

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

ELIZABETH SINES, SETH WISPELWEY,
MARISSA BLAIR, APRIL MUÑIZ,
MARCUS MARTIN, NATALIE ROMERO,
CHELSEA ALVARADO, JOHN DOE, and
THOMAS BAKER,

Plaintiffs,

v.

JASON KESSLER, et al.,

Defendants.

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

JURY TRIAL DEMANDED

**SUPPLEMENTAL BRIEF IN SUPPORT OF PLAINTIFFS’
MOTION TO COMPEL THE DEPOSITION
OF ROBERT “AZZMADOR” RAY**

On July 14, 2020, after Defendant Robert “Azzmador” Ray failed to appear for his properly noticed deposition—the latest in a long line of well-documented discovery violations in this litigation—Plaintiffs were forced to move the Court to compel Ray to appear for his deposition and to sanction Ray for his misconduct. *See* Pls.’ Mot. to Compel Dep. of Def. Robert “Azzmador” Ray, July 14, 2020, ECF No. 803. On July 22, 2020, the Court ordered Plaintiffs to file a new notice of deposition for Ray’s rescheduled deposition. *See* Oral Order, July 22, 2020, ECF No. 811. On July 23, 2020, Plaintiffs accordingly served Ray with a revised notice rescheduling the deposition for July 29, 2020, and filed that notice under seal. *See* Pls.’ Notice of Dep. of Def. Robert “Azzmador” Ray, July 23, 2020, ECF No. 813. On July 23, 2020, the Court then granted Plaintiffs’ request to be reimbursed for their reasonable fees and expenses caused by Ray’s failure to attend his July 13, 2020, deposition, and ordered Ray to appear for his rescheduled deposition

on July 29, 2020. *See* Order to Def. Robert “Azzmador” Ray, July 23, 2020, ECF No. 814. In its order, the Court explicitly warned Ray:

The Court expects Ray to appear and participate in good faith as required by the Federal Rules of Civil Procedure. **Defendant Robert “Azzmador” Ray is hereby warned that his failure to comply with this Order may result in a bench warrant being issued for his arrest and the United States Marshal taking him into custody and transporting him to this judicial district to appear and show cause why he should not be held in contempt of court.**

Id. at 1 (emphasis in original).

On July 29, 2020, Ray failed to appear for his deposition a second time. Just as before, at no point in time before July 29, 2020, did Ray inform Plaintiffs that he did not plan to attend his deposition. As before, when Ray failed to appear, Plaintiffs’ counsel attempted to contact him by phone and email. Ex. A (Barkai Email to Ray, July 29, 2020). Ray did not respond to those efforts. Plaintiffs’ counsel, Defendants’ counsel, the court reporter, and the videographer waited for half an hour after the deposition was scheduled to begin before Plaintiffs’ counsel made a statement on the record. Ex. B (Certificate of Nonappearance, July 29, 2020).

Ray’s contemptuous defiance of multiple properly served deposition notices and numerous Court orders—indeed, his apparent wholesale disappearance from this litigation—should not be countenanced. Plaintiffs respectfully request that, as the Court warned Ray would occur, the Court issue a bench warrant for Ray’s arrest, hold Ray in custody until his deposition may take place, and require Ray to appear and show cause why he should not be held in contempt of court. Plaintiffs also request that the Court order Ray to pay Plaintiffs’ reasonable expenses incurred in arranging Ray’s July 29, 2020, deposition, and in filing this supplemental brief in support of their

motion, including reasonable attorneys' fees and costs.¹

Dated: August 5, 2020

Respectfully submitted,

/s/ Robert T. Cahill

Robert T. Cahill (VSB 38562)
COOLEY LLP
11951 Freedom Drive, 14th Floor
Reston, VA 20190-5656
Telephone: (703) 456-8000
Fax: (703) 456-8100
rcahill@cooley.com

Of Counsel:

Roberta A. Kaplan (*pro hac vice*)
Julie E. Fink (*pro hac vice*)
Gabrielle E. Tenzer (*pro hac vice*)
Michael L. Bloch (*pro hac vice*)
Emily C. Cole (*pro hac vice*)
Alexandra K. Conlon (*pro hac vice*)
Jonathan R. Kay (*pro hac vice*)
Raymond P. Tolentino (*pro hac vice*)
Benjamin D. White (*pro hac vice*)
KAPLAN HECKER & FINK LLP
350 Fifth Avenue, Suite 7110
New York, NY 10118
Telephone: (212) 763-0883
rkaplan@kaplanhecker.com
jfink@kaplanhecker.com
gtenzer@kaplanhecker.com
mbloch@kaplanhecker.com
ecole@kaplanhecker.com
aconlon@kaplanhecker.com
jkay@kaplanhecker.com
rtolentino@kaplanhecker.com
bwhite@kaplanhecker.com

Karen L. Dunn (*pro hac vice*)
Jessica E. Phillips (*pro hac vice*)
William A. Isaacson (*pro hac vice*)
PAUL, WEISS, RIFKIND, WHARTON &
GARRISON LLP
2001 K Street, NW
Washington, DC 20006-1047
Telephone: (202) 223-7300
Fax: (202) 223-7420
kdunn@paulweiss.com
jphillips@paulweiss.com
wisaacson@paulweiss.com

¹ Ray's ongoing failures and deficiencies in discovery also provide further reasons to grant Plaintiffs' separate motion for evidentiary sanctions against Ray. *See* Pls.' Mot. for Sanctions, June 1, 2020, ECF No. 750.

Yotam Barkai (*pro hac vice*)
BOIES SCHILLER FLEXNER LLP
55 Hudson Yards
New York, NY 10001
Telephone: (212) 446-2300
Fax: (212) 446-2350
ybarkai@bsfllp.com

Katherine M. Cheng (*pro hac vice*)
BOIES SCHILLER FLEXNER LLP
1401 New York Avenue, NW
Washington, DC 20005
Telephone: (202) 237-2727
Fax: (202) 237-6131
kcheng@bsfllp.com

Alan Levine (*pro hac vice*)
Philip Bowman (*pro hac vice*)
Amanda L. Liverzani (*pro hac vice*)
Daniel P. Roy III (*pro hac vice*)
COOLEY LLP
55 Hudson Yards
New York, NY 10001
Telephone: (212) 479-6260
Fax: (212) 479-6275
alevine@cooley.com
pbowman@cooley.com
aliverzani@cooley.com
droy@cooley.com

David E. Mills (*pro hac vice*)
Joshua M. Siegel (VSB 73416)
Alexandra Eber (*pro hac vice*)
Caitlin B. Munley (*pro hac vice*)
Samantha A. Strauss (*pro hac vice*)
COOLEY LLP
1299 Pennsylvania Avenue, NW
Suite 700
Washington, DC 20004
Telephone: (202) 842-7800
Fax: (202) 842-7899
dmills@cooley.com
jsiegel@cooley.com
aeber@cooley.com
cmunley@cooley.com
sastrauss@cooley.com

J. Benjamin Rottenborn (VSB 84796)
WOODS ROGERS PLC
10 South Jefferson St., Suite 1400
Roanoke, VA 24011
Telephone: (540) 983-7600
Fax: (540) 983-7711
brottenborn@woodsrogers.com

Counsel for Plaintiffs

CERTIFICATE OF SERVICE

I hereby certify that on August 5, 2020, I filed the foregoing with the Clerk of Court through the CM/ECF system, which will send a notice of electronic filing to:

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

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

Counsel for Defendants Jason Kessler, Nathan Damigo, Identity Europa, Inc. (Identity Evropa), Matthew Parrott, and Traditionalist Worker Party

Bryan Jones
106 W. South St., Suite 211
Charlottesville, VA 22902
bryan@bjoneslegal.com

Counsel for Defendants Michael Hill, Michael Tubbs, and League of the South

David L. Campbell
Justin Saunders Gravatt
Duane, Hauck, Davis & Gravatt, P.C.
100 West Franklin Street, Suite 100
Richmond, VA 23220
dcampbell@dhdglaw.com
jgravatt@dhdglaw.com

Counsel for Defendant James A. Fields, Jr.

William Edward ReBrook, IV
The ReBrook Law Office
6013 Clerkenwell Court
Burke, VA 22015
edward@rebrooklaw.com

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

I further hereby certify that on August 5, 2020, I also served the following non-ECF participants, via electronic mail, as follows:

Richard Spencer
richardbspencer@icloud.com
richardbspencer@gmail.com

Christopher Cantwell
christopher.cantwell@gmail.com

Vanguard America
c/o Dillon Hopper
dillon_hopper@protonmail.com

Robert "Azzmador" Ray
azzmador@gmail.com

Elliott Kline a/k/a Eli Mosley
eli.f.mosley@gmail.com
deplorabletruth@gmail.com
eli.r.kline@gmail.com

Matthew Heimbach
matthew.w.heimbach@gmail.com

/s/ Robert T. Cahill

Robert T. Cahill (VSB 38562)
COOLEY LLP

Counsel for Plaintiffs