

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

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

Plaintiffs,

v.

JASON KESSLER, RICHARD SPENCER,
CHRISTOPHER CANTWELL, JAMES
ALEX FIELDS, JR., VANGUARD
AMERICA, ANDREW ANGLIN,
MOONBASE HOLDINGS, LLC, ROBERT
“AZZMADOR” RAY, NATHAN DAMIGO,
ELLIOTT 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

JURY TRIAL DEMANDED

**PLAINTIFFS’ SUBMISSION REGARDING
VENUE FOR TRIAL AND TRIAL LOGISTICS**

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PRELIMINARY STATEMENT

This Court has asked the parties to address four questions aimed at determining the optimal environment and practices to most efficiently and safely try this case given the practical realities of COVID-19 and the potentially high-profile nature of the proceedings. We respond to each of the questions posed below. We begin out-of-order, however, with the Court's third question—"whether the Charlottesville federal courthouse is the best equipped and most suitable courthouse at which to hold this trial"—because it raises foundational questions of venue that are paramount. As explained below, black letter principles of law dictate only one result: venue is proper in the Charlottesville Division, but not in the Roanoke and Lynchburg Divisions. As such, transferring this case to Lynchburg or Roanoke for trial would be impermissible as a matter of law because the Court cannot transfer a case to a division where venue is improper.

But even if that were not the case, the trial should remain in Charlottesville for a host of other prudential reasons, many of which have already been identified by Your Honor. Charlottesville is where many of the Plaintiffs and third-party witnesses live and work, and where all of the Plaintiffs have friends and family. By contrast, not one of the Defendants lives or works in Lynchburg or Roanoke. A trial conducted elsewhere would cause Plaintiffs substantial professional, financial, and personal hardships, while the burden on Defendants would be similar if not the same as between Charlottesville, Lynchburg, or Roanoke.

Charlottesville is where Plaintiffs brought this lawsuit because Charlottesville is the community where the relevant events happened. Charlottesville is where nearly every single one of the many cases (criminal and civil) to have arisen out of the August 2017 Unite the Right "rally" has been adjudicated for the past three-and-a-half years, without incident. And Charlottesville is far better equipped to deal with the logistical, health, and safety concerns identified by the Court.

This trial belongs in Charlottesville, and it would be contrary to law and an abuse of discretion to move it elsewhere.

With regard to the Court's remaining questions, Plaintiffs have devoted a significant amount of time, effort, and resources to develop proposals to address the logistical, health, and safety concerns raised by the Court. We have proposed concrete solutions discussed below to minimize the parties' footprint in the courtroom and courthouse while maximizing safety, ensuring adequate representation of all parties, and maintaining public access. With respect to the health risks surrounding COVID-19 (the Court's first question), these proposals include limiting the number of Plaintiffs and counsel in the courtroom; allowing remote video participation for Defendants; abiding by health/safety precautions; and employing procedures followed by other courts to enable social distancing. Given its size and layout, Charlottesville is far better equipped than Lynchburg or Roanoke to facilitate these measures. Moreover, the COVID-19 vaccination rate is substantially higher in Charlottesville than in either Lynchburg or Roanoke such that transferring the trial to Lynchburg or Roanoke would needlessly increase the risk of COVID-19 exposure and infection for the parties, counsel, and potential jurors—some of whom may have preexisting health conditions or unvaccinated family members (including young children).

As for logistics concerning the courthouse (the Court's second question), Plaintiffs propose, among other measures, using the two hotels adjacent to the Charlottesville courthouse to serve as breakout rooms for Plaintiffs and Defendants (at Plaintiffs' expense) and contracting with a trial logistics vendor to provide audio or video access for the parties and counsel who are not present as well as members of the public and press. Plaintiffs have already worked with a leading security firm that has conducted extensive advance work, coordinated with local law enforcement,

and concluded that trial in Charlottesville would be manageable and safe. It would be very costly and burdensome this late in the game to try to recreate those measures at another location.

ARGUMENT

I. Charlottesville Is the Most Suitable Location for Trial (Question 3)¹

The Court has asked the parties to consider “whether the Charlottesville federal courthouse is the best equipped and most suitable courthouse location for trial” in light of all “relevant considerations.” ECF No. 966. Before considering any logistical issues raised by this question, the Court must first resolve the threshold question of venue. The venue analysis here is straightforward. First, venue is proper in Charlottesville, but not in Roanoke or Lynchburg, since neither the parties nor the events giving rise to this case have the requisite nexus to Roanoke or Lynchburg. Second, this Court has no authority to transfer this case to Roanoke or Lynchburg because neither location is a “division where [this case] might have been brought.” And third, even if the Court had such discretion, doing so would not only constitute an abuse of discretion, but also clear and indisputable error under the circumstances.

A. Venue Is Proper in Charlottesville, but Not in Roanoke or Lynchburg

Venue is governed by 28 U.S.C. § 1391 and W.D. Va. Gen. R. 2(b). Under Section 1391(b), venue is proper in “(1) a judicial district in which any defendant resides, if all defendants are residents of the State in which the district is located; (2) a judicial district in which a substantial part of the events or omissions giving rise to the claim occurred, or a substantial part of property that is the subject of the action is situated; or (3) if there is no district in which an action may otherwise be brought as provided in this section, any judicial district in which any defendant is subject to the court’s personal jurisdiction with respect to such action.” 28 U.S.C. § 1391(b).

¹ “Reflecting the considerations above and other relevant considerations, whether the Charlottesville federal courthouse is the best equipped and most suitable courthouse at which to hold this trial.” ECF No. 966.

Section 1391(b) must be read in conjunction with Local Rule 2(b), which provides that “civil actions for which venue is proper in the Western District ‘must be brought in the proper division as well.’” *Doe v. Bd. of Visitors of Va. Mil. Inst.*, No. 7:20CV00058, 2020 WL 2563289, at *2 (W.D. Va. May 20, 2020) (quoting W.D. Va. Gen. R. 2(b)). “In determining whether divisional venue is proper, the court applies the statutory venue rules for federal district courts, and substitutes the word ‘division’ for the terms ‘judicial district’ and ‘district.’” *Id.* Taken together, these rules contemplate two types of venue: district and divisional; if either is lacking, then venue is improper. *See Tusha v. Edge Mission Critical Sys., LLC*, No. 20-cv-00726, 2020 WL 6595211, at *4 (E.D. Va. Aug. 10, 2020) (quoting 32A Am. Jur. 2d Federal Courts § 1118).

Here, it is undisputed that venue is proper in the Charlottesville Division of the Western District of Virginia because “a substantial part of the events ... giving rise to” Plaintiffs’ claims unquestionably occurred in Charlottesville. *See* 28 U.S.C. § 1391(b)(2); W.D. Va. Gen. R. 2(b); *Doe*, 2020 WL 2563289, at *2 (where incident giving rise to case occurred in Lynchburg, venue was proper in Lynchburg and improper in Roanoke); *see also W. Sur. Co. v. Marco Enters., Inc.*, No. 2:11cv408, 2011 WL 4434234, at *2 (E.D. Va. Sept. 22, 2011).

The same straightforward application of the venue rules also leads to the conclusion that venue would be *improper* in Roanoke or Lynchburg for the following reasons:

- Venue is not proper in the Roanoke and Lynchburg Divisions under Section 1391(b)(1) because none of the Defendants resided in either location when this case was filed (and none resides there now). *See* 28 U.S.C. § 1391(b)(1); *see also* ECF Nos. 18–32, 42–50, 52, 127–130, 171–73, 188–195.²
- Even if a Defendant were a resident of Lynchburg or Roanoke, venue would not be proper in those divisions because not all Defendants reside in Virginia. *Doe*, 2020 WL 2563289, at *2 (“In this case, it is undisputed that some of the individual defendants reside in states

² The only Defendants whom Plaintiffs served in Virginia were Jason Kessler, who was living in Charlottesville; James Fields, who was incarcerated in Charlottesville at the time (he is now incarcerated in Missouri); Richard Spencer, who was then living in Alexandria; and Chris Cantwell, who was served in Charlottesville. *See* ECF Nos. 22, 23, 31, 53, 64, 65, 158.

other than Virginia. . . . Therefore, venue is only proper in the Roanoke Division if a ‘substantial part of the events or omissions giving rise to [Doe’s claims] occurred’ here.”). At the time Plaintiffs brought this suit, nearly every Defendant (with the exceptions of Jason Kessler, Richard Spencer, James Fields, and Chris Cantwell) lived outside of Virginia. *See* ECF Nos. 18–32, 42–50, 52, 127–130, 171–73, 188–195. And that holds true today. It is Plaintiffs’ understanding, for example, that Defendant Heimbach currently resides in Tennessee, Defendant Spencer resides in Montana, Defendant Schoep resides in Michigan, Defendant Hill resides in Alabama, and Defendant Tubbs resides in Florida.

- Venue is not proper in Roanoke or Lynchburg under Section 1391(b)(2) because a “substantial part of the events or omissions giving rise to the claim” did not occur in either division. *See* 28 U.S.C. § 1391(b)(2). Rather, as explained above, most (if not all) of the events and omissions giving rise to Plaintiffs’ claims occurred in Charlottesville, where Plaintiffs properly brought this action. In fact, as discussed below, multiple Defendants have brought their own lawsuits arising out of Unite the Right, each of which has been adjudicated in Charlottesville.
- Finally, venue is not proper in Roanoke or Lynchburg under Section 1391(b)(3) because there is another division “in which an action may otherwise be brought as provided in this section,” *see* 28 U.S.C. § 1391(b)(3): the Charlottesville Division. *See supra* p. 4.

B. Section 1404(a) Does Not Authorize Transfer to Roanoke or Lynchburg

Under Section 1404(a), “‘a district court may transfer any civil action to any other district or division where it might have been brought . . .’ ‘for the convenience of parties and witnesses’ and ‘in the interest of justice.’” *Emerson Creek Pottery, Inc. v. Emerson Creek Events, Inc.*, No. 6:20-cv-54, 2020 WL 7407469, at *3 (W.D. Va. Dec. 17, 2020) (Moon, J.). Transferring this case to Roanoke or Lynchburg under Section 1404(a), however, would be improper for two independent reasons. First, the Court cannot transfer the case to Roanoke or Lynchburg because neither is a “division where [this case] might have been brought.” 28 U.S.C. § 1404(a). Second, even if the Court had discretion to transfer this case to either division, every relevant factor weighs strongly in favor of maintaining Charlottesville as the appropriate venue.

1. No Venue in Lynchburg or Roanoke

Plaintiffs could not have brought their case in Lynchburg or Roanoke because, as explained above, venue would not have been proper in those divisions. *See Tusha*, 2020 WL 6595211, at *4

(Where “divisional venue is improper, venue is also improper.”); *Doe*, 2020 WL 2563289, at *2. Because divisional venue would be improper in Roanoke and Lynchburg, this Court lacks the authority to transfer this case under Section 1404(a). *See Elderberry of Weber City, LLC v. Living Centers-Se., Inc.*, No. 6:12-CV-00052, 2013 WL 1164835, at *6 (W.D. Va. Mar. 20, 2013) (Moon, J.) (denying transfer because plaintiff could not “have brought this action in the proposed transferee district”); *see also Van Dusen v. Barrack*, 376 U.S. 612, 616 (1964) (“This transfer power is, however, expressly limited by the final clause of § 1404(a) restricting transfer to those federal districts in which the action ‘might have been brought.’”).

2. Other Relevant Considerations

Even if divisional venue were proper in Lynchburg or Roanoke, that would only begin the inquiry. The Court would then be required to determine whether transfer of venue is warranted based on the following four factors: “(1) the weight given to the plaintiff’s choice of venue, (2) convenience of the parties, (3) convenience of the witnesses, and (4) the interest of justice.” *Emerson Creek Pottery*, 2020 WL 7407469, at *3. Overall, “[u]nless the balance is strongly in favor of the defendant, the plaintiff’s choice of forum should rarely be disturbed.” *Id.* Here, all four factors strongly support the Plaintiffs’ choice of forum, and the trial should be held in Charlottesville. As demonstrated by the overwhelming evidence supporting this submission, transferring the action to the Lynchburg or Roanoke Division would be patently erroneous.

Plaintiffs’ Chosen Venue. The first factor—Plaintiffs’ choice of forum—weighs heavily in favor of holding the trial in Charlottesville. “As a general matter, the plaintiff’s choice of venue commands deference.” *Russell v. Wright*, No. 3:11-cv-00075, 2012 WL 868773, at *3, *7 (W.D. Va. Mar. 13, 2012) (denying motion to transfer from Charlottesville to Lynchburg largely in deference to plaintiff’s choice of venue). That choice is “entitled to ‘substantial weight’” in this case because the “chosen forum” is Plaintiffs’ “home forum” and “bears a substantial relation to

the cause of action.” *Heinz Kettler GMBH & Co. v. Razor USA, L.L.C.*, 750 F. Supp. 2d, 667 (E.D. Va. 2010); *see Emerson Creek Pottery*, 2020 WL 7407469, at *3 (similar). Unlike Defendants, who came from all different parts of the country for a single weekend event in August 2017, most of the Plaintiffs called Charlottesville their home when the relevant events occurred, and many still do. *See, e.g.*, Ex. A (Decl. of Thomas Baker) ¶¶ 4, 6; Ex. B (Decl. of April Muñiz) ¶ 4; Ex. C (Decl. of Natalie Romero) ¶¶ 4, 16.

In addition, Charlottesville “bears a substantial relation to the cause of action.” *Heinz Kettler GMBH*, 750 F. Supp. 2d at 667. The relevant events and injuries alleged in the Complaint occurred in Charlottesville. None of this should come as a surprise to Defendants, who nicknamed their violent rally “Charlottesville 2.0”—following the first torchlit march they conducted through the streets of Charlottesville earlier in the summer of 2017. *See supra* Part I.A. Consequently, “the connection between this [division] and the cause of action is sufficient to warrant the substantial deference generally given a plaintiff’s choice of forum.” *Va. Innovation Scis., Inc. v. Samsung Elecs. Co.*, 928 F. Supp. 2d 863, 870 (E.D. Va. 2013).

Convenience of the Parties. The second factor, convenience of the parties, also prohibits transferring this case to Roanoke or Lynchburg. Moving this trial would impose significant burdens on Plaintiffs, all of whom have a demonstrated interest in attending trial in Charlottesville. *See, e.g., Russell*, 2012 WL 868773, at *4 (affording significant weight to location of and convenience to party witnesses); *Heinz Kettler GMBH*, 750 F. Supp. 2d at 668 (“[W]hen plaintiffs file suit in their home forum, convenience to parties rarely, if ever, operates to justify transfer.”).

In evaluating this factor, the Court must consider the relative convenience to “*all* of the parties to the action, which means that their frequently competing conveniences must be taken into account.” 15 Charles Alan Wright & Arthur R. Miller, *Federal Practice and Procedure* § 3849 (4th

ed. 2021) (emphasis added). The law is clear that “[t]ransfers of venue are not available merely to shift inconvenience from one side to another.” *Rockingham Precast, Inc. v. Am. Infrastructure-Md., Inc.*, No. 5:11cv00024, 2011 WL 5526092, at *6 (W.D. Va. Nov. 14, 2011); see *Emerson Creek Pottery*, 2020 WL 7407469, at *3.

Plaintiffs here would be significantly inconvenienced—logistically, financially, and psychologically—if they were required to attend and testify at trial in Lynchburg or Roanoke. Multiple Plaintiffs currently live in or near Charlottesville—whereas none live in or near Lynchburg or Roanoke. See, e.g., Ex. A (Decl. of Thomas Baker) ¶¶ 4, 6; Ex. B (Decl. of April Muñiz) ¶ 4; Ex. C (Decl. of Natalie Romero) ¶¶ 4, 16. As a result, Plaintiffs have employment, personal, and family responsibilities that would be impaired by having to spend hours commuting to and from Lynchburg or Roanoke for trial. See, e.g., Ex. A (Decl. of Thomas Baker) ¶ 5; Ex. B (Decl. of April Muñiz) ¶¶ 5–6; Ex. D (Decl. of Marcus Martin) ¶ 4; Ex. C (Decl. of Natalie Romero) ¶¶ 5, 7, 13. To give one example, Plaintiff Muñiz works in a rented office space a few blocks from the Charlottesville courthouse, and has made arrangements to work during breaks during the trial; consequently, moving this trial to Lynchburg or Roanoke will jeopardize her ability to meet her professional obligations. See Ex. B (Decl. of April Muñiz) ¶ 6. Similarly, Plaintiffs Romero and Martin care for family members in or near Charlottesville and would be unable to do so if required to commute to Lynchburg or Roanoke for trial. See Ex. D (Decl. of Marcus Martin) ¶¶ 6, 10; Ex. C (Decl. of Natalie Romero) ¶¶ 7, 9.

Furthermore, Plaintiffs would have difficulty traveling from Charlottesville to Lynchburg or Roanoke on a daily basis. For example, for Natalie Romero, who was diagnosed with PTSD, acute anxiety, and stress after being struck with Defendant James Fields’s car, the idea of driving herself from Charlottesville to Lynchburg or Roanoke each day to participate in trial is “terrifying.”

Ex. C (Decl. of Natalie Romero) ¶ 9. Plaintiff Romero does not have a family member or friend who can drive her to and from Lynchburg or Roanoke; her family only has one vehicle; and seeking lodging in Lynchburg or Roanoke would impose additional burdens on her, especially given that she supports younger family members. *Id.* Similarly, Plaintiff Martin previously attempted to commute to Lynchburg on a daily basis, but that commute proved so difficult due to the pain in his leg (which was injured by Defendant Fields's car attack) that his employer arranged for him to work in Charlottesville instead. *See* Ex. D (Decl. of Marcus Martin) ¶ 7; *see also* Ex. A (Decl. of Thomas Baker) ¶ 6; Ex. E (Decl. of Devin Willis) ¶ 8.

In addition, trial in Lynchburg or Roanoke would also cause emotional and medical hardship for Plaintiffs because they all have family and friends in Charlottesville. *See, e.g.,* Ex. A (Decl. of Thomas Baker) ¶ 8; Ex. D (Decl. of Marcus Martin) ¶ 8; Ex. B (Decl. of April Muñiz) ¶ 8; Ex. C (Decl. of Natalie Romero) ¶¶ 6, 11; Ex. F (Decl. of Elizabeth Sines) ¶ 7; Ex. E (Decl. of Devin Willis) ¶ 9. Take for example Plaintiff Muñiz, who states that needing “to commute or relocate by myself to Lynchburg or Roanoke, away from my support system and the people I will need to lean on the most will be an extreme hardship.” Ex. B (Decl. of April Muñiz) ¶¶ 7–8. For Plaintiff Baker, traveling to Lynchburg or Roanoke would separate him from his wife, his “primary support system,” every day and would interfere with the medical care he is still undergoing as a result of the injuries he sustained at Unite the Right. Ex. A (Decl. of Thomas Baker) ¶¶ 7–9; *see also* Ex. C (Decl. of Natalie Romero) ¶ 11; Ex. F (Decl. of Elizabeth Sines) ¶ 7.

In balancing these interests against any purported inconveniences claimed by Defendants, the Court should not lose sight of the fact that Plaintiffs' emotional hardships stem from Defendants' conduct in the heart of Charlottesville. Defendants' unsupported claims that they feel

unsafe in Charlottesville four years after they traveled to Charlottesville from all over the country (including from Ohio, Michigan, and Texas) cannot outweigh Plaintiffs' legitimate concerns.³

In addition, Plaintiffs have devoted significant financial resources to conducting the trial in Charlottesville. In particular, the nonprofit organization that is funding Plaintiffs' out-of-pocket expenses for this litigation, including travel and lodging costs related to trial, has signed a contract with a Charlottesville hotel to provide lodging and workspace for Plaintiffs' counsel, expert witnesses, and other parties supporting Plaintiffs. *See* Ex. G (Decl. of Amy Spitalnick). Under that contract, the organization stands to lose more than \$100,000 if the reservation is canceled. *See id.* None of those funds could be recovered or used for trial in another location. *See, e.g., Utterback v. Trustmark Nat'l Bank*, 716 F. App'x 241, 245 (5th Cir. 2017) (affirming denial of transfer in part because "parties have since committed considerable time and resources to litigating" in plaintiff's chosen forum); *McGraw-Edison Co. v. Van Pelt*, 350 F.2d 361, 363 (8th Cir. 1965) (affirming denial of transfer in part because "there had occurred extensive preparation and expense on the part of" plaintiffs).

By contrast, before the Court first raised the possibility of a venue transfer of its own accord on June 4, 2021, Defendants had not once made any request for a change of venue or suggestion of inconvenience to them should the trial occur in Charlottesville (rather than Lynchburg or Roanoke). Not one of the thirteen Defendants who remain in this case live or work in Lynchburg

³ Equally unavailing is Defendants' suggestion that the Court need not consider arguments related to "convenience of the parties" because Plaintiffs can simply testify remotely by Zoom. This claim ignores Plaintiffs' due process right to attend the trial and testify *in person* (in Charlottesville) and, as explained, Plaintiffs have already made plans to do so. *See Lane v. Tennessee*, 315 F.3d 680, 682 (6th Cir. 2003) ("Parties in civil litigation have an analogous due process right to be present in the courtroom and to meaningfully participate in the process unless their exclusion furthers important governmental interests."), *aff'd*, 541 U.S. 509 (2004); *Marks v. Mobil Oil Corp.*, 562 F. Supp. 759, 1983 (E.D. Pa 1983) ("A party to a lawsuit has a right to attend the trial absent an overwhelming reason to the contrary."), *aff'd*, 727 F.2d 1100 (3d Cir. 1984). Indeed, if Defendants are correct that Zoom technology not only solves any logistical concerns, but also allows trials to take place anywhere, it is not clear why Lynchburg or Roanoke presents any advantage over Charlottesville in any event.

or Roanoke, *see supra* pp. 4–5, so moving the trial to either of those locations could not possibly be more convenient for any of them. At the June 4 Court conference, Defendant Heimbach expressed concern regarding his ability to maintain employment while attending trial. *See* June 4, 2021 Hr’g Tr. 17, ECF No. 965. But that concern obviously would remain true if the trial were in Lynchburg or Roanoke and would be mitigated here by Plaintiffs’ proposal (discussed below) that Defendants should be able to participate in the trial remotely if they so choose. While Heimbach also worried that he would be unable to obtain lodging in Charlottesville, *see id.* at 16, there are approximately three thousand hotel rooms in the Charlottesville area at a variety of price points.⁴ And for Defendants who plan to travel to the area by air, Charlottesville is far more accessible than Lynchburg or Roanoke.

Convenience of Witnesses. The third factor, convenience of the witnesses, similarly supports holding the trial in Charlottesville. Beyond the hardship that would be imposed on Plaintiffs (all of whom will be witnesses at trial), many of Plaintiffs’ non-party witnesses reside in Charlottesville as well. These include but are not limited to University of Virginia (“UVA”) professors, a UVA administrator, and a UVA photographer who were eyewitnesses to the events of August 11, 2017, who will testify about the torchlit march they observed, as well as a third-party witness to the events of August 12, 2017, who will testify about the violence she observed. *See* Ex. H (Decl. of Michael Bloch) ¶¶ 4, 5. Transferring this case from Charlottesville to Lynchburg or Roanoke—particularly at this late stage—would be inconvenient for these witnesses, who would have to arrange travel and hotel accommodations that would otherwise be unnecessary.

⁴ The Collyer Group, Inc., “Charlottesville Hotel Inventory,” <https://collyergroup.com/charlottesville-hotel-supply>.

By contrast, Defendants have not identified a single witness who is located in Lynchburg or Roanoke or would otherwise be inconvenienced by keeping the trial in Charlottesville. Having failed to provide any evidence of inconvenience to their party or third-party witnesses, Defendants have not demonstrated that “the inconvenience to their witnesses is enough to merit transfer.” *Emerson Creek Pottery*, 2020 WL 7407469, at *5; *see also Va. Innovation Scis.*, 928 F. Supp. 2d at 870; *Bd. of Trs., Sheet Metal Workers Nat’l Fund v. Baylor Heating & Air Conditioning, Inc.*, 702 F. Supp. 1253, 1258 (E.D. Va. 1988).

Interest of Justice. The interest-of-justice factor reflects “a preference for holding a trial in the community most affected.” *Rust v. CommerceFirst Bank*, No. CIV. A. 3:07cv00052, 2008 WL 2074071, at *4 (W.D. Va. May 14, 2008) (Moon, J.). Put another way, there is always “a local interest in having localized controversies decided at home.” *Gulf Oil Corp. v. Gilbert*, 330 U.S. 501, 509 (1947).

Community Interests. Here, the Charlottesville community clearly has a strong interest in adjudicating the issues posed by this case in Charlottesville. As Plaintiff Sines explains, holding the trial in Charlottesville is important because “a trial involving events that greatly affected that community should occur in Charlottesville.” Ex. F (Decl. of Elizabeth Sines) ¶ 6. Other Plaintiffs agree. *See, e.g.*, Ex. D (Decl. of Marcus Martin) ¶ 9 (“To move the trial to another location would take the trial away from the people of Charlottesville who need a sense of justice.”); Ex. E (Decl. of Devin Willis) ¶ 8 (“It is important to me . . . to hear a jury of my peers render a verdict regarding the Defendants’ conduct, who planned this event in my new home.”); *see also* Ex. A (Decl. of Thomas Baker) ¶ 10; Ex. B (Decl. of April Muñiz) ¶ 9; Ex. C (Decl. of Natalie Romero) ¶ 16.

Accordingly, whatever the ultimate result, a trial in Charlottesville will be meaningful to the local community. *See, e.g., Gentry Locke Rakes & Moore, LLP v. Energy Dev. Corp.*, No.

7:17-CV-102, 2017 WL 1498117, at *3 (W.D. Va. Apr. 25, 2017) (“interest in having local controversies decided at home[] strongly weighs in favor of transferring this case to the Abingdon Division” rather than Roanoke, including because, “[g]iven the dispute’s central grounding in [Abingdon Division], the interests of justice will be served ‘to have the local residents act as jurors for this case’”); *Tharpe v. Lawidjaja*, No. 6:12-CV-00039, 2012 WL 5336208, at *11 (W.D. Va. Oct. 26, 2012) (Moon, J.) (“interest of justice consideration weighs heavily against transferring the complaint” out of Virginia given that claims centered on “Defendant’s alleged acts against Plaintiff that occurred in Virginia and were deliberately directed at a Virginia audience”).

Such community interests are particularly acute where, as here, the demographics between the jury pools in the affected community and the proposed alternate venues differ in significant respects. Although the requirement that a jury be selected from a “cross section” of the community has its roots in Sixth Amendment criminal trials, courts have long held that civil trials also “necessarily contemplate[] an impartial jury drawn from a cross-section of the community.” *Thiel v. Southern Pacific Co.*, 328 U.S. 217, 220 (1946). In criminal cases, courts have stressed that the ability of a jury to apply “contemporary community standards” to its decision outweighs the interests of a defendant in changing the trial’s venue. *See, e.g., United States v. Toushin*, 714 F. Supp. 1452, 1457 (M.D. Tenn. 1989). So too, in this case, should the community of Charlottesville have the opportunity to have its values reflected in the jury pool. A court “must not allow the desire for competent jurors to lead [it] into selections which do not comport with the concept of the jury as a cross-section of the community.” *Glasser v. United States*, 315 U.S. 60, 86 (1942).

Health and Safety Concerns. Health and safety considerations provide further support for holding the trial in Charlottesville. As discussed below, the Charlottesville courthouse and

community are better equipped to mitigate the COVID-related health concerns and to address any security issues that may arise during trial. *See infra* Parts II & III.

Media/Publicity. At least one Defendant asserts that he will not be able to obtain a fair trial in Charlottesville because of a media “spectacle” that will somehow result in a “hanging court.” Hr’g Tr. 23:13-20. To determine whether a change of venue is warranted based on pretrial publicity, a court must first evaluate “whether the publicity is so inherently prejudicial that trial proceedings must be presumed to be tainted.” *Id.*; *see also United States v. Higgs*, 353 F.3d 281, 308 (4th Cir. 2003) (finding change of venue to be unnecessary where the press coverage was “more factual than inflammatory”). And even if there were potentially prejudicial press coverage, a court still must “take the second step of conducting a *voir dire* of prospective jurors to determine if actual prejudice exists,” and change venue “[o]nly where *voir dire* reveals that an impartial jury cannot be impanelled [*sic*].” *United States v. Bakker*, 925 F. 2d 728, 732 (4th Cir. 1991).

Here, Defendants merely point to their fear of a media “spectacle” and do not allege that there has been *any* prejudicial (rather than factual) press about this case. That alleged concern does not support an assertion that a venue change would be in the interests of justice. *See Xcoal Energy & Resources LP v. Smith*, No. 2:07-CV-00057, 2009 WL 4884395, at *1–2 (W.D. Va. Dec. 11, 2009).⁵

Because the conduct at issue in this case occurred almost four years ago, the press coverage surrounding the events has diminished considerably. Therefore, the risk of a biased jury is purely speculative. *See Givens v. Main St. Bank*, No. 5:08-CV-25, 2010 WL 2925942 at *13 (N.D. W.Va. July 22, 2010) (denying plaintiff’s motion to change venue where he had failed to cite any specific

⁵ In fact, other Defendants expressly concede that it is “undeniably a matter of speculation whether a circus atmosphere will materialize” during the trial, ECF No. 974 at 4, further undermining Defendants’ assertions of a “spectacle,” *see* Hr’g Tr. 15, 23.

media coverage to support allegation that he could not receive a fair trial); Wright & Miller § 3854 (explaining that consideration of prejudice “does not merit judicial concern” where it is “matter of speculation,” and that courts generally only give weight to “possibility of local prejudice” where “record contains a basis for concern about it”). Furthermore, prejudice based on the trial’s location is unlikely given that social media and press today are national, instantaneous, and mostly online.

In any event, as noted above, even if Defendants could identify prejudicial press coverage that is localized in nature, the Court would still be required to “take the second step of conducting a *voir dire* of prospective jurors to determine if actual prejudice exists.” *See United States v. Jones*, 542 F.2d 186 (4th Cir. 1976) (finding no error where the trial court denied relief on the grounds that it was “not sufficient . . . to allege simply adverse publicity ‘without a showing that the jurors were biased thereby’”). The Fourth Circuit has held that “[v]oir dire is of course the preferred safeguard against this particular threat to fair trial rights.” *In re Charlotte Observer*, 882 F.2d 850, 855 (4th Cir. 1989). In this case, Defendants’ right to a fair trial would be protected by a carefully crafted jury selection process, where any prejudiced jurors can be sifted out through *voir dire*. *See Snyder v. Phelps*, No. RDB-06-1389, 2007 WL 3227213, at *1 (D. Md. Oct. 19, 2007).

Similarly, Defendants’ unsupported claim that “the temperature is going to be lower[] in Lynchburg than it would be in Charlottesville,” Hr’g Tr. 24:23-24, is wholly insufficient to justify the extraordinary step of transferring this case from Plaintiffs’ chosen forum. Recent history is replete with examples where similarly high profile, emotionally-charged cases were fairly tried in the venue where the conduct at issue occurred.⁶ Indeed, Defendant James Fields successfully

⁶ *See also United States v. Tsarnaev*, No. 1:13-CR-10200-GAO (D. Mass. 2015) (Boston marathon bomber tried in the U.S. District Court for the District of Massachusetts, in Boston); *United States v. Roof*, No. 2:14-472-RMG (D.S.C. 2015) (white supremacist and neo-Nazi tried for Charleston church shooting that killed nine African Americans in the U.S. District Court for the District of South Carolina, Charleston Division); *Minnesota v. Chauvin*, No. 27-CR-20-12646 (D. Minn. 2021) (police officer charged with the murder of George Floyd tried in the U.S. District Court for the District of Minnesota, Hennepin County, in Minneapolis); *Commonwealth v. Hernandez*, No. BR-CR-2013-00983

obtained a fair criminal trial in Charlottesville Circuit Court despite multiple attempts to transfer venue.⁷ If an impartial jury can be selected in Charlottesville for Defendant Fields' criminal trial, where his liberty was at stake, the same obviously can be done in this civil case—especially because we are now several years further away from the relevant events.⁸

Defendants have no answer to any of this. They have not articulated a single reason why the interests of justice would be better served by transferring the trial. Even applying the most generous interpretation to Defendants' vague, unsupported expressions of concern, Defendants fall far short of meeting their burden. *See Gen. Creation LLC v. Leapfrog Enters., Inc.*, 192 F. Supp. 2d 503, 505 (W.D. Va. 2002) (proponent of transfer bears burden of proof under 28 U.S.C. § 1404(a)); *Xcoal Energy & Resources LP*, 2009 WL 4884395.

C. Section 1404(c) Does Not Authorize the Court to Transfer the Trial

Section 1404(c) separately provides that “[a] district court may order any civil action to be tried at any place within the division in which it is pending.” 28 U.S.C. § 1404(c).⁹ But that provision provides no basis to transfer the trial in this case either, for three separate reasons.

(Super. Ct. Mass., Bristol Cty. 2015) (former NFL player tried for murder in county where crime was committed); *Florida v. Casey Anthony*, No. 48-2008-CF-015606 (Fla. 9th Cir. Ct. 2008) (mother tried for Orange County, Florida murder of daughter in the Circuit Court of the Ninth Judicial Circuit for Orange County, Florida); *Florida v. Zimmerman*, No. 12-CF-1083-A (Fla. 18th Cir. Ct. 2013) (police officer tried for the shooting for Trayvon Martin in Sanford, FL in Seminole County in the 18th Judicial Circuit for Seminole County, Florida).

⁷ *See, e.g.*, Michael Burke, *Judge not changing venue in trial of Charlottesville suspect: reports*, The Hill (Aug. 30, 2018, 6:47 PM), <https://thehill.com/blogs/blog-briefing-room/news/404476-judge-wont-change-venues-in-trial-of-charlottesville-suspect>.

⁸ Fields was tried and convicted in December 2018. *See* Sara Sidner, Kevin Conlon & Nicole Chavez, *James Fields convicted in Charlottesville death*, CNN (Dec. 7, 2018, 7:54 PM), <https://www.cnn.com/2018/12/07/us/charlottesville-james-fields-trial/index.html>.

⁹ Defendants mistakenly attempt to invoke 28 U.S.C. § 1404(b) as a basis for interdivisional transfer. *See* ECF No. 974 at 2. However, the law is clear that Section 1404(b) only applies when all parties consent, which obviously is not the case here. *See, e.g., In re Gibson*, 423 F. App'x 385, 390 (5th Cir. 2011) (“28 U.S.C. § 1404(b) . . . authorizes intra-district transfers of proceedings only when all of the parties consent or agree.”); *JTH Tax, Inc. v. Callahan*, No. 2:12CV691, 2013 WL 3035279, at *2 n.3 (E.D. Va. June 6, 2013) (“[V]arious federal courts have held that a motion to transfer venue pursuant to § 1404(b) must be a joint motion that is not opposed by any party.”); *Mullins v. Equifax Info. Servs., LLC*, No. CIV.A. 3:05CV888, 2006 WL 1214024, at *4 (E.D. Va. Apr. 28, 2006) (§ 1404(b) does not apply where “Plaintiff opposes transfer” and “a number of defendants have declined to join” motion); 15 Charles Alan Wright & Arthur R. Miller, *Federal Practice and Procedure* § 3809 (4th ed. 2021) (“[A]ny transfer under Section

First, it is hornbook law that Section 1404(c) “cannot be used to transfer any matter outside the division in which it was pending, but simply permits an order that the trial itself be had at another site in the same division.” Wright & Miller § 3842. Because that statute only enables an action to be tried at a place “within the division,” *i.e.*, within the Charlottesville Division, it does not authorize trial to be held in Lynchburg or Roanoke.¹⁰

Second, Section 1404(c) cannot reasonably be read to authorize trial in a place where venue does not exist. *See supra* Part I.A.I; *see Doe*, 2020 WL 2563289, at *2 (“Pursuant to Local Rule 2(b), civil actions for which venue is proper in the Western District ‘must be brought in the proper division as well.’” (quoting W.D. Va. Gen. R. 2(b))); *Tusha*, 2020 WL 6595211, at *4 (“[W]here divisional venue is mandated by local rule . . . those mandates must be complied with . . .”).

Third, even if Section 1404(c) somehow authorized the Court to order trial in a division where divisional venue would be improper, the end result would still be the same as with the analysis under Section 1404(a). The Court’s decision-making under Section 1404(c) “is properly guided by the same factors relevant to a Section 1404(a) analysis.” *Gentry Locke Rakes & Moore, LLP v. Energy Dev. Corp.*, No. 7:17-CV-102, 2017 WL 1498117, at *3 n.4 (W.D. Va. Apr. 25, 2017). As explained above, those considerations weigh heavily against transferring the trial from Charlottesville to Lynchburg or Roanoke. *See supra* Part I.B.2.

1404(b) must be based upon ‘motion, consent or stipulation of all parties.’ Thus, all parties must agree to the transfer.”). Even the Third Circuit case Defendants cite acknowledges that transfers under Section 1404(b) “require the consent of all affected parties.” *White v. ABCO Eng’g Corp.*, 199 F.3d 140, 144 (3d Cir. 1999). And even if consent of all parties were not required, the Court would still have to “consider the same convenience and justice factors that are required to be analyzed in conjunction with a § 1404(a) motion.” *JTH Tax*, 2013 WL 3035279, at *3.

¹⁰ The Standing Order in re: Division of Cases Among District Judges does not compel a different result. That Standing Order provides that a district judge may reassign a “case on his/her docket to a judge in a rotation *in that division* with the consent of the judge to whom the case is reassigned.” *In re: Division of Cases Among District Judges*, Standing Order No. 2021-8 (W.D. Va. Apr. 16, 2021) (Apr. 14, 2021) (emphasis added); *see also* W.D. Va. Gen. R. 2(d) (“Cases are assigned among the district judges pursuant to Standing Order, as amended from time to time”).

II. Holding the Trial in Charlottesville Would Be Logistically Feasible and Enable the Parties to Mitigate the Health Risks Presented by COVID-19 (Question 1)¹¹

This Court has asked the parties to propose “an optimal and manageable footprint” that ensures that each side is represented at trial, accounts for space limitations, and mitigates the potential risks presented by COVID-19. Plaintiffs remain committed to working with the Court, *pro se* Defendants, and defense counsel to ensure that the trial can be conducted in a safe, efficient, and fair manner. Plaintiffs therefore submit the following proposals regarding courtroom logistics:

- Plaintiffs are willing to limit the number of Plaintiffs in the courtroom to two at any given time. In addition, Plaintiffs are willing to limit the number of Plaintiffs’ counsel to six or seven at a time. That yields a total of eight or nine people from Plaintiffs’ side in the courtroom at any one time.
- Based on past conduct, it is unlikely that all of the thirteen Defendants who remain in this case will attend every day. Specifically, Plaintiffs anticipate that no more than eight Defendants will likely show up for trial consistently.¹² Of those eight Defendants, several are proceeding *pro se*, and those represented by counsel have a total of four lawyers. That yields a total of no more than twelve people from Defendants’ side.
- Plaintiffs have no objection to the Court’s suggestion that Defendants need not be physically present in the courtroom for every day of trial, may watch the trial remotely via video, and may testify remotely via video upon a demonstrated showing of need. If implemented, such a proposal not only would open up space in the courtroom and further minimize any COVID-related health risks, *but also would seriously undermine, if not eliminate altogether, Defendants’ safety, lodging, and monetary concerns.*
- Plaintiffs and their counsel are willing to abide by any health and safety precautions required by the Court, including wearing masks, social distancing, and participating in any health assessment before entry into the courtroom. All of Plaintiffs’ counsel can certify that any of them who will be present in the courtroom will be fully vaccinated, thus minimizing the need for social distancing between Plaintiffs’ counsel and reducing the risk of transmission of COVID-19.
- Plaintiffs’ counsel are willing to take any additional steps to minimize their courtroom footprint during trial (including questioning witnesses and arguing from the lectern or counsel table and displaying exhibits primarily in digital form).

¹¹ “What is an optimal and manageable footprint for the litigants, attorneys and staff for each side in the courtroom? Consideration shall be taken to ensure that each side is represented at trial, but also reflect space limitations and potential risks presented by COVID-19.” ECF No. 966.

¹² As the Court is aware, Defendants Ray, Kline, and Vanguard America have rarely participated in this case, and Defendants Cantwell and Fields are currently incarcerated.

- The Court may wish to employ other health and safety procedures followed by courts in other jurisdictions, including increased cleaning protocols, staggering the venire, limiting the number of public spectators and press in the courtroom at any given time, and a COVID-19 screening questionnaire in the jury summons packet.¹³

Plaintiffs respectfully submit that these proposals would be effective in the Charlottesville courthouse. Given its size and layout, the Charlottesville courthouse is actually better equipped than its Roanoke and Lynchburg counterparts to facilitate social distancing between parties, counsel, and staff. The Charlottesville courthouse has four courtrooms, three witness rooms, and a jury assembly room, which has previously been used as an overflow room. The Lynchburg courthouse, by contrast, is notably smaller (with, for example, only two courtrooms), and thus poses a challenge for social distancing. Roanoke poses even greater concerns since it is not a standalone courthouse; rather, courtrooms are located within the Poff Federal Building, a fourteen-floor high-rise housing 750 employees and regional branches of other federal services (*e.g.*, the Department of Veterans Affairs). Social distancing within a large, shared space would pose complications not present in Charlottesville.

Furthermore, Charlottesville is clearly the best location from a health and safety perspective. The vaccination rates in Lynchburg and Roanoke (31.7% and 45.5%, respectively for 1+ dose) are significantly lower than in Charlottesville (59%).¹⁴ Lynchburg has more than five times the number of new cases per 100,000 inhabitants than Charlottesville, and the Lynchburg positivity rate is six times that of Charlottesville.¹⁵ According to Virginia Vaccine Coordinator Dr.

¹³ See United States District Court for the District of Columbia, Standing Order No. 21-20 (BAH); United States District Court for the District of Maryland, Standing Order 2021-07; United States District Court for the Eastern District of Virginia, General Order No. 2021-06.

¹⁴ See generally <https://covidactnow.org/us/virginia-va/?s=1903823>.

¹⁵ Compare https://covidactnow.org/us/virginia-va/county/lynchburg_city/?s=1903823 with https://covidactnow.org/us/virginia-va/county/charlottesville_city/?s=1903823 (as of June 6, 2021, Lynchburg had 7.9 new cases per 100,000 persons and a positivity rate of 4.2%, while Charlottesville had 1.5 new cases and a 0.7% positivity rate).

Danny Avula, Lynchburg’s comparatively low vaccination rates are not driven by vaccine scarcity, but rather by vaccine hesitancy attributable in part to “false information.”¹⁶ Given that the surge in vaccine administration has mostly tapered off,¹⁷ it seems unlikely that Lynchburg’s vaccination rate will improve significantly by the time of trial. As a result, based on the COVID-19 Community Vulnerability Index, Lynchburg is more vulnerable than 80% of U.S. counties, and Roanoke is more vulnerable than 95% of U.S. counties, predominantly due to preexisting issues surrounding population density and health care access.¹⁸ By comparison, Charlottesville is more vulnerable than 49% of U.S. counties.¹⁹

III. Holding the Trial in the Charlottesville Courthouse Would Be Efficient, Manageable, and Safe (Question 2)²⁰

A. Plaintiffs’ Proposals for Logistics and Security

As noted at the June 4 hearing, Plaintiffs are prepared to work with the Court, *pro se* Defendants, and defense counsel to minimize the number of personnel present in the courthouse at any given time. Plaintiffs propose the following steps to minimize the footprint of the trial:

- Plaintiffs are aware of at least two large hotels within close proximity of the courthouse in Charlottesville that can be utilized to significantly alleviate concerns regarding courtroom space.

¹⁶ Taylor Coleman, *Vaccination Rates in Lynchburg Are Lower than the Surrounding Cities, Data Shows*, WSET (May 13, 2021), <https://wset.com/news/coronavirus/vaccination-rates-in-lynchburg-are-lower-than-the-surrounding-cities-data-shows>.

¹⁷ See, e.g., Dan Diamond, Dan Keating & Chris Moody, *Vaccination Rates Fall Off, Imperiling Biden’s July Fourth Goal*, Wash. Post (June 6, 2021), <https://www.washingtonpost.com/health/2021/06/06/vaccination-rates-decline-us>.

¹⁸ See <https://precisionforcovid.org/ccvi>. This data is discussed by Covid ActNow on the respective pages for the cities of Lynchburg and Roanoke. See *supra* n.14. A separate index, which evaluates risk based on COVID-19 transmission rates, classifies the greater Lynchburg and Roanoke areas as High Risk. See *Tracking coronavirus in Virginia: Latest Map and Case Count*, N.Y. Times (June 7, 2021), <https://www.nytimes.com/interactive/2021/us/virginia-covid-cases.html>. Note that some of the counties surrounding Lynchburg and Roanoke even fall into the Very High Risk category. See *id.*

¹⁹ See <https://precisionforcovid.org/ccvi>. Its surrounding areas are in the Moderate Risk category. See <https://www.nytimes.com/interactive/2021/us/virginia-covid-cases.html>.

²⁰ “What is an efficient and manageable footprint of the trial in the courthouse? The Court shall consider any needed use of breakout rooms, video access for overflow members of the public or press, security considerations, and any requested or needed use of court facilities.” ECF No. 966.

- Plaintiffs have secured for the duration of the trial conference room space at one of the hotels close to the courthouse in Charlottesville that can serve as a breakout room for Plaintiffs and their counsel and witnesses. Accordingly, Plaintiffs would not need a breakout room in the Charlottesville courthouse, which could be used for other purposes.
- Plaintiffs are aware of a separate hotel, equally close to the courthouse in Charlottesville, and have offered to reserve conference space in that hotel – at Plaintiffs’ expense – that could serve as a breakout room for Defendants and their counsel and witnesses so that additional rooms would be available for other purposes in the courthouse.
- As mentioned at the June 4 hearing, Plaintiffs have received information from an experienced trial logistics vendor about arrangements that can be made to provide audio or video access for overflow members of the public or press, tailored to any specifications the Court and parties prefer. As noted in Ex. I (Decl. of Jesse W. Stevenson), these include the ability to broadcast the trial to any location outside of the courthouse via ZoomGov, the most secure Zoom platform available, and control (such as with the use of registration and passwords) who gets access to the broadcast. The Court could limit viewing based on any set of criteria, such as only parties and counsel or only individuals with media credentials. Impact is prepared to offer its services free of charge. If, for any reason, the Court or Defendants prefer a different vendor with similar capabilities, Plaintiffs would be happy to work with Defendants to facilitate that as well, just as we did with respect to our use of a joint document vendor during discovery.

Second, Plaintiffs have already spent significant time and energy well before the June 4 hearing preparing for security concerns that may arise during a trial in Charlottesville. As detailed in Ex. J (Decl. of Herman Weisberg), Plaintiffs have been working with SAGE Intelligence Group (“SAGE”), an investigation and security firm, which has conducted extensive advance work in Charlottesville in anticipation of trial. SAGE has communicated and coordinated with local law enforcement, including leadership in the Charlottesville Police Department and the U.S. Marshals Service, to create an operational plan for a trial in the Charlottesville courthouse. *See id.* at ¶ 6. SAGE employees have visited the courthouse to identify security vulnerabilities, determine the safest points of ingress and egress, and meet with courthouse security personnel to develop a plan for any security emergencies. *See id.* at ¶ 7.

In addition to investigating and preparing for any potential security concerns at the courthouse in Charlottesville, SAGE has also visited numerous hotels to identify the safest lodging

for Plaintiffs' counsel and expert witnesses. After consultation with local law enforcement and investigation in Charlottesville, SAGE has also developed an approved list of vendors for meals and deliveries in Charlottesville. Plaintiffs would be happy to provide any further information about SAGE's work to the Court on an *ex parte* basis given security concerns.

B. None of Defendants' Security Concerns Justify a Transfer

Some Defendants will undoubtedly attempt to invoke nebulous security concerns as a basis to override Plaintiffs' chosen forum. *See* Hr'g Tr. 13, 15 (Spencer), 16 (Heimbach); *see also* ECF No. 973. But Defendants' late-breaking safety concerns are both unsubstantiated and disingenuous.

First, there is no basis to believe that security concerns would be greater in Charlottesville than any other courthouse in the Western District. Plaintiffs have consulted with an expert in the field regarding security concerns posed by trial in Charlottesville relative to other locations. Oren Segal, Vice President of the Anti-Defamation League's Center on Extremism, noting that extremists have tended to travel from many different states to attend particular events, does not believe the specific location of the trial will likely "have an appreciable impact on extremists who may decide to protest the trial, demonstrate support for the defendants or otherwise show up." Ex. K (Decl. of Oren Segal) at ¶ 7. That is especially true given that the proceedings must be open to the public in Roanoke or Lynchburg, just as in Charlottesville, and are likely to draw the same level of public attention (particularly over the internet), including among Defendants' supporters.

Moreover, as noted above, virtually every one of the more than ten federal cases that have arisen out of Unite the Right has been adjudicated in the Charlottesville Division of the Western

District of Virginia, and many have been presided over by this Court.²¹ *See* Ex. N (Other Lawsuits in Federal Court Relating to Unite the Right). To Plaintiffs’ knowledge, in none of those federal cases has a single litigant moved for a change of venue or claimed that Charlottesville is somehow inadequate to protect against potential security concerns. Plaintiffs are not aware of any actual or threatened security issue that has arisen in or around the Charlottesville courthouse related to these cases. Plaintiffs are also unaware of any security issue for Defendants that has ever arisen surrounding the prior hearings or proceedings in this case, which Defendants have attended without incident.

To the extent that Defendants now raise security concerns for the first time in three-and-a-half years of litigation, *see, e.g.*, Hr’g Tr. 15–16, those conclusory and amorphous claims are legally insufficient to override Plaintiffs’ substantial interest in having this case adjudicated in Charlottesville. *Cf. Bd. of Trustees, Sheet Metal Workers Nat’l Fund v. Baylor Heating & Air Conditioning, Inc.*, 702 F. Supp. 1253, 1258 (E.D. Va. 1988) (rejecting transfer where movant submitted “merely a conclusory statement that witnesses located in Indiana would be inconvenienced if the case were to go forward in Virginia”).²²

Indeed, Defendants’ security concerns contradict their own behavior. Far from fearing for their safety in Charlottesville, Defendants repeatedly taunted the city and its residents after Unite

²¹ *See, e.g., Gilmore v. Jones*, No. 3:18-cv-00017 (Moon, J.); *United States v. Daley*, No. 3:18-cr-00025 (Moon, J.); *United States v. Fields*, 3:18-cr-00011; *Harris v. Kessler*, 3:19-cv-00046 (Moon, J.); *Cantwell v. Gorcenski*, 3:17-cv-00089 (Moon, J.); *City of Charlottesville v. Penn. Light Foot Militia*, 3:17-cv-00078; *see also infra* note 26 and accompanying text.

²² In arguing that the trial should be transferred, Defendant Heimbach refers to certain actions of the Charlottesville Police Department nearly four years ago in connection with events whose nature Defendants intentionally concealed from law enforcement in the planning stages. *See* ECF No. 973. However, security expert Herman Weisberg of SAGE attests that he is in current discussions with the Charlottesville Police Department, who are actively taking necessary steps to ensure proper security during the trial as well as coordinating with the Virginia State Police. *See* Ex. J (Decl. of Herman Weisberg ¶ 7. Additionally, handling a White Supremacist rally to which thousands of people have been invited from all over the country is a fundamentally different undertaking from a security perspective than a trial taking place in a secure federal courthouse.

the Right in August 2017, voluntarily returning to Charlottesville again and again. At an “after party” after Heather Heyer was murdered, Defendant Spencer stated to a group that included co-Defendants Damigo, Kessler, and Kline, “We are coming back here, like, a fucking hundred times. I am so mad. I am so fucking mad at these people. They don’t do this to fucking me. We are going to fucking ritualistically humiliate them. I am coming back here every fucking weekend if I have to.” *See* Ex. H (Decl. of Michael Bloch ¶ 5 & Ex. 1 (Tr., Dep. of Richard Spencer 316:06-22, July 1, 2020)).²³ On October 7, 2017, five days before this lawsuit was filed, Spencer returned to Charlottesville to lead another torchlight march. Spencer dubbed that event “Charlottesville 3.0” and livestreamed it to his 70,000 followers on Twitter. He announced to a group of counter-protesters on UVA’s campus that “[w]e’re gonna come back again and again and again.”²⁴ Given that backdrop, Spencer’s and other Defendants’ references to security concerns in Charlottesville ring particularly hollow.²⁵

In fact, the Charlottesville cases discussed above actually include civil cases that multiple Defendants *in this case*—Cantwell, Kessler, Parrott, Identity Evropa, National Socialist Movement, and Traditionalist Worker Party—*filed as plaintiffs*. When Cantwell, Kessler, and other Defendants chose to file their own cases based on what happened in August 2017, they did so in Charlottesville and represented that venue was proper. *See, e.g.,* Complaint ¶ 2, *Cantwell v.*

²³ *See also* Igor Derysh, *Leaked Audio Purportedly Captures Richard Spencer’s Racist, Violent Threats After Charlottesville*, Salon (Nov. 4, 2019, 6:30 PM), <https://www.salon.com/2019/11/04/leaked-audio-purportedly-captures-richard-spencers-racist-violent-threats-after-charlottesville>.

²⁴ Natalia Buenaventura, *White Supremacist Marchers Return to Charlottesville*, The Tab (Oct. 8, 2017), <https://thetab.com/us/uva/2017/10/08/white-supremacist-marchers-return-to-charlottesville-7632>.

²⁵ If, notwithstanding the foregoing, there were a proper basis for the Court to transfer this case from Charlottesville to another forum, and the Court remained inclined to do so primarily for security reasons, Plaintiffs respectfully submit that transferring this case to the Eastern District of Virginia would be far superior to transferring it to Roanoke or Lynchburg, because the Eastern District has not only larger, modern courthouses, but far more experience handling trials in high-profile, sensitive cases with security issues. *See, e.g., United States v. Moussaoui*, No. 1:01-cr-00455-LMB (E.D. Va. 2006); *United States v. Manafort*, No. 1:18-cr-83-TSE (E.D. Va. 2019); *United States v. McDonnell*, No. 3:14-cr-00012-JRS (E.D. Va. 2015).

Gorcenski, 3:17-cv-00089 (Dec. 28, 2017), ECF No. 1 (“Venue is proper in the Western District of Virginia pursuant to 28 U.S.C. 1391(b) because Plaintiff’s claims arose in Charlottesville, Virginia.”); Complaint ¶ 19, *Kessler v. City of Charlottesville*, No. 3:19-cv-00044 (Moon, J.) (Aug. 12, 2019), ECF No. 1 (similar); Amended Complaint ¶ 9, *Kessler v. City of Charlottesville*, No. 3:18-cv-00107 (Moon, J.), ECF No. 2 (similar).²⁶

IV. Plaintiffs Will Continue Their Efforts to Streamline the Trial (Question 4)²⁷

Although this case has been strenuously litigated, as the Court is no doubt aware, counsel for both sides have maintained a productive working relationship. Plaintiffs are committed to working with Defendants and their counsel to streamline the trial by narrowing issues where possible and stipulating to agreed facts. Plaintiffs have contacted Defendants since the June 4 hearing to begin the meet-and-confer process, which we hope will begin in earnest next week.

CONCLUSION

For the foregoing reasons, Plaintiffs respectfully request that the Court hold the trial in this matter in the Charlottesville federal courthouse. Plaintiffs look forward to working with the Court and Defendants to ensure a safe, fair, and efficient trial.

²⁶ See also *Kessler v. City of Charlottesville*, No. 3:17-cv-56-GEC; *Kessler v. City of Charlottesville*, No. 3:18-cv-00015-NKM-JCH15 (Moon, J.).

²⁷ “Steps that have been and can be taken in a pretrial posture, either by way of a meet-and-confer with the opposing parties, or under the auspices of the magistrate judge, to narrow the issues in genuine dispute and to enter into stipulations as to agreed facts.” ECF No. 966.

Dated: June 11, 2021

Respectfully submitted,



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Counsel for Plaintiffs

CERTIFICATE OF SERVICE

I hereby certify that on June 11, 2021, 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

CERTIFICATE OF SERVICE

I further hereby certify that on June 11, 2021, I also served the following non-ECF participants, via electronic mail and U.S. mail, as follows:

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Roberta A. Kaplan (*pro hac vice*)
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Counsel for Plaintiffs

EXHIBIT A

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

ELIZABETH SINES, SETH WISPELWEY,
MARISSA BLAIR, APRIL MUNIZ, MARCUS
MARTIN, NATALIE ROMERO, CHELSEA
ALVARADO, THOMAS BAKER 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, 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

**DECLARATION OF THOMAS BAKER IN SUPPORT OF PLAINTIFFS’ SUBMISSION
REGARDING VENUE FOR TRIAL AND TRIAL LOGISTICS**

I, Thomas Baker, declare as follows:

1. I am a Plaintiff in the lawsuit captioned *Sines v. Kessler*, No. No. 3: 17-cv-00072-NKM.

2. I provide this declaration in support of Plaintiffs' Submission Regarding Venue for Trial and Trial Logistics.

3. The statements made in this declaration are based on my personal knowledge. If called to testify, I could and would testify under oath competently and truthfully to each of the statements in this declaration.

4. I am a resident of Charlottesville, Virginia. I have lived in Charlottesville, Virginia since approximately May 2017.

5. I am employed as a conservation biologist by Nelson Byrd Woltz, a company located in Charlottesville. My employment requires a sophisticated workplace infrastructure, which allows me to work with oversize architectural drawings and geospatial issues. It is critical that I have ready access to my office's computer server system, as well as access to sophisticated printing capabilities and special monitors. In addition, due to the injuries I sustained in Charlottesville in August 2017, I require a stand-up desk that allows me to relieve the physical stress and pain in my hip. It would be impossible for me to replicate this workplace infrastructure on a temporary basis during a trial outside of Charlottesville.

6. Travelling to Lynchburg or Roanoke on a daily basis would itself be nearly impossible. My wife and I only own one vehicle. We reside just outside of Charlottesville, and she would need to use that vehicle to commute to work, to pick up groceries, to run daily errands and for other needs. Moreover, driving for extended periods, which would be required for a trial in Lynchburg or Roanoke, would exacerbate the injuries I sustained in my hip, causing me severe

pain.

7. Travelling to Lynchburg or Roanoke would further interfere with important aspects of my medical care. I have developed a precise exercise routine specifically designed to minimize the pain in my hip. If I do not regularly follow this routine, my hip becomes very painful. The gym I use in Charlottesville has specialized equipment that allows me to conduct this routine. In my experience, other gyms usually lack the equipment I need to conduct my exercise routine. In addition, I have recently begun seeing a massage therapist based in Charlottesville to ease the pain of my injuries.

8. Travelling to Lynchburg or Roanoke also would physically separate me from my wife, who is my primary support system. Being separated from my wife during the trial would be unbelievably difficult for me, as her support will be critical throughout the process. It would also not be possible for my wife to accompany me outside Charlottesville, as her employment likewise requires her to remain in Charlottesville.

9. Travelling to Lynchburg or Roanoke also would raise substantial concerns regarding my wife's safety, as well as my own. If I were to be separated from my wife during the trial, I would be extremely concerned and stressed regarding her safety. In addition, my wife and I have made substantial investments in a security system in our home in Charlottesville following the events in question, and conducting the trial in Charlottesville would allow us to use that system.

10. It is incredibly important to me that the trial occur in Charlottesville. I do not have any historical or family ties to this city, having moved here for work reasons. All of my memories of Charlottesville are now associated with the events in question. My entire identity in Virginia is tied to those events and this place. I still work on the street in which I was seriously

injured. It is pivotal to me on a personal level that this trial be resolved in Charlottesville.

11. It is substantially more convenient for me, particularly given the requirements of my employment workspace and my concerns regarding my own and my wife's safety, for trial in *Sines v. Kessler* to be held in Charlottesville. It would be nearly impossible for me to replicate my workspace infrastructure outside of Charlottesville. Conducting the trial outside of Charlottesville also would separate me from my wife and my primary support system, and would cause me to fear for her safety, as well as my own.

12. I declare under penalty of perjury that the foregoing is true and correct. Executed on June 10, 2021 in Charlottesville, Virginia.


Thomas Baker

EXHIBIT B

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

ELIZABETH SINES, SETH WISPEL WEY,
MARISSA BLAIR, APRIL MUNIZ, MARCUS
MARTIN, NATALIE ROMERO, CHELSEA
ALVARADO, THOMAS BAKER 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, 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

**DECLARATION OF APRIL MUÑIZ IN SUPPORT OF PLAINTIFFS’ SUBMISSION
REGARDING VENUE FOR TRIAL AND TRIAL LOGISTICS**

I, April Muñiz, declare as follows:

1. I am a Plaintiff in the lawsuit captioned *Sines v. Kessler*, No. No. 3: 17-cv-00072-NKM.
2. I provide this declaration in support of Plaintiffs' Submission Regarding Venue for Trial and Trial Logistics.
3. The statements made in this declaration are based on my personal knowledge. If called to testify, I could and would testify under oath competently and truthfully to each of the statements in this declaration.
4. I am a resident of Albemarle County, Virginia, which surrounds the city of Charlottesville. I have lived in and around Charlottesville, Virginia since 1990.
5. I am employed by Veradigm, which is headquartered in Chicago, Illinois. I work remotely and have a rented office space in downtown Charlottesville, a few blocks from the federal courthouse.
6. I have already arranged with my employer to take some time off from work to be available for the trial in *Sines v. Kessler* with the understanding that I will work, as I am able, during trial breaks from my rented office space, given its proximity to the federal courthouse in Charlottesville. If the trial is moved to either Lynchburg, Virginia or Roanoke, Virginia, it will be difficult for me to meet my professional obligations as I will be spending anywhere from two to four hours daily commuting to and from the courthouse for trial.
7. More importantly, I was diagnosed with post-traumatic stress disorder in the wake of the events on August 11-12, 2017 and, having witnessed the car attack on 4th Street, I found it difficult to drive in the weeks following the car attack. I anticipate that the stress of reliving those experiences during the trial will trigger my nervous system again making driving difficult and perhaps unsafe. I have many friends in Charlottesville who live within walking

distance of the federal courthouse who would open their homes to me if I were unable to drive home after court proceedings and I have been counting on this hospitality.

8. Along those same lines, my entire emotional support system is in Charlottesville. I know that the trial itself will be very triggering and I will need to lean on my friends, family, and therapist during this stressful time. Having to commute or relocate by myself to Lynchburg or Roanoke, away from my support system and the people I will need to lean on the most will be an extreme hardship.

9. I also believe that it is important for the trial to happen in Charlottesville given that the events at issue in this case occurred here, in our community. The concept of community is a social construct, and each community is as varied and individual as the members that comprise it. Thirty-one years ago, when I graduated from college, I didn't return home, but instead moved to Charlottesville and chose this community to start my adult life. I did not choose Lynchburg, nor did I choose Roanoke. I feel strongly that that jury pool for this trial be representative of my community, the one that was most affected by the events in question, and that moving it to another part of the Western District would not provide a jury pool reflective of my community's conscience.

10. In short, it is most conducive to my mental health and safety and more convenient for me professionally and personally to participate as a plaintiff in *Sines v. Kessler* if the trial remains in Charlottesville in lieu of relocating to Lynchburg or Roanoke.

11. I declare under penalty of perjury that the foregoing is true and correct. Executed on June 8, 2021 in Charlottesville, Virginia.


April Muñiz

EXHIBIT C

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

ELIZABETH SINES, SETH WISPELWEY,
MARISSA BLAIR, APRIL MUNIZ, MARCUS
MARTIN, NATALIE ROMERO, CHELSEA
ALVARADO, THOMAS BAKER 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
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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

**DECLARATION OF NATALIE ROMERO IN SUPPORT OF PLAINTIFFS’
SUBMISSION REGARDING VENUE FOR TRIAL AND TRIAL LOGISTICS**

I, Natalie Romero, declare as follows:

1. I am a Plaintiff in the lawsuit captioned *Sines v. Kessler*, No. No. 3: 17-cv-00072-NKM.

2. I provide this declaration in support of Plaintiffs' Submission Regarding Venue for Trial and Trial Logistics.

3. The statements made in this declaration are based on my personal knowledge. If called to testify, I could and would testify under oath competently and truthfully to each of the statements in this declaration.

4. I am a resident of Charlottesville, Virginia. I have lived in Charlottesville, Virginia for the last five years while I was attending the University of Virginia. I graduated last fall with a Bachelor of Arts degree in Global Development Studies and Sociology.

5. I am employed by Virginia Organizing, which is located on Concord Avenue in Charlottesville, Virginia. I work full time at Virginia Organizing's office. My office is a five minute drive from my home.

6. I was recently awarded the inaugural Freeman Artist Residency. As part of that residency, I was awarded a studio in the Carlton area of Charlottesville, Virginia. On average, I visit my studio five days a week. My studio is my safe space where I create art, read, think, and heal. I feel safe and supported in my studio. My art is a form of therapy and a cathartic exercise that has allowed me to cope with the physical, mental, and emotional trauma that I suffered as a result of the events of August 11-12, 2017. My studio is an eight minute drive from my home.

7. During the global COVID-19 pandemic, my family, including my mother, brother, aunt, cousin, and two goddaughters moved to Charlottesville, Virginia and began living

with me and my wife. I assumed a number of additional personal responsibilities thereafter. For example, I drive my brother to work every day because he does not have a driver's license. I also have childcare responsibilities for my two young goddaughters.

8. Moving the trial to either Lynchburg, Virginia or Roanoke, Virginia, would present an enormous hardship for me emotionally, physically, professionally, and personally.

9. Among other severe physical injuries, I suffered a fractured skull and concussion when Defendant James Fields' car struck me on August 12, 2017. In the wake of the car attack, I was diagnosed with PTSD, acute anxiety, and stress. I suffer from extreme anxiety when traveling in cars as a result of the car attack. I limit my driving to a 2-3 mile radius within Charlottesville and have not been alone in a car for a drive longer than that since August 12, 2017. The idea of driving by myself from Charlottesville to Lynchburg or Roanoke to participate in trial is terrifying, and I do not have a family member or friend who can take off from work in order to drive me to and from either Lynchburg or Roanoke each day. As a result, I would have to seek lodging in either location for the duration of the trial. That would be an enormous monetary burden for me as a recent college graduation on a very tight budget who provides financial support for younger family members.

10. In addition, it is my understanding that the COVID-19 vaccination rate is far lower in Lynchburg and Roanoke than it is in Charlottesville. I care for younger family members who cannot be vaccinated and being in an area with a higher COVID-19 infection rate and a lower vaccination rate concerns me greatly.

11. In addition, being in Lynchburg or Roanoke for trial would take me away from my entire emotional support system. I anticipate that preparing for and testifying at trial will exacerbate my PTSD and trigger me emotionally. My closest family members live in

Charlottesville, Virginia. My friends who helped me recover from my physical injuries and provided me with ongoing emotional support are all in Charlottesville, Virginia. I have an emotional support dog certified by my physician that I would have to leave in Charlottesville if trial were held in Lynchburg or Roanoke.

12. If trial were held in Lynchburg or Roanoke that would deprive me of the ability to visit my art studio, which is my creative outlet to deal with my trauma, anxiety, and stress.


13. It will also be impossible for me to meet my professional and personal obligations if trial is held in Lynchburg or Roanoke.

14. In addition, my family only has a single vehicle. If I take that vehicle to Lynchburg or Roanoke for trial my family will be without transportation for that time period.

15. I have never been to Lynchburg and I have no connections whatsoever to either Lynchburg or Roanoke.

16. It is incredibly important to me that the trial occurs in Charlottesville. I am a community organizer and I firmly believe that the Charlottesville community deserves the chance to heal.

17. I declare under penalty of perjury that the foregoing is true and correct. Executed on June 11, 2021, in Charlottesville, Virginia.

A handwritten signature in black ink, appearing to read 'Natalie Romero', is written over a horizontal line.

Natalie Romero

EXHIBIT D

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

ELIZABETH SINES, SETH WISPELWEY,
MARISSA BLAIR, APRIL MUNIZ, MARCUS
MARTIN, NATALIE ROMERO, CHELSEA
ALVARADO, THOMAS BAKER 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
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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

**DECLARATION OF MARCUS MARTIN IN SUPPORT OF PLAINTIFFS’
SUBMISSION REGARDING VENUE FOR TRIAL AND TRIAL LOGISTICS**

I, Marcus Martin, declare as follows:

1. I am a Plaintiff in the lawsuit captioned *Sines v. Kessler*, No. No. 3: 17-cv-00072-NKM.
2. I provide this declaration in support of Plaintiffs' Submission Regarding Venue for Trial and Trial Logistics.
3. The statements made in this declaration are based on my personal knowledge. If called to testify, I could and would testify under oath competently and truthfully to each of the statements in this declaration.
4. I am a resident of Shipman, Virginia. I have lived in Shipman, Virginia for my entire life. Where I live in Shipman is approximately 30 minutes away from Charlottesville, Virginia.
5. I am employed by RSG Landscaping. I oversee landscaping projects located in Charlottesville, and I work and stay overnight in Charlottesville from Monday through Friday every week. I expect this will continue until at least the end of the year.
6. I assist in providing elder care for my mother, who also resides in Shipman. My mother cannot drive, and I regularly drive her to medical appointments when other family members are unable to do so.
7. Driving to Lynchburg or Roanoke on a daily basis would be extremely difficult for me. Driving for that length of time is painful for my leg, which was severely injured during the events in question. In fact, I previously attempted to drive to work in Lynchburg for a period of approximately two weeks, but the drive proved so difficult due to the pain in my leg and personal exhaustion that my employer arranged for me to work in Charlottesville and provides me with lodging in a Charlottesville hotel during the week. I do not have any family or friends

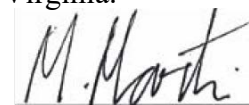
with whom I could stay in either Lynchburg or Roanoke.

8. Traveling to Lynchburg or Roanoke also would take me away from my support system, which includes my family and friends. I rely heavily on my support system to calm me down in times of stress. I do not have any kind of support system in either Lynchburg or Roanoke, and my entire support system is located in or around Charlottesville.

9. It is extremely important to me that the trial occur in Charlottesville so that the community can be involved in resolving this case. The events in question occurred in Charlottesville. The Defendants' conduct has left Charlottesville's community with scars and memories that will simply never go away. I cannot drive past the street where I was hit by Defendant Fields' vehicle without remembering exactly what happened. To move the trial to another location would take the trial away from the people of Charlottesville who need a sense of justice. Only by allowing a jury to resolve this case in Charlottesville can the community truly begin to heal.

10. It is substantially more convenient for me, given my employment in Charlottesville, my responsibility to care for my mother, and my difficulty driving for prolonged periods for trial in *Sines v. Kessler* to be held in Charlottesville instead of Lynchburg or Roanoke. Driving to Lynchburg or Roanoke for the trial would take me away from my work responsibilities in Charlottesville, prevent me from assisting in my mother's care, require me to secure lodging for myself, result in severe physical hardship, and deprive me of my support system.

11. I declare under penalty of perjury that the foregoing is true and correct. Executed on June 10, 2021 in Charlottesville, Virginia.

A handwritten signature in black ink, appearing to read "M. Martin", is written over a horizontal line.

Marcus Martin

EXHIBIT E

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

ELIZABETH SINES, SETH WISPELWEY,
MARISSA BLAIR, APRIL MUNIZ, MARCUS
MARTIN, NATALIE ROMERO, CHELSEA
ALVARADO, THOMAS BAKER 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, 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

**DECLARATION OF DEVIN WILLIS IN SUPPORT OF PLAINTIFFS’ SUBMISSION
REGARDING VENUE FOR TRIAL AND TRIAL LOGISTICS**

I, Devin Willis, declare as follows:

1. I am a Plaintiff in the lawsuit captioned *Sines v. Kessler*, No. No. 3: 17-cv-00072-NKM.
2. I provide this declaration in support of Plaintiffs' Submission Regarding Venue for Trial and Trial Logistics.
3. The statements made in this declaration are based on my personal knowledge. If called to testify, I could and would testify under oath competently and truthfully to each of the statements in this declaration.
4. I chose to file this lawsuit in Charlottesville, Virginia, because that is where the Defendants harmed me.
5. In August 2017, when the events at issue in this case took place, I was an undergraduate student at the University of Virginia ("UVA"). I was entering my sophomore year of college. I received my bachelor's degree from UVA in the spring of 2020, although I refrained from attending my college graduation in-person in part because I was scared to return to Virginia.
6. After receiving my bachelor's degree, I left the United States. I continue to live abroad.
7. I am planning to return to the United States to attend the trial in-person. I anticipate that returning to Virginia for the trial will be difficult for me.
8. It is important to me to conduct this trial in the place where I was injured, to hear a jury of my peers render a verdict regarding the Defendants' conduct, who planned this event in my new home. After the events in this case occurred, I felt like a stranger in Charlottesville, the town that was my new home. I filed this case because I hoped that doing so would help me

regain the sense that I was welcome in the community that I lived in for such an important part of my life. If the trial takes place outside of Charlottesville, I will lose the thing I most hoped to gain by bringing this lawsuit in the first place.

9. Despite my anxiety, I am planning to attend the trial in-person in Charlottesville because I want to participate fully and because I know I can look to my community of friends in Charlottesville to support me emotionally during what is certain to be a difficult time. I will also be relying on them for material support, including housing and transportation during the trial. If the trial takes place outside of Charlottesville, I could incur substantial costs to pay for assistance that is available to me in Charlottesville for free. I have been living paycheck to paycheck since the spring of 2020 and cannot afford to pay for housing or transportation during the trial.

10. I declare under penalty of perjury that the foregoing is true and correct. Executed on June 10, 2021 in Mexico City, Mexico.


Devin Willis

EXHIBIT F

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

ELIZABETH SINES, SETH WISPELWEY,
MARISSA BLAIR, APRIL MUNIZ, MARCUS
MARTIN, NATALIE ROMERO, CHELSEA
ALVARADO, THOMAS BAKER 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, 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

**DECLARATION OF ELIZABETH SINES IN SUPPORT OF PLAINTIFFS’
SUBMISSION REGARDING VENUE FOR TRIAL AND TRIAL LOGISTICS**

I, Elizabeth Sines, declare as follows:

1. I am the named Plaintiff in the lawsuit captioned *Sines v. Kessler*, No. No. 3: 17-cv-00072-NKM.

2. I provide this declaration in support of Plaintiffs' Submission Regarding Venue for Trial and Trial Logistics.

3. The statements made in this declaration are based on my personal knowledge. If called to testify, I could and would testify under oath competently and truthfully to each of the statements in this declaration.

4. I am currently a resident of Baltimore, Maryland. I moved there after spending several years in Charlottesville where I was a law student and active member of the local community.

5. On August 11 and August 12, 2017, while a student at the University of Virginia Law School, I chose to go out to observe what was happening to my community. I was horrified by what I saw and what was happening to the place I called home. I was nearly struck in the car attack on Fourth Street, not far from where I lived and studied.

6. Having a trial in Charlottesville is important to me because it is the place where I saw my community overrun. I strongly believe that a trial involving events that greatly affected that community should occur in Charlottesville. It is the place where I was nearly killed, and it is important to me that the story of what happened in August 2017 be told to representatives of the very community that was traumatized that weekend.

7. I have already arranged with my employer to take some time off from work to be available for the trial in Charlottesville. I have friends in Charlottesville who were planning on serving as my support system during the trial. I have never lived or spent time in in Roanoke or

Lynchburg, Virginia. Reliving those terrifying days from 2017 at trial will be difficult enough — relocating to a place I've never been before to tell my story will only increase my stress, particularly without the benefit of the emotional support I was counting on in Charlottesville.

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

Executed on June 10, 2021 in Baltimore, Maryland.

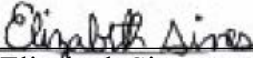

Elizabeth Sines

EXHIBIT G

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

ELIZABETH SINES, SETH WISPELWEY,
MARISSA BLAIR, APRIL MUNIZ, MARCUS
MARTIN, NATALIE ROMERO, CHELSEA
ALVARADO, THOMAS BAKER 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,
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KNIGHTS, 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

**DECLARATION OF AMY SPITALNICK IN SUPPORT OF PLAINTIFFS’
SUBMISSION REGARDING VENUE FOR TRIAL AND TRIAL LOGISTICS**

I, Amy Spitalnick, declare as follows:

1. I am the Executive Director of Integrity First for America (IFA), the not-for-profit organization that is supporting Plaintiffs in *Sines v. Kessler*.

2. I provide this declaration in support of Plaintiffs' Submission Regarding Venue for Trial and Trial Logistics.

3. The statements made in this declaration are based on my personal knowledge. If called to testify, I could and would testify under oath competently and truthfully to each of the statements in this declaration.

4. On behalf of the Plaintiffs, IFA is funding a number of out-of-pocket expenses in the case, including travel and lodging costs related to trial, in addition to evidence collection costs for both Plaintiffs and Defendants alike, security for Plaintiffs and their counsel, and similar related expenses.

5. Beginning this spring, in reliance on the Court's prior orders scheduling trial to start on October 25, 2021 in Charlottesville, we began searching for a hotel that could provide lodging and workspace for Plaintiffs' counsel, expert witnesses, and other parties involved. With the scheduled trial date approaching, and given the large number of rooms required and the demand for Charlottesville hotel rooms during fall weekends, it was critical to book the hotel this spring so that Plaintiffs or their counsel would not have to move hotels mid-trial.

6. The search required finding a hotel that could not only provide food, lodging, and workspace, but that also could accommodate the reasonable security concerns of Plaintiffs, their counsel, and expert witnesses, as determined by our outside security consultants.

7. As a result of those efforts, on May 24, 2021 we signed a contract with a Charlottesville-area hotel that could meet these requirements.

8. The contract stipulates a cancellation penalty of 50 percent of the revenue commitment if the reservation is canceled at least 91 days prior to the mid-October 2021 arrival date, totaling over \$100,000.

9. We would be happy to provide a copy of the full contract to the court under seal and in camera in order to protect the identity of the hotel in question, which is information we would like to keep confidential in order to account for security-related reasons.

10. Integrity First for America is a small 501(c)3 organization and we're continuing to raise funds to cover expenses in this case, as described above. A loss of over \$100,000 would be hugely detrimental to our finances and our ability to fund the above-described costs.

11. I declare under penalty of perjury that the foregoing is true and correct. Executed on June 10, 2021 in New York, NY.

A handwritten signature in black ink, appearing to read 'Amy Spitalnick', is positioned above a horizontal line.

Amy Spitalnick

EXHIBIT H

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

ELIZABETH SINES, SETH WISPELWEY,
MARISSA BLAIR, APRIL MUNIZ,
HANNAH PEARCE, MARCUS MARTIN,
NATALIE ROMERO, CHELSEA
ALVARADO, THOMAS BAKER 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

**DECLARATION OF MICHAEL BLOCH IN SUPPORT OF PLAINTIFFS’
SUBMISSION REGARDING VENUE FOR TRIAL AND TRIAL LOGISTICS**

I, Michael Bloch, on this 11th day of June 2021, pursuant to 28 U.S.C. § 1746, declare as follows:

1. I am Counsel at the law firm Kaplan Hecker & Fink LLP (“Kaplan”), one of the law firms representing the Plaintiffs in this action.

2. I submit this Declaration in support of Plaintiffs’ Submission Regarding Venue For Trial and Trial Logistics.

3. Except to the extent otherwise expressly indicated, I have personal knowledge of the matters set forth in this Declaration.

4. Several third-party witnesses, who reside in and around Charlottesville, Virginia, were eyewitnesses to either the torch lit march held on the University grounds on the evening of August 11 or the violence on August 12, 2017. Among these witnesses are two University of Virginia professors, a University of Virginia administrator, and a University of Virginia photographer, each of whom were eyewitnesses. Their testimony is material and necessary, including to authenticate photographs of the event. Among other things, they will testify about the rally-goers’ march across the Lawn at the University of Virginia, the chants they heard, and the violence they observed, including the instigation of the violence against the counter-protestors gathered at the Thomas Jefferson statue. Another witness will testify about the violence she observed from rally-goers on the morning of August 12, 2017, and she will testify about the racial animus that she observed from some of the defendants that day. For each of those third-party witnesses a trial held in Lynchburg or Roanoke would be less convenient than a trial held in Charlottesville.

5. Attached as Exhibit 1 is a true and correct copy of an excerpt of the Deposition Transcript of Richard Spencer taken on July 1, 2020 by Plaintiffs.

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

Executed on: June 11, 2021
New York, New York.



Michael Bloch

EXHIBIT 1

Page 314

1 R. SPENCER
2 12:00 p.m. declaration of emergency, I mean, I
3 think my adrenaline was very high for the rest
4 of the day. I mean, we had -- I was shocked by
5 the way things had happened, and I was
6 generally appalled by the fact that chaos had
7 broken out. So I was in a, you know, agitated
8 state, to say the least. Very angry at the
9 authorities. I mean, you can see that in that
10 video that I watched.
11 MR. BLOCH: Okay. Emily, can we
12 show Tab 13, please? And I believe this is
13 going to be marked Exhibit 43; is that
14 right?
15 MS. COLE: Yes.
16 (Deposition Exhibit Number 43 marked
17 for identification.)
18 Q. Mr. Spencer, I'm going to play --
19 it's an audio and ask you to listen, and I'll
20 ask you questions about it after.
21 MS. COLE: Can we just go off the
22 record for one second?
23 MR. BLOCH: Sure.
24 THE VIDEOGRAPHER: We're going off
25 the record at 4:32 p.m.

Page 316

1 R. SPENCER
2 A. Okay.
3 (Deposition Exhibit Number 44 marked
4 for identification.)
5 (Audio played.)
6 Q. Mr. Spencer, is what was just played
7 in Exhibit 44 a fair and accurate recording of
8 you speaking at the after party on August 12th,
9 2017?
10 A. Yes.
11 Q. And who were you speaking with when
12 you said those things?
13 A. That wasn't exactly at the after
14 party itself, which was a fairly large event.
15 That was in a small room where there were a few
16 of us had gathered and we were kind of talking
17 about what we were going to do. So it was a
18 small-ish crowd of, you know, Nathan Damigo,
19 Jason Kessler, myself, Greg Conte, Eli Kline,
20 Patrick Casey most likely, and maybe one or two
21 others, so it was kind of like we were up in a
22 room in the after party.
23 Q. Okay. And did you hear yourself say
24 "Little fucking kikes"?
25 A. Yes, I did hear that.

Page 315

1 R. SPENCER
2 (A short break was taken.)
3 THE VIDEOGRAPHER: We're back on the
4 record at 4:35 p.m.
5 Q. Okay. Mr. Spencer, I'm playing for
6 you Exhibit 43.
7 (Video played.)
8 Q. I'm sorry. Mr. Spencer -- why don't
9 we go off the record. I want to go off the
10 record for one more second. I think we have
11 the wrong exhibit. I'm sorry for the
12 confusion.
13 A. Okay.
14 THE VIDEOGRAPHER: Okay. We're
15 going off the record at 4:36 p.m.
16 (A short break was taken.)
17 THE VIDEOGRAPHER: We are back on
18 the record at 4:44 p.m.
19 Q. All right. Mr. Spencer, I'm going
20 to -- we're going to mark a new exhibit,
21 Exhibit 43. And so I'm now going to play for
22 you exhibit -- I'm sorry. We are going to mark
23 a new exhibit, Exhibit 44. And I'm now going
24 to play for you Exhibit 44. So please take a
25 listen.

Page 317

1 R. SPENCER
2 Q. And who were you referring to when
3 you said little fucking kikes?
4 A. Well, I mean, obviously Jewish
5 people. But it was, you know -- you know,
6 obviously that whole rant was expression of
7 extreme anger. I'm not sure exactly if I was
8 talking about one person in particular.
9 Q. And which Jewish -- well, let me
10 come back to that.
11 You also heard yourself say "Little
12 fucking octoroons"?
13 A. I heard octoroons in there, yes.
14 Q. And who is it that you were
15 referring to when you said octoroons?
16 A. Well, again, I don't think that was
17 directed at any one person. You know, it's
18 almost an expression of an African-American
19 person who works in, you know, local government
20 or something like that or who's popular in the
21 media who is of a mixed ancestry.
22 Q. But, generally speaking, would it be
23 fair to say that when you're referring to kikes
24 and octoroons, you were referring to the people
25 of Charlottesville generally?

EXHIBIT I

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

ELIZABETH SINES, SETH WISPELWEY,
MARISSA BLAIR, APRIL MUNIZ, MARCUS
MARTIN, NATALIE ROMERO, CHELSEA
ALVARADO, THOMAS BAKER 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, 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

**DECLARATION OF JESSE W. STEVENSON IN SUPPORT OF PLAINTIFFS'
SUBMISSION REGARDING VENUE FOR TRIAL AND TRIAL LOGISTICS**

I, Jesse W. Stevenson, declare as follows:

1. I am Founding Partner at Impact Trial Consulting ("Impact").
2. I provide this declaration in support of Plaintiffs' Submission Regarding Venue for Trial and Trial Logistics.
3. The statements made in this declaration are based on my personal knowledge. If called to testify, I could and would testify under oath competently and truthfully to each of the statements in this declaration.
4. For over a decade, Impact has been a leading consulting firm focusing on visual communications and technology solutions for the courtroom.
5. As an expert in the field of litigation technology, I have worked on cases arising from the California energy crisis, the 1993 World Trade Center bombings, the Enron scandal, the September 11th World Trade Center attacks, the Deepwater Horizon oil spill, the Lehman Brothers Bankruptcy and other high-profile matters. Impact has also hosted a number of high-profile trials on behalf of the United States Department of Justice, including *United States v. Raniere*, 18-CR-204-1 (NGG) (VMS) (E.D.N.Y. Apr. 29, 2019) (the NXIVM cult leader), and most recently *United States v. Zhukov*, 18-CR-633(EK) (E.D.N.Y. Oct. 27, 2020) (Russian hacker).
6. Since the start of the Covid-19 pandemic, Impact has hosted and provided litigation technology services for several trials, including the first hybrid (in-person/remote) civil jury trial in the Southern District of New York before Judge Lorna G. Schofield. *Syntel Sterling Best Shores Mauritius Ltd. V. Trizetto Grp.*, 15 Civ. 211 (LGS) (S.D.N.Y. Sep. 30, 2020). The trial had witnesses testifying remotely from as far away as India, counsel from Italy and France,

and over 60 remote participants as well as in-person participants in a socially distanced courtroom.

7. Impact's operations have been recognized on the record by Judge Robert L. Hinkle in the Northern District of Florida. Judge Gary R. Brown in the Eastern District of New York has recommended Impact to work on matters and publicly lauded Impact for its work in a voting rights bench trial, *Flores v. Town of Islip*, No. 18-CV-3549 (GRB)(ST) (E.D.N.Y. Oct. 14, 2020).

8. In the present matter, Impact has worked with plaintiffs on the provision of visual aids and other demonstratives.

9. As a licensed government contractor, Impact has been granted the authority to operate *Zoom for Government* (ZoomGov), the most secure Zoom platform available and authorized by the United States Department of Homeland Security.

10. In an effort to alleviate concerns about space in the courtroom, Impact could broadcast the trial in a number of different ways, depending on the Court's and parties' preferences, at no cost to anyone.

11. If Impact is able to utilize the court's internet, Impact could broadcast the trial to any location outside of the courthouse via ZoomGov and control who gets access to the broadcast through the use of passwords, etc. For example, Impact could broadcast the trial to YouTube or IBM Watson for public viewing, or broadcast to a password protected YouTube channel to limit access to proceedings. Impact could also provide access to a limited group of people who "register," so only the chosen group can watch the trial from wherever they choose. The Court could limit viewing based on any set of criteria, such as parties, counsel, or individuals with media credentials.

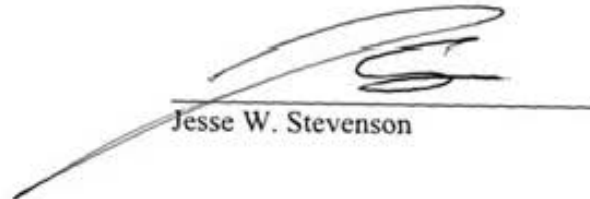
12. Impact is also able to broadcast exclusively to particular locations outside the courthouse or could set up a close-circuit broadcast to another room inside the courthouse.

13. As host, Impact would manage a pre-registration process for all participants, test and train each participant before commencement of the trial, offer monitoring and support for all participants, and create and manage breakout rooms.

14. Impact is committed to providing a safe and secure way to access all parts of the trial according to the preferences of the Court, at no cost.

15. Impact is also willing to refer the Court and parties to other leading vendors in the industry who provide similar services.

16. I declare under penalty of perjury that the foregoing is true and correct. Executed on June 10, 2021.



Jesse W. Stevenson

EXHIBIT J

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

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

Plaintiffs,

v.

JASON KESSLER, RICHARD SPENCER,
CHRISTOPHER CANTWELL, JAMES
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AMERICA, ANDREW ANGLIN,
MOONBASE HOLDINGS, LLC, ROBERT
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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
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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

**DECLARATION OF HERMAN WEISBERG IN SUPPORT OF PLAINTIFFS’
SUBMISSION REGARDING VENUE FOR TRIAL AND TRIAL LOGISTICS**

I, Herman Weisberg, declare as follows:

1. I am the Managing Director of SAGE Intelligence Group (“SAGE”), an investigation, digital forensics, and security firm. The lawyers for the Plaintiffs in *Sines v. Kessler*, No. No. 3: 17-cv-00072-NKM retained me to provide security services.

2. I provide this declaration in support of Plaintiffs’ Submission Regarding Venue for Trial and Trial Logistics.

3. The statements made in this declaration are based on my personal knowledge. If called to testify, I could and would testify under oath competently and truthfully to each of the statements in this declaration.

4. I have been the Managing Director of SAGE since 2010. Prior to joining SAGE, I was a New York City Police Department (“NYPD”) Officer for twenty years. While with the NYPD, I worked in the Intelligence Division, where I underwent Dignitary Protection training and led advance work for dignitaries, including President George Bush and Vice President Al Gore, in New York City. I was ultimately promoted to Detective Second Grade and assigned to the New York District Attorney’s Detective Squad where I regularly coordinated with law enforcement agencies around and outside of the country.

5. SAGE has also done extensive advance work since 2019 in Charlottesville to ensure the safety of Plaintiffs and their counsel at trial.

6. SAGE has communicated and coordinated with local law enforcement, including leadership in the Charlottesville Police Department and the U.S. Marshall Service, to create an operational plan for the trial.

7. Based on my discussions in with the Charlottesville Police Department, it is my assessment that they are taking all necessary steps to ensure proper security during the trial and that they are also coordinating with the Virginia State Police in order to do so.

8. SAGE employees have also visited the courthouse in Charlottesville to identify any potential security vulnerabilities, determine the safest points of ingress and egress, and to meet with courthouse security personnel to develop a plan for any potential future security emergencies.

9. In addition to investigating and preparing for any potential security concerns at the courthouse in Charlottesville, SAGE has also visited numerous hotels to identify the safest lodging for Plaintiffs' counsel and expert witnesses.

10. During the trial, SAGE plans to provide comprehensive physical security to Plaintiffs and their lawyers. To that end, SAGE has made arrangements to establish a command center for the in-person security detail at a safe location convenient to the courthouse and the hotel where Plaintiffs' counsel will be staying.

11. The in-person security detail will also provide transportation for Plaintiffs' counsel in Charlottesville. SAGE employees have mapped out the safest route of travel between the courthouse and the locations where Plaintiffs and their lawyers will be staying during the trial.

12. In an abundance of caution, after consultation with local law enforcement and investigation in Charlottesville, SAGE has also developed an approved list of vendors for meals and deliveries in Charlottesville.

13. In short, SAGE has worked for more than a year to ensure that Plaintiffs and their counsel will be safe during the trial in Charlottesville. SAGE's advance work has taken considerable time. It would be challenging for SAGE to replicate its efforts in a new location with only a few months remaining before Plaintiffs' counsel will need to travel to Virginia for trial.

14. If the Court would like further information or details about our efforts, I would be happy to produce them as part of a sealed, in-camera submission. But for obvious reasons, it would be counterproductive for me to make that information publicly available.

15. I declare under penalty of perjury that the foregoing is true and correct. Executed on June 11, 2021.


Herman Weisberg

EXHIBIT K

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

ELIZABETH SINES, SETH WISPELWEY,
MARISSA BLAIR, APRIL MUNIZ, MARCUS
MARTIN, NATALIE ROMERO, CHELSEA
ALVARADO, THOMAS BAKER 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,
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INVISIBLE EMPIRE,

Defendants.

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

**DECLARATION OF OREN SEGAL IN SUPPORT OF PLAINTIFFS' SUBMISSION
REGARDING VENUE FOR TRIAL AND TRIAL LOGISTICS**

I, Oren Segal, declare as follows:

1. I am the Vice President of the Anti-Defamation League's Center on Extremism ("the COE"), which is recognized as a leading authority on extremism, terrorism, and all forms of hate in the United States.

2. In that capacity, I study extremist activity and trends to help law enforcement, policy makers, the general public and others understand the ideologies, tactics and threats posed by extremist individuals, groups and movements.

3. I provide this declaration in support of Plaintiffs' Submission Regarding Venue for Trial and Trial Logistics.

4. The statements made in this declaration are based on my personal knowledge. If called to testify, I could and would testify under oath competently and truthfully to each of the statements in this declaration.

5. For over twenty years, I have developed a particular expertise in the activities of extremists – both online and on the ground – and have trained law enforcement personnel, testified before Congress, worked with the tech industry, and offered my expertise at various conferences including a White House Summit on Countering Violent Extremism.

6. Given my background, in June 2021, attorneys from Kaplan Hecker & Fink LLP approached me for my opinion on whether holding in trial in Charlottesville could be more dangerous to the public than holding it in another part of the state of Virginia.

7. If past extremist events are any indication, the specific location of the trial will likely not have an appreciable impact on extremists who may decide to protest the trial, demonstrate support for the defendants or otherwise show up.

8. Past events that have attracted large numbers of extremists have drawn attendees

from many different states.

9. This is due to the fact that as a result of social media, news of a change of venue will become known almost immediately and various extremists who are sympathetic to Defendants likely will start communications with each other about the trial and its new location.

10. For example, in January 2020, a gun rights "Lobby Day" was held on the steps of the state capitol in Richmond, Virginia, attracted people from at least 17 states. Among the extremists who attended were Oath Keepers, Three Percenters, Proud Boys, and others. Some people held signs and flags that referenced QAnon, and the anti-government Boogaloo Bois appeared in notable numbers. Even smaller gatherings and protests can draw people from multiple states. For example, in May 2021, the antisemitic Goyim Defense League held events in Florida, which attracted approximately 20 participants from at least five states.

11. While it remains unclear who may decide to show up to this trial, I do not believe the venue will have a significant impact on whether or not extremists and others decide to show up.

12. I declare under penalty of perjury that the foregoing is true and correct. Executed on June 11, 2021.


Oren Segal

EXHIBIT L

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

ELIZABETH SINES, SETH WISPELWEY,
MARISSA BLAIR, APRIL MUNIZ, MARCUS
MARTIN, NATALIE ROMERO, CHELSEA
ALVARADO, THOMAS BAKER 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
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INVISIBLE EMPIRE,

Defendants.

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

**DECLARATION OF MARISSA BLAIR IN SUPPORT OF PLAINTIFFS’ SUBMISSION
REGARDING VENUE FOR TRIAL AND TRIAL LOGISTICS**

I, Marissa Blair, declare as follows:

1. I am a Plaintiff in the lawsuit captioned *Sines v. Kessler*, No. No. 3: 17-cv-00072-NKM.
2. I provide this declaration in support of Plaintiffs' Submission Regarding Venue for Trial and Trial Logistics.
3. The statements made in this declaration are based on my personal knowledge. If called to testify, I could and would testify under oath competently and truthfully to each of the statements in this declaration.
4. I am a resident of Charlottesville, Virginia. I have lived in Charlottesville, Virginia since March 2019.
5. I am employed as a contract negotiator in the legal department of S&P Global, which maintains an office in Charlottesville. While I am currently working remotely due to the COVID-19 pandemic, I anticipate returning to S&P Global's office in Charlottesville now that restrictions are being lifted. It would be extremely difficult for me to work for prolonged periods without the resources available at my home or office, including multiple monitors.
6. In addition, I assist in providing elder care to my grandmother, who has a number of serious health conditions and resides in Nelson County. I drive my grandmother to and from medical appointments when my mother is unable to do so. Travelling to Lynchburg or Roanoke would prevent me from providing critical care for my grandmother if needed.
7. Travel to Lynchburg or Roanoke also would be difficult for me based on the substantial commuting costs I would incur. It would also be extremely burdensome for me to pay for lodging in Lynchburg or Roanoke, and I do not have any family or friends in either city with whom I could stay.

8. It also would be very difficult for me emotionally if the trial occurred in Lynchburg or Roanoke. In Charlottesville, I have connections and people that are willing to support me. People within the Charlottesville community have supported me in the past, and it makes it much easier knowing that members of the community will be there again with that support. I have a greater sense of security in Charlottesville, and it would be comforting to be able to return to my home every night. The trial process will be incredibly stressful as it is, and being in an unfamiliar location would only heighten that level of stress.

9. It is also important to me that the trial occur in Charlottesville because the events in question happened here, and it is important to have this case adjudicated in the Charlottesville community. Those events impacted and permanently changed the Charlottesville community. The Charlottesville community should be allowed to evaluate the impact of those events and determine who is responsible for the events of August 2017.

10. It is substantially more convenient for me, given my employment and personal responsibilities and the significant monetary costs I would incur in commuting and lodging, for trial in *Sines v. Kessler* to be held in Charlottesville. Removing the trial from Charlottesville would also cause me additional emotional stress through the loss of my community support network and would cause me to feel less safe.

11. I declare under penalty of perjury that the foregoing is true and correct. Executed on June 10, 2021 in Charlottesville, Virginia.



Marissa Blair

EXHIBIT M

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

ELIZABETH SINES, SETH WISELWEY,
MARISSA BLAIR, APRIL MUNIZ, MARCUS
MARTIN, NATALIE ROMERO, CHELSEA
ALVARADO, THOMAS BAKER 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
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Defendants.

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

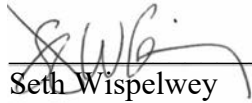
**DECLARATION OF SETH WISELWEY IN SUPPORT OF PLAINTIFFS’
SUBMISSION REGARDING VENUE FOR TRIAL AND TRIAL LOGISTICS**

I, Seth Wispelwey, declare as follows:

1. I am a Plaintiff in the lawsuit captioned *Sines v. Kessler*, No. No. 3: 17-cv-00072-NKM.
2. I provide this declaration in support of Plaintiffs' Submission Regarding Venue for Trial and Trial Logistics.
3. The statements made in this declaration are based on my personal knowledge. If called to testify, I could and would testify under oath competently and truthfully to each of the statements in this declaration.
4. I am currently a resident of Tucson, Arizona, where I am a pastor with the United Church of Christ. I have arranged with my employer to take time off work in order to be present in Charlottesville, Virginia for the trial beginning in October 2021.
5. I plan to stay with family and friends who live in Charlottesville for the duration of the trial.
6. I lived in Charlottesville, Virginia for 24 years where I served as a grassroots community organizer and a pastor prior to moving to Tucson in 2019. In a very meaningful sense, I still consider Charlottesville to be my home. Charlottesville is not only where my family and friends still live, but it is where my community and emotional support system remains.
7. If the trial were moved to Lynchburg, Virginia, or Roanoke, Virginia, I would not have the benefit of the support from my loved ones as I relive the traumatic events at issue in the case. Instead, the stress and re-traumatization brought on by the trial would only be compounded by a two to four-hour commute by car each day.
8. More importantly, the community of Charlottesville was forever changed by the events of August 2017; holding the *Sines v. Kessler* trial in the community that still reels from

those traumatic events is critically necessary for healing and recovery. Regardless of the outcome of the trial itself, true justice cannot occur for the Charlottesville community if it does not have the opportunity to witness and participate in the process.

9. I declare under penalty of perjury that the foregoing is true and correct. Executed on June 10, 2021 in Tucson, Arizona.


Seth Wispelwey