when necessary.

that Mr. Goad was “Cantwell’s accuser”, for the apparent purpose of encouraging Plaintiff’s audience members and followers to harass, threaten, and intimidate Mr. Goad.

- e) On a blog post dated August 22, 2017, Plaintiff allowed a commenter to post a comment referring to Ms. Gorcenski by name, in which the commenter called her “a tranny faggot (mentally ill by definition)”, posted her home address, and stated that “Someone should go talk to it”, in an effort to incite others to harass, threaten, intimidate and/or physically harm Ms. Gorcenski’s person or property. Despite having the ability as a moderator to remove it, Plaintiff has allowed the threatening comment to remain on his blog at least up through the date of this filing.
- f) In a blog post dated December 10, 2017, Plaintiff published a song to his blog, together with clearly identifiable photos of Mr. Goad and Ms. Gorcenski, titled “Gassing Kikes and Trannies” (See **Exhibit B**), in an effort to harass, threaten, or intimidate and/or encourage others to harass threaten, or intimidate Mr. Goad and Ms. Gorcenski. The song included the following lyrics:

*“A tranny is a fuckin mental patient  
A Jew is born to parasite to whites  
And if you see the both of them a droppin  
You know it’s time to really celebrate*

*Well we’re gassing kikes and trannies  
Make the God Emperor proud  
We can laugh with glee, while she stands and pees  
In a caustic OC cloud*

*....  
You might say we’re violating rights now  
But trannies aren’t human after all  
Jews are victims even if you don’t spray  
So might as well have fun and gas them all*

*Oh we’re gassing kikes and trannies*

*Cause we'll be prosecuted even if we don't  
They always lie, so they deserve to die  
The least we can do is make their eyes hurt"*

g) Plaintiff published to social media two drawings depicting apparent caricatures of anti-racist protesters, including one person who was clearly intended to represent Ms. Gorcenski, being run over and dismembered by a Dodge Challenger, in apparent homage and twisted, violent reverence to the white supremacist terrorist car attack that took place in Charlottesville, VA on August 12, 2017, murdering Heather Heyer and leaving dozens severely wounded. See Exhibit C. In the drawings, a cartoon frog (a version of the white supremacist meme "Pepe the Frog") leans from the window of the car to deploy a large firearm against counter protesters. A caricature of Ms. Gorcenski, terrified and pleading to livestream viewers for assistance, is depicted being run over by the car.

28. Plaintiff has also made and published numerous online statements, through his website, his podcast, and on social media, specifically directed towards attempting to harass, threaten, intimidate and/or deter Ms. Gorcenski and/or Mr. Goad from testifying in the pending criminal proceedings. In these postings, publications, and recordings, Plaintiff has directly referenced or alluded to Defendants' roles as witnesses in the criminal proceedings. In some posts, Plaintiff refers to Ms. Gorcenski by name, and in others he clearly refers to Ms. Gorcenski and/or Mr. Goad through use of derogatory slurs (e.g., "tranny", "faggot", "kike", or referring to Ms. Gorcenski's status as a transgender woman as a "mental illness" whose identity is a "lie") or by referring to them as "antifa" or his "enemies". In addition, Plaintiff appears to particularly relish harassing Ms. Gorcenski by referring to her by her former name ("Edward"), knowing that this is not her real name, and that referring to her by her former



name is a form of harassment.<sup>8</sup>

29. Plaintiffs online statements often focus on his false, unfounded, and defamatory accusations that Defendants have committed perjury in testifying against him in his criminal proceeding. In addition to the defamatory nature of such false accusations, Plaintiffs posts repeatedly allude to threats that Defendants will be prosecuted for perjury if they continue to cooperate with the criminal proceedings against Plaintiff by testifying as witnesses against him. Such threats are intended to threaten, harass, or intimidate Defendants, and/or to induce others to do so, for the purpose of deterring them from testifying in future court proceedings against Plaintiff.

30. Examples of such statements and conduct include the following:

- a) A Gab<sup>9</sup> stating: “Hello enemy stalker. Your entire life is a lie, and you will soon be punished for your sins.” This is an obvious reference to, and threat against, Ms. Gorcenski.
- b) Numerous Gabs where Plaintiff posts screen shots of Ms. Gorcenski’s twitter feed, accompanied by derogatory, insulting, and/or threatening commentary. For example, Plaintiff reposted a Tweet by Ms. Gorcenski (which included her image and Twitter handle) where she states “Nazis lie about everything except their desire and capacity for violence”, and added the statement “As opposed to trannies, who

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<sup>8</sup> See e.g. Clements, KC (medically reviewed by Janet Brito, PhD, LCSW, CST), “What is Deadnaming?”, *Healthline*, October, 19, 2017, available at [www.healthline.com/health/transgender/deadnaming](http://www.healthline.com/health/transgender/deadnaming) (accessed on March 15, 2018)(explaining that the act of referring to a transgender person by their former name (often referred to as their “deadname”) “can cause stress, it can also subject that person to harassment and discrimination.”)

<sup>9</sup> Like Twitter, Gab is an online news and social networking service where users post and interact with messages. Many white supremacists and white nationalists, including Plaintiff, have begun using the Gab platform in recent months as they are banned from Twitter and Facebook for violations of the policies against hate speech on those platforms. Posts to the Gab forum are referred to as “Gabs”. Copies of the Gabs reference in Paragraph 36 are provided at **Exhibit D**.

lie about everything including their gender, AND their desire and capacity for violence.” By reposting Ms. Gorcenski’s tweets with harassing commentary, Plaintiff was implicitly directing, and continues to direct, his followers and supporters to visit Ms. Gorcenski’s Twitter feed to harass her.

- c) A Gab where Plaintiff states: “It’s not witness intimidation when we’re the witnesses, you lying mental patient. Get your affairs in order now, because it is exceedingly difficult to manage these things from jail when you haven’t prepared in advance.” This was an obvious reference to Ms. Gorcenski, to whom Cantwell has routinely referred using the words “lying” and mental patient,” in retaliation for the witness intimidation counterclaim that was included in Defendants’ initial Answer to Plaintiff’s Complaint (and is restated in these Amended Counterclaims, below).
- d) A Gab where Plaintiff states: “Give it up faggot, it’s not a violation of my bail conditions to have opinions. You’re going to men’s prison for perjury.” This was an obvious reference to Ms. Gorcenski, and occurred shortly after Plaintiff had presumably been informed by his attorney that the Commonwealth’s Attorney believed Plaintiff’s indirect online harassment of her to constitute a violation of Plaintiff’s bail conditions.
- e) One of the replies to Plaintiff’s Gab referenced in subparagraph (d), by user “Nathaniel Wagner” states “That’s not enough of a punishment, because we all know Edward is the kind of degenerate who would enjoy having a train run on him in prison by real men.” The user’s Gab demonstrates that Plaintiff’s followers have joined in on his campaign of harassment and intimidation against Defendants.
- f) A Gab where Plaintiff re-posted to his followers a statement by a user with the

handle “Eric the Awful”, where the user stated: “I got a zuck just for using the word “tranny”. I called that Emily tranny that lied about @Cantwell a “tranny fag thing” in a comment in a closed group, and got zucked for it.”<sup>10</sup> This Gab demonstrates that Plaintiff’s social media followers have, in fact, taken Plaintiff’s thinly veiled cues to target and harass Ms. Gorcenski and Mr. Goad. Plaintiff’s reposting of the user’s Gab demonstrates that Plaintiff has “rewarded” some of his supporters for joining in the harassment campaign, by reposting and publicizing their comments to his followers.

- g) A Gab where Plaintiff re-posted to his followers a statement made by a user with the handle “Ted Colt”, where the user stated: “@Cantwell please ask judge to force genetic testing to ascertain sex & race, & confirm by medical examination that sexual reassignment surgery is complete.” The user’s Gab demonstrates that Plaintiff’s followers have joined in on his campaign of harassment and intimidation against Defendants. Plaintiff’s reposting of the user’s Gab demonstrates that Plaintiff has “rewarded” some of his supporters for joining in the harassment campaign, by reposting and publicizing their comments to his followers.
- h) In the same Gab reposted by Plaintiff referred to in subparagraph 36 above, Plaintiff also reposted a sub-Gab where a user named “GoDaddy” had highlighted a portion from the Answer in this case where counsel for Defendants requested that this Court honor and enforce the use of gender-appropriate language when referring to Ms. Gorcenski; user “GoDaddy” added the vulgar commentary “These fucking kikes,

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<sup>10</sup> The term “zuck” is a white supremacist term referring to Facebook’s policy of suspending or banning users who violate its policies against engaging in hate speech on the platform.

holy shit @cantwell”, which was also reposted by Plaintiff. While it is unclear whether the anti-Semitic slur was in reference to Defendants, their counsel, or both, Plaintiff’s approval through re-posting demonstrates anti-Semitic animus. The user’s Gab demonstrates that Plaintiff’s followers have overtly joined in on his campaign of harassment and intimidation against Defendants. Plaintiff’s reposting of the user’s Gab demonstrates that Plaintiff has “rewarded” some of his supporters for joining in the harassment campaign, by reposting and publicizing their comments to his followers.

- i) A Gab where Plaintiff stated (in reference to a public tweet by Ms. Gorcenski about traveling overseas): “Gorcenski skipping the country again? Could it be that the many inconsistencies in her sworn statements, and testimony are finally coming to light for some prosecutor preparing for a big trial? A prosecutor who has proven willing to charge people with perjury, perhaps? Hrmmm...” This Gab continues Plaintiff’s pattern of inciting his followers and supporters to harass Defendants by propagating the false claim that Defendants have committed perjury.
- j) A Gab where Plaintiff reposted a Tweet from Ms. Gorcenski’s account (which included her image and Twitter handle) which stated “A lot of people over the past year oe [sic] so have asked me when the right time to leave the country is. Now. It’s now.” In his repost, Plaintiff celebrated the fact that white supremacists had so terrorized Ms. Gorcenski into considering leaving the country by adding the commentary “#MAGA” (a popular white supremacist reference to now-President Donald Trump’s campaign slogan, “Make America Great Again”). This celebratory Gab demonstrates that Plaintiff is celebrating the fact that the campaign of

harassment he and his followers have waged on Ms. Gorcenski has been so effective as to cause her to consider leaving the country.

- k) Plaintiff reposted one of the replies to the Gab referenced in subparagraph (i), by user “Jennifer Scharf,” which contained a meme celebrating the idea that Plaintiff and his followers were “Causing [Their] Enemies” to Self-Deport.” This reply further demonstrates that Plaintiff’s followers were joining in on, and reveling in the harassment campaign against Defendants. The user’s Gab demonstrates that Plaintiff’s followers have overtly joined in on his campaign of harassment and intimidation against Defendants. Plaintiff’s reposting of the user’s Gab demonstrates that Plaintiff has “rewarded” some of his supporters for joining in the harassment campaign, by reposting and publicizing their comments to his followers.
- l) A post to Plaintiff’s blog, dated February 16, 2018, in which Plaintiff (bizarrely) blames Ms. Gorcenski for the fact that commercial a credit card payment processor, Stripe, began refusing to process payments for the fundraising site Maker Support, because of that site’s support for organized neo-Nazis and white supremacists. See Exhibit E. In the post, Plaintiff refers to Ms. Gorcenski as “Emily Gorcenski, a mentally ill liar who committed perjury to have me arrested for crimes which never occurred,” and states that Emily’s “real name is Edward, and he is pretending to be a woman.” This post was particularly harmful to Ms. Gorcenski, who works for a financial technology company; the false allegations contained in the blog of dishonesty or improper conduct in relation to the field of financial technology could be potentially damaging to her professional career and employment opportunities.
- m) A Gab where Plaintiff re-posted to his followers a Gab from user “CapitalOne” which

stated (in apparent reference to the immediate case): “I hope that faggot tranny has some kind of assets to seize or at least if @cantwell wins he can garnish that freak’s wages to help fund the creation of the Emily Gorcenski Center of Appreciation for Adolf Hitler.” The user’s Gab demonstrates that Plaintiff’s followers have overtly joined in on his campaign of harassment and intimidation against Defendants. Plaintiff’s reposting of the user’s Gab demonstrates that Plaintiff has “rewarded” some of his supporters for joining in the harassment campaign, by reposting and publicizing their comments to his followers.

- n) A Gab where Plaintiff reposted two tweets from Ms. Gorcenski’s account (which included her image and Twitter handle) about Valentine’s Day, adding the commentary “Happy VD from Clown World!”
- o) One of Ms. Gorcenski’s humorous Valentine’s Day tweets reposted by Plaintiff, referred to in the preceding subparagraph (n), said “Let 2018 be the year you go gay and minimize your exposure to terrible dudes.” In response to Plaintiff’s reposting of Ms. Gorcenski’s tweet, Gab user “Cryptonazi” posted about Ms. Gorcenski in another Gab, stating:

*Straight from the horse’s mouth, being gay is a choice and one can simply “go gay” if they chose to. Thanks for clarifying that Edward! Of course this means that the converse is also true and fags can simply be made to “go straight” if social pressure to cast out degeneracy increases.*

Plaintiff reposted Cryptonazi’s reply to Plaintiff’s Gab followers. The user’s Gab demonstrates that Plaintiff’s followers have overtly joined in on his campaign of harassment and intimidation against Defendants. Plaintiff’s reposting of the user’s Gab demonstrates that Plaintiff has “rewarded” some of his supporters for joining

in the harassment campaign, by reposting and publicizing their comments to his followers.

- p) A Gab where Plaintiff posted an image of a noose and a stop watch, containing text (written in a font that resembled blood dripping from the letters) which read “Time is running out antifa. Tick Tock.” This Gab was an overt threat directed toward, *inter alia*, Ms. Gorcenski and Mr. Goad, whom Plaintiff has stated repeatedly (online and in the Complaint) that he believes to be “ANTIFA” [sic].
- q) A Gab where Plaintiff stated: “Your twitter accusations don’t matter to the FBI, faggot. You should have kept it local instead of importing your Philly pals. You’re going to a men’s prison.”<sup>11</sup> This is a clear reference to Ms. Gorcenski, and yet another example of his pattern of accusing Ms. Gorcenski of perjury, and threatening that she will be sent to “men’s prison” and the horrifying reality that transgender inmates face extremely high rates of assault and sexual violence in prison as a way to threaten and intimidate her. As described below, Plaintiff has even gone so far as to carry the “men’s prison” theme of harassment into the papers filed in this Court. See ¶ 52, below.
- r) A Gab where Plaintiff stated (in apparent reference to his expectation of monetary gain from the present case): “Someday soon I will say “And we are coming to you live, from the Eddie Gorcenski studio where...” This was an overt reference to Plaintiff’s intentional and frivolous use of this Court and the case at bar to harass,

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<sup>11</sup> Plaintiff’s reference to “your Philly pals” appears to allude to a theory by Plaintiff that Ms. Gorcenski coordinates or has coordinated with activists from Philadelphia in opposing white supremacy, including on August 11. At the time Plaintiff posted this Gab, Plaintiff and other white supremacists were particularly incensed by the fact that anti-fascist activists from Philadelphia had recently discovered and disclosed the identity of Plaintiff’s friend and fellow white supremacist Daniel W. McMahon of Brandon, FL, who had been operating online under the pseudonym Jack “Pale Horse” Corbin.

intimidate, and threaten Defendants.

- s) A Gab where Plaintiff reposted a Tweet from Ms. Gorcenski (which included her image, Twitter handle, and a direct link to her Twitter profile) in which Ms. Gorcenski stated that she was not impressed with the Gab platform, and Plaintiff added the commentary: “Gorcenski made a Gab account, and she apparently doesn't like the interface much. Too bad, I think it would be fun to see her post here often.” User “C.B.” replied to Plaintiff’s post stating: “can we all mass post we are promoting tranny death penalty laws and watch the fun unfold.” User “GOY Rodef” replied to Plaintiff’s post stating “Should be fun keeping that freak of nature’s [Gab] score at -1488.”<sup>12</sup> The user’s Gab demonstrates that Plaintiff’s followers have overtly joined in on his campaign of harassment and intimidation against Defendants, and have celebrated doing so.
- t) A Gab where Plaintiff stated: “The thing is, I don't feel any better calling that fuckin freak a man, and I was never able to figure out the gender neutral they/them thing when it came to singular entities. This is why we just need to have them executed at taxpayer expense.” This was a clear reference to Ms. Gorcenski, and a threat and/or an attempted incitement to violence against her.
- u) A Gab where Plaintiff stated: “I’ve been doing a lot of thinking about transgender rights lately, and I can only come up with one. Assisted suicide.” This was a clear

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<sup>12</sup> “1488” is an apparent reference to the white supremacist “14 words” slogan (“We must secure the existence of our people and a future for white children.”) and the white supremacist code “88” used to refer to “Heil Hitler” (8 representing the letter “H” as the eight letter of the alphabet). The reference to Ms. Gorcenski’s “score” refers to Gab’s user ranking system, whereby the platform awards a use one “Frog Point” every time someone else upvotes the user’s content, and subtracts one point every time someone else downvotes the user’s content. Achieving a higher Gab score is seen as desirable by Gab users, and unlocks certain additional functionalities on the platform.



reference to Ms. Gorcenski, and a threat and/or an attempted incitement to violence against her.

- v) At one point after Ms. Gorcenski had temporarily changed the privacy settings on her Twitter account to make her Tweets private, due to the influx of white supremacist online harassment she was experiencing, Plaintiff posted a Gab which stated “Day 2 that Emily Gorcenski's tweets are private. What are you hiding, Eddie? (Hint: I already know, and it's not looking good for you).” This Gab was directed toward Ms. Gorcenski with the intent to intimidate her, to make sure she knew that Plaintiff was monitoring her Twitter feed, and served also as a signal to Plaintiff’s followers to harass Ms. Gorcenski on Plaintiff’s behalf.
- w) The replies to Plaintiff’s Gab described in subparagraph (v) included a variety of transphobic and vulgar insults and threats against Ms. Gorcenski. One of the replies, from user “Bovine X”, stated: “No Idea Who This [Ms. Gorcenski] Is But I’m Game To Learn.” Another reply, from user “OffensivelyOpenminded”, stated: “They're not private anymore. \*I tweeted this video to him, lol” along with a link to a video that the user had tweeted to Ms. Gorcenski. These replies demonstrate that Plaintiff knew or should have known that his followers were interpreting his Gabs about Ms. Gorcenski as a signal or instruction for them to seek out, target, harass, threaten, and intimidate Ms. Gorcenski and/or Mr. Goad online, that Plaintiff’s followers were in fact doing so, and that Plaintiff was aware of that fact.
- x) A Gab by Plaintiff stating: “When I watch people lie, and I have proof that they are lying, but I have to wait to show the proof while they continue lying, my time preference skyrockets beyond that of a crack crazed negro and I just chimp the fuck

out in front of my computer.” This Gab was a clear reference to Plaintiff’s false accusations that Defendants have committed perjury, and a threat that he is impatiently waiting to retaliate against her for this (entirely imagined) trespass.

- y) A Gab by Plaintiff stating that “Trannies need to be extra careful to obey the law. When they commit perjury, or other crimes, they go to the prison they were born for, not the one they wanted.” This Gab links to an article about Texas’ policies regarding transgender prisoners. This Gab was a clear reference to Ms. Gorcenski, and reiterates Plaintiff’s false accusation that she has committed perjury; it is yet another example of Plaintiff’s “men’s prison” line of harassment.

31. On or about February 12, 2018, Plaintiff also “followed” Ms. Gorcenski on Gab, to be able to view her Gabs automatically in his feed. As users of the platform know, Ms. Gorcenski received a notification when Plaintiff followed her, thus creating an indirect contact from Mr. Cantwell to Ms. Gorcenski, intending to intimidate her by sending her the message that he was monitoring her Gabs.

32. Plaintiff has made numerous similar harassing and threatening statements about Defendants on his podcast. Examples include:

- a) In Episode 28, Plaintiff stated “I try to monitor a Twitter feed of a certain mental patient” to try and find information useful for his criminal case. This was a clear reference to Ms. Gorcenski, intended to intimidate her, and a signal to Plaintiff’s supporters that they should monitor Ms. Gorcenski’s Twitter feed as well.
- b) In episode 29, Plaintiff referred to Ms. Gorcenski as a “mentally ill degenerate who recently committed perjury”, a “man in a dress”, and “a tranny degenerate and his lies”, and made a statement presumably directed at the Commonwealth’s Attorney

that “your witnesses are lying and if you put them on the stand you’re committing a crime.” In Episode 29, Plaintiff also threatened that “I will make everyone involved in this [the criminal case against him] pay,” and warned that those cooperating in the criminal case against him: “do not underestimate my willingness to risk life, limb, and liberty,” suggesting that he is prepared to violate the law in the service of his vendetta.

- c) In Episode 38, a caller into Plaintiff’s podcast asked Plaintiff if he was “going to have anybody make sure [Ms. Gorcenski] has a hard time making it to court.” Plaintiff instructs the caller and his listeners not to talk “like that” on the show because Plaintiff believes he is being listened to by the FBI. In this Episode, Plaintiff also threatens that he is privy to “information” about Defendants and others that he can’t share at this time, “but these guys have some consequences coming to them,” and that “a lot of these leftists are gonna be in jail.”

33. When Plaintiff has posted these statements, Ms. Gorcenski has documented an immediate noticeable increase of on-line harassment from white supremacists, particularly after the instances in which Plaintiff has posted screen shots from Ms. Gorcenski’s own social media feed, which direct Plaintiff’s followers to Ms. Gorcenski’s social media profiles, and serve as a thinly veiled signal to his followers for them to harass her. On information and belief, to be further documented in discovery, all or most of this additional on-line harassment is from individuals who either know Plaintiff personally or follow him on social media and/or his blog.

34. Plaintiffs harassing, threatening, and intimidating statements and conduct were directed at, variously, Ms. Gorcenski, Mr. Goad, or both. They were made with the intent and

expectation that Defendants would see them (either directly, because it is wise to monitor people who actively call for violence against you, or indirectly, because another concerned person could be expected to alert Defendants to the threatening and harassing nature of the content), and with the intent and expectation that Plaintiff's supporters would take their cues from the content of the posts in order to directly harass, threaten and intimidate Defendants on behalf of Plaintiff. There is no other plausible explanation for the volume and intensity of Plaintiff's threatening, harassing, and intimidating posts and statements.

35. Plaintiff's harassing, threatening, and intimidating statements and conduct, and the harassing, threatening, and intimidating statements and conduct of his followers at Plaintiff's suggestion, have had, and continue to have, the effect of putting Defendants in reasonable fear of bodily harm or death.

36. On October 8, 2017, Ms. Gorcenski was the victim of what is known as a "swatting" attack—a harassment and/or attempted murder tactic where the harasser makes a false police report, usually of an urgent or violent crime, with the intention of luring law enforcement or SWAT to an address to harass, intimidate, injure, or murder the targeted individual. In this instance, an unknown individual called the Charlottesville Police Department and falsely reported a violent domestic disturbance in progress at Ms. Gorcenski's house, prompting an urgent police response. On information and belief, to be further documented in discovery, the person instigating the "swatting" attempt was motivated by Cantwell's online harassment and incitement of his followers to violence against Ms. Gorcenski.

37. Because Plaintiff admittedly monitors Ms. Gorcenski's Twitter account, and Ms. Gorcenski tweeted about the swatting attempt, Plaintiff was aware of the swatting attempt and that Ms. Gorcenski believed it to be connected to her online harassment by Plaintiff and

his followers. Thus, even if Plaintiff himself was not involved in or connected to the swatting attempt, he knew or reasonably should have known that his continued threatening, harassing, and statements and posts about Ms. Gorcenski after the date of the swatting attempt: a) would put Ms. Gorcenski in reasonable fear of death, or bodily injury to themselves or to their family members or household members; and b) would be reasonably likely to incite his followers to further attempts at violence, threatening conduct, intimidation, and/or harassment against Ms. Gorcenski and Mr. Goad.

38. For each harassing statement or image that was published to, or intended to drive web traffic to, Plaintiff's website (<https://christophercantwell.com> ), including the "Gassing Kikes and Trannies" song, published with photographs of Defendants, the publication was made alongside and in connection with multiple links on his website soliciting commercial business from viewers, including solicitations for monetary donations to his site, solicitations for visitors to purchase a paid membership to his website, and solicitations for visitors to purchase merchandise<sup>13</sup> in Plaintiff's online store. As such, the publication of such statements and the use of Defendants' names and photographs were made for purposes of Plaintiff's advertising or trade, in order to drive more web traffic to Plaintiff's website and/or to solicit monetary donations, paid memberships, and the purchase of Plaintiff's merchandise from his website.

39. Because of the fear instilled in Ms. Gorcenski by Plaintiff's conduct, prior to the November 9 preliminary hearing in Plaintiff's criminal case, and at Ms. Gorcenski's urging, the Commonwealth's Attorney made a motion for a protective order to prohibit Plaintiff from

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<sup>13</sup> The merchandise available in Plaintiff's store includes t-shirts and other apparel featuring the logo of Mr. Cantwell's website, bumper stickers with slogans such as "Physically Remove Democrats", "I [heart] Physical Removal", and "It's Okay to Be White," and an English translation of Adolf Hitler's *Mein Kampf*.

engaging in harassing, intimidating, or threatening conduct towards Ms. Gorcenski. Ms. Gorcenski was given no notice that this motion would be decided at the November 9 preliminary hearing, nor was she told that she would be asked to produce evidence of this conduct at that hearing. Because of this, the motion for a protective order was denied on that date due to lack of evidence of the threat against Ms. Gorcenski. However, the conditions of Plaintiff's bail prohibit him from having any direct or indirect contact with Ms. Gorcenski or Mr. Goad.

40. Plaintiff's conduct violates his bond condition forbidding any direct or indirect contact with Ms. Gorcenski or Mr. Goad. Out of fear for her safety, Ms. Gorcenski has been documenting the above conduct and periodically reporting it to the Albemarle County Commonwealth's Attorney's Office. Ms. Gorcenski has also reported threats to the Charlottesville Police Department and the Charlottesville Commonwealth's Attorney's Office in order to seek protection from these threats through the proper channels. On information and belief, on or about March 13, 2018, the Albemarle County Commonwealth's Attorney's Office filed a motion for a modification of Plaintiff's bond conditions and/or for violation of Plaintiff's bond based at least in part on some or all of the conduct described herein.

41. Plaintiff's conduct was directed towards Defendants in that he: 1) followed Ms. Gorcenski on Gab, which he knew would generate a notice to her; and 2) posted and publicized, or allowed to be posted and publicized, Defendants' names and images to his followers on numerous occasions, thereby signaling to and inciting his followers to engage in harassment and intimidation of Defendants.

42. In addition to Plaintiff's own conduct, individuals known to be closely associated with Plaintiff, believed to be working in coordination with Plaintiff, have engaged in direct

harassment, threatening conduct, and intimidation of Ms. Gorcenski online. One noteworthy example is David Rotter, who testified as a defense witness at Plaintiff's preliminary hearing in the criminal case, and who is believed to be a close associate of Plaintiff's. Ever since Plaintiff's arrest, and with increasing frequency after he and Ms. Gorcenski both testified at the preliminary hearing, Mr. Rotter has posted dozens of harassing, threatening, and intimidating messages to Ms. Gorcenski's Twitter timeline, including tweets in which he repeatedly accuses Ms. Gorcenski of making false statements under oath (mirroring Plaintiff's claims). Notably, one Tweet also uses the phrase "Clown World" to refer to Ms. Gorcenski, which is identical to the phrase used by Plaintiff in the Gab described in Paragraph 30(n), supra. Examples of Mr. Rotter's tweets to Ms. Gorcenski are reproduced in **Exhibit F**.

43. Jason Kessler, the white supremacist who is credited with having orchestrated the "Unite the Right" rally on August 12, and who is known to be a close associate of Plaintiff's, posted a video of Mr. Goad to Facebook shortly after Plaintiff was arrested. The post stated "This guy is Cantwell's accuser. He appears to be a serial harasser of Confederate monument supporters. Please give me more information on him." In the replies to Kessler's post, one Facebook user "Chip Breeden" immediately threatened "F##king Punk will get that ass whipped!" Copies of Kessler's post and this reply are reproduced in **Exhibit G**.

44. On information and belief, Kessler's post about Mr. Goad was made in coordination and agreement (either explicit or implicit) with Plaintiff for the purpose of seeking out information that could be used to threaten, harass, and intimidate Mr. Goad, and to encourage others to threaten, harass, and intimidate Mr. Goad.

45. Mr. Rotter's conduct, along with the conduct of the scores of other white supremacists who harass Ms. Gorcenski on Twitter and who are believed to be affiliates and/or

followers of Plaintiff, demonstrates that supporters and confederates have overtly joined in on his campaign of harassment and intimidation against Defendants.

*Plaintiff's Efforts to Abuse the Process of this Court to Further Harass Defendants*

46. Plaintiff now seeks to enlist this Court in his continued campaign of unlawful harassment against Defendants by filing the Complaint in this Court, notwithstanding the fact that the claims made against Defendants are utterly without merit because, *inter alia*, the criminal proceedings against Plaintiff are still pending, and, in any event, Plaintiff has not alleged sufficient facts to state a cause of action against Defendants for malicious prosecution or false imprisonment. See Answer ¶¶ 127 -141; see also ¶¶ 4 – 22, *supra*.

47. Plaintiff initiated these meritless proceedings while there are active criminal proceedings pending against him in Albemarle County Circuit Court for the unlawful use of gas. Ms. Gorcenski and Mr. Goad both testified against Plaintiff at the preliminary hearing on November 9, and have both been subpoenaed to testify against Plaintiff as witnesses for the Commonwealth at the trial on August 13.

48. Plaintiff's intent in initiating a frivolous lawsuit against Defendants was to harass, threaten, or intimidate Defendants from testifying in the criminal trial against him, and/or to seek retribution against Defendants for filing criminal complaints and for testifying at the preliminary hearing.

49. Furthermore, the papers filed in this case have contained passages that mirror the harassing, insulting, and threatening statements and conduct described above. For example, Plaintiff filed the Complaint in this case under Ms. Gorcenski's former name, or "deadname",



and repeatedly used masculine pronouns throughout the Complaint, which Plaintiff clearly understands and intends to be a form of transphobic harassment. The transphobic, harassing purpose of deadnaming and misgendering Ms. Gorcenski in the Complaint is particularly evident in light of the fact that the Complaint *acknowledges* that Ms. Gorcenski “has changed [her] name to Emily Florence Gorcenski.” The Complaint also makes the harassing, transphobic and materially false statement that Ms. Gorcenski “pretends to be a transgender woman of color.”<sup>14</sup> See Compl. ¶ 4.

50. The Complaint also contains bizarre, false, unfounded, and defamatory accusations against Defendants, including: a) the false and unfounded claim that Ms. Gorcenski is a “Media relations assistant” to ANTIFA” who “believes that ‘Republicans’ seek to assassinate [her]” (See Compl. ¶ 4, and Answer ¶ 4); b) the false, unfounded claim that Mr. Goad “is a violent political activist” (See Compl. ¶ 5, and Answer ¶ 5); and c) the bizarre, false, and entirely confusing accusations that each of the entirely consistent statements Defendants have made in the criminal case are somehow inconsistent in a manner that rises to the level of perjury.<sup>15</sup>

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<sup>14</sup> Ms. Gorcenski is, in fact, a transgender woman of Asian ancestry. The irony that Plaintiff, an avowed white supremacist and white ethno-nationalist, repeatedly insists that she is “white” is not lost on Defendants. It is a remarkable case study in the internal contradictions and logical unsustainability of white supremacist ideology, inasmuch as it demonstrates that the construct of “race” does not have a biological basis, but is wholly a social construct that was conceived to justify chattel slavery and the trans-Atlantic slave trade, and which is maintained to justify the pernicious present-day consequences wrought by the legacies of slavery and structural white supremacy.

<sup>15</sup> The one factual error that has been identified in Defendants’ prior statements was that, upon reviewing video of the incident with the Commonwealth’s Attorney, Mr. Goad learned for the first time that he had, in fact, been affected by the pepper spray deployed by another person *in addition to* having been affected by the pepper spray deployed by Plaintiff. Upon learning of this, the Commonwealth’s Attorney immediately took steps to notify Plaintiff’s counsel of this new information, consistent with his ethical and prosecutorial obligation. The new information that Mr. Goad was the victim of an additional pepper spray incident on August 11 in no way mitigates Plaintiff’s culpability for his own pepper spray discharge; Plaintiff’s seeming insistence that it does is puzzling, at best, and materially misleading, at worst.

51. For example, the Complaint bizarrely claims that the following three statements made by Ms. Gorcenski are inconsistent (See Compl. ¶ 55):

- a) In her initial verbal police report, Ms. Gorcenski stated that she was “sprayed in the eyes with pepper spray”<sup>16</sup>;
- b) In her written statement to law enforcement, Ms. Gorcenski stated that she “felt the burning in my eyes of pepper spray or mace. Soon my mucus membranes burned and I had trouble breathing.”;
- c) In her affidavit to the magistrate, Ms. Gorcenski stated “I inhaled/was affected by a chemical spray” and “the overspray affected me directly. My eyes and sinuses were burning.”

Given that the eyes and sinuses are both locations of major mucus membranes, the three statements above are entirely consistent and in no way contradictory. See also Answer ¶ 55. Plaintiff’s baffling, unfounded accusation that these statements are somehow contradictory further demonstrates that the purpose of the immediate litigation is to harass and intimidate Defendants, rather than to pursue a good faith legal claim.

52. Similarly, a Motion for Extension of Time to File filed by Plaintiff in this case (See Dkt. No. 18, at ¶ 9) contained transphobic, harassing accusations against Ms. Gorcenski that had no bearing whatsoever on the merits or procedure of the litigation<sup>17</sup>, but which mirrored the harassing language used by Plaintiff to describe Ms. Gorcenski on Gab, his blog, and in his

---

<sup>16</sup> It is unclear from the Complaint whether Plaintiff claims that this is a direct quote from Ms. Gorcenski, or a quote from the police report; it appears to be the latter.

<sup>17</sup> As this Court correctly alluded to in its Order denying this Motion (Dkt. No. 19), this harassing paragraph did not even serve the functional purpose of actually opposing Ms. Gorcenski’s request to have this case recaptioned under her true name, as the reason not to do so was nowhere actually offered, and no objection to the requested relief was made by counsel.

podcast. The strange, harassing, transphobic paragraph stated:

Despite his efforts to the contrary, Gorcenski is not in fact a female human being, having been born with and retaining the XY chromosome. If convicted and sent to prison in Virginia, he would go to a male prison, whether he liked it or not... Further, Gorcenski's presenting himself as a female is untruthful, mendacious, and deceptive. He is free to suffer the consequences of his decision, but has no right to force others to condone his lie.<sup>18</sup>

Id. As above, the use of documents filed in this Court for the sole purpose of propagating Plaintiff's bigoted, transphobic views about Ms. Gorcenski, particularly when such documents serve no functional purpose in the litigation, further demonstrates that the purpose of the case at bar is to harass and intimidate Defendants, rather than to pursue a good faith legal claim.

*Harm to Defendants Resulting from Plaintiff's Harassing and Intimidating Conduct*

53. As a result of Plaintiff's harassing, threatening, and intimidating conduct, Defendants have been placed in reasonable fear of death, criminal sexual assault, or bodily injury to themselves or to their family members or household members.

54. As a result of the fear caused by Plaintiff's harassing, threatening, and intimidating conduct, Defendants have both been required to seriously reconsider whether it is safe for them, and to their family members or household members, to continue cooperating in the Commonwealth's criminal case against Plaintiff or to testify at the trial.

55. Ms. Gorcenski and Mr. Goad have incurred, and continue to incur, substantial

---

<sup>18</sup> As noted by Nell Gaither, President of Trans Pride Initiative, these pseudo-scientific claims are abusive, harassing, and have no basis in human biology or psychology; instead, they are based in bias and transphobia. See Letter from Nell Gaither to Hon. Norman K. Moon and Hon. Joel C. Hoppe, dated March 2, 2018, attached hereto as **Exhibit H**.

damages as a result of Plaintiff's harassing and intimidating conduct, including extreme stress, emotional damages and the costs of treatment therefore, the costs of taking reasonable increased security measures to secure their persons and property from harm, the costs of attorneys' fees to advise them of their rights and obligations as victims and witnesses in the criminal trial, and the costs of attorneys' fees to defend the immediate civil action.

56. Defendants' families and household members have also suffered, and continue to suffer, substantial stress and trauma as a result of Plaintiff's harassing and intimidating conduct, out of fear for their own safety and the safety of Defendants.

57. The stress and trauma resulting from Plaintiff's harassment and intimidation campaign against Ms. Gorcenski has become so severe that Ms. Gorcenski has sought employment in Germany, and plans to relocate in May.

### **Defendants' Amended (First) Counterclaim Causes of Action**

#### **First Cause of Action – Assault**

58. Defendants reallege and reincorporate each of the proceeding paragraphs, and each and every paragraph of their Answer to the Complaint, as if fully restated herein.

59. By his conduct on August 11 of intentionally deploying pepper spray in a crowded area in which Defendants were present, and in physically shoving and making contact with Defendants, Plaintiff engaged in overt acts intended to inflict bodily harm, which had the ability to inflict such harm on Defendants and others present at the statue, or, in the alternative, Plaintiff engaged in overt acts intending to place Defendants and others present at the statue in fear or apprehension of bodily harm, and did in fact create such reasonable

fear and apprehension in both Defendants.

60. As such, Plaintiff's conduct at the statue on August 11 constituted assault against both Mr. Goad and Ms. Gorcenski, and Plaintiff is liable to both Defendants in tort for that assault. Defendants are entitled to compensatory damages, punitive damages, and reasonable attorney fees and costs.

### Second Cause of Action – Battery

61. Defendants reallege and reincorporate each of the proceeding paragraphs, and each and every paragraph of their Answer to the Complaint, as if fully restated herein.

62. By his conduct on August 11 of intentionally deploying pepper spray in a crowded area in which Defendants were present, which pepper spray did actually make unwanted contact with both Mr. Goad and Ms. Gorcenski, and in physically shoving and making contact with Defendants, Plaintiff committed unwanted touching against both Defendants which was neither consented to, excused, nor justified.

63. As such, Plaintiff's conduct at the statue on August 11 constituted battery against Ms. Gorcenski and Mr. Goad, and Plaintiff is liable to both Defendants in tort for that battery. Defendants are entitled to compensatory damages, punitive damages, and reasonable attorney fees and costs.

### Third Cause of Action – Negligence

64. Defendants reallege and reincorporate each of the proceeding paragraphs, and each

and every paragraph of their Answer to the Complaint, as if fully restated herein.

65. By his conduct on August 11 of intentionally deploying pepper spray in a crowded area in which Defendants were actually present, which pepper spray did actually make unwanted contact with both Mr. Goad and Ms. Gorcenski, causing each of them to suffer physical and emotional harm from the effects of the pepper spray and the trauma of the incident, Plaintiff failed to exercise the reasonable care expected of a person of ordinary prudence in such a situation.

66. As such, Plaintiff was negligent in intentionally deploying the pepper spray in a crowded area, and such negligence was the proximate cause of physical and emotional injury to Defendants. Plaintiff is liable in tort to Defendants for the injury caused by his negligent conduct. Defendants are entitled to compensatory damages, punitive damages, and reasonable attorney fees and costs.

#### Fourth Cause of Action – Stalking

67. Defendants reallege and reincorporate each of the proceeding paragraphs, and each and every paragraph of their Answer to the Complaint, as if fully restated herein.

68. By his conduct in having engaged and continuing to engage in the pattern of harassing, intimidating, and threatening conduct described in the preceding paragraphs, Plaintiff, on more than one occasion has engaged and continues to engage in conduct directed at Defendants with the intent to place, or which he knows or reasonably should know places, Defendants in reasonable fear of death, criminal sexual assault, or bodily injury to Defendants or to their other families or household members in violation of Virginia Code § 18.2-60.3.

69. Defendants have incurred actual physical, monetary, and emotional damages as a result of Plaintiff's stalking, and are entitled to an injunction, and to compensatory and punitive damages pursuant to Virginia Code § 8.01-42.3.

*Fifth Cause of Action – Unlawful Use of Names & Photographs*

70. Defendants reallege and reincorporate each of the proceeding paragraphs, and each and every paragraph of their Answer to the Complaint, as if fully restated herein.

71. By his conduct in having engaged and continuing to engage in the pattern of harassing, threatening, and intimidating conduct described above, Plaintiff has knowingly published and otherwise used the names, photographs, and likenesses of and references to Ms. Gorcenski and Mr. Goad for the purposes of trade—specifically for the purpose of increasing traffic to his website and encouraging visitors to his website to make monetary donations, purchase paid memberships, or purchase merchandise from Plaintiff's website.

72. This publication and use occurred without the written consent of either Ms. Gorcenski or Mr. Goad and in violation of Virginia Code § 8.01-40.

73. Defendants have incurred actual damages as a result of Plaintiff's unlawful use of their names, pictures, and likenesses and are entitled to a restraining order as well as compensatory and punitive damages pursuant to Virginia Code § 8.01-40.

*Sixth Cause of Action – Harassment & Violence Motivated by Cantwell's Racial, Religious, & Ethnic Animus toward Ms. Gorcenski and Mr. Goad*

74. Defendants reallege and reincorporate each of the proceeding paragraphs, and each

and every paragraph of their Answer to the Complaint, as if fully restated herein.

75. By his conduct in having engaged in violence against Defendants on August 11, and in having engaged in and continuing to engage in the pattern of harassing, intimidating, and threatening conduct described above, Plaintiff has targeted Ms. Gorcenski and Mr. Goad for the violations of law alleged in the previously stated causes of action based on Plaintiff's perception of Defendants' racial, religious, or ethnic backgrounds, and/or based on his perception of Defendants' sympathies and solidarity with people of racial, religious, or ethnic backgrounds which Plaintiff deems to be inferior. A self-avowed white nationalist, Plaintiff was motivated to engage in this activity by his own racial, religious, ethnic animus in violation of Virginia Code § 8.01-42.1.

76. In addition, Plaintiff's repeated use of anti-Semitic and racist slurs and language in the course of his harassment campaign (e.g., repeated references to Defendants as "kikes" or as working at the direction of "the Jews") demonstrates that Plaintiff's harassment and intimidation of Defendants has been motivated by Plaintiff's racial, religious, or ethnic animosity, based on either his perception of Defendants' identification with a particular racial, religious, or ethnic group, and/or based on his perception of Defendants' sympathies and solidarity with people with people of racial, religious, or ethnic backgrounds which Plaintiff deems to be inferior.

77. Defendants have incurred and continue to incur actual damages as a result of being targeted by the Plaintiff for this intimidation and harassment, and are entitled to an injunction, compensatory damages, punitive damages, and reasonable attorney fees and costs pursuant to Virginia Code § 8.01-42.1.



*Seventh Cause of Action - Conspiracy to Interfere with Civil Rights: Obstruction of Justice, Witness Intimidation*

78. Defendants reallege and reincorporate each of the proceeding paragraphs, and each and every paragraph of their Answer to the Complaint, as if fully restated herein.

79. The Plaintiff has conspired explicitly and/or tacitly with one or more other persons and entities whose identities are known and unknown to Ms. Gorcenski, including but not limited to Jason Kessler, David Rotter, Daniel McMahon, Corey Mahler, Zyniker Law, William Fears, all persons and entities (known and unknown) acting as agents of the Plaintiff through creation, posting, promotion and/or maintenance of content on the Plaintiff's blog, podcast, social media accounts, and all persons and entities (known and unknown) who support, encourage, and contribute to the Plaintiff's actions against Ms. Gorcenski via fundraising, promotion, donation of money, goods, and labor to deter Ms. Gorcenski from testifying against the Plaintiff in the criminal matter currently pending against the Plaintiff in Albemarle County, Virginia. The agreement between the Plaintiff and his co-conspirators is ongoing.

80. The object of the agreement between the Plaintiff and his co-conspirators is to retaliate against Ms. Gorcenski for testifying against the Plaintiff and to deter her from testifying and cooperating in the future.

81. The means used by the Plaintiff and his co-conspirators to deter Ms. Gorcenski from acting as a witness and testifying include (but are not limited to) posting of Ms. Gorcenski's home address, posting pictures of Ms. Gorcenski without her consent or authorization, communication regarding Ms. Gorcenski's whereabouts and activities, posting and endorsement of images depicting Ms. Gorcenski's death, repeated references to "tranny degenerates," disseminations of articles and opinion pieces depicting transwomen such as Ms. Gorcenski as "degenerates," "faggots," and the filing of the complaint in this matter, amongst

other acts.

82. The Plaintiff and his co-conspirators hold a deep animus toward Ms. Gorcenski because she is a queer trans woman of color.

83. The Plaintiff has conspired explicitly and/or tacitly with one or more other persons and entities whose identities are known and unknown to Mr. Goad, including but not limited to Jason Kessler, David Rotter, Daniel McMahon, Corey Mahler, Zyniker Law, Hannah Zarski, all persons and entities (known and unknown) acting as agents of the Plaintiff through creation, posting, promotion and/or maintenance of content on the Plaintiff's blog, podcast, social media accounts, and all persons and entities (known and unknown) who support, encourage, and contribute to the Plaintiff's actions against Mr. Goad via fundraising, promotion, donation of money, goods, and labor to deter Mr. Goad from testifying against the Plaintiff in the criminal matter currently pending against the Plaintiff in Albemarle County, Virginia. The agreement between the Plaintiff and his co-conspirators is ongoing.

84. The object of the agreement between the Plaintiff and his co-conspirators is to retaliate against Mr. Goad for testifying against the Plaintiff and to deter him from testifying and cooperating in the future.

85. The means used by the Plaintiff and his co-conspirators to deter Mr. Goad from acting as a witness and testifying include (but are not limited to) posting Mr. Goad's personal information online without his consent, requesting that others find and disseminate information about Mr. Goad, providing information to the police falsely implicating Mr. Goad in criminal activity, disseminating said false allegations online, posting pictures of Mr. Goad without his consent or authorization, regular harassment of Mr. Goad via multiple anonymous accounts online, repeated references to Mr. Goad as a "kike," and the filing of the complaint

in this matter, amongst other acts.

86. The Plaintiff and his co-conspirators hold a deep animus toward Mr. Goad because the Plaintiff believes that Mr. Goad is Jewish.

87. By his conduct in having engaged in and continuing to engage in the pattern of harassing, intimidating, and threatening conduct described above, Plaintiff and others have reached agreement (either explicitly or tacitly) and conspired with one or more others to deter by intimidation or threat, Mr. Goad and Ms. Gorcenski from appearing in a court of the United States from attending such court, or from testifying to a matter pending therein, freely, fully, and truthfully, in violation of 42 U.S.C. § 1985(2)—specifically, to deter Ms. Gorcenski and Mr. Goad from testifying at the criminal trial against Plaintiff.

88. Similarly, by his conduct as described above, Plaintiff has conspired with others to injure Defendants on account of, and in retribution for, their having attended and testified in the preliminary hearing against Plaintiff, in violation of 42 U.S.C. § 1985(2).

89. Defendants have incurred and continue to incur actual damages as a result of the ongoing conspiracy of being targeted by the Plaintiff for witness intimidation, and are entitled to an injunction, compensatory damages, punitive damages, and reasonable attorney fees and costs pursuant to 42 U.S.C. § 1985.

*Eighth Cause of Action - Conspiracy to Interfere with Civil Rights: Depriving Persons of Rights or Privileges*

90. Defendants reallege and reincorporate each of the proceeding paragraphs, and each and every paragraph of their Answer to the Complaint, as if fully restated herein.

91. The Plaintiff has conspired explicitly and/or tacitly with one or more other persons

and entities whose identities are known and unknown to Ms. Gorcenski, including but not limited to Jason Kessler, David Rotter, Daniel McMahon, Corey Mahler, Zyniker Law, William Fears, all persons and entities (known and unknown) acting as agents of the Plaintiff through creation, posting, promotion and/or maintenance of content on the Plaintiff's blog, podcast, social media accounts, and all persons and entities (known and unknown) who support, encourage, and contribute to the Plaintiff's actions against Ms. Gorcenski via fundraising, promotion, donation of money, goods, and labor to deprive Ms. Gorcenski of her equal rights, to include the right to protection from harassment and assault, the right to equal access to courts in order to seek redress for wrongs done to her by the Plaintiff and his co-conspirators, and the freedoms of speech, association, and assembly as guaranteed by the First Amendment to the United States Constitution. This conspiracy is currently ongoing.

92. The object of the agreement between the Plaintiff and his co-conspirators is to deprive Ms. Gorcenski from equal protection and privileges under the law, including, without limitation, to deprive her of her right to continue associating and protesting with anti-racist and anti-fascist activists, from seeking redress for harms done to her by the Plaintiff and his co-conspirators, and from exercising the equal right to testify in court in the criminal proceedings against Plaintiff, and to seek retribution against her for having exercised her equal right to testify in court at the preliminary hearing.

93. The means used by the Plaintiff and his co-conspirators to deprive of the right Ms. Gorcenski to act as a witness and testify include (but are not limited to) posting of Ms. Gorcenski's home address, posting pictures of Ms. Gorcenski without her consent or authorization, communication regarding Ms. Gorcenski's whereabouts and activities, posting and endorsement of images depicting Ms. Gorcenski's death, repeated references to "tranny

degenerates,” disseminations of articles and opinion pieces depicting transwomen such as Ms. Gorcenski as “degenerates,” “faggots,” and the filing of the complaint in this matter, amongst other acts.

94. The Plaintiff and his co-conspirators hold a deep animus toward Ms. Gorcenski because she a queer trans woman of color.

95. The Plaintiff has conspired explicitly and/or tacitly with one or more other persons and entities whose identities are known and unknown to Mr. Goad, including but not limited to Jason Kessler, David Rotter, Daniel McMahon, Corey Mahler, Zyniker Law, Hannah Zarski, all persons and entities (known and unknown) acting as agents of the Plaintiff through creation, posting, promotion and/or maintenance of content on the Plaintiff’s blog, podcast, social media accounts, and all persons and entities (known and unknown) who support, encourage, and contribute to the Plaintiff’s actions against Mr. Goad via fundraising, promotion, donation of money, goods, and labor to deprive Mr. Goad of his equal rights, to include the right to protection from harassment and assault, the right to equal access to courts in order to seek redress for wrongs done to him by the Plaintiff and his co-conspirators, and the freedoms of speech, association, and assembly as guaranteed by the First Amendment to the United States Constitution. This conspiracy is currently ongoing.

96. The object of the agreement between the Plaintiff and his co-conspirators is to deprive Mr. Goad from equal protection and privileges under the law, including, without limitation, to deprive him of exercising the equal right to testify in court in the criminal proceedings against Plaintiff, and to seek retribution against him from having exercised his right to testify in the preliminary hearing.

97. The means used by the Plaintiff and his co-conspirators to deprive Mr. Goad of his

right to act as a witness and testify include (but are not limited to) posting Mr. Goad's personal information online without his consent, requesting that others find and disseminate information about Mr. Goad, providing information to the police falsely implicating Mr. Goad in criminal activity, disseminating said false allegations online, posting pictures of Mr. Goad without his consent or authorization, regular harassment of Mr. Goad via multiple anonymous accounts online, repeated references to Mr. Goad as a "kike," and the filing of the complaint in this matter, amongst other acts.

98. The Plaintiff and his co-conspirators hold a deep animus toward Mr. Goad because the Plaintiff believes that Mr. Goad is Jewish.

99. By his conduct in having engaged in and continuing to engage in the pattern of harassing, intimidating, and threatening conduct described above, Plaintiff and others have reached agreement (either explicitly or tacitly) and conspired with one or more others for the purpose of depriving, either directly or indirectly, Mr. Goad and Ms. Gorcenski of the equal protection of the laws, or of equal privileges and immunities under the laws, and Mr. Goad and Ms. Gorcenski have, by such conspiracy, been injured in their persons and property, and deprived of exercising the rights and privileges bestowed to them as citizens of the United States, in violation of 42 U.S.C. § 1985(3).

100. Plaintiff's harassment and intimidation of Defendants has been motivated by Plaintiff's by invidiously discriminatory racial, religious, or ethnic animus, based on either his perception of Defendants' identification with a particular racial, religious, or ethnic group, and/or based on his perception of Defendants' sympathies and solidarity with people with people of racial, religious, or ethnic backgrounds which Plaintiff deems to be inferior, and is motivated.

101. In addition, Plaintiff's virulently transphobic and homophobic harassment and intimidation of Defendants demonstrates that his harassment and intimidation of Defendants is motivated by his specific, invidiously discriminatory animus towards transgender, gay, lesbian, bisexual, and gender non-conforming individuals.

102. Defendants have incurred and continue to incur actual damages as a result of being targeted by the Plaintiff for deprivation of rights and privileges based on his invidiously discriminatory animus, and are entitled to an injunction, compensatory damages, punitive damages, and reasonable attorney fees and costs pursuant to 42 U.S.C. § 1985.

*Ninth Cause of Action - Abuse of Process*

103. Defendants reallege and reincorporate each of the proceeding paragraphs, and each and every paragraph of their Answer to the Complaint, as if fully restated herein.

104. By his conduct in having filed the Complaint in this action and having caused the Complaint and summons to be served upon Defendants, despite the Complaint's utter lack of basis in law, and by including statements in the Complaint that are materially misleading and/or harassing, and which do not serve any legitimate purpose to further the litigation, Plaintiff has abused the process of this Court for the improper purpose of threatening, harassing, and intimidating Defendants to deter them from testifying in the criminal case against Plaintiff.

105. Defendants have incurred and continue to incur actual damages as a result of Plaintiff's abuse of process, and are entitled to dismissal of Plaintiff's Complaint, compensatory damages, punitive damages, and reasonable attorney fees and costs.

Tenth Cause of Action – Malicious Prosecution (Civil)

106. Defendants reallege and reincorporate each of the proceeding paragraphs, and each and every paragraph of their Answer to the Complaint, as if fully restated herein.

107. By his conduct in having filed the Complaint in this action and having caused the Complaint and summons to be served upon Defendants, despite the Complaint's utter lack of basis in law, and by including statements in the Complaint that are materially misleading and/or harassing, and which do not serve any legitimate purpose to further the litigation, Plaintiff has maliciously prosecuted a civil action in this Court for the improper purpose of threatening, harassing, and intimidating Defendants to deter them from testifying in the criminal case against Plaintiff.

108. Defendants have incurred special injury as a result of Plaintiff's malicious prosecution of his civil action, including the cost of attorneys' fees to defend this action, and the emotional injury and trauma suffered in relation to the harassing, intimidating, and defamatory nature of Plaintiff's civil Complaint and the papers filed with the Court in his prosecution thereof.

109. Defendants have incurred and continue to incur actual damages as a result of Plaintiff's malicious prosecution of the civil action, and are entitled to dismissal of Plaintiff's Complaint, compensatory damages, punitive damages, and reasonable attorney fees and costs.

**Demand for Relief on Defendants' Amended (First) Counterclaims**

WHEREFORE, for the foregoing reasons and all others that may appear to this Court,



Defendants/Counterclaimants Emily Gorcenski and Kristopher Goad respectfully request the following relief:

110. That this Court issue an injunction enjoining Mr. Cantwell from continuing the pattern of harassment, intimidation, abuse, and threatening conduct described above towards either Mr. Goad or Ms. Gorcenski, and enjoining him from engaging in any conduct that would constitute further violation of the laws referenced above or violation or deprivation of Mr. Goad and Ms. Gorcenski's rights;

111. That Defendant/Counterclaimant Ms. Gorcenski be awarded compensatory damages in the amount of \$150,000, or in an amount to be determined at trial;

112. That Defendant/Counterclaimant Mr. Goad be awarded compensatory damages in the amount of \$150,000, or in an amount to be determined at trial;

113. That Defendant/Counterclaimant Ms. Gorcenski be awarded punitive damages in the amount to \$350,000;

114. That Defendant/Counterclaimant Mr. Goad be awarded punitive damages in the amount \$350,000;

115. That Defendants/Counterclaimants be awarded their costs and attorneys' fees for this action in bringing these counterclaims; and

116. That this Court grant the Defendants/Counterclaimants such other relief as the Court deems just and proper.

\*\*\*\*\*

Respectfully submitted,  
EMILY GORCENSKI  
KRISTOPHER GOAD  
*By Counsel*

March 20 2018

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*Counsel for Emily Gorcenski and Kristopher Goad*

CERTIFICATE OF SERVICE

I, Pamela Starsia, hereby certify that on March 20, 2018, I electronically filed the foregoing with the Clerk of the Court for the United States District Court for the Western District of Virginia by using the CM/ECF system. I certify that counsel for all participants in the case are registered CM/ECF users and that service will be accomplished by the CM/ECF system.

Dated: March 20, 2018.

/s/ Pamela Starsia  
Pamela Starsia

# EXHIBIT 11

## **Exhibit B**

**“Gassing Kikes and Trannies” post/song,  
posted to Plaintiff/Counter Defendant’s Blog  
on Dec. 10, 2017  
(described in ¶ 27(f))**

# Christopher Cantwell

Radical Agenda



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Music

## Gassing Kikes and Trannies (Song)

📅 December 10, 2017 👤 Chris 33 Comments

The is a song about phony victimhood, perjury, and ostensibly Republican prosecutors who cooperate with lying communist agitators. It should not be interpreted as a threat or intent to do anything other than mock dishonest people.

Lyrics

We're gassing kikes and trannies  
There's panic in the air  
The pepper spray is stinging like  
the estrogen syringes  
Jews are crying and noone cares

We're gassing kikes and trannies  
For the glory of the reich  
There's no loss of life just pain  
and strife  
for the tranny and the kike



Gassing Kikes and Trannies

Search this site

Search



How To Escape Jewish Finance



The Alt Right Cryptocurrency Crash Course



A tranny is a fuckin mental patient  
A Jew is born to parasite off whites  
And if you see the both of them a droppin  
You know it's time to really celebrate

Well we're gassing kikes and trannies  
Make the God Emperor proud  
We can laugh with glee, while she stands and pees  
In a caustic OC cloud

....

You might say we're violating rights now  
But trannies aren't human after all  
**Jews are victims even if you don't spray**  
So might as well have fun and gas them all

Oh we're gassing kikes and trannies  
**Cause we'll be prosecuted even if we don't**  
They always lie, so they deserve to die  
The least we can do is make their eyes hurt

We're gassing kikes and trannies  
Until there ain't no more to gas  
These AntiFa fags, with their commie flags  
Make us kick their pussy ass

We're gassing kikes and trannies  
Now the cops are on their way  
**Instead of stopping fights, they're arresting whites**  
That's what happens when you tolerate gays  
Instead of stopping fights, they're arresting whites  
That's what happen when you tolerate gays!

Recorded by one of the most talented people on the Alt Right, [Morrakiu](#).

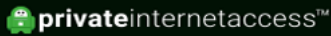
00:00

00:00

Podcast: [Play in new window](#) | [Download](#)


Other people need to see this!












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As Low as \$2.91 per month



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	Bitcoin(BTC)	\$9374.35
	Ethereum(ETH)	\$978.798
	Ripple(XRP)	\$ 0.940993
	Bitcoin Cash(BCH)	\$1301.92
	Litecoin(LTC)	\$162.83
	Dash(DASH)	\$644.405
	Monero(XMR)	\$256.156

I Recommend

# EXHIBIT 12



## **Exhibit C**

**Cartoons of Anti-Racist Protesters Being  
Murdered, Depicting Ms. Gorcenski, posted  
to Plaintiff/Counter Defendant's Blog  
(described in ¶ 27(g))**



# EXHIBIT 13

## **Exhibit D**

**“Gabs” posted or reposted by  
Plaintiff/Counter Defendant  
(described in ¶30)**

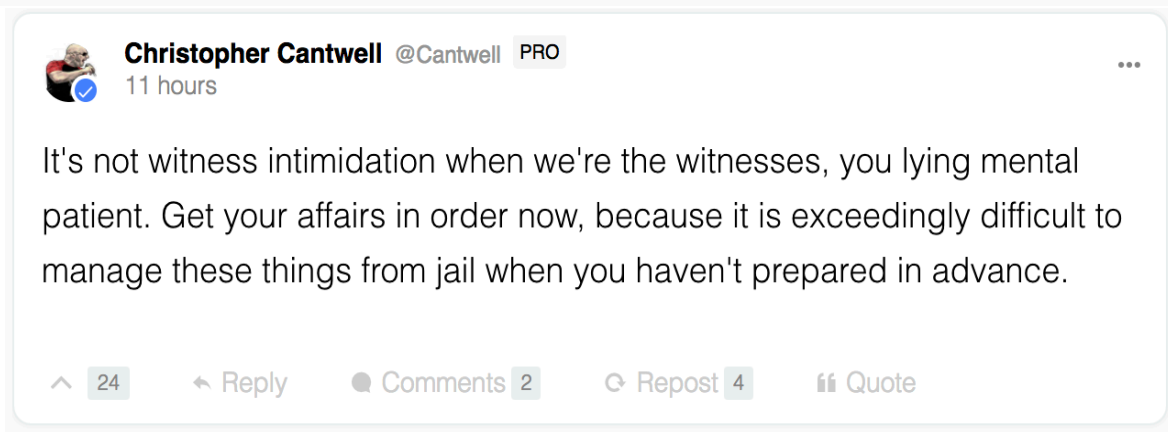
¶ 30(a)



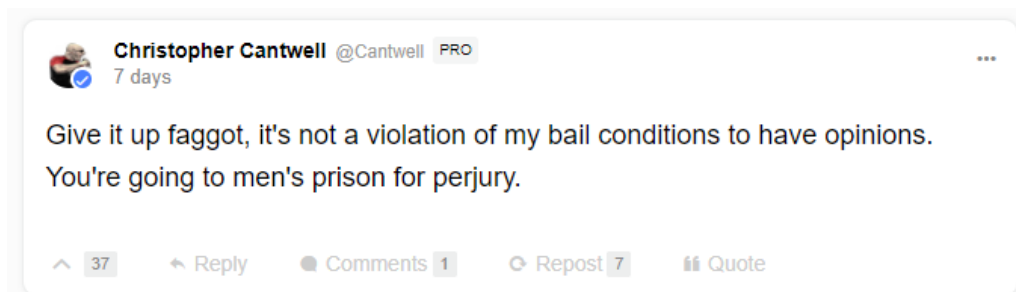
¶ 30(b)



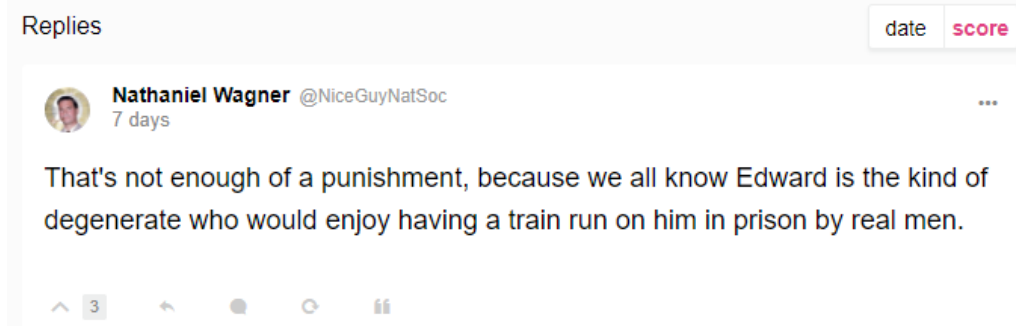
¶ 30(c)



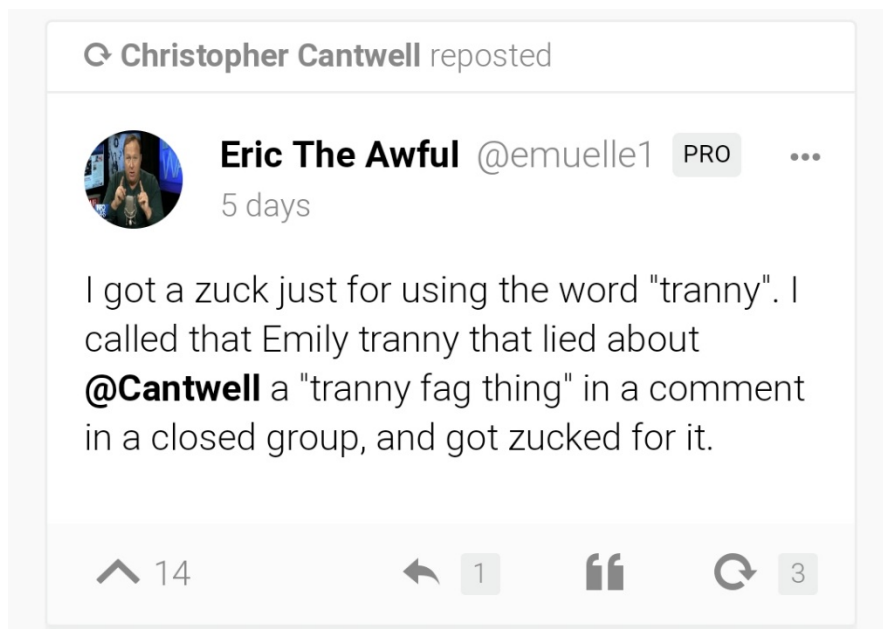
¶ 30(d)



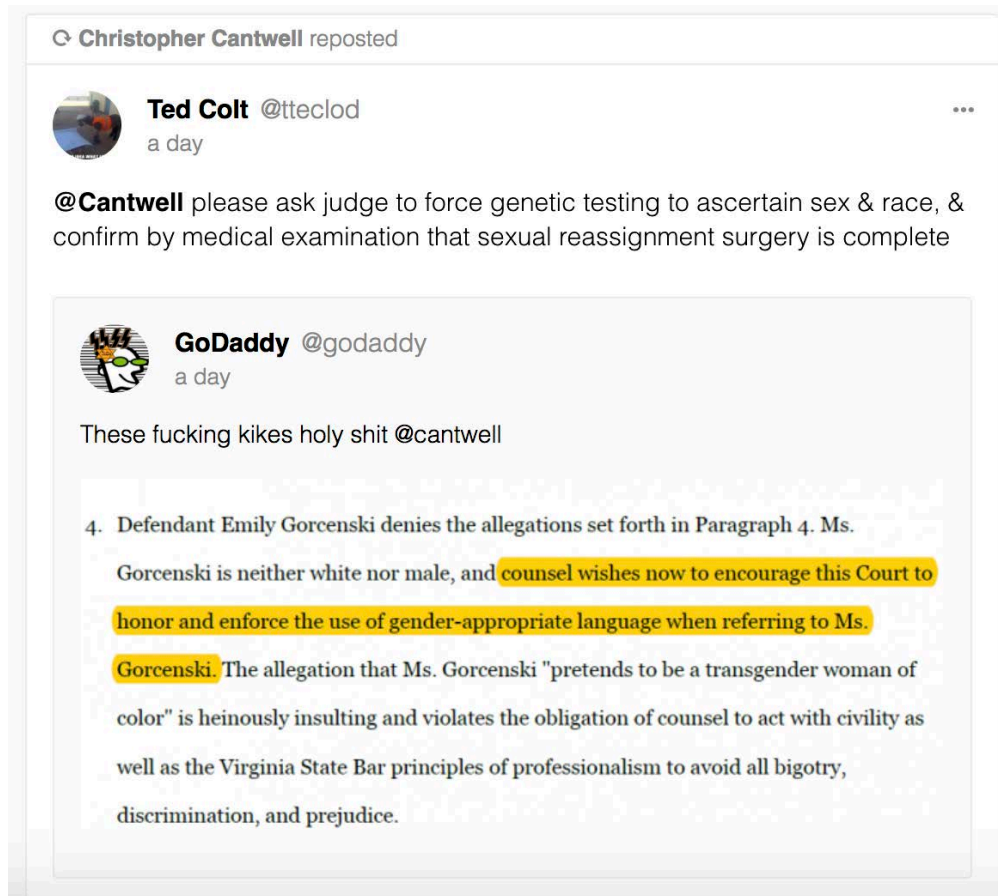
¶ 30(e)



¶ 30(f)



¶ 30(g)



¶ 30(h)

¶ 30(i)





¶ 30(j)





Replied to Christopher Cantwell



Jennifer Scharf @ChurchOfEntropy  
a month

reaching levels of big brainedness not thought possible

**ATTACKING  
YOUR  
ENEMIES**



**GETTING YOUR  
ENEMIES TO  
ATTACK EACH  
OTHER**



**ENGINEERING THE  
CULTURE TO TAKE  
OUT YOUR ENEMIES  
FOR YOU**



**DEMORALIZING YOUR  
ENEMIES TO THE POINT  
THAT THEY SURRENDER  
WITHOUT A FIGHT**



**CAUSING YOUR  
ENEMIES TO  
SELF-DEPORT**



¶ 30(k)

¶ 30(l)—Reproduced at Exhibit E

¶ 30(m)



¶ 30(n)



¶ 30(o)



¶ 30(p)



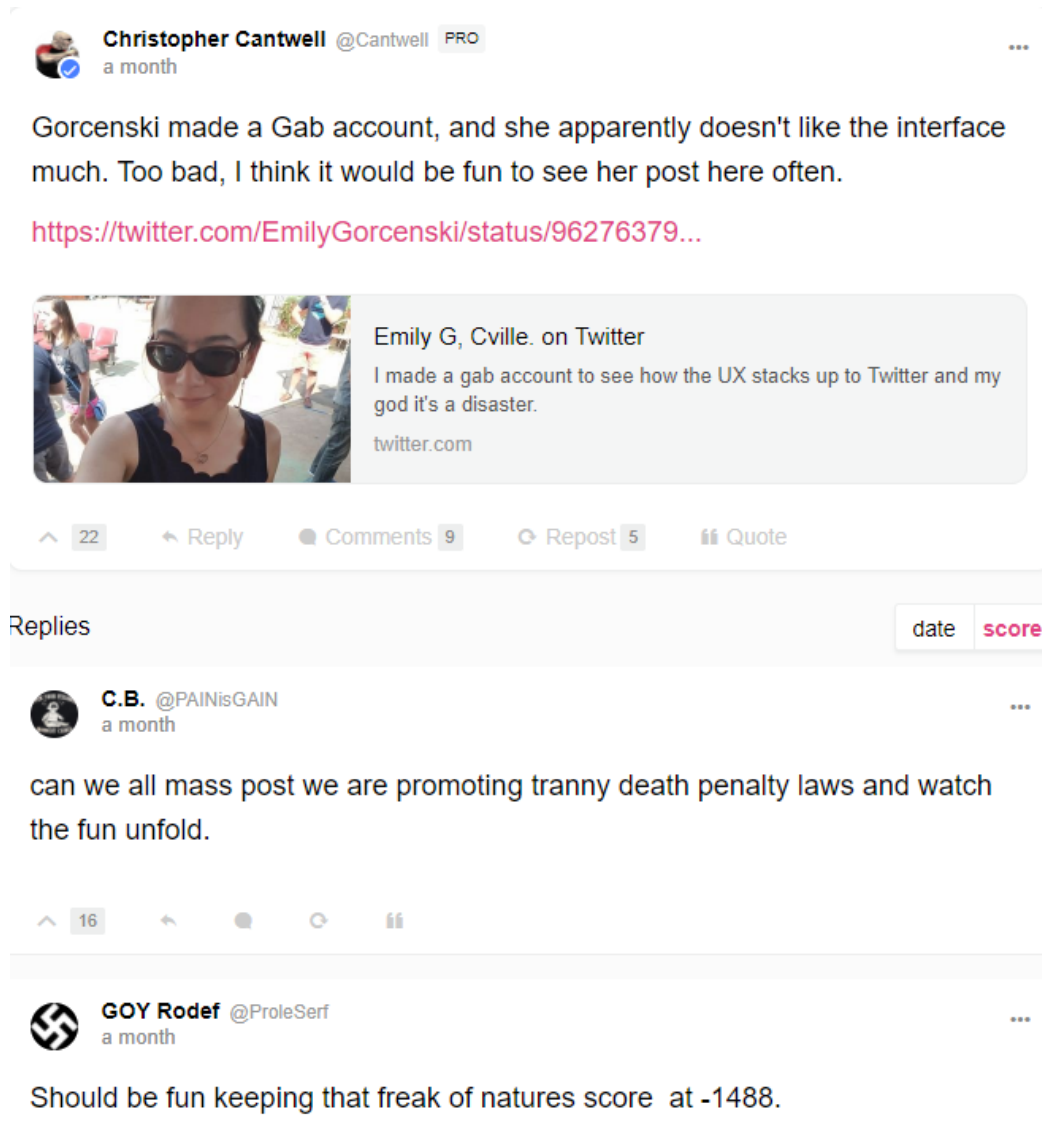
¶ 30(q)



¶ 30(r)



¶ 30(s)



¶ 30(t)

**Christopher Cantwell** @Cantwell PRO  
a month

The thing is, I don't feel any better calling that fuckin freak a man, and I was never able to figure out the gender neutral they/them thing when it came to singular entities. This is why we just need to have them executed at taxpayer expense.

**Byron de la Vandal** @ByronDLVandal  
a month

"she"




Do I smell cucking, Cantwell?

 41  Reply  Comments  Repost 4  Quote

¶ 30(u)

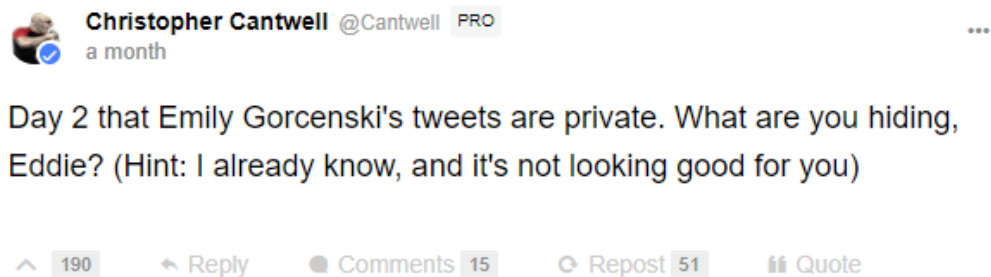
**Christopher Cantwell** @Cantwell PRO  
a month

I've been doing a lot of thinking about transgender rights lately, and I can only come up with one. Assisted suicide.

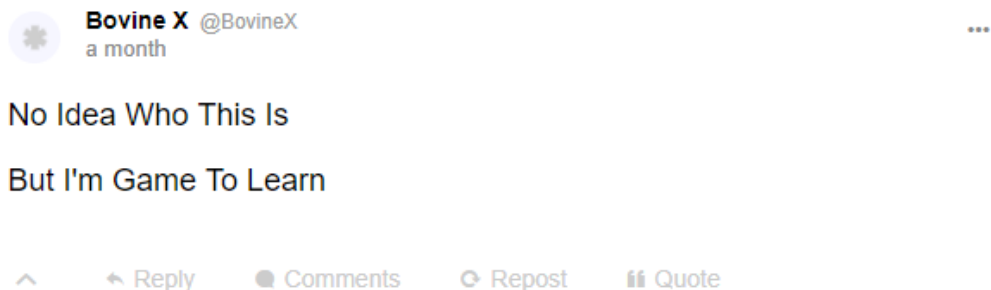
 89  Reply  Comments 12  Repost 13  Quote



¶ 30(v)



¶ 30(w)-1



¶ 30(w)-2

 **OffensivelyOpenminded** @OffensivelyOpenminded  
a month

They're not private anymore.

\* I tweeted this video to him, lol

"Eddie are you okay? Eddie are you okay, Eddie?"

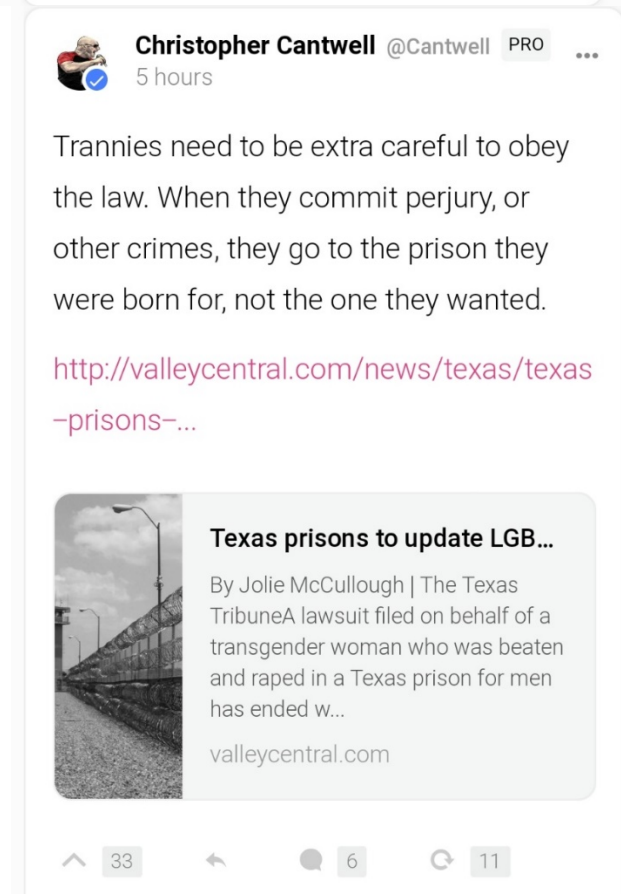
[https://youtu.be/h\\_D3VFfhvs4](https://youtu.be/h_D3VFfhvs4)



¶ 30(x)



¶ 30(y)



# EXHIBIT 14



**VIRGINIA: IN THE CIRCUIT COURT OF THE COUNTY OF ALBEMARLE  
COMMONWEALTH OF VIRGINIA**

v.

**CR17-784, CR17-845**

**CHRISTOPHER CHARLES CANTWELL**

**Defendant**

**COMMONWEALTH'S MOTION TO REVOKE OR MODIFY BOND**

COMES NOW the Commonwealth of Virginia, through her counsel, and respectfully moves this Honorable Court to revoke or modify bond. In support of this Motion, the Commonwealth states as follows:

- 1) On August 11, 2017, Defendant was present at the torch lit "Unite the Right" rally at the University of Virginia in Albemarle County.
- 2) Also present at the rally was a group of approximately 50 counter-protestors. Prior to the arrival of the members of "Unite the Right," the counter-protestors encircled the Jefferson statue at the Rotunda at the University of Virginia.
- 3) During the subsequent interaction between protestors and counter-protestors, Defendant sprayed and emptied a can of pepper spray, mace, or other noxious gas or chemical at the counter-protestors.
- 4) On August 31, 2018, the Albemarle General District Court released the Defendant on a \$25,000 secured bond. This decision was appealed by the Commonwealth and this Court held the Defendant without bond pending trial.

**FILED**

**2018 JUL -6 PM 3:19**

CIRCUIT COURT CLERK'S OFFICE  
ALBEMARLE COUNTY, VA  
JON R. ZUG, CLERK

BY: \_\_\_\_\_ D.C.

*7-10-18 for  
Capitol to issue for  
bond conditions  
Judge*

- 5) On December 4, 2017, the Defendant was indicted by an Albemarle County grand jury for two counts of malicious use of tear gas, phosgene and other gases in violation of Virginia Code § 18.2-312. Following service of this indictment, this Court modified the Defendant's terms of bond, requiring GPS monitoring, confiscation of firearms, a prohibition on out of state travel, residence in a non-hotel setting, and no contact with Emily Gorcenski and Kristopher Goad. The Court further modified the terms of bond to permit the Defendant to travel to and from northern Virginia and to move more freely in the city of residence.
- 8) On several occasions, the Commonwealth instructed the Defendant through counsel to refrain from direct or indirect contact with the primary victims in this case, Emily Gorcenski and Kristopher Goad.
- 9) Some of these warnings pertained to the Defendant's decision to re-post on social media inflammatory and offensive messages from others regarding a victim in this case.
- 10) After earlier warnings, counsel for the Defendant directed the Defendant to remove these posts and to not engage in further direct or indirect discussion of the victims of this case.
- 11) Notwithstanding multiple requests from the Commonwealth, the Defendant continued to engage in online communication intended to harass and potentially intimidate victims in this matter.

- 12) Based on Defendant's conduct, the Commonwealth filed a motion to amend or modify Defendant's bond.
- 13) In its bond motion, the Commonwealth stated that "The right of victims in pending cases to prepare for trial free of harassment or intimidation is essential to the administration of justice."
- 13) On April 26, 2018, this Court held a hearing on the Commonwealth's motion and amended and clarified bond conditions.
- 15) Amended bond conditions directed, inter alia, that the Defendant have "No contact direct or indirect with the victims, including but not limited to using names or identifying them by specific characteristics which identify them on social media or radio broadcast."
- 16) Following this hearing, the Defendant continued to engage in online and on-air communications inconsistent with amended bond conditions entered by this Court. Specifically, the Defendant referred to one of the victims in this matter by name on a radio broadcast and repeatedly referred to one victim by identifying characteristics on social media on multiple occasions.
- 17) The Commonwealth now requests this Court to revoke or further modify Defendant's bond to prevent future harassment and to ensure against additional violations of the Defendant's conditions of bond.

# EXHIBIT 15

[Name List](#)[Pleadings/Orders](#)[Services](#)[Main Menu](#)[Logoff](#)**Albemarle County Circuit - Criminal Division****Case Details**

<b>Case Number:</b> CR17000784-01	<b>Filed:</b> 07/10/2018	<b>Commenced by:</b> Reinstatement	<b>Locality:</b> COMMONWEALTH OF VA
<b>Defendant:</b> CANTWELL, CHRISTOPHER CHARLES	<b>Sex:</b> Male	<b>Race:</b> White Caucasian (Non-Hispanic)	<b>DOB:</b> 11/12/****
<b>Address:</b> LEESBURG, VA 20175			
<b>Charge:</b> VIOLATION OF BOND CONDITIONS	<b>Code Section:</b> 19.2-306	<b>Charge Type:</b> Felony	<b>Class:</b>
<b>Offense Date:</b> 07/06/2018	<b>Arrest Date:</b> 07/20/2018		

**Hearings**

#	Date	Time	Type	Room	Plea	Duration	Jury	Result
1	07/17/2018	11:00AM	Capias					Capias-Defendant Arrested
2	07/20/2018	3:00PM	Trial		Guilty			Sent

**Final Disposition**

<b>Disposition Code:</b> Guilty	<b>Disposition Date:</b> 07/20/2018	<b>Concluded By:</b> Guilty Plea
<b>Amended Charge:</b> VIOLATION OF BOND CONDITIONS	<b>Amended Code Section:</b> 18.2-456(5)	<b>Amended Charge Type:</b> Misdemeanor

<b>Jail/Penitentiary:</b>	<b>Concurrent/Consecutive:</b>	<b>Life/Death:</b>
<b>Sentence Time:</b>	<b>Sentence Suspended:</b>	<b>Operator License Suspension Time:</b>
<b>Fine Amount:</b>	<b>Costs:</b>	<b>Fines/Cost Paid:</b>
<b>Program Type:</b>	<b>Probation Type:</b>	<b>Probation Time:</b>
<b>Probation Starts:</b>	<b>Court/DMV Surrender:</b>	<b>Driver Improvement Clinic:</b>
<b>Driving Restrictions:</b>	<b>Restriction Effective Date:</b>	

<b>VA Alcohol Safety Action:</b>	<b>Restitution Paid:</b>	<b>Restitution Amount:</b>
<b>Military:</b>	<b>Traffic Fatality:</b>	

**Appealed Date:**

[Name List](#)[Pleadings/Orders](#)[Services](#)[Main Menu](#)[Logoff](#)

Build #: 3.8.0.1

# **EXHIBIT 16**

**From:** Michael Bloch  
**To:** [hoppe.ecf@vawd.uscourts.gov](mailto:hoppe.ecf@vawd.uscourts.gov); [KarenD@vawd.uscourts.gov](mailto:KarenD@vawd.uscourts.gov)  
**Cc:** [Roberta Kaplan](#); [Julie Fink](#); ["Levine, Alan"](#); ["Mills, David"](#); ["Bowman, Philip M."](#); ["Rottenborn, Ben"](#); ["Karen Dunn"](#); ["Jessica Phillips"](#); ["William Isaacson"](#); [Gabrielle E. Tenzer](#); [Edward ReBrook, ESQ](#); [John DiNucci](#); [Bryan Jones](#); [David Campbell](#); [James Kolenich](#); [eli.f.mosley@gmail.com](mailto:eli.f.mosley@gmail.com); [dillon\\_hopper@protonmail.com](mailto:dillon_hopper@protonmail.com); [matthew.w.heimbach@gmail.com](mailto:matthew.w.heimbach@gmail.com)  
**Subject:** Sines v. Kessler, Case No. 17 Civ 72  
**Date:** Wednesday, June 19, 2019 8:55:12 PM  
**Attachments:** [Exhibit 1.pdf](#)

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Dear Judge Hoppe:

We are writing to alert Your Honor to messages recently posted on social media by Defendant Christopher Cantwell, threatening Plaintiffs' counsel, Roberta Kaplan.

Yesterday, Mr. Cantwell posted the following in reference to Ms. Kaplan: "After this stupid kike whore loses this fraudulent lawsuit, we're going to have a lot of fucking fun with her." A screenshot of his post is attached.

At a minimum, this sort of conduct obviously undermines the integrity of the judicial process, and we intend to submit a more formal request for appropriate relief shortly. In the meantime, because this implicates the security concerns that we have previously raised and that we expect will be a continuing issue throughout this litigation, we wanted to bring this to Your Honor's immediate attention. We will be prepared at the next conference to discuss additional security measures that we believe will be necessary as this case proceeds toward trial.

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](mailto:mbloch@kaplanhecker.com)



# EXHIBIT 17

**NEW YORK STATE**

Unified Court System

OFFICE OF COURT ADMINISTRATION

25 Beaver Street

New York, New York 10004

(212) 428-2810

**Division of Administrative Services  
Criminal History Record Search (CHRS) Program***Criminal Disposition Information***Bill To Information****Job No.****Delivery Type****Order Date****Order Time**

E-mail

03/18/2019

05:27 PM

Name (A.K.A.)	County	Date of Birth	Arrest Date
CANTWELL,CHRISTOPHER (CANTWELL,CHRISTOPHER C)	SUFFOLK		03/05/2000

**Adjourn/Disposition Date, Charge, Disposition, and Sentence Information****District Court**

Docket/Case/Serial Number: 2000SU009260

Court Control Number: 28603209H

Case Disposition Date: 08/08/2000

Last Activity Date: 09/06/2005

Charge: VTL 1192.3 03 UM - OPERATING MV UNDER INFLUENCE DRUG OR ALCOHOL

Disposition/Status: PLED GUILTY

Sentenced to: IMPRISONMENT 60 DAYS, LICENSE REVOKED

**OCA Remarks**

Name (A.K.A.)	County	Date of Birth	Arrest Date
CANTWELL,CHRISTOPHER (CANTWELL,CHRISTOPHER C)	SUFFOLK	██████████	03/06/2000
<b>Adjourn/Disposition Date, Charge, Disposition, and Sentence Information</b>			
District Court  Docket/Case/Serial Number: 2000SU010322 Court Control Number: 30187678N Case Disposition Date: 08/08/2000 Last Activity Date: 08/08/2000  Charge: PL 165.40 00 AM 5TH DEGREE - CRIMINAL POSSESSION OF STOLEN PROPERTY Disposition/Status: PLED GUILTY Sentenced to: IMPRISONMENT 60 DAYS			
<b>OCA Remarks</b>			

Name (A.K.A.)	County	Date of Birth	Arrest Date
CANTWELL,CHRISTOPHER (CANTWELL,CHRISTOPHER C)	SUFFOLK	██████████	03/07/2009
<b>Adjourn/Disposition Date, Charge, Disposition, and Sentence Information</b>			
County Court  Docket/Case/Serial Number: 01362-2009 Court Control Number: 63452569K Case Disposition Date: 06/22/2010 Last Activity Date: 11/15/2010  Charge: VTL 1192.2 02 UM - OPERATING MV UNDER INFLUENCE DRUG OR ALCOHOL Disposition/Status: PLED GUILTY Sentenced to: IMPRISONMENT 45 DAYS, LICENSE REVOKED 6 MONTHS  Charge: VTL 1180.D 0D I - SPEEDING VIOLATION Disposition/Status: COVERED BY THE PLED TO CHARGE  Charge: VTL 1192.2 02 EF - OPERATING MV UNDER INFLUENCE DRUG OR ALCOHOL Disposition/Status: COVERED BY THE PLED TO CHARGE  Charge: VTL 1192.3 03 EF - OPERATING MV UNDER INFLUENCE DRUG OR ALCOHOL Disposition/Status: COVERED BY THE PLED TO CHARGE			
<b>OCA Remarks</b>			

Name (A.K.A.)	County	Date of Birth	Arrest Date		
CANTWELL,CHRISTOPHER (CANTWELL,CHRISTOPHER C)	SUFFOLK		05/06/2000		
<b>Adjourn/Disposition Date, Charge, Disposition, and Sentence Information</b>					
District Court  Docket/Case/Serial Number: 2000SU019045 Court Control Number: 30228461Q Case Disposition Date: 08/08/2000 Last Activity Date: 08/08/2000  Charge: PL 265.01 01 AM 4TH DEGREE - CRIMINAL POSSESSION OF A WEAPON Disposition/Status: PLED GUILTY Sentenced to: IMPRISONMENT 60 DAYS  					
<div style="background-color: black; width: 300px; height: 20px;"></div>					
<table border="1" style="width: 100%;"> <tr> <td style="width: 20%;"><b>OCA Remarks</b></td> <td></td> </tr> </table>				<b>OCA Remarks</b>	
<b>OCA Remarks</b>					

**Law Codes:**

AC	Administrative Code	CPL	Criminal Procedure Law	LOC	Local Law	RP	Real Property Law
ABC	Alcoholic Beverage Control Law	ECL	Environmental Conservation Law	MD	Multiple Dwelling Law	RR	Railroad Law
BL	Banking Law	GB	General Business Law	MHY	Mental Hygiene Law	SW	Social Services Law
CON	Conservation Law	GML	General Municipal Law	PHL	Public Health Law	TL	Transportation Law
COR	Correction Law	LAB	Labor Law	PL	Penal Law	VTL	Vehicle and Traffic Law

**Charge Nomenclature:**

Example: PL 220.03.00 AM

PL (Penal Law) = NYS Law    220.03 = Section    00 = Subsection    AM = Severity 'A' Misdemeanor

**Charge Severity:**

I = Infraction    V = Violation    M = Misdemeanor    F = Felony

**Court Control Number:**

This is preprinted on the NYS Fingerprint Card and used to match court dispositions to the arrest. This arrest specific numeric identifier can be used for contacting courts for case information when a docket (lower court) or case number (Supreme/County Court) is not available (e.g. case data reflects lower court dispositions as Grand Jury, Indicted, or Supreme Court Transfer but no related case number.)

**Case Supplement Data:**

Occasionally, current case disposition data cannot be displayed in the usual manner. We have provided this additional information under the heading of 'Case Supplement Data.' This information may not be complete and you should contact the court for complete case disposition.

UNDER NEW YORK STATE LAW VIOLATIONS AND INFRACTIONS ARE NOT CRIMES.

SEARCH RESULTS ARE BASED ON FINDING AN EXACT MATCH OF THE NAME AND DATE OF BIRTH SUBMITTED.

NYS TOWN AND VILLAGE COURT DISPOSITION DATA IS NOT AVAILABLE FOR THE PERIOD MAY 1991 THROUGH 2002. AS OF MAY 2007, ALL TOWN AND VILLAGE COURTS REPORT TO OCA.

DISCLAIMER: THIS RESPONSE IS BASED ON INFORMATION SUPPLIED BY THE CUSTOMER. ALL ENTRIES ARE AS COMPLETE AND ACCURATE AS THE DATA FURNISHED TO THE OFFICE OF COURT ADMINISTRATION BY THE NYS COURT OF CRIMINAL JURISDICTION.