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Velva L. Price
District Clerk
Travis County
D-1-GN-18-001835
Sandra Henriquez

CAUSE NO. D-1-GN-18-001835

NEIL HESLIN
Plaintiff

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IN DISTRICT COURT OF

VS.

TRAVIS COUNTY, TEXAS

ALEX E. JONES, INFOWARS, LLC,
FREE SPEECH SYSTEMS, LLC, and
OWEN SHROYER,
Defendants

53rd DISTRICT COURT

**PLAINTIFF'S RESPONSE TO DEFENDANTS' MOTION TO DISMISS
UNDER THE TEXAS CITIZENS PARTICIPATION ACT**

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50 Tex. Jur. 3d Libel and Slander § 76; 133 32, 45

INTRODUCTION

It was only a couple of hours after Neil Heslin dropped off his son at Sandy Hook Elementary when he got an automated call telling him the school was on lockdown. A short time later, another call instructed parents to return to the school. Mr. Heslin was not overly alarmed. There was no indication a mass shooting had occurred, and nobody would ever have imagined in December 2012 that someone would brutally attack a group of first-graders.

When he arrived to pick up his son, the scene was crowded with confused parents and conflicting information, but Mr. Heslin eventually learned that his son lay inside one of the twenty small body-bags in a makeshift mortuary erected in the parking lot of the school. In the course of learning about the dreadful events of that morning, Mr. Heslin was told of his son's last actions. While the story relayed by law enforcement was surreal and heart-wrenching, for Mr. Heslin it was not surprising, knowing his son as he did. As disturbed gunman Adam Lanza entered the classroom and murdered his teacher, Mr. Heslin's son leapt from under his desk and sprinted at Lanza, yelling at his classmates to run. During the commotion caused by this courageous six-year-old, nine children escaped from the classroom unharmed.

In all the painful memories of those events, Mr. Heslin found refuge in the last moments he spent with his son. Mr. Heslin was able to hold his son's body in his arms, run his fingers through his shaggy mop of hair, and give him a final kiss on the cheek before laying his little hero to rest.

InfoWars, in its malicious campaign of incomprehensible lies about Sandy Hook, sullied and tarnished that pure memory, cast Mr. Heslin as a liar, and ultimately placed him

and his family in danger. As far back as 2013, Mr. Heslin had been distressed over InfoWars and its maniacal fabrications about Sandy Hook, but he was determined not to dignify the allegations by acknowledging their existence.¹ Five years ago, InfoWars was still a fringe operation with little recognition outside conspiracy circles. But over the years, as InfoWars continued its sensationalist lies, its audience and influence steadily grew.

As Jones' inflammatory statements reached a wider audience, it was accompanied by a growing tide of public indignation. In June 2017, Megyn Kelly produced a feature story on the fallout from InfoWars' various accusations. Ms. Kelly convinced Mr. Heslin to appear for an interview to discuss the pain caused by InfoWars' lies about Sandy Hook.² Mr. Heslin briefly appeared in Ms. Kelly's segment, and he stated that "I lost my son. I buried my son. I held my son with a bullet hole through his head."³

One week later, InfoWars retaliated with a cruel and false accusation against Mr. Heslin, delivered by InfoWars host Owen Shroyer. The premise of Mr. Shroyer's video was that Mr. Heslin was lying about having held his son's body and having seen his injury. Mr. Shroyer began the video by citing a blog post he found on an anonymous website called "Zero Hedge." Mr. Shroyer used the article as a launching point to make defamatory accusations against Mr. Heslin. He accomplished his defamation by using deceptively edited footage which he misrepresented as evidence of Mr. Heslin's guilt.

During the video, Mr. Shroyer showed a portion of an interview with medical examiner Dr. Wayne Carver as he described the identification of the victims. Mr. Shroyer misrepresented this portion of Dr. Carver's interview, along with a deceptively edited clip of

¹ Exhibit C, Affidavit of Neil Heslin.

² *Id.*, para. 10.

³ Exhibit B, Affidavit of Brooke Binkowski, para. 25.

Sandy Hook parent Lynn McDonnel, to falsely claim that the victims' parents were not allowed access to their children's bodies before burial. With an air of arrogant mockery, Mr. Shroyer claimed that Mr. Heslin's statements were "not possible." When Plaintiff learned about the video, he brought this lawsuit.

Given this background, Plaintiff was dismayed when he learned InfoWars had pled the defense of "substantial truth," and he was shocked when he read the following sentence written by InfoWars counsel:

Plaintiff cannot avoid the clear fact that there was in fact a contradiction arising from the medical examiners statements when he claimed the bodies were not released to the parents.⁴

This statement is an outrageous falsehood. There is no contradiction, and the medical examiner did *not* claim the bodies were not released to the parents, a fact which is obvious from his repeated statements *in the same interview* when he confirms multiple times that *the bodies were released to the parents*. In one example, shortly following the portion edited by Mr. Shroyer, a reporter asked Dr. Carver if "all the children's bodies have been returned to the parents or mortuaries," and Dr. Carver confirmed that "as of 1:30, the paperwork has been done."⁵ In the portion purposefully used out-of-context by InfoWars, Dr. Carver was only discussing the initial identification process.

Nonetheless, despite Dr. Carver's clear statements, and despite copious media coverage of open-casket funerals, InfoWars has fabricated an absurd claim in its Sandy Hook hoax mythology in which the parents were prohibited by authorities from seeing their children's bodies before burial. Mr. Jones has told his viewers that "the coroner said none of

⁴ See Defendants' Motion to Dismiss, p. 78.

⁵ Exhibit B, Affidavit of Brooke Binkowski, para. 59.

the parents were allowed to touch the kids” and that “the stuff I found was they never let them see their bodies.”⁶ Now, InfoWars’ counsel has advanced this disgraceful falsehood in an official pleading. It is reckless and dangerous to claim that Dr. Carver said, “the bodies were not released to the parents.”⁷ He said *no such thing*, and distorting his words only feeds the fanaticism of Jones’ followers. That was exactly Mr. Shroyer’s purpose in the defamatory video, but it is unsettling to see this strategy spill over into litigation.

In this Response, the Court will see how InfoWars dishonestly manipulated and misrepresented video footage in a “calculated and unconscionably cruel hit-job intended to smear and injure a parent who had the courage to speak up about InfoWars’ falsehoods.”⁸ These facts establish a clear *prima facie* case for defamation, and none of InfoWars’ frivolous defenses apply. For these reasons, Plaintiff asks the Court to deny InfoWars’ motion and award costs in his favor.

FACTUAL BACKGROUND

In his affidavit, former editor of the *Austin American-Statesman* and University of Texas professor Fred Zipp described the origin of the June 26, 2017 InfoWars video:

After Mr. Heslin condemned InfoWars’ false statements about Sandy Hook during an interview with Megyn Kelly on NBC TV, InfoWars produced a video in which it claimed that Mr. Heslin’s statements about his last moments with his child were a lie. InfoWars host Owen Shroyer began the video by citing an article from an anonymous blog called “Zero Hedge.” The video shows that the anonymous blog post had been “shared” only three times before it was featured on InfoWars’ video. InfoWars took this obscure blog post that almost nobody in the world had seen and used it to smear Mr. Heslin.⁹

⁶ See Defendants’ Exhibit B-35.

⁷ See InfoWars Motion to Dismiss, p. 78

⁸ Exhibit A, Affidavit of Fred Zipp, p. 4.

⁹ *Id.*, p. 3.

In his interview, Mr. Heslin told Ms. Kelly that he buried his son, held his body, and saw his fatal injury. With regards to Mr. Heslin's interview, Mr. Shroyer stated the following in the June 26, 2017 video:

The statement he made, fact checkers on this have said cannot be accurate. He's claiming that he held his son and saw the bullet hole in his head. That is his claim. Now, according to a timeline of events and a coroner's testimony, that is not possible.

And so one must look at Megyn Kelly and say, Megyn, I think it's time for you to explain this contradiction in the narrative because this is only going to fuel the conspiracy theory that you're trying to put out, in fact.

So -- and here's the thing too, you would remember -- let me see how long these clips are. You would remember if you held your dead kid in your hands with a bullet hole. That's not something that you would just misspeak on. So let's roll the clip first, Neil Heslin telling Megyn Kelly of his experience with his kid.¹⁰

Mr. Shroyer then played a clip from the Mr. Heslin's interview in which he stated, "I lost my son. I buried my son. I held my son with a bullet hole through his head."¹¹ After playing the clip, Mr. Shroyer stated:

So making a pretty extreme claim that would be a very thing, vivid in your memory, holding his dead child. Now, here is an account from the coroner that does not corroborate with that narrative.¹²

Mr. Shroyer then played a short clip from a news conference with Dr. Wayne Carver, the medical examiner at Sandy Hook. In the clip, Dr. Carver stated that "we did not bring the bodies and the families into contact. We took pictures of them." Dr. Carver stated in the clip that "we felt it would be best to do it this way." Mr. Shroyer also showed a dishonestly edited

¹⁰ Exhibit A-1, 2017-06-26 - Zero Hedge Discovers Anomaly In Alex Jones Hit Piece (Full Segment)

¹¹ Exhibit A, Affidavit of Fred Zipp, p. 3.

¹² *Id.*

clip of an interview with Chris and Lynn McConnel in which Anderson Cooper states, “It’s got to be hard not to have been able to actually see her.” As will be shown below, these video clips were edited and intentionally presented in a deceptive fashion.

At the end of the video, Mr. Shroyer stated, “Will there be a clarification from Heslin or Megyn Kelly? I wouldn’t hold your breath. [Laugh]. So now they’re fueling the conspiracy theory claims. Unbelievable.”¹³ On July 20, 2017, during an episode of The Alex Jones Show, Mr. Jones republished Mr. Shroyer’s story in full (“And so I’m going to air this again, and I’m going to challenge that it doesn’t violate, uh, the rules.”).¹⁴ Free Speech Systems, LLC employs Mr. Shroyer as a reporter.¹⁵ InfoWars, LLC operates the InfoWars.com website, where the challenged statements were also published.¹⁶ InfoWars, LLC is also involved in the sale of dietary supplements sold during InfoWars programming and through the InfoWars.com website.¹⁷

LEGAL STANDARD

To survive a motion to dismiss under the TCPA, a defamation plaintiff must show *prima facie* evidence of the following:

- (1) a publication of a false statement of fact to a third party that was defamatory concerning the plaintiff,
- (2) with the requisite degree of fault, and
- (3) damages.

¹³ *Id.*

¹⁴ See Defendants’ Exhibit B-35.

¹⁵ See Defendants’ Motion to Dismiss, p. 17.

¹⁶ Exhibit G, Affidavit of Marcus Turnini.

¹⁷ Exhibit I, Notice of Violation issued against InfoWars, LLC by the State of California, Center for Environmental Health, regarding “lead in InfoWars Life dietary supplements,” publicly available at: <https://oag.ca.gov/system/files/prop65/notices/2017-02319.pdf>

Exxon Mobil Corp. v. Rincones, 520 S.W.3d 572, 579 (Tex. 2017). *Prima facie* refers to the “minimum quantum of evidence necessary to support a rational inference that the allegation of fact is true.” *In re Lipsky*, 460 S.W.3d 579, 590 (Tex. 2015). The statute does not define ‘clear and specific evidence,’ but in *Lipsky*, the Supreme Court interpreted the phrase to mean more than “mere notice pleading.” *Id.* “Though the TCPA initially demands more information about the underlying claim, the Act does not impose an elevated evidentiary standard or categorically reject circumstantial evidence.” *Id.* at 591. As such, the Supreme Court “disapprove[d] those cases that interpret the TCPA to require direct evidence of each essential element of the underlying claim to avoid dismissal.” *Id.* Instead, “pleadings and evidence that establishes the facts of when, where, and what was said, the defamatory nature of the statements, and how they damaged the plaintiff should be sufficient to resist a TCPA motion to dismiss.” *Id.* Plaintiff far exceeds this burden, as he can produce direct *prima facie* evidence on each element of his claim.

ARGUMENT

I. The InfoWars Video Created a False Impression.

In the June 26, 2017 InfoWars video, Mr. Shroyer asserts that Mr. Heslin’s statement -- “I lost my son. I buried my son. I held my son with a bullet hole through his head.” -- was not possible. Yet as Mr. Heslin stated in his affidavit, “the June 26, 2017 video is false. I buried my son. I held his body. I saw a bullet hole through his head.”¹⁸

Plaintiff has submitted the affidavit Dr. Wayne Carver, the Connecticut chief medical examiner featured in the InfoWars video who “oversaw the process by which medical

¹⁸ Exhibit C, Affidavit of Neil Heslin, para. 21.

examinations were performed on victims of the Sandy Hook massacre.”¹⁹ Dr. Carver stated that “upon completion of the medical examinations, the victim's bodies were released to the custody of funeral homes who had been engaged by the families,” and that postmortem examination procedures “are designed so as not to interfere with usual American funereal practices.”²⁰ As such, “medical examiners made no efforts to conceal injuries.”²¹ Dr. Carver stated that based on his personal knowledge, he knows “Mr. Heslin would have had an opportunity to hold his son's body and see his injuries if he chose to do so.”²²

In addition to the affidavits of Mr. Heslin, Dr. Carver, and Mr. Zipp, the validity of Mr. Shroyer’s accusation is also addressed in the affidavit of Brooke Binkowski. As this Court is aware from the *Pozner* matter, Ms. Binkowski is a Fellow in Global Journalism at the Munk School of Global Affairs with over twenty years of experience as a multimedia journalist and professional researcher. As part of her work, she has “routinely investigated claims made in media and on the internet to assess their validity,” winning acclaim and awards from her colleagues for her anti-disinformation work.²³ In her affidavit, Ms. Binkowski explains that the statements in the video created a false impression:

Mr. Shroyer’s statement was false. Mr. Heslin stated to Megyn Kelly that “I lost my son. I buried my son. I held my son with a bullet hole through his head.” The evidence shows that Mr. Heslin lost his son, and that he buried his son, and that it was indeed possible for Mr. Heslin to hold his child and see the bullet wound.

I have reviewed the affidavit of Dr. Wayne Carver, the Connecticut Medical Examiner cited in Mr. Shroyer’s video...

¹⁹ Exhibit D, Affidavit of Dr. Wayne Carver, para. 2-3.

²⁰ *Id.* para. 8-9.

²¹ *Id.* para. 10.

²² *Id.* para. 18.

²³ Exhibit B, Affidavit of Brooke Binkowski, para. 9.

In addition, the funeral services in which the bodies were in the possession of the parents were widely reported in the press. Several of these services had open caskets.

It was widely reported in the media that Connecticut Governor Dannel Malloy personally observed the body of a Sandy Hook victim during one of the services.

There is no reasonable basis to conclude that Mr. Heslin would have been unable to hold his son and see his wound merely because the initial identification was performed by photograph, and there is no doubt that he did in fact bury his son.²⁴

As noted above, InfoWars' Motion disingenuously argues that "Plaintiff cannot avoid the clear fact that there was in fact a contradiction arising from the medical examiners statements when he claimed the bodies were not released to the parents."²⁵ InfoWars' Motion emphasizes this falsehood, stating that "regardless of what others reported, the medical examiner stated that the bodies were not released."²⁶ This is the same blatant fabrication advanced by Mr. Shroyer. In the portion of the interview shown in the InfoWars video, Dr. Carver discusses the process for initial identification of the victims, which was performed by photograph. Regarding this process, Dr. Carver stated, that "we did not bring the bodies and the families into contact. We took pictures of them." A few questions later, a reporter asks Dr. Carver if "all the children's bodies have been returned to the parents or mortuaries." Dr. Carver responds, "I don't know. The mortuaries have all been called." The reporter asks, "But they're ready to be released at this time?" Dr. Carver responds, "As of 1:30, the paperwork has been done. The usual drill is that the funeral homes call us, and as soon as the paperwork is done, we call them back. That process was completed for the

²⁴ *Id.*, para. 25-30.

²⁵ InfoWars Motion to Dismiss, p. 78

²⁶ *Id.*

children at 1:30 today.”²⁷ In response to another question, Dr. Carver stated that his “goal was to get the kids out and available to the funeral directors first, just for, well, obvious reasons.”²⁸

In addition to misrepresenting Dr. Carver’s statements, InfoWars also created a false impression by editing and misrepresenting a CNN interview with Sandy Hook parents Chris and Lynn McDonnel. In the clip used by InfoWars, Mrs. McDonnel was asked: “It’s got to be hard not to have been able to actually see her.” Mrs. McDonnel began her answer by stating, “And I had questioned maybe wanting to see her.” InfoWars used this clip to show that Sandy Hook parents were not allowed to see their children’s bodies. However, Ms. Binkowski pointed out in her affidavit that the InfoWars clip “cut off the end of Mrs. McDonnel’s answer.”²⁹ Her full answer stated:

*And I had questioned maybe wanting to see her, but then I thought, she was just so, so beautiful, and she wouldn't want us to remember her looking any different than her perfect hair bow on the side of her beautiful long blond hair.*³⁰

A couple questions earlier, Mrs. McDonnel stated that they “went to funeral home” where they were “able to be with her.”³¹ Mrs. McDonnel later said that “when we left the room, it was certainly so hard to leave her because that would be the last time that we would be able to be with her.”³² In other words, it would have been clear to anyone who watched the interview that the McDonnells had the opportunity to see their child’s body. As Mr. Zipp stated in his affidavit, “Mr. Shroyer was only able to support his bogus accusations by using

²⁷ Exhibit B, Affidavit of Brooke Binkowski, para. 59; *see also* Exhibit B-1, Dr. Carver Video Interview.

²⁸ *Id.*, para. 58.

²⁹ Exhibit B, Affidavit of Brooke Binkowski, para. 61.

³⁰ *Id.*

³¹ Exhibit B-2, McDonnel Interview Transcript.

³² *Id.*

deceptively edited footage.”³³ In doing so, InfoWars manufactured “false statements about [Plaintiff’s] honesty or integrity.”³⁴

II. The InfoWars’ Video was Susceptible to a Defamatory Meaning.

InfoWars next argues that the statements could not be interpreted as defamatory. The determination to be made under the TCPA is whether “the statements were reasonably susceptible of a defamatory meaning.” *Musser v. Smith Protective Services, Inc.*, 723 S.W.2d 653, 654 (Tex. 1987). In other words, the court must determine if the video “is capable of bearing the meaning ascribed to it by [Plaintiff] and whether that meaning is capable of a defamatory meaning.” *Skipper v. Meek*, 03-05-00566-CV, 2006 WL 2032527, at *5 (Tex. App.—Austin July 21, 2006, no pet.) Here, the only meaning of the statements is defamatory. Regarding the meaning of the video, Mr. Zipp outlined the reasons Mr. Shroyer’s statements would be interpreted as defamatory:

It is my opinion that the Shroyer video defamed Neil Heslin by impugning his reputation with false statements about his honesty or integrity. Mr. Shroyer arranged edited footage in a misleading and dishonest way to attack Mr. Heslin. At best, the InfoWars video is a mishmash of out-of-context statements that creates a dishonest portrait of Mr. Heslin, his statements and the events of Sandy Hook. At worst, it was a calculated and unconscionably cruel hit-job intended to smear and injure a parent who had the courage to speak up about InfoWars’ falsehoods. In either case, InfoWars recklessly disregarded journalistic standards in approaching this story because disregarding those standards was necessary to carry out its distortion of events.³⁵

³³ Exhibit A, Affidavit of Fred Zipp, p. 16.

³⁴ *Id.*, p. 4.

³⁵ *Id.*, p. 4.

Moreover, Mr. Zipp points out that “Mr. Shroyer also made it clear that he was not accusing Mr. Heslin of an innocent mistake.”³⁶ Mr. Zipp emphasized Mr. Shroyer’s comment that the event is “not something that you would just misspeak on” because “you would remember if you held your dead kid in your hands with a bullet hole.”³⁷ Under Texas law, a statement can be defamatory if it contains “the element of disgrace or wrongdoing.” *Means v. ABCABCO, Inc.*, 315 S.W.3d 209, 215 (Tex. App.—Austin 2010, no pet.). Here, an element of disgrace or wrongdoing is “a reasonable construction of the [video’s] gist.” *D Magazine Partners, L.P. v. Rosenthal*, 529 S.W.3d 429, 441 (Tex. 2017), *reh’g denied* (Sept. 29, 2017). Indeed, it is the only possible gist.

Plaintiff has also submitted the affidavits of Dr. Wayne Carver and Scarlet Lewis. Both are personally acquainted with Neil Heslin. Dr. Carver understood that “the InfoWars host was asserting that it was impossible for Mr. Heslin to have held his son and seen his injuries.”³⁸ He also “understood the comments by InfoWars to be an attack on Mr. Heslin’s honesty and integrity,” and that the video “was intended to reinforce the validity of Mr. Jones’ prior statements about Sandy Hook, and act as further evidence that the event was staged.”³⁹ As such, Dr. Carver “also understood the InfoWars’ comments to implicate Mr. Heslin in criminal conduct, such as making false statements to government officials or engaging in other forms of criminal misrepresentation.”⁴⁰ Similarly, Scarlet Lewis testified that she understood the video to be asserting that Plaintiff “was lying about having held the body of his son, and that Mr. Heslin was engaging in a fraud or cover-up of the truth regarding the

³⁶ *Id.*, p. 5.

³⁷ *Id.*

³⁸ Exhibit D, Affidavit of Dr. Wayne Carver, para. 17.

³⁹ *Id.*, para. 16; 19.

⁴⁰ *Id.*, para. 20.

Sandy Hook massacre.”⁴¹ Ms. Lewis also testified that she “understood Mr. Shroyer to be making the claim that Mr. Heslin was working in collusion with the media, specifically Megyn Kelly, to perpetrate a fraud on the public.”⁴² Based on the context of the statements, Ms. Lewis also understood the video “to implicate Mr. Heslin in criminal conduct.”⁴³

In addition, Mr. Zipp explained that “[t]he InfoWars video was not only false and disparaging, but also influential; after it appeared, a group of irrational and dangerous conspiracy fanatics turned their attention to Mr. Heslin.”⁴⁴ Mr. Zipp’s affidavit provides several examples of conspiracy fanatics fixating on Mr. Heslin in the weeks and months after the InfoWars video. One website “alleged that Mr. Heslin’s name was actually an anagram hiding his secret purpose with the Illuminati,” while another claimed that he was a “crisis actor” who also played the “role” of a fireman killed in the 9/11 terror attack. As Mr. Zipp explained, “[o]nce a person’s name enters conspiracy culture, there is no limit for how bizarre the accusations can become.”⁴⁵ Mr. Zipp concluded that “[t]he InfoWars video exposes Mr. Heslin to ridicule and contempt, and it is reasonable to believe that it could encourage bad actors who could become a threat to his safety.”⁴⁶

III. The InfoWars Video Presented Assertions of Fact.

A statement is considered a fact if it is verifiable, and, if in context, it was intended as an assertion a fact. “A statement that fails either test—verifiability or context—is called an opinion.” *Dallas Morning News, Inc. v. Tatum*, 16-0098, 2018 WL 2182625, at *16 (Tex. May 11, 2018). Here, both Mr. Zipp and Ms. Binkowski concluded that Mr. Shroyer was making an

⁴¹ Exhibit E, Affidavit of Scarlet Lewis, para. 7.

⁴² *Id.*, para. 9.

⁴³ *Id.*, para. 10.

⁴⁴ Exhibit A, Affidavit of Fred Zipp, p. 7.

⁴⁵ *Id.*, p. 6.

⁴⁶ *Id.*, p. 7.

assertion of fact. As Ms. Binkowski noted, Mr. Shroyer “asserted that Mr. Heslin’s statement is not possible, and he cited evidence. He was unequivocal in his statements.”⁴⁷ Mr. Zipp observed that:

Mr. Shroyer did not equivocate in his statements about Mr. Heslin. Mr. Shroyer claimed Mr. Heslin’s statement about holding his son was “not possible.” He also referenced the involvement of unspecified “fact-checkers,” which obviously signals an assertion of fact, not an opinion.⁴⁸

Mr. Shroyer’s language leaves no room for anything but a factual accusation. Mr. Shroyer indicated his accusation was based on his review of evidence, not his personal opinion (“According to a timeline of events and a coroner’s testimony...”).⁴⁹ He did not use any terms to qualify his statements. Yet even hedge words would not shield Mr. Shroyer’s accusation. “As Judge Friendly aptly stated: ‘[It] would be destructive of the law of libel if a writer could escape liability for accusations of [defamatory conduct] simply by using, explicitly or implicitly, the words ‘I think.’” *Bentley v. Bunton*, 94 S.W.3d 561, 583–84 (Tex. 2002). After all, “an opinion, like any other statement, can be actionable in defamation if it expressly or impliedly asserts facts that can be objectively verified.” *Campbell v. Clark*, 471 S.W.3d 615, 625 (Tex. App.—Dallas 2015, no pet.). Moreover, “[e]ven if the speaker states the facts upon which he bases his opinion, if those facts are either incorrect or incomplete, or if his assessment of them is erroneous, the statement may still imply a false assertion of fact.” *Campbell*, 471 S.W.3d at 627–28.

Here, the tone of the video was presented as an informational news broadcast, not as political and personal commentary. The style of the video is consistent with its explicit text

⁴⁷ Exhibit B, Affidavit of Brooke Binkowski, para. 24.

⁴⁸ Exhibit A, Affidavit of Fred Zipp, p. 15.

⁴⁹ See Exhibit B-1.

claiming Mr. Heslin's statements are "impossible" due to evidence discovered by "fact-checkers." The video can only be interpreted as a statement of fact, not opinion.

IV. The InfoWars Video Concerned Mr. Heslin.

InfoWars makes the frivolous argument that the video was not "of or concerning" Mr. Heslin, based primarily on its assertion that it did not intend to refer to Mr. Heslin in the video. Yet under Texas law, "[i]t is not necessary for the plaintiff to prove that the defendant intended to refer to the plaintiff." *Allied Mktg. Group, Inc. v. Paramount Pictures Corp.*, 111 S.W.3d 168, 173 (Tex. App.—Eastland 2003, pet. denied). The argument is frivolous because regardless of InfoWars' intention, the video directly implicates Mr. Heslin, who is named, shown, and directly criticized.

Next, InfoWars argues that it is immune from suit because the video also refers to Megyn Kelly. According to InfoWars, a defendant can escape liability so long as it defames more than one individual in a single publication. InfoWars argues that Plaintiff's case should be dismissed because Mr. Shroyer also "referenced the lack of journalistic credibility from Kelly and NBC."⁵⁰ InfoWars tells this Court that Plaintiff has no claim because "the alleged defamatory statements were not just about him."⁵¹ Obviously, this is not the law.

In Texas, "a publication is 'of and concerning' the plaintiff if persons who knew and were acquainted with the plaintiff understood from viewing the publication that the allegedly defamatory matter referred to the plaintiff." *Id.* A plaintiff is implicated "if those who knew and were acquainted with her understood from reading that it referred to her." *Backes v. Misko*, 486 S.W.3d 7, 24-25 (Tex. App.—Dallas 2015, pet. denied). It is enough that

⁵⁰ See Defendants' Motion to Dismiss, p. 54.

⁵¹ *Id.* at p. 55.

the evidence supports a “reasonable inference that some people” who saw the statements believed they concerned the plaintiff. *Tatum*, 2015 Tex. App. LEXIS 13067, at *16 (*rev’d on other grounds*). “The plaintiff may satisfy his burden on the ‘of and concerning’ element by offering proof that persons acquainted with the plaintiff would understand the publication to refer to him.” *Cox Texas Newspapers, L.P. v. Penick*, 219 S.W.3d 425, 433 (Tex. App.—Austin 2007, pet. denied). Thus, in *Backes*, *Tatum*, and *Penick*, affidavits showing that people understood the defamatory remarks to concern individuals in the statements were sufficient to carry the plaintiffs’ burden under the TCPA.

As shown above, such evidence is found in the affidavits of Dr. Wayne Carver and Scarlett Lewis. Both witnesses are familiar with Neil Heslin, and they both viewed the challenged video. They both testified they understood the video implicated Neil Heslin. As such, there is *prima facie* evidence that the broadcast is reasonably susceptible of a meaning that is “of and concerning” the Plaintiffs. The broadcast directly concerns Mr. Heslin, and the affidavits are evidence that a viewer acquainted with him could “understand the individual publication at issue to implicate [Mr. Heslin].” *Penick*, 219 S.W.3d at 437.

VI. InfoWars Cannot Hide Behind Zero Hedge.

InfoWars argues that its defamatory video is protected because it was merely reporting the allegations made by a third party. However, InfoWars is not entitled to the benefit of the new third-party allegation statute, and its video was clearly defamatory under the existing common law rules, which the statute only modified for certain defendants. Even if the statute did apply, InfoWars’ conduct would nonetheless prevent its application.

A. InfoWars is not entitled to claim protection under Tex. Civ. Prac. & Rem. Code § 73.005.

InfoWars claims that it is entitled to protections of the new third-party allegation statute, which reads: “In an action brought against a newspaper or other periodical or broadcaster, the defense [of substantial truth] applies to an accurate reporting of allegations made by a third party regarding a matter of public concern.” Tex. Civ. Prac. & Rem. Code § 73.005. This statute was created as an exception for certain defendants to the Supreme Court’s decision in *Neely*, which held that “there is no rule in Texas shielding media defendants from liability simply because they accurately report defamatory statements made by a third party.” *Neely v. Wilson*, 418 S.W.3d 52, 59 (Tex. 2013). Therefore, the *Neely* court ruled that Texas common law does not support “a substantial truth defense for accurately reporting third-party allegations.” *Id.* at 64.

Upon lobbying by the Texas Association of Broadcasters in 2015, the legislature passed a statutory exception to *Neely* limited to newspapers, periodicals, and broadcasters. The problem with InfoWars’ use of this defense is that InfoWars is not a newspaper, periodical, or broadcaster. First, InfoWars is obviously not a newspaper. Under Texas law, “newspaper’ means a publication that is printed on newsprint.” *Reuters Am., Inc. v. Sharp*, 889 S.W.2d 646, 650 (Tex. App.—Austin 1994, writ denied), *citing* Tax Code § 151.319(f).

Likewise, InfoWars is not a periodical. The term “periodical” is well defined in the law, and “comprises magazines, trade publications, and scientific and academic journals with weekly, monthly, or quarterly circulation and does not necessarily include other publications with such circulation even where the publications are published at regular intervals.” *See* 58 Am. Jur. 2d Newspapers, etc. § 4, *citing Goguen ex rel. Estate of Goguen v. Textron, Inc.*, 234 F.R.D. 13, 69 Fed. R. Evid. Serv. 726 (D. Mass. 2006); *see also Oxford English Dictionary Online*,

at <http://www.oed.com> (defining periodical as “a magazine or journal issued at regular or stated intervals (usually weekly, monthly, or quarterly)”). “The United States Postal Service uses a similar definition of ‘periodical’ to determine mailing rates.” *Goguen*, 234 F.R.D. at 18. InfoWars does not meet this definition.

Finally, InfoWars is not a broadcaster. Under the TCPA, a “broadcaster means an owner, licensee, or operator of a radio or television station or network of stations and the agents and employees of the owner, licensee, or operator.” Tex. Civ. Prac. & Rem. Code Ann. § 73.004(b). The definition in common usage likewise refers to an entity who transmits a television or radio signal. According to an August 17, 2018 article on its website, “Infowars does not operate any radio or TV stations.”⁵² It does not broadcast any signals over public airwaves. Instead, InfoWars produces video and audio content, and it provides that content to other entities for distribution.

Because InfoWars cannot show it is one of the three specified entities described in the statute, the video is governed by the the common law framework as set forth in *Neely*. Under that framework, “we note that the Texas Supreme Court has reaffirmed the ‘well-settled legal principle that one is liable for republishing the defamatory statement of another.’” *Warner Bros. Entm't, Inc. v. Jones*, 538 S.W.3d 781, 810 (Tex. App.—Austin 2017, pet. filed).

B. The InfoWars video goes beyond allegation reporting.

In any case, InfoWars cannot be entitled to third-party allegation protection because the “defamatory statements at issue here went beyond mere ‘allegation reporting.’” *Scripps*

⁵² <https://www.infowars.com/mass-correction-mainstream-media-retracts-false-infowars-pirate-radio-story/>

NP Operating, LLC v. Carter, 13-15-00506-CV, 2016 WL 7972100, at *13 (Tex. App.—Corpus Christi Dec. 21, 2016, pet. filed). First and foremost, InfoWars “did not consistently attribute the allegations to a third-party source.” *Id.* at *13. Ms. Binkowski observed that “it is notable that Mr. Shroyer only said the phrase ‘Zero Hedge’ one time in the entire segment. Mr. Shroyer did not consistently attribute the allegations to Zero Hedge.”⁵³

However, most important is Mr. Shroyer’s enthusiastic endorsement of the allegations. Although Mr. Shroyer’s video noted “that the allegations had initially been made by [a third party], its ‘gist or sting’ was that the allegations were, in fact, true.” *Scripps* at *13. Under those circumstances, the statements “were not merely reports of allegations.” *Id.* A report of an allegation must be “a simple, accurate, fair, and brief restatement.” *KBMT Operating Co., LLC v. Toledo*, 492 S.W.3d 710, 717 (Tex. 2016). Mr. Shroyer’s video was anything but.

In her affidavit, Ms. Binkowski reviewed the statements in the video and identified “several parts of the language used in the video which [she] found quite significant.”⁵⁴ Under Texas law, the character of these statements can provide “additional affirmative evidence from the text itself that suggests the defendant objectively intended or endorsed the defamatory inference.” *Tatum*, 2018 WL 2182625 at *20. Ms. Binkowski first explained how an ordinary viewer would see Mr. Shroyer making his own accusations and citing his own evidence:

Mr. Shroyer stated: “[Heslin] is claiming that he held his son and saw the bullet hole in his head. That is his claim. Now, according to a timeline of events and a coroner's testimony, that is not possible.” A viewer of ordinary intelligence could hear this statement and conclude that Mr. Shroyer is making his own

⁵³ Exhibit B, Affidavit of Brooke Binkowski, para. 18.

⁵⁴ *Id.*, para. 17.

assertion. Zero Hedge is not mentioned. In fact, Mr. Shroyer's citation of "a timeline of events and a coroner's testimony" as the basis for his conclusion strongly suggests that InfoWars had examined the evidence itself.⁵⁵

Ms. Binkowski also examined Mr. Shroyer's ambiguous use of the phrase "fact-checkers," and the ways that statement could be understood:

This language is ambiguous in context. It can reasonably be interpreted in three ways. First, the "fact checkers" who purportedly examined the issue could work for InfoWars. Second, the "fact checkers" could be associated with Zero Hedge. Third, the "fact checkers" are some other unnamed source relied on by InfoWars.

A viewer of ordinary intelligence could hear this statement and reasonably believe that InfoWars had confirmed the accuracy of the Zero Hedge report with its own "fact checkers." This interpretation is supported by the remainder of the segment in which Mr. Shroyer makes his own comments and shows footage assembled and edited by InfoWars.⁵⁶

Ms. Binkowski also discusses how Mr. Shroyer signaled to the viewer that he was making his own allegations:

Later in the InfoWars video, Mr. Shroyer asserted that there was a "contradiction in the narrative." This was clearly Mr. Shroyer's own conclusion.

Mr. Shroyer also callously stated: "You would remember if you held your dead kid in your hands with a bullet hole. That's not something that you would just misspeak on." Not only is this statement sickening, but it further reinforces that Mr. Shroyer has taken his own position.

Later in the video, when speaking about Mr. Heslin's statements to Megyn Kelly, Mr. Shroyer stated: "Here is an account from the coroner that does not corroborate with that narrative." Again, Zero Hedge was not mentioned or attributed. Mr. Shroyer was presenting his own assertion that Mr. Heslin's interview is

⁵⁵ *Id.*, para. 22-23.

⁵⁶ *Id.*, para. 20-21

contradicted by the coroner. However, this is false. Mr. Heslin's interview is not contradicted by the coroner.⁵⁷

Finally, Mr. Binkowski explained how all the circumstances of the video shows that it went beyond allegation reporting:

The June 26, 2017 InfoWars video was not merely a report on a third-party's allegations. Rather, InfoWars adopted the allegations of a dubious anonymous website and reasserted them as their own. InfoWars presented the allegations as true, and it made statements and played deceptive video edits which were meant to convince its viewers that Mr. Heslin's statements were not possible.⁵⁸

C. The InfoWars video did not accurately mirror the Zero Hedge blog post.

Even if InfoWars were entitled to the new statute's protections, the video was not an accurate report of the third-party statements. A publisher's "omission of facts may be actionable if it so distorts the viewers' perception that they receive a substantially false impression of the event." *Warner Bros.*, 538 S.W.3d at 810. Texas recognizes that "a plaintiff can bring a claim for defamation when discrete facts, literally or substantially true, are published in such a way that they create a substantially false and defamatory impression by omitting material facts or juxtaposing facts in a misleading way." *Dallas Morning News, Inc. v. Hall*, 524 S.W.3d 369, 382 (Tex. App.—Fort Worth 2017, pet. filed). In other words, a publication does not accurately report a third-party source when it omits a pertinent fact.

In this case, Ms. Binkowski notes that both Zero Hedge and Mr. Shroyer alleged "that Dr. Carver told the media that 'the parents of the victims weren't allowed to see their children's bodies.'"⁵⁹ However, she explained one key difference:

⁵⁷ *Id.*, para. 31-33.

⁵⁸ *Id.*, para. 51.

⁵⁹ *Id.*, para. 67.

In the Zero Hedge blog post, the author later admits that “it's entirely possible that Mr. Heslin had access to his son after the shooting.” Mr. Shroyer’s video contains no such statements.⁶⁰

In the InfoWars’ mythology, the parents were never allowed to see their children. As such, Plaintiff would still have a cause of action even under the new third-party statute because Mr. Shroyer’s video “created a gist that cast [him] in a worse light than...the source of the allegations themselves.” *Hall*, 524 S.W.3d at 382–83.

D. There is no evidence of a third-party.

Even if the new statute did apply to InfoWars, the statute does not protect the publication of dubious anonymous statements. In order to claim the defense, the article must “attribute the allegations to a third-party source.” *Scripps* at *13. In her affidavit, Ms. Binkowski explains that the content posted on Zero Hedge does not point to any ascertainable third-party:

Zero Hedge is anonymous blog. Zero Hedge has no named editor-in-chief, and its articles are submitted by anonymous authors. The publication has no listed address nor phone number. Its website is registered anonymously.⁶¹

Instead, InfoWars merely printed anonymous hearsay as its own defamation. InfoWars cannot name any individual whose statement it claims to have reported. For all we know, the anonymous author could be an InfoWars employee or agent. Publishing anonymous accusations is not a defense; it is evidence of actual malice. *See, e.g., Bentley*, 94 S.W.3d at 596; *see also* 1 Law of Defamation § 3:62 (2d ed.) (“[R]eliance on an anonymous source...is admissible as evidence of actual malice.”).

⁶⁰ *Id.*

⁶¹ *Id.*, para. 39.

E. InfoWars' allegation was not a matter of public concern.

Even if the new third-party allegation did apply InfoWars, it would require a showing that the video related to “a matter of public concern.” A video which solely concerns whether Mr. Heslin held his child’s body is not a matter of public concern. Rather, it was a calculated personal attack on Mr. Heslin in retaliation for his interview with Megyn Kelly. “Matter of public concern” is defined in Civil Practice and Remedies Code, specifically, Sec. 27.001, which reads: “An issue related to health or safety; environmental, economic, or community well-being; the government; a public official or public figure; or a good, product, or service in the marketplace.” Here, accusing Mr. Heslin of lying about holding the body of his dead son does not amount to a matter of public concern. “Speech deals with matters of public concern when it can be *fairly* considered as relating to any matter of political, social, or other concern to the community ... or when it is a subject of *legitimate* news interest; that is, a subject of general interest and of *value* and concern to the public...” *Snyder v. Phelps*, 562 U.S. 443, 453, 131 S.Ct. 1207, 179 L.Ed.2d 172 (2011). Mr. Shroyer’s video was none of these things. The third-party allegation defense is inapplicable for this reason and the many others cited above.

VI. Mr. Heslin is not a Limited Purpose Public Figure for the Topic of the InfoWars Video.

Just as in the *Pozner* matter, InfoWars contends that the Plaintiff is a public figure for the purposes of the controversy over InfoWars’ hoax allegations, or alternatively, that Plaintiff is a public figure due to his advocacy for gun regulation. In either case, InfoWars’ argument fails for the reasons set forth below.

A. The controversy over Alex Jones’s statements about Sandy Hook.

InfoWars first identifies the controversy as the public dismay over InfoWars’ statements about Sandy Hook and his attacks on the credibility of the parents. Megyn Kelly’s feature story addressed this controversy head-on. Mr. Heslin was asked to grant an interview regarding Mr. Jones’ years of lies about the death of his son and the twenty-five other victims of the tragedy. InfoWars claims that Plaintiff is a public figure because he “volunteered to be interviewed on camera and volunteered to provide his thoughts on Jones’ opinions.”⁶²

To the extent Plaintiff had any notoriety in the controversy over whether Sandy Hook is a hoax, it is only because Mr. Jones inflicted that notoriety with his incessant attacks and accusations that the victims were not real. “A person does not become a public figure merely because he is ‘discussed’ repeatedly by a media defendant or because his actions become a matter of controversy as a result of the media defendant's actions.” *Klentzman v. Brady*, 312 S.W.3d 886, 905 (Tex. App.—Houston [1st Dist.] 2009, no pet.), *quoting Hutchinson v. Proxmire*, 443 U.S. 111, 135 (1979) (noting that “[c]learly, those charged with defamation cannot, by their own conduct, create their own defense by making the claimant a public figure.”) Under well settled Texas law, a defendants’ conduct “cannot be what brought the plaintiff into the public sphere.” *Neely*, 418 S.W.3d at 71 (Tex. 2013).

Mr. Heslin agreed to appear on camera after four years of lies to give defensive statements, and defensive statements do not transform a plaintiff into a public figure. *See* Defamation: A Lawyer's Guide § 5:9. Vortex or limited purpose public figure – The preexistence requirement and rejection of media “bootstrapping.” (Collecting cases refusing to find “that purely defensive truthful statements constitute a purposeful injection.”); *see*

⁶² *See* Defendants’ Motion to Dismiss, p. 62.

also, e.g., *Hutchinson*, 443 U.S. at 135 (Plaintiff must be “a public figure prior to the controversy engendered by the [defendant’s conduct].”); *Lohrenz v. Donnelly*, 350 F.3d 1272, 1281-82 (D.C. Cir. 2003) (plaintiff’s “attempts to defend herself through the media against allegedly defamatory statements” did not make her a public figure). As Mr. Heslin explained in his affidavit:

I never sought to participate in any public debate over whether the events at Sandy Hook were staged. Nor did I seek to participate in any public debate over whether my son died.

Over the years, I remained silent as Mr. Jones continued to make disgusting false claims about Sandy Hook, telling his viewers that the children were fake and that the parents were liars and evil conspirators.

In 2017, Megyn Kelly was in the process of producing a profile on Mr. Jones when she asked me for an interview. Though I was very conflicted as to whether to grant an interview, I agreed to speak on camera only to help set the record straight about the lies told by Mr. Jones about Sandy Hook, specifically that the event was staged and involved actors.

I gave comments to Ms. Kelly stating the reality: The shooting happened. I stated that I buried my son, that I held my son’s body, and that I saw a bullet hole through his head.

I made these statements not to invite debate, but to clear my name and protect the memory of my son.⁶³

“An individual should not risk being branded with an unfavorable status determination merely because he defends himself publicly against accusations, especially those of a heinous character.” *Lluberes v. Uncommon Productions, LLC*, 663 F.3d 6, 19 (1st Cir. 2011). Court have found “no good reason why someone dragged into a controversy should be able to speak publicly only at the expense of foregoing a private person’s protection from

⁶³ Exhibit C, Affidavit of Neil Heslin, para. 10-14.

defamation.” *Foretich v. Capital Cities/ABC, Inc.*, 37 F.3d 1541, 1564 (4th Cir. 1994). The “actual-malice standard here would serve only to muzzle persons who stand falsely accused of heinous acts and to undermine the very freedom of speech in whose name the extension is demanded.” *Id.* In this case, granting Ms. Kelly’s interview request was a reasonable and proportional response to four years of vile falsehoods on a national scale.

B. Controversy over gun regulation.

Limited purpose public figures “are only public figures for a limited range of issues surrounding a particular public controversy.” *WFAA-TV, Inc. v. McLemore*, 978 S.W.2d 568, 571 (Tex. 1998). Here, InfoWars contends that Mr. Heslin is a public figure because of his advocacy for gun regulation in the wake of the Sandy Hook tragedy. While Mr. Heslin has made public appearances in support of gun regulation, his participation is trivial to the overall national debate, which is a broad controversy with countless participants. As explained in the D.C. Circuit’s oft-cited *Waldbaum* opinion, a broad controversy makes it less likely than minor actor is public figure:

A broad controversy will have more participants, but few can have the necessary impact. Indeed, a narrow controversy may be a phase of another, broader one, and a person playing a major role in the “subcontroversy” may have little influence on the larger questions or on other subcontroversies. In such an instance, the plaintiff would be a public figure if the defamation pertains to the subcontroversy in which he is involved but would remain a private person for the overall controversy and its other phases.

Waldbaum v. Fairchild Publications, Inc., 627 F.2d 1287, 1297 (D.C. Cir. 1980). Mr. Heslin did participate in some advocacy on gun regulation, but as he stated in his affidavit, his participation was limited:

Following the tragedy, I was asked to appear before the U.S. Senate and Connecticut legislators to give testimony about my experience and my opinion on school safety.

I never sought to be any kind of public figure. I merely recognized that I was involved in a matter that had attracted public attention. It was not my intention to give up my privacy or surrender my interest in the protection of my own name in all aspects of my life.

I had some tangential involvement in speaking out on sensible gun regulations, but I do not consider myself an activist. I have not been a vigorous participant or a noteworthy part of that on-going debate.⁶⁴

In any case, the scope or significance of Mr. Heslin's civic involvement in the gun regulation debate is irrelevant in this case. Objectively, the InfoWars video had absolutely nothing to do with guns and nothing to do with Mr. Heslin's gun-related advocacy. Neither guns nor gun regulation are ever mentioned or implicated anywhere in Mr. Shroyer's video.

A plaintiff's status depends on "an individual's participation in the particular controversy giving rise to the defamation." *Gertz v. Robert Welch, Inc.*, 418 U.S. 323, 352 (1974). Therefore, it is required that "the alleged defamation is germane to the plaintiff's participation in the controversy." *McLemore*, 978 S.W.2d at 573. Here, the defamation has nothing to do with Mr. Heslin's gun advocacy, and a hypothetical viewer would not glean from Mr. Shroyer's video that Mr. Heslin ever participated in the gun issue or that guns are implicated in any way. The defamation clearly arose from the "Alex Jones controversy" and not from any issues relating to Mr. Heslin's 2013 gun advocacy.

In this case, InfoWars defines the controversy even more broadly, asserting an unbounded and vague "controversy" concerning the "the government and MSM's use of

⁶⁴ *Id.*, para. 6-8.

national tragedies in order to push political agendas.”⁶⁵ But that is not a “controversy” as the term is used in First Amendment defamation jurisprudence. Under Texas law, a “general concern or interest will not suffice,” and a public controversy is more than simply a “controversy of interest to the public.” *Klantzman*, 312 S.W.3d at 905 (Tex.App. Houston [1 Dist.] 2009), quoting *Firestone*, 424 U.S. at 454 (internal citation omitted). The Court must instead determine “whether persons actually were discussing some *specific question*.” *Id.* (emphasis added).

At most, InfoWars identifies a potential trait of the media and/or government, *i.e.*, that they use current events to drive their agendas. That is not a “question” that is capable of being resolved such that the public could “feel the impact of its resolution.” *McLemore*, 978 S.W.2d at 573. The notion that there must be an issue susceptible of resolution is central to the *Gertz* limited purpose public figure framework, which defined limited purpose public figures as those who “thrust themselves into the vortex of a [public controversy] . . . *in an attempt to influence its outcome*.” *Gertz*, 418 U.S. at 345 (emphasis added). One cannot “influence” the “outcome” of a matter that does not call for some definite resolution.

Even if the Court were to accept InfoWars’ assertion that there is a public controversy (in the *Gertz* meaning) about the media and/or government’s use of tragedies to push agendas, InfoWars has not demonstrated that Plaintiff sought any role in such a controversy, much less the “central” role required to characterize him as a public figure. InfoWars has identified precisely zero instances where Plaintiff injected himself into any discussion about whether the government or media were using tragedies to push an agenda.

⁶⁵ See Defendants’ Motion to Dismiss, p. 56.

The extremely narrow standards of the “limited purpose” for public figures in Texas is illustrated in the Corpus Christi court’s decision in *Scripps*. There, a president of a chamber of commerce was a public figure for a city tax agreement because of his strenuous advocacy for that agreement, but he was not a public figure for his own job performance and financial stewardship of the chamber, which arguably influenced and motivated his advocacy. The court analyzed the issue as follows:

We must determine whether the alleged defamation was germane to Carter's participation in the controversy. In his petition, Carter alleged that Scripps defamed him by publishing written statements concerning his job performance, specifically, his financial stewardship of the financial affairs of the Chamber of Commerce...Scripps acknowledges that the “articles at issue concern Carter's job performance and financial stewardship of the Chamber.” However, they argue that by speaking at the city council meeting, Carter “assumed the risk that the press, in covering the controversy, [would] examine” him with a critical eye. We do not agree that Carter’s job performance and financial stewardship of the Chamber of Commerce is germane to [the challenged statement regarding] the financing agreement.”

Scripps, at *5; *see also Lohrenz*, 350 F.3d at 1279 (Plaintiff is “a public figure if the defamation pertains to the subcontroversy in which he is involved but would remain a private person for the overall controversy and its other phases.”). These decisions are consistent with the maxim that “an individual should not be deemed a public personality for all aspects of his life.” *San Antonio Exp. News v. Dracos*, 922 S.W.2d 242, 251 (Tex. App.—San Antonio 1996, no writ). Therefore, the court must ask “whether the plaintiff is a public figure with respect to the topic of the publication.” *Fitzgerald v. Penthouse Intern., Ltd.*, 691 F.2d 666, 669 (4th Cir. 1982). In this case, the publication contains no content whatsoever relating to gun regulation or Mr. Heslin’s civic activities. In other words, it is immaterial whether Mr. Heslin is a public figure for the gun regulation debate. He is not a public figure for whether he held

his child's body, which is the only topic of the video. The video is germane to only one controversy -- the controversy over Mr. Jones' years of accusations about the Sandy Hook victims.

Finally, a publication cannot be germane to a plaintiff or his participation if the publication did not arise because of that plaintiff. Here, InfoWars' argues that its video did not intend to refer to Plaintiff as an "ascertainable person," and that its video was instead "directed at NBC and Kelly," and "directed at the government and MSM."⁶⁶ In other words, InfoWars admits that the video arose *not* due to Mr. Heslin's civic participation, but that it arose from its criticisms of Megyn Kelly, NBC, the government, and what it has termed "the MSM." InfoWars insists that "the statements were not accusatory of the Plaintiff," and therefore the publication could not have arisen from Mr. Heslin or his public acts.⁶⁷

This principle is well illustrated by a case from the Eastland court involving Paramount Pictures. Paramount aired a broadcast which Paramount did not intend to direct at Allied Marketing, but it nonetheless included content which could be understood as defamatory to Allied. The court noted that "from Paramount's perspective, the segment had nothing to do about Allied...[so] Paramount could not establish that it was germane to Allied's participation." *Allied Mktg. Group, Inc.*, 111 S.W.3d at 177. The court noted that Paramount's intent was the only relevant issue, because "the limited purpose public figure test does not take into consideration the understanding of the publication's viewers." *Id.* at 178. Here, InfoWars asserts that it directed the broadcast at the media, and that its

⁶⁶ *Id.*

⁶⁷ *Id.*

defamation of Mr. Heslin was coincidental, as in *Allied*. As such, its defamation did not arise from Mr. Heslin's public acts.

VII. Defendants Acted with Actual Malice.

Plaintiff's status ultimately makes no difference because there is clear evidence of actual malice. Malice exists in defamation when a publisher shows a "reckless disregard for the falsity of a statement." *Bentley*, 94 S.W.3d at 591. A showing of actual malice can be satisfied when there is *prima facie* circumstantial evidence that a defendant would have "entertained serious doubts as to the truth of his publication." *Warner Bros.*, 538 S.W.3d at 805. A plaintiff may offer circumstantial evidence suggesting that a defendant made statements which he "knew or strongly suspected could present, as a whole, a false and defamatory impression of events." *Turner v. KTRK TV, Inc.*, 38 S.W.3d 103, 120-121 (Tex. 2000). Here, there are several reasons to find that InfoWars acted with reckless disregard for the truth.

A. The accusation was inherently improbable.

When assessing actual malice, the court should "begin by noting the gravity of the accusations made against [plaintiff]." *Warner Bros.*, 538 S.W.3d at 806. As Mr. Zipp stated, "serious claims require serious evidence,"⁶⁸ and accuracy becomes "more important in proportion to the seriousness of the facts asserted."⁶⁹ The Austin Court of Appeals echoed that sentiment last year, noting "[c]harges as serious as the ones leveled against [plaintiff] in this article deserve a correspondingly high standard of investigation." *Id.* at 806. Mr. Zipp found that "given the seriousness of the accusations, Mr. Shroyer acted recklessly."⁷⁰

⁶⁸ Exhibit A, Affidavit of Fred Zipp, p. 16.

⁶⁹ *Id.*, p. 2.

⁷⁰ *Id.*, p. 16.

Ms. Binkowski noted that “[t]he allegation made by Mr. Shroyer was outlandish, inherently improbable, and obviously dubious.”⁷¹ Malice is shown when the circumstances were “so improbable that only a reckless publisher would have made the mistake.” *Freedom Newspapers of Tex. v. Cantu*, 168 S.W.3d 847, 855 (Tex. 2005). “Inherently improbable assertions and statements made on information that is obviously dubious may show actual malice.” *See* 50 Tex. Jur. 3d Libel and Slander § 133.

B. InfoWars used dubious third-party sources.

In a case involving allegations originating with a third-party source, “recklessness may be found where there are obvious reasons to doubt the veracity of the informant or the accuracy of his reports.” *Warner Bros.*, 538 S.W.3d at 806, *citing Harte-Hanks*, 491 U.S. at 688. Here, both of the sources cited by InfoWars are extraordinarily unreliable.

1. Zero Hedge

Ms. Binkowski’s affidavit provides the Court with an understanding of Zero Hedge. Ms. Binkowski states that she has “personal professional knowledge about the website ‘Zero Hedge,’” and that “researchers at Snopes continuously debunked claims made in Zero Hedge articles.”⁷² According to Ms. Binkowski, “[n]early everything about Zero Hedge calls its reliability into question.”⁷³ Ms. Binkowski explained the history of this anonymous website:

Zero Hedge began in 2009 as an anonymous blog focusing on Wall Street and investment rumors. Even from the beginning, its content consisted of unsourced hearsay and conspiracy theories about Wall Street. However, over the past several years of my work, I have witnessed the website become increasingly flagrant as a producer of fake information and malicious accusations. Zero Hedge’s history of publishing egregiously fake

⁷¹ Exhibit B, Affidavit of Brooke Binkowski, para. 54

⁷² *Id.*, para. 37.

⁷³ *Id.* at para. 38.

information had been well-documented since at least the time of the 2016 presidential election.⁷⁴

Ms. Binkowski also included “a small selection of recent erroneous reporting and intentional agitation by Zero Hedge” in which she detailed sixteen instances of hoaxes and demonstrably fake news items published by Zero Hedge which had been debunked by the Snopes staff over the past two years. In this case, Ms. Binkowski noted that “the article in question purports to be authored by an anonymous individual(s) using the name ZeroPointNow,” who is a “contributor to an anonymous website called ‘iBankCoin.com,’ a cryptocurrency website which likewise traffics fake news items.”⁷⁵

InfoWars was fully aware of Zero Hedge’s past content. In fact, InfoWars had frequently published materials written by Zero Hedge on its own website. Ms. Binkowski “reviewed seven articles on InfoWars.com which were published under the author by-line ‘Zero Hedge’ in just the two weeks leading up to Mr. Shroyer’s June 26, 2017 video.”⁷⁶ Ms. Binkowski stated that she has “seen InfoWars and Zero Hedge, along with several other fake news websites, forge a cooperative relationship in which they publish, promote and endorse each other’s content.”⁷⁷ According to Ms. Binkowski, “this pattern of amplification and endorsement is a key part of how fake news spreads.”⁷⁸

InfoWars attempts to establish the credibility of Zero Hedge with an article from the Time website. In Defendants’ Exhibit B-53, InfoWars offers what they contend is an endorsement of Zero Hedge from seven years ago by Time Magazine. The text of the exhibit

⁷⁴ *Id.* at para. 43-45.

⁷⁵ *Id.* at para. 41.

⁷⁶ *Id.* at para. 48.

⁷⁷ *Id.* at para. 49.

⁷⁸ *Id.* at para. 50.

makes it clear that this online list of 25 Financial Blogs was meant to include websites that offered “useful financial advice” as well as websites that “were just fun.”⁷⁹ In addition, the entries were not authored by Time Magazine. Rather, the exhibit states the entries were written by “bloggers on the list.” In the entry for Zero Hedge, the blogger refers to the website as “a morning zoo,” and he compares it to *The X-Files*, a popular show from the 1990s about wacky government conspiracies and aliens. The author states, “I can’t read it for long,” and “I don’t read Zero Hedge regularly,” describing the website “too conspiratorial.” In any case, the author’s seven-year-old opinions about Zero Hedge are hearsay, and they do not provide any indicia of reliability, nor can they rebut the testimony of Ms. Binkowski.

Ms. Binkowski concluded that “[n]o competent journalist would republish allegations from an anonymous message on Zero Hedge without corroborating the accuracy of the allegations. However, in this case, it is clear that InfoWars not only understood Zero Hedge’s reputation, but it was actively collaborating with Zero Hedge to spread fake news and dangerous conspiracy claims.”⁸⁰

2. Jim Fetzer

The anonymous blog post on Zero Hedge cites an individual named Jim Fetzer to support the accusation that Mr. Heslin was lying. In its Motion, InfoWars presents Mr. Fetzer as a credible source. However, Mr. Zipp provides context on Mr. Fetzer’s background:

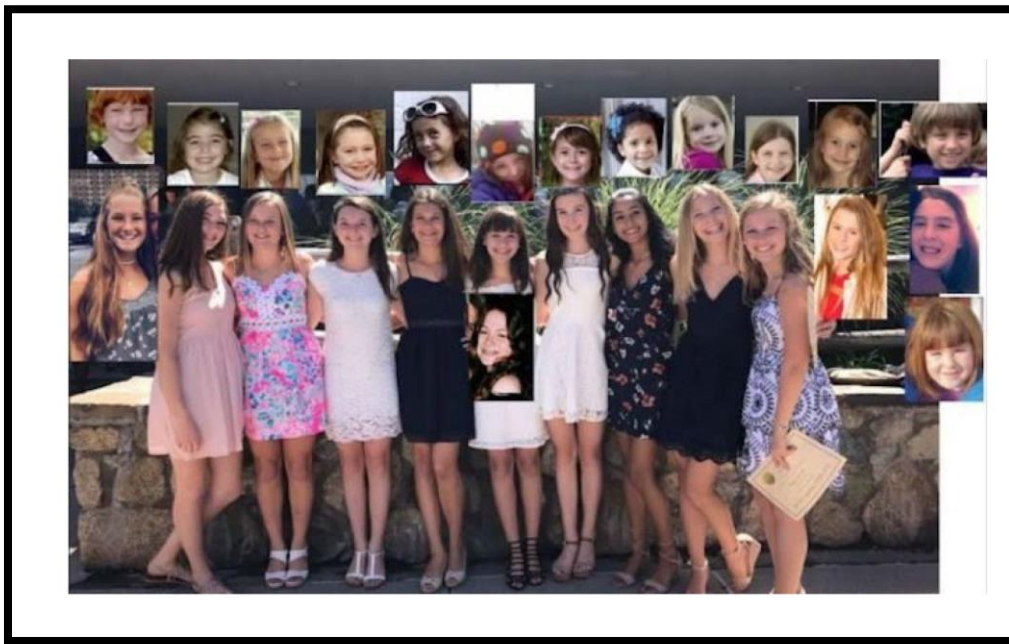
In its Motion to Dismiss, InfoWars described Mr. Fetzer with an air of respectability, referring to him as “Professor Emeritus of the University of Minnesota.” In truth, the retired professor has long been understood to be an unhinged crank. I do not use these terms lightly. Mr. Fetzer, author of the disturbingly titled self-published book “Nobody Died at Sandy Hook” has spent years spreading ridiculous and bizarre claims about the event.

⁷⁹ See Defendants’ Exhibit B-53.

⁸⁰ Exhibit B, Affidavit of Brooke Binkowski, para. 52.

For example, Mr. Fetzer is convinced that Sandy Hook parent Leonard Pozner is actually a different man named Reuben Vabner...Mr. Fetzer's bizarre writings feature notably anti-Semitic rants about Mr. Pozner, who he insists is part of some international Jewish conspiracy...Mr. Fetzer is obsessed with the notion of faked identifies, and he makes similar accusations about the shooting victims, posting photo comparisons which he claims prove that the photos of children are actually adults.⁸¹

Mr. Zipp notes that Mr. Fetzer even told his readers "that he has located a photograph containing the female shooting victims, who are now allegedly adolescents." Shown below is Mr. Fetzer's purported photo of the "crisis actors" reunion:



According to Mr. Zipp, "Mr. Fetzer has claimed, with no evidence, that the death certificates for shooting victims have been faked and that a shooting victim's gravestone was actually a computer-generated graphic."⁸² In short, Mr. Fetzer is well known for being an outrageous crank and grifter, selling books and collecting donations from confused outcasts,

⁸¹ Exhibit A, Affidavit of Fred Zipp, p. 16-17.

⁸² *Id.* at p. 19.

all of which he has based on either malicious lies or his own preposterous delusions. Mr. Zipp concluded that “no rational journalist would ever rely on Mr. Fetzer as a source for anything, especially an allegation as improbable and serious as accusing a parent of lying about holding their dead child. InfoWars’ uncritical endorsement of accusations being promoted by Mr. Fetzer demonstrates its reckless and deceptive conduct.”⁸³

C. InfoWars acted deceptively.

Most importantly, this is not merely a case where Mr. Shroyer and InfoWars recklessly disregarded the truth. Rather, it is the clear from the source material and the underlying facts that Mr. Shroyer was acting deceptively. As Ms. Binkowski noted, “Mr. Shroyer used contemporary press coverage in a misleading and dishonest way, with the clear goal of misleading his viewers.”⁸⁴

1. Interview with Dr. Carver

Ms. Binkowski viewed the full video of Dr. Carver’s interview, which is publicly available online. In the interview, “there is additional footage from the interview -- not shown by InfoWars -- which directly contradicts the assertion made by Mr. Shroyer.”⁸⁵ Ms. Binkowski described the relevant portion omitted by InfoWars:

At 11:03 in the video, a reporter asks Dr. Carver if there was a protocol as to the order he did the medical examinations. Dr. Carver states that it was his “goal was to get the kids out and available to the funeral directors first, just for, well, obvious reasons.”

At 13:27 in the video, a reporter asks Dr. Carver if “all the children’s bodies have been returned to the parents or mortuaries.” Dr. Carver responds, “I don’t know. The mortuaries have all been called.” The reporter asks, “But they’re ready to be

⁸³ *Id.*

⁸⁴ Exhibit B, Affidavit of Brooke Binkowski, para. 56.

⁸⁵ *Id.*, para. 57.

released at this time?” Dr. Carver responds, “As of 1:30, the paperwork has been done. The usual drill is that the funeral homes call us, and as soon as the paperwork is done, we call them back. That process was completed for the children at 1:30 today.”⁸⁶

Despite these answers given in Dr. Carver’s interview, InfoWars used an edited portion of his interview where he stated that “we did not bring the bodies and the families into contact,” and that “we felt it would be best to do it this way.” InfoWars used this video clip to suggest that the parents were not allowed to see their children before burial. However, it is clear in context that Dr. Carver was only referring to the initial identification process. Given the content of Dr. Carver’s interview, Mr. Zipp agreed that InfoWars “intentionally distorted the evidence in a malicious way to attack and retaliate against Mr. Heslin.”⁸⁷

2. Interview with Chris and Lynn McDonnel.

Ms. Binkowski also reviewed a transcript of Anderson Cooper’s interview with Sandy Hook parents Chris and Lynn McDonnel. InfoWars used a clip of the interview “to suggest that the McDonnel’s were not allowed access to their child prior to burial.”⁸⁸ However, InfoWars used an edited clip to omit statements by the parents showing they were allowed to see their child. Mr. Binkowski explained that:

The use of the clip in this way was dishonest. The transcript shows that the InfoWars video clip cut off the end of the Mrs. McDonnel’s answer. She stated, “And I had questioned maybe wanting to see her, *but then I thought, she was just so, so beautiful, and she wouldn’t want us to remember her looking any different than her perfect hair bow on the side of her beautiful long blond hair.*”

In the interview, Mr. McDonnel stated, “But when we left the room, it was certainly so hard to leave her because that would

⁸⁶ *Id.* para. 58-59.

⁸⁷ Exhibit A, Affidavit of Fred Zipp, p. 16.

⁸⁸ Exhibit B, Affidavit of Brooke Binkowski, para 60-62.

be the last time that we would be able to be with her.” It is clear that the parents had to the opportunity to see their child’s body, yet they chose not to do so.⁸⁹

Ms. Binkowski concluded “that InfoWars and Mr. Shroyer used a deceptively edited copy of the interview to give the appearance that the parents were not allowed to see their daughter.”⁹⁰ This clip was used to accuse Mr. Heslin of lying about holding his son. In the July 20, 2017 video in which Mr. Jones republished Mr. Shroyer’s video, Jones stated, “you’ve got CNN and MSNBC both with different groups of parents and the coroner saying we weren’t allowed to see our kids basically ever.”⁹¹

InfoWars’ actions were malicious because “[t]he only way a journalist could support such a conclusion is by intentionally distorting the evidence and Mr. Heslin’s statements.”⁹² According to Ms. Binkowski, “[t]he source material demonstrates that is exactly what occurred in this case.”⁹³ Mr. Zipp agreed that “Mr. Shroyer was only able to support his bogus accusations by using deceptively edited footage.”⁹⁴ Mr. Zipp concluded that “These actions were aimed at manufacturing a controversy where none existed.”⁹⁵

D. InfoWars’ prior conduct shows actual malice.

As Mr. Zipp noted, “InfoWars has made wild claims about the Sandy Hook massacre from the beginning,” and it has “continually repeated these falsehoods over the course of five years.”⁹⁶ According to Mr. Zipp, “[c]ountless individuals and media organizations have

⁸⁹ *Id.*, para. 61-62.

⁹⁰ *Id.*, para. 63.

⁹¹ *See* Defendants’ Exhibit B-35.

⁹² Exhibit B, Affidavit of Brooke Binkowski, para. 66.

⁹³ *Id.*

⁹⁴ Exhibit A, Affidavit of Fred Zipp, p. 16.

⁹⁵ *Id.*, p. 14.

⁹⁶ *Id.*, p. 19.

thoroughly debunked each of InfoWars' claims over the years. Nonetheless, InfoWars has persisted in this malicious campaign."⁹⁷

Defendants' five-year campaign of lies and harassment of the Sandy Hook victims shows actual malice because "evidence of extraneous conduct is admissible, as prior bad act evidence, to show malice, in a defamation suit." *See* 1 Tex. Prac. Guide Civil Trial § 6:131, Character evidence—Evidence of other wrongs or acts—Intent/Malice. "[A]ctual malice may be inferred from the relation of the parties, the circumstances attending the publication, the terms of the publication itself, and from the defendant's words or acts before, at, or after the time of the communication." *Warner Bros.*, 538 S.W.3d at 805, *citing Dolcefino v. Turner*, 987 S.W.2d 100, 111-12 (Tex. App.—Houston [14th Dist.] 1998), *aff'd sub nom. Turner v. KTRK Television, Inc.*, 38 S.W.3d 103, 120 (Tex. 2000). Under Texas law, Mr. Jones' five-year campaign of lies against the Sandy Hook families in the face of irrefutable affirmative evidence is relevant to establishing the malicious nature of his statements.

Mr. Zipp's affidavit provides a lengthy yet only partial history of InfoWars' constant harassment of these parents.⁹⁸ The attack on Mr. Heslin was meant to further these hoax allegations. In the July 20, 2017 video, when Mr. Jones chose to republish Mr. Shroyer's accusations, Jones launched into a rant listing some of the familiar lies he had spread about Sandy Hook:

Is there a blue screen when Anderson Cooper's face disappearing? Are there kids going in circles in the video shots? Did they hold back the helicopters? Did they have porta-pottys there in an hour and a half? Did they run it like a big PR operation? Do they get all these conflicting stories in the media? Absolutely.⁹⁹

⁹⁷ *Id.*

⁹⁸ Exhibit A, Affidavit of Fred Zipp, p. 7-13.

⁹⁹ *See* Defendants' Exhibit B-35.

These false allegations are familiar to this Court from the *Pozner* matter, where they were discussed in Mr. Zipp's affidavit. Mr. Zipp's affidavit from *Pozner* debunking these reckless claims is attached and incorporated by reference.¹⁰⁰ As Ms. Binkowski stated, it is clear "that Mr. Shroyer's video segment was part of InfoWars' ongoing effort to support and justify its vile five-year lie that the Sandy Hook shooting was staged."¹⁰¹ When Mr. Heslin had the courage to defend himself and his community against these lies, InfoWars targeted him with a cruel and dishonest accusation, all in the attempt to perpetuate their insane allegations.

E. InfoWars drives profits by recklessly stating that national tragedies are fake.

In his affidavit, Fred Zipp points out that InfoWars has built a strong brand identity around news stories claiming that national tragedies are actually "false flags" conducted by a shadowy cabal for sinister political purposes. Mr. Zipp notes that "Mr. Jones' rise to notoriety coincided with his assertions that the 9/11 terror attacks were orchestrated by the U.S. government," and "[h]is current promotional materials boast that 'Alex Jones is considered by many to be the grandfather of what has come to be known as the 9/11 Truth Movement.'"¹⁰² Mr. Zipp described InfoWars reckless history of telling its audience that national tragedies are fake:

Regarding the shooting at Columbine High School, Jones told his audience, "Columbine, we know was a false flag. I'd say 100% false flag." Jones claimed that Columbine "had globalist operations written all over it." Regarding the Oklahoma City bombing, Jones said the bombing was a "false flag" and that "we've never had one so open and shut." He added that

¹⁰⁰ Exhibit J, Affidavit of Fred Zipp in *Pozner v. Jones, et. al.*

¹⁰¹ Exhibit B, Affidavit of Brooke Binkowski, para. 70.

¹⁰² *Id.*, p. 19.

convicted bomber Timothy McVeigh “was a patsy, that was a staged event.”

Mere hours after James Holmes killed twelve people in a movie theater in Aurora, CO, Jones told his audience that there was a “100 percent chance” the shooting was a “false flag, mind-control event.” After the shooting of Rep. Gabrielle Giffords, Jones stated: “The whole thing stinks to high heaven.” Mr. Jones asserted that the Giffords shooting was “a staged mind-control operation.”

An April 18, 2013 headline on the InfoWars website read “Proof Boston Marathon Bombing Is False Flag Cover-Up.” A week later, Mr. Jones stated on his broadcast, “I have never seen a false flag, provocateured, staged event by a government come apart faster than it is right now.” Jones said that “patsies were set up” after being recruited by “globalist intelligence agencies.” Jones claimed that Dzhokhar Tsarnaev, who was convicted of the Boston Marathon bombing, “was totally set up, ladies and gentlemen, to sell the police state,” and that his brother worked for the CIA.

Mr. Jones made similar accusations about the Douglas High School shooting in Parkland, Florida, claiming a 90% probability that it was a false flag.¹⁰³

Mr. Zipp concluded that “a major element of the InfoWars brand is built on his allegations that major national tragedies are actually the result of orchestrated government actions.”¹⁰⁴ In light of this history, Mr. Zipp found “that InfoWars’ pattern of predictably asserting that events are ‘false flags,’ sometimes within hours of the event, is circumstantial evidence that InfoWars recklessly disregarded whether his broadcast was true in this case.”¹⁰⁵

¹⁰³ *Id.* at p. 20

¹⁰⁴ *Id.* at p. 21.

¹⁰⁵ *Id.*

F. InfoWars consciously chose to disregard accuracy in its reporting.

Finally, the evidence shows that in the years leading up to the Sandy Hook shooting, Mr. Jones willfully decided to sacrifice the accuracy of his reporting in order to publish sensational and outrageous new stories. Plaintiffs have submitted the affidavit of John Clayton, a journalist who “maintained a close professional association with Alex Jones during the years 2002 through 2009.”¹⁰⁶ Mr. Clayton “hosted or appeared on InfoWars programming on numerous occasions,” and he “worked alongside Mr. Jones in investigating, researching, and creating news content.”¹⁰⁷ Mr. Clayton testified that he stopped working with Mr. Jones because “it became apparent that he had made the conscious decision not to care about accuracy,” and Mr. Jones “made it clear that his goal was to produce views on InfoWars content.”¹⁰⁸

As a result, Mr. Clayton “personally observed that it become standard practice in InfoWars to disregard basic protocols in journalism.”¹⁰⁹ Mr. Clayton testified that he “personally observed countless situations in which Mr. Jones made claims on the air for which he knew had no substantiating evidence.”¹¹⁰ Mr. Clayton testified that “[f]rom my personal experience, I knew that Mr. Jones understood that the information he put on the air had not been adequately checked for accuracy, and in many cases, he knew the information was false. He did not care.”¹¹¹ Mr. Clayton stated that “[o]ne of the differences of opinion I had with Mr. Jones is that I believe it is good and healthy for journalists to ask questions, but

¹⁰⁶ Exhibit F, Affidavit of John Clayton, para. 3.

¹⁰⁷ *Id.* at para. 4.

¹⁰⁸ *Id.* at para. 8.

¹⁰⁹ *Id.* at para. 9.

¹¹⁰ *Id.* at para. 10.

¹¹¹ *Id.* at para. 11.

I believe it is dangerous to assert facts with no evidence.”¹¹² Based on his experience, Mr. Clayton stated that “I felt the way in which Mr. Jones and InfoWars came to operate was dangerous and wrong.”¹¹³ Finally, Mr. Clayton stated that “[g]iven my intimate and personal discussions with Mr. Jones on these topics, and after seeing Mr. Jones consciously discard any sense of journalistic obligation, there is no question in my mind that Mr. Jones made the choice to willfully disregard accuracy in pursuit of a larger audience.”¹¹⁴ Based on these circumstances and the many others described above, there is clear *prima facie* evidence that InfoWars acted with actual malice.

VIII. InfoWars’ 2017 Statements Caused Damages to Plaintiff.

InfoWars’ act of retaliation against Mr. Heslin caused him damages, including severe mental anguish, medical expenses, and other pecuniary loss. These damages are best explained by Mr. Heslin in his affidavit:

Mr. Jones’ prior videos had deeply disturbed me, but this 2017 InfoWars video was far worse.

This broadcast was the first time that InfoWars had featured me by name. In the past, when InfoWars discussed other specific parents, they had become subject to terrible harassment. For example, I was aware of the case of Lucy Richards, an InfoWars fan who was arrested and sentenced to federal prison for death threats against Sandy Hook parent Leonard Pozner. I was also aware of threats and harassment being directed at other parents.

I was also aware that some conspiracy fanatics online had become convinced I was a “crisis actor.” There is even an insane theory that I am a fireman who supposedly died on 9/11. Upon seeing Mr. Shroyer’s video, I became intensely alarmed that his lie would embolden these dangerous people.

¹¹² *Id.* at para. 12.

¹¹³ *Id.* at para. 13.

¹¹⁴ *Id.* at para. 14.

When I learned about Mr. Shroyer's video and InfoWars' other 2017 statements, I knew that my safety and the safety of my family had been placed at risk. This fear dominated my thoughts.

I have suffered a high degree of psychological stress and mental pain due to InfoWars using me and my child to revive the Sandy Hook hoax conspiracy in 2017. I had hoped that this ugly lie would go away, but now Mr. Jones had singled me out in his campaign of harassment, along with the memory of my son. This realization has caused a severe disruption to my daily life.

I find that I can think of little else. I have experienced terrible bouts of insomnia, and periods in which I am filled with nothing but outrage, and I find that I am unable to do anything productive. Other times, I am filled with grief knowing that InfoWars has ensured that its sick lie continues, and I am dismayed that my last moments with my son have become a part of that. I decided to return to grief counselling to help address these issues, but I feel that I have been changed in a way that can never be fixed.¹¹⁵

In terms of pecuniary loss, Mr. Heslin has incurred numerous expenses which are detailed in his affidavit. These include expenses for counselling which "has been aimed at helping [him] cope with becoming a featured part of the Sandy Hook hoax claims."¹¹⁶ Mr. Heslin also purchased "a one-year, two-person plan for the DeleteMe Privacy Protection service, which provides online monitoring and removal of your personal information," which he purchased "to prevent an InfoWars follower from discovering my family's personal details and location."¹¹⁷ Mr. Heslin also purchased "a year's plan for the LifeLock service" because he was "concerned that conspiracy fanatics may use identify theft techniques to gain access to [his] personal details."¹¹⁸ Finally, Mr. Heslin incurred expenses for home security

¹¹⁵ Exhibit C, Affidavit of Neil Heslin, para. 22-27.

¹¹⁶ *Id.*, para. 28.

¹¹⁷ *Id.*, para. 29.

¹¹⁸ *Id.*, para. 30.

monitoring products, which he purchased “due to the fear that InfoWars’ false statements would cause individuals to confront my family.”¹¹⁹

IX. InfoWars Cannot Rely on the Fair Comment or Broadcaster Privileges.

InfoWars’ frivolously argues that its video is protected by the fair comment privilege under Tex. Civ. Prac. & Rem. Code §73.002. “This privilege grants legal immunity for the honest expression of opinion on matters of legitimate public interest when based upon a true or privileged statement of fact.” 50 Tex. Jur. 3d Libel and Slander § 76, citing *Hearst Corp. v. Skeen*, 130 S.W.3d 910 (Tex. App. Fort Worth 2004), *review granted, judgment rev’d on other grounds*, 159 S.W.3d 633 (Tex. 2005). “The imputation of a corrupt or dishonorable motive in connection with established facts is itself to be classified as a statement of fact and as such does not fall within the defense of fair comment.” *Id.* Therefore, the defense cannot apply here because “a false statement of fact...even if made in a discussion of matters of public concern, is not privileged as fair comment.” *Id.*

The Texas Supreme Court has said “if a comment is based upon a substantially false statement of fact the defendant asserts or conveys as true, the comment is not protected by the fair comment privilege.” *D Magazine Partners, L.P.*, 529 S.W.3d at 441. Here, where Mr. Shroyer endorsed the substantially false statements as true, his statements are not fair comment, even if they could be considered a matter of public concern.

Likewise, InfoWars frivolously asserted the broadcaster privilege found in §73.004, but the statute only applies to a “broadcaster” when there is “a defamatory statement published or uttered in or as a part of a radio or television broadcast.” As noted above, InfoWars is not a broadcaster, and the video was not a broadcast. Even if InfoWars were a

¹¹⁹ *Id.*, para. 31.

broadcaster, it would be required to “exercise due care to prevent the publication or utterance of the statement in the broadcast.” *See* Tex. Civ. Prac. & Rem. Code §73.004. Here, the statement was intentionally made.

X. There is *Prima Facie* Evidence of InfoWars, LLC’s Liability.

There is no question that three of the named Defendants are potentially liable to Plaintiff. The parties do not dispute that Owen Shroyer, a reporter for Free Speech Systems, LLC, made his accusations while hosting The Alex Jones Show, in a video that was published on the InfoWars website¹²⁰ and various social media websites. Alex Jones chose to republish Mr. Shroyer’s video on his show soon thereafter. Defendants only dispute the involvement of InfoWars, LLC.

However, Plaintiff has produced *prima facie* evidence that InfoWars, LLC operates the InfoWars.com website. Plaintiff has provided the “Terms of Use & Privacy Policy” found on the InfoWars website. This document identifies InfoWars, LLC as the administrator of the website, and the text informs users of agreements they have made “by using Infowars.com.”¹²¹ Indeed, the document states that InfoWars, LLC administers every “Uniform Resource Identifier we use to provide our Products and Services.”¹²² However, InfoWars has produced an affidavit disclaiming any involvement by InfoWars, LLC.

Last year in *Warner Bros.*, the Austin court discussed how to resolve this exact conflict. Just as here, the plaintiff presented evidence of the defendants’ “Terms of Use” and “Privacy Policy” webpages as they existed “at the time of the motion to dismiss.” *Warner Bros. Entm’t, Inc. v. Jones*, 538 S.W.3d 781, 801–02 (Tex. App.—Austin 2017, pet. filed). These

¹²⁰ <https://www.infowars.com/zero-hedge-discovers-anomaly-in-alex-jones-hit-piece/>

¹²¹ Exhibit G, Affidavit of Marcus Turnini.

¹²² *Id.*

various webpages identified the named defendants as operating the website. The court noted that the documents “establish a *prima facie* case.” *Id.* at 802. However, the defendants filed an affidavit in which their corporate officer “disclaimed responsibility for publication by three of the six defendants.” *Id.*

The *Warner Bros.* court noted that the “affidavit is the testimony of an interested witness,” which is “contradicted by the statements on the website.” *Id.* The court also noted that the defendants’ affidavit consisted of “bare, baseless opinions” and “conclusory testimony.” *Id.* The court ruled that the “inconsistency between the website’s public disclosures and [defendant’s] interested testimony precludes us from viewing his testimony as conclusive proof that TMZ Productions, Inc. did not publish the article.” *Id.* at 803.

In this case, Plaintiff produced the same evidence, and InfoWars produced the same conclusory affidavit. With respect to this topic, the affidavit merely stated: “Defendant InfoWars, LLC does not own or operate the domain name or website located at <http://www.infowars.com>.”¹²³ This conclusory affidavit conflicts with the statements on the website, and therefore must be ignored under *Warner Bros.*

Finally, in addition to the website evidence, Plaintiff has submitted a Notice of Violation issued to InfoWars, LLC by the State of California concerning illegal lead content in supplements sold through the InfoWars website and marketed on InfoWars programming, including The Alex Jones Show.¹²⁴ As such there is *prima facie* evidence that InfoWars, LLC was involved in or profited from the video.

¹²³ See Defendants’ Exhibit B.

¹²⁴ Exhibit I, Notice of Violation issued against InfoWars, LLC by the State of California, Center for Environmental Health, regarding “lead in InfoWars Life dietary supplements,” publicly available at: <https://oag.ca.gov/system/files/prop65/notices/2017-02319.pdf>

XI. Plaintiffs' Claims Against Shroyer's Employer(s) Arise via *Respondeat Superior*.

In Texas, “[a]n action is sustainable against a corporation for defamation by its agent, if such defamation is referable to the duty owing by the agent to the corporation, and was made while in the discharge of that duty. Neither express authorization nor subsequent ratification is necessary to establish liability.” *Warner Bros.*, 538 S.W.3d at 802, quoting *Texam Oil Corp. v. Poynor*, 436 S.W.2d 129, 130 (Tex. 1968); see also *Minyard Food Stores, Inc. v. Goodman*, 80 S.W.3d 573, 577 (Tex. 2002) (holding that general rule that employer is liable for its employee's tort “when the tortious act falls within the scope of the employee's general authority in furtherance of the employer's business” applies in defamation context).

Here, Plaintiff can recover based upon *respondeat superior* if (1) he was injured as a result of an independent tort, (2) the tortfeasor was an employee of the defendant and (3) the tort was committed while the employee was acting within the scope of his employment. *G&H Towing Co. v. Magee*, 437 S.W.3d 293, 296 (Tex. 2011). Here, Owen Shroyer is an employee or agent of one or more Defendants. Moreover, any acts revealed in discovery committed by employees of Mr. Jones in the InfoWars organization in the scope of their employment can trigger liability or evidence of malice. Here, Plaintiff had pled a claim under *respondeat superior* sufficient to survive a motion to dismiss.

XII. Derivative Torts such as Civil Conspiracy are not Examined under the TCPA.

Civil conspiracy can be pled as “a derivative tort.” *Tilton v. Marshall*, 925 S.W.2d 672, 681 (Tex. 1996). As the Austin court wrote last year, civil conspiracy and other derivative forms of recovery are not analyzed in a motion under TCPA when based on another underlying tort:

The tort is derivative because “a defendant's liability for conspiracy depends on participation in some underlying tort for which the plaintiff seeks to hold at least one of the named defendants liable.” Consequently, courts “do not analyze the trial court's refusal to dismiss plaintiffs' causes of action for conspiracy separately from its refusal to dismiss their other causes of action.” In other words, if the trial court did not err by refusing to dismiss the defamation claim, then it did not err by refusing to dismiss the conspiracy claim related to the defamation claim. Accordingly, we conclude that the trial court did not err by refusing to dismiss Jones's conspiracy claim, which is dependent on his defamation claim.

Warner Bros., 538 S.W.3d at 813–14. (citations omitted). In short, a plaintiff need only prove the *prima facie* elements of his underlying case, not his derivative theories of recovery. Conspiracy claims can only be dismissed under the TCPA if the primary defamation claim fails or if the conspiracy claim alleges acts and omissions independent from the defamation claim.

XIII. This Court Should Order Discovery Prior to Ruling on the Motion.

In responding to a TCPA motion, Plaintiff must address each element of his claim, and the act provides a mechanism to secure “additional discovery to meet this burden.” *Grant v. Pivot Tech. Sols., Ltd.*, 2018 WL 3677634, at *12 (Tex. App.—Austin Aug. 3, 2018, no pet. h.). “On a motion by a party or on the court’s own motion and on a showing of good cause, the court may allow specified and limited discovery relevant to the motion.” Tex. Civ. Prac. Rem. Code 27.006(b). On August 17, 2018, Plaintiff filed a Motion for Expedited Discovery under this section. That motion is incorporated here by reference by all purposes. Before ruling on the motion, Plaintiff asks the Court to allow depositions of the parties and to allow Plaintiff to serve written discovery, which Plaintiff has attached as Exhibit H.¹²⁵

¹²⁵ Exhibit H, Plaintiff’s Proposed Written Discovery.

In addition, Plaintiff also filed a Motion for Sanctions due to destruction of evidence when CNN reported that Mr. Jones was deleting social media materials. While InfoWars now claims it saved the primary materials, it admits sub-content has been lost, consistent with the prediction in Ms. Binkowski's declaration. Discovery will also allow Plaintiff to explore the circumstances of InfoWars' conduct, providing further good cause.

CONCLUSION

For these reasons, Plaintiff prays that this Court reset the hearing on InfoWars' motion so that Plaintiff can learn the full extent of InfoWars' malicious conduct and responsibility. Alternatively, Plaintiff prays that this Court denies the motion and awards reasonable costs.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on August 27, 2018 the forgoing document was served upon the following in accordance to Rule 21 of the Texas Rules of Civil Procedure:

Via E-Service: fly63rc@verizon.net

Mark C. Enoch
Glast, Phillips & Murray, P.C.
14801 Quorum Drive, Ste. 500
Dallas, Texas 75254

AFFIDAVIT OF FRED ZIPP

STATE OF TEXAS §
 §
COUNTY OF HARRIS §

Before me, the undersigned notary, on this day personally appeared FRED ZIPP, a person whose identity has been established to me. Upon being duly sworn, Affiant states:

PERSONAL BACKGROUND

I have spent 39 years in daily newspaper journalism and journalism education.

From 1979 to 1984, I was a reporter and assistant city editor at the Beaumont Enterprise in Beaumont, Texas. From 1984 to 1987, I was a sports copy editor, assistant sports editor and assistant city editor at the Austin American-Statesman in Austin, Texas. From 1987 to 1998, I was assistant metro editor, deputy metro editor, news editor and metro editor the Palm Beach Post in West Palm Beach, Florida. In 1998, I returned to the American-Statesman as assistant managing editor, managing editor, and editor. Over the course of my career, I gained extensive experience and expertise in the responsible delivery of news content to a mass media audience.

In 2012, I began teaching at the University of Texas at Austin. At the University of Texas, I supervise a digital media initiative known as *Reporting Texas* which functions similarly to a newsroom; students are the reporters, and I am their editor. I help them conceive, report and write stories that are posted on the reportingtexas.com website.

I have been a director and officer of the Freedom of Information Foundation of Texas and the Headliners Foundation of Texas, an organization that promotes journalism excellence in the state.

SCOPE OF REVIEW

In arriving at my opinions in this case, I have used the same principles and analysis as I have used throughout my journalism career to determine whether particular assertions could be responsibly published. This review included an examination of the disputed statements as well as a variety of relevant background materials. I have reviewed numerous background items, including:

- Public domain materials relating to the Sandy Hook shooting.
- Materials from the final report published by the Connecticut Department of Emergency Services and Public Protection, available at: <http://cspsandyhookreport.ct.gov/>

- Various articles and social media content from InfoWars.
- Various articles and reference materials concerning InfoWars
- My own personal reference materials and texts.
- Video clips containing statements by InfoWars about Sandy Hook, along with transcripts of those video clips created by a court reporter. Those transcripts are attached to my affidavit.
- A July 26, 2017, YouTube video from InfoWars entitled “Zero Hedge Discovers Anomaly in Alex Jones Hit Piece.” A digital copy is attached to this affidavit.
- A July 20, 2017, segment of the Alex Jones show in which the July 26, 2017, video was republished.

It is my belief that discovery will likely produce further relevant evidence, but I am confident that enough material exists in the public domain to reach reliable opinions for the purposes of these initial findings.

BACKGROUND KNOWLEDGE OF INFOWARS

Having been involved in media in Austin for 23 years, I was aware of Alex Jones and InfoWars but felt no need to pay close attention to either one before agreeing to review the materials in this lawsuit. Nonetheless, I was aware of InfoWars’ extremely poor reputation in the media industry with respect to the reliability of the information it publishes, and I also knew Mr. Jones had alleged the Sandy Hook Elementary School shooting was a government hoax involving actors.

After I asked to review the events of this lawsuit, I have spent a significant amount of time reading articles on InfoWars.com and reviewing audio and video recordings posted to the website. While the site purports to be a news and information operation, it is clear that it is actually a propaganda outlet for Mr. Jones’ theories about a global conspiracy to control and enslave the world’s population.

Alex Jones and InfoWars generally have a signature style: rapid-fire assertion of various data points with little or, more often, no attribution. The assertions are presented to the viewer as facts. Underlying the presentation is the premise that Jones is at war with “the globalists” – or their various stand-ins, including the Illuminati, Jews and Communists -- and that he wins the war by marshaling his assertions more effectively than they do. In traditional journalism, by contrast, attributing assertions to sources is an essential element of the work, and the attribution becomes more important in proportion to the seriousness of the facts asserted.

According to the American Press Institute, “Journalism is the activity of gathering, assessing, creating, and presenting news and information. It is also the product of these activities... These elements not only separate journalism from other forms of communication, they are what make it indispensable to democratic societies.”¹ The process of journalism is dependent on responsible verification in which information is gathered and its accuracy is evaluated. In coming to my opinions, I have analyzed InfoWars’ conduct against the well-established standards of the journalism profession.

INFOWARS’ 2017 BROADCASTS

1. InfoWars’ June 26 and July 20 Videos.

After Mr. Heslin condemned InfoWars’ false statements about Sandy Hook during an interview with Megyn Kelly on NBC TV, InfoWars produced a video in which it claimed that Mr. Heslin’s statements about his last moments with his child were a lie. InfoWars host Owen Shroyer began the video by citing an article from an anonymous blog called “Zero Hedge.” The video shows that the anonymous blog post had been “shared” only three times before it was featured on InfoWars’ video. InfoWars took this obscure blog post that almost nobody in the world had seen and used it to smear Mr. Heslin.

In the interview, Mr. Heslin told Ms. Kelly that he buried his son, held his body, and saw his fatal injury. Concerning Mr. Heslin’s claim, Mr. Shroyer stated the following:

The statement he made, fact checkers on this have said cannot be accurate. He’s claiming that he held his son and saw the bullet hole in his head. That is his claim. Now, according to a timeline of events and a coroner’s testimony, that is not possible. And so one must look at Megyn Kelly and say, Megyn, I think it's time for you to explain this contradiction in the narrative because this is only going to fuel the conspiracy theory that you're trying to put out, in fact.

So -- and here's the thing too, you would remember -- let me see how long these clips are. You would remember if you held your dead kid in your hands with a bullet hole. That’s not something that you would just misspeak on. So let's role the clip first, Neil Heslin telling Megyn Kelly of his experience with his kid.²

Mr. Shroyer then played a clip from the interview in which Mr. Heslin stated, “I lost my son. I buried my son. I held my son with a bullet hole through his head.” After playing the clip, Mr. Shroyer stated:

¹ <https://www.americanpressinstitute.org/journalism-essentials/what-is-journalism/>

² Exhibit A-1, 2017-06-26 - Zero Hedge Discovers Anomaly In Alex Jones Hit Piece (Full Segment)

So making a pretty extreme claim that would be a very thing, vivid in your memory, holding his dead child. Now, here is an account from the coroner that does not corroborate with that narrative.³

Mr. Shroyer then played a short clip from a news conference with Dr. Wayne Carver, the medical examiner at Sandy Hook. In the clip, Dr. Carver stated that “we did not bring the bodies and the families into contact. We took pictures of them.” Dr. Carver stated in the clip that “we felt it would be best to do it this way.” Mr. Shroyer also showed an edited clip of an interview with Chris and Lynn McConnel in which Anderson Cooper states, “It’s got to be hard not to have been able to actually see her.”

At the end of the video, Mr. Shroyer stated, “Will there be a clarification from Heslin or Megyn Kelly? I wouldn’t hold your breath. [Laugh]. So now they’re fueling the conspiracy theory claims. Unbelievable.”⁴

On July 20, 2017, during an episode of The Alex Jones Show, Mr. Jones republished the entire segment with Mr. Shroyer.

My review shows that the InfoWars video creates a false impression, both in its explicit text and in its implications. The video creates the false impression by incorporating, contrary to widely accepted journalistic standards,⁵ an edited, incomplete account of Dr. Carver’s and an edited, incomplete account of the McDonnel interview. It is clear to me that any publisher would have serious doubt about stating that Mr. Heslin could not have held his child nor seen his wound and that any publisher would entertain serious doubt about the truth of such a claim. In fact, the evidence I reviewed makes it clear that InfoWars was being purposely deceptive in an act of retaliation.

OPINIONS

1. InfoWars’ False Statements in 2017 Impugned the Reputation of the Plaintiffs.

It is my opinion that the Shroyer video defamed Neil Heslin by impugning his reputation with false statements about his honesty or integrity. Mr. Shroyer arranged edited footage in a misleading and dishonest way to attack Mr. Heslin. At best, the InfoWars video is a mishmash of out-of-context statements that creates a dishonest portrait of Mr. Heslin, his statements and the events of Sandy Hook. At worst, it was a calculated and unconscionably cruel hit-job intended to smear and injure a parent who had the courage to speak up about InfoWars’ falsehoods. In either case, InfoWars recklessly disregarded journalistic standards in approaching this story because disregarding those standards was necessary to carry out its distortion of events.

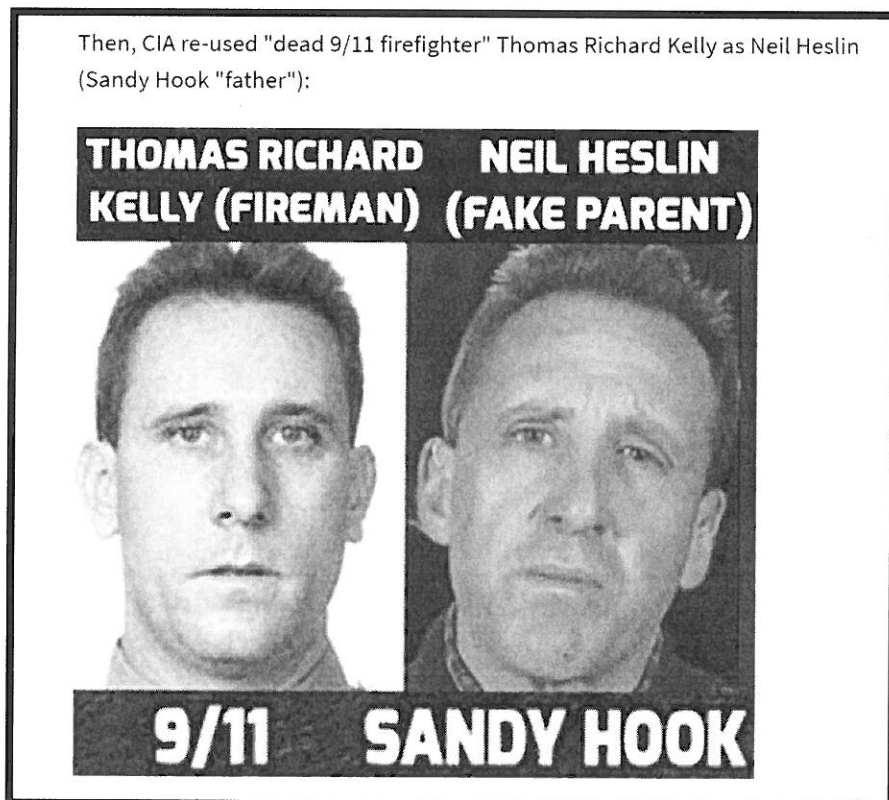
³ *Id.*

⁴ *Id.*

⁵ See Society of Professional Journalists Code of Ethics, at <https://www.spj.org/ethicscode.asp>; esp. “Provide context...” and “Never deliberately distort...”

Mr. Shroyer attributes the defamatory statements about Mr. Heslin to the anonymous Zero Hedge website. Republishing material by an anonymous author as if it were fact is inconsistent with journalistic standards.⁶ Clearly, the point of Mr. Shroyer’s video was that the allegations are true. It was not a neutral report about the Zero Hedge allegation. Rather, InfoWars adopted the allegations and attempted to persuade its audience that Mr. Heslin’s description of his actions was not possible. Mr. Shroyer’s callous statements about the “dead kid” throughout the video are intended to support and bolster an allegation that Mr. Heslin is lying. Mr. Shroyer also made it clear that he was not accusing Mr. Heslin of an innocent mistake. Mr. Shroyer asserts the event is “not something that you would just misspeak on” because “you would remember if you held your dead kid in your hands with a bullet hole.”⁷

After the accusations appeared on InfoWars, Mr. Heslin was featured on numerous conspiracy websites and social media networks as internet users made wild speculations about him. Mr. Heslin had now become fodder for the Sandy Hook conspiracy fanatics. For example, he appeared in an internet meme accusing him of being an actor who also “played” a fireman killed on 9/11:



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⁶ *Id.*, esp., “Identify sources clearly...”

⁷ Exhibit A-1, 2017-06-26 - Zero Hedge Discovers Anomaly In Alex Jones Hit Piece (Full Segment)

⁸ <https://busy.org/@barrysoetoro/neil-heslin-is-dead-9-11-fireman>

Once a person's name enters conspiracy culture, there is no limit for how bizarre the accusations can become. One conspiracy website alleged that Mr. Heslin's name was actually an anagram hiding his secret purpose with the Illuminati:

As we know the Illuminists like to mock us when they name these people so let's look at what Neil Heslin says coded:


NEIL	HESLIN
LIEN	HES-LIN
LYIN'	HE'S LYIN'

Yea, he's LYIN' alright!

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Anti-Semitism appears to be common among conspiracy fanatics, who believe the "Globalists" are controlled by Jewish interests. In the weeks after the InfoWars video appeared, Mr. Heslin became the target of these bigots:

Fake tears on dry cheeks of Neil Heslin, Jew, with a framed pic of his not-dead daughter who was NOT shot at Sandy Hook Elementary School in December 2012, as he lies under oath to the US Senate Judiciary Committee on February 23, 2013.



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⁹ <http://theconspiracyzone.podcastpeople.com/posts/68433>

¹⁰ <https://www.johndenugent.com/how-the-whole-anti-confederate-hysteria-began-the-fake-charleston-church-shooting-using-crisis-actor-john-graas/>

The InfoWars video was not only false and disparaging, but also influential; after it appeared, a group of irrational and dangerous conspiracy fanatics turned their attention to Mr. Heslin. The InfoWars video exposes Mr. Heslin to ridicule and contempt, and it is reasonable to believe that it could encourage bad actors who could become a threat to his safety.

A. Background Context of the 2017 Statements.

InfoWars' 2017 statements were not made in isolation. The 2017 statements were the latest allegation in a series of reckless falsehoods InfoWars has been making about Sandy Hook for five years. Mr. Jones used these false statements as evidence for his contention that the Sandy Hook shooting was faked or staged, and that the participants are engaged in a sinister cover-up.

In a January 27, 2013, broadcast entitled "Why People Think Sandy Hook is a Hoax," Mr. Jones first alleged that the event had been faked:

In the last month and a half, I have not come out and said that this was clearly a staged event. Unfortunately, evidence is beginning to come out that points more and more in that direction...Something serious is going on here, and CNN over and over again is at the heart of the fishy things that are happening...

Now, ladies and gentlemen, the finale. I saw this footage where Anderson Cooper turns. He's supposedly there at Sandy Hook in front of the memorial, and his whole forehead and nose blurs out. I've been working with blue screen, again, for 17 years. I know what it looks like. It's clearly blue screen, clearly.¹¹

In an April 16, 2013, broadcast entitled "Shadow Govt Strikes Again," Mr. Jones was discussing various plots behind various national tragedies. During his remarks, he stated: "They staged Sandy Hook. The evidence is just overwhelming, and that's why I'm so desperate and freaked out."¹²

In a March 14, 2014, broadcast entitled "Sandy Hook, False Narratives Vs. The Reality," Mr. Jones again repeated numerous false and irresponsible claims. Mr. Jones then asserted that the event was pre-planned and featured actors as a part of a cover-up:

Folks, we've got video of Anderson Cooper with clear blue-screen out there. [Shaking head]. He's not there in the town square. We got people clearly coming up and laughing and then doing the fake crying. We've clearly got people where it's actors playing different parts for different people, the building bulldozed, covering up everything. Adam Lanza trying to get guns five times we're told. The witnesses not saying it was him...I've looked at it and undoubtedly, there's a cover-up, there's actors, they're

¹¹ Exhibit A3 - Transcript - 2013-01-27 - Why People Think Sandy Hook is a Hoax (Clip at 12m58)

¹² Exhibit A4 - Transcript - 2013-04-16 - Shadow Govt Strikes Again (Clip at 13m20s)

manipulating, they've been caught lying, and they were pre-planning before it and rolled out with it.¹³

In a May 13, 2014, broadcast entitled "Bombshell Sandy Hook Massacre Was A DHS Illusion Says School Safety Expert," Mr. Jones again repeated his false statements:

They don't even hide this stuff, ladies and gentlemen. Anderson Cooper, CIA, up there, who cares if it's blue screen... You're looking at how they don't any of the standard stuff, the paperwork, the police reports, no helicopter sent, no rescue, kids going in circles totally staged, men with guns in the woods getting grabbed, no names released. They deny it went on. Later have to admit it went on but say we're not answering questions. I mean, clearly it's a drill, just like the Boston bombing. I don't know exactly what's going on, but it just -- the official story isn't true.¹⁴

In a September 25, 2014, broadcast entitled "Connecticut PD Has FBI Falsify Crime Statistics," Mr. Jones stated:

This is not a game. They are hopping mad we're covering this. CNN admits they did fake scud attacks on themselves back in 1991, 1990. Would they stage this? I don't know. Do penguins live in Antarctica? Wolfgang W. Halbig's our guest, former state police officer, then worked for the customs department, and then over the last decade's created one of the biggest, most successful school safety training grips. And he just has gone and investigated, and it's just phony as a three-dollar bill...¹⁵

If you've got a school of 100 kids and then nobody can find them, and you've got parents laughing going "Ha, Ha, Ha," and then they walk over to the camera and go (crying), and I mean, not just one, but a bunch of parents doing this and then photos of kids that are still alive they said die. I mean, they think we're so dumb that it's really hidden in plain view, and so the preponderance -- I mean, I thought they had some scripting early on to exacerbate and milk the crisis as Rahm Emmanuel said, but when you really look at it, where are the lawsuits? There would be incredible lawsuits and payouts, but there haven't been any filed, nothing. I've never seen this. This is incredible.¹⁶

¹³ Exhibit A5 - Transcript - 2014-03-14 - Sandy Hook, False Narratives Vs. The Reality (Clip at 26s)

¹⁴ Exhibit A6 - Transcript - 2014-05-13 - Bombshell Sandy Hook Massacre Was A DHS Illusion Says School Safety Expert (Clip at 17m)

¹⁵ Exhibit A7 - Transcript - 2014-09-25 - Connecticut PD Has FBI Falsify Crime Statistics (Clip at 22m)

¹⁶ Exhibit A8 - Transcript - 2014-09-25 - Connecticut PD Has FBI Falsify Crime Statistics (Clip at 22m)

In a December 27, 2014, broadcast entitled "Lawsuit Could Reveal Truth About Sandy Hook Massacre," Mr. Jones stated:

All I know is I saw Cooper with blue screen out there, green screen. I know I saw the kids doing fake, you know, rotations in and out of the building. They tore it down, all the unprecedented gag orders, you know, the police in anti-terror outfits in the woods. Then they denied that, that had been in the news. I mean, something is being hidden there...¹⁷

I said they may have killed real kids, but they're practicing how to propagandize, and how to control the press, and how to put out a product that's a fraud when I just saw the heavy, heavy, heavy scripting. That was what was so clear. And then the parents laughing and then one second later doing the actor breathing to cry. I mean, it just -- it's just over the top. Over the top sick.¹⁸

In a December 29, 2014, broadcast entitled "America the False Democracy," Mr. Jones continued to insist that Sandy Hook was fake:

I've had investigators on. I've had the state police have gone public, you name it. The whole thing is a giant hoax. And the problem is how do you deal with a total hoax? I mean it's just -- how do you even convince the public something is a total hoax?

The general public doesn't know the school was actually closed the year before. They don't know. They've shielded it all, demolished the building. They don't know that they had their kids going in circles in and out of the building as a photo op. Blue screen, green screens, they got caught using. I mean the whole thing.

But remember, this is the same White House that's been caught running the fake Bin Laden raid that's come out and been faked. It's the same White House that got caught running all these other fake events over and over again, and it's the same White House that says I never said that you could keep your doctor when he did say you could keep doctor. People just instinctively know that there's a lot of fraud going on, but it took me about a year with Sandy Hook to come to grips with the fact that the whole thing was fake. I mean, even I couldn't believe it. I knew they jumped on it, used the crisis, hyped it up, but then I did deep research; and my gosh, it just pretty much didn't happen.¹⁹

¹⁷ Exhibit A9 - Transcript - 2014-12-27 - Lawsuit Could Reveal Truth About Sandy Hook Massacre (Clip at 3m08s)

¹⁸ Exhibit A10 - Transcript - 2014-12-27 - Lawsuit Could Reveal Truth About Sandy Hook Massacre (Clip at 4m34s)

¹⁹ Exhibit A11 - Transcript - 2014-12-29 - America the False Democracy (Clip at 11m53s)

In a January 13, 2015, broadcast entitled “Why We Accept Gov't Lies,” Mr. Jones continued his allegations about Sandy Hook. He asserted that the event was “completely fake” and “manufactured”:

You learn the school had been closed and re-opened. And you've got video of the kids going in circles, in and out of the building, and they don't call the rescue choppers for two hours, and then they tear the building down, and seal it. And they get caught using blue-screens, and an email by Bloomberg comes out in a lawsuit, where he's telling his people get ready in the next 24 hours to capitalize on a shooting.

Yeah, so Sandy Hook is a synthetic, completely fake with actors, in my view, manufactured. I couldn't believe it at first. I knew they had actors there, clearly, but I thought they killed some real kids. And it just shows how bold they are that they clearly used actors. I mean they even ended up using photos of kids killed in mass shootings here in a fake mass shooting in Turkey, or Pakistan. The sky is now the limit.²⁰

In a February 12, 2015, broadcast with an unknown title, Mr. Jones continued to repeat his false claims. Mr. Jones stated, “I know they're using blue screens... There are literally hundreds of smoking guns here that this thing doesn't add up.”²¹

In a March 4, 2015, broadcast entitled “New Bombshell Sandy Hook Information In-Bound,” Mr. Jones stated, “We know it stinks. I mean, it's phony. The question is what is going on. We don't know. We just know it's fake. How fake we don't know. It's sick.”²²

In a July 7, 2015, broadcast entitled “Government Is Manufacturing Crises,” Mr. Jones again asserted that Sandy Hook was staged:

If they did kill kids, they knew it was coming, stocked the school with kids, killed them, and then had the media there, and that probably didn't even happen. I mean, no wonder we get so many death threats and so much heat and so much other stuff I'm not going to get into, behind the scenes, when we touch Sandy Hook because, folks, it's as phony as a three-dollar bill.²³

In a July 7, 2015, broadcast entitled “Retired FBI Agent Investigates Sandy Hook Mega Massive Cover Up,” Mr. Jones repeated a large selection of his prior false claims about Sandy Hook:

²⁰ Exhibit A12 - Transcript - 2015-01-13 - Why We Accept Gov't Lies (Clip at 10m36s)

²¹ Exhibit A13 - Transcript - 2015-02-12 - InfoWars broadcast relating to HONR copyright claim (Clip at 0m26s)

²² Exhibit A14 - Transcript - 2015-03-04 - New Bombshell Sandy Hook Information In-Bound (Clip at 32m30s)

²³ Exhibit A15 - Transcript - 2015-07-07 - Government Is Manufacturing Crises (Clip at 32m)

No emergency helicopters were sent. The ambulances came an hour and a half later and parked down the road. DHS an hour and a half later with the time stamp put up signs saying sign in here. They had porta-potties being delivered within an hour and a half. It looked like a carnival. It looked like a big PR stunt.

Came out that Bloomberg a day before sent an email out to his gun control groups in all 50 states saying, "Prepare to roll, maybe operation coming up." That came out in the news.

We have the emails from city council back and forth and the school talking about it being down a year before. We have the school then being demolished, and the records being sealed. We have videos that look just incredibly suspicious where people are laughing and everything, and then they start huffing and puffing and start crying on TV, which is pure acting method...

But I mean, this is just so big. And the more we look at Sandy Hook, I don't want to believe it's a false flag. I don't know if kids really got killed. But you got green screen with Anderson Cooper where I was watching the video and the flowers and plants are blowing in some of them, and then they blow again the same way. It's looped, and then his nose disappears. I mean, it's fake.

The whole thing is just -- I don't know what happened. It's kind of like if you see a hologram at Disney World in the Haunted House, you know. I don't know how they do it, but it's not real. When you take your kids to see, you know, the Haunted House and ghosts are flying around, they're not real, folks. It's staged.²⁴

Mr. Jones also stated, "It's 101, they're covering up... This is mega-massive cover-up. My God." Mr. Jones stated that the tragedy was "totally made up with green screens, everything. And we've got them on green screens." Mr. Jones stated, "That's how evil these people are is that they can have CNN involved, all these people."²⁵

In a November 18, 2016, broadcast entitled "Alex Jones Final Statement on Sandy Hook," Mr. Jones directly addressed the growing public controversy caused by his statements. In doing so, he began by repeating the numerous false claims he has made over the years.

Number one, the day before this tragic event happened an email was sent out by Bloomberg's anti-gun group saying prepare for a big

²⁴ Exhibit A16 - Transcript - 2015-07-07 - Retired FBI Agent Investigates Sandy Hook Mega Massive Cover Up (Clip 0-5m)

²⁵ Exhibit A17 - Transcript - 2015-07-07 - Retired FBI Agent Investigates Sandy Hook Mega Massive Cover Up (Clip at 9m40s)

event. But the biggest piece of evidence, the smoking gun, if you would, of a cover-up, of whatever really happened is the Wayback Machine, the internet archive. We see Sandy Hook's Newtown website K through 12 having zero traffic 2008, '09, '10, '11, '12, and then all of a sudden it just explodes. It's impossible to have zero traffic to a K through 12 entire school system. And the word is that school system was shut down for those years. That's what the records show. They tell us it was open...

And early on, that day we watched footage of kids going in circles in and out of the building. You'd be running them away from the building. Emergency helicopters weren't called. Instead port-potties were prepared for the press within hours of the event. I saw the helicopters that did respond, the police helicopters saying that there were men or a man in the woods in camouflage...

And then I saw Anderson Cooper -- I've been in TV for 20-something years; I know a blue screen or a green screen -- turn, and his nose disappears. Then I saw clearly that they were using footage on the green screen looped because it would show flowers and other things during other broadcasts that were moving and then basically cutting to the same piece of footage...

Then we see footage of one of the reported fathers of the victims, Robby Parker, doing classic acting training where he's laughing and joking. And they say, hey, we're live, and he goes, oh. [Jones mock cries]. And maybe that's real. I'm sure it is.

But you add it to all the other things that were happening and all the other fake news the media has been caught in, and CNN back in 1991 openly faking scud missile attacks on Saudi Arabia and Israel when they were back in Atlanta; and the satellite feeds caught them admitting that it was all fake. We'd be crazy not to question this because bare minimum they were faking some of the shots and some of the coverage.

So to be clear, we point out clear chroma key, also known as blue screen or green screen being used, and we're demonized. We point out they're clearly doing fake interviews.²⁶

In other words, Mr. Jones used his false claims as proof that the truth about Sandy Hook was being artificially manipulated. In a chilling finale, Mr. Jones told his audience that the parents were actors:

²⁶ Exhibit A18 - Transcript - 2016-11-18 - Alex Jones Final Statement on Sandy Hook (Clip at 4m59s)

And why should anybody fear an investigation if they have nothing to hide. In fact, isn't that in Shakespeare's Hamlet, "me thinks you protest too much."

But this particular case they are so scared of an investigation. So everything they do basically ends up blowing up in their face. So you guys are going to get what you want now. I'm going to start reinvestigating Sandy Hook and everything else that happened with it...

And so if children were lost in Sandy Hook, my heart goes out to each and every one of those parents and the people that say they're parents that I see on the news. The only problem is I've watched a lot of soap operas, and I've seen actors before. And I know when I'm watching a movie and when I'm watching something real.²⁷

On April 22, 2017, InfoWars aired the "Sandy Hook Vampires Exposed" broadcast, which is the subject of a separate lawsuit brought by Leonard Pozner and Veronique De La Rosa. During that video, InfoWars once again made the false accusation that Ms. De La Rosa conducted a fake interview with Anderson Cooper as evidence of a conspiracy to cover up the truth about Sandy Hook.

On June 13, 2017, Mr. Jones stated in a Facebook video that "there's been a cover-up, and Anderson Cooper got caught faking where his location was with blue screen."²⁸ On June 19, 2017, Mr. Jones appeared for an interview with Megyn Kelly. During this interview, Mr. Jones continued to insist there had been a cover-up. While he waffled on whether he now believed children were killed, he did not abandon his accusations about a cover-up. Mr. Jones claimed it was suspicious that the children's autopsy records were not released to the public, and he again claimed to have seen video of kids going in circles in and out of Sandy Hook Elementary. Mr. Jones stated, "I do think there's some cover-up and some manipulation."²⁹

In an October 26, 2017, broadcast entitled "JFK Assassination Documents To DROP Tonight," Mr. Jones again returned to the subject of Sandy Hook. In this broadcast, he repeated his accusation that "it's as phony as a three-dollar bill with CNN doing fake newscasts, with blue screens."³⁰

B. The reasonable meaning of InfoWars' June 26, 2017 Video.

Before publishing, journalists must evaluate how their story will be received by the public. The editorial process includes an analysis of how ordinary readers of average intelligence will understand and interpret the story. During my years in newspaper journalism, I gained extensive

²⁷ Exhibit A19 - Transcript - 2016-11-18 - Alex Jones Final Statement on Sandy Hook (Clip at 15m22s)

²⁸ Exhibit A20 - Transcript - 2017-06-13 - Media Refuses To Report Alex Jones' Real Statements On Sandy Hook (Clip at 14m)

²⁹ Exhibit A21 - Transcript - 2017-06-19 - Megyn Kelly Profile (Clip at 7m55s)

³⁰ Exhibit A22 - Transcript - 2017-10-26 - JFK Assassination Documents To DROP Tonight (Clip at 1h13m30s)

expertise in assessing the reasonable meanings of a text. As editor, I routinely applied this expertise in an effort to avoid creating a misimpression among our readership. In this case, I likewise analyzed the publication to determine what meaning could be reasonably understood by a person of average intelligence.

It is my opinion that a person of ordinary intelligence would understand the June 26, 2017, video as an accusation that Mr. Heslin was lying about the circumstances of his son's death. Unquestionably, the gist of the video is that Mr. Heslin's claim of holding his son was not possible. InfoWars used a deceptively edited clip of Lynn McDonnel to convince its viewers that she was not allowed to see her child's body. It also used an out-of-context clip of Dr. Carver to convince viewers that parents were only allowed to see photographs of their dead children. These actions were aimed at manufacturing a controversy where none existed.

Moreover, the allegation against Mr. Heslin was merely the latest part of a calculated five-year campaign to convince InfoWars' viewers that the Sandy Hook massacre was staged and that the parents were actors in a "false flag" event. In the context of this five-year course of harassment and deception, it is clear that a reasonable person could understand InfoWars to be implying that Mr. Heslin's "impossible" claim about holding his alleged son is evidence that he was an actor in the "false flag" and not a real parent. As such, a reasonable viewer could understand that the video ultimately accuses Mr. Heslin of criminal conduct, such as falsifying a police report or fraud.

Not only is it my opinion that these statements could be understood in this manner, but there is ample evidence that InfoWars' statements were indeed understood in this manner by the public at large. The nature of InfoWars' statements about Sandy Hook have been widely reported in the media. The national outrage created by the unmistakable meaning of Mr. Jones' statements about Sandy Hook is well documented. In an April 19, 2018, editorial entitled "Thank You for Suing Alex Jones," the Hartford Courant editorial board wrote:

Alex Jones and his website Infowars offer the worst kind of free speech — incendiary malice, based in falsehood, with no social value...They claim the Sandy Hook parents are actors. They claim the children never existed. They weave wild conspiracies from thin air. They have no regard for human suffering.³¹

The New York Daily News Editorial Board wrote about Jones' statements in an editorial on April 17, 2018, entitled "Defamed by the devil: Sandy Hook parents take on Alex Jones' lies." The Board wrote:

All decent people should cheer on Leonard Pozner, Veronique De La Rosa and Neil Heslin...for filing a defamation lawsuit in Texas court against Alex Jones. As a radio show host and the grand poobah of Infowars.com, Jones has peddled wretched whole-cloth lies about

³¹ <http://www.courant.com/g00/opinion/editorials/hc-ed-alex-jones-sandy-hook-hoax-lawsuit-20180417-story.html?i10c.encReferrer=&i10c.ua=1&i10c.dv=14>

the 2012 Newtown massacre: that it was all a hoax, that the victims and their mourning mothers and fathers are actors.³²

In short, nobody who has been paying attention to InfoWars has any doubt about the meaning of its claims. InfoWars' statements about Mr. Heslin are the latest part of its years-long campaign to convince Mr. Jones' viewers that the events of Sandy Hook should not be believed. Given the persistence of the Sandy Hook hoax conspiracy online, it is clear that many of Mr. Jones' followers have accepted his allegations as true. A 2016 poll conducted by Fairleigh Dickinson University found that 24 percent of Americans believe Sandy Hook was either "definitely" or "possibly" faked.³³

Additionally, it is clear from my review that InfoWars' statements would be reasonably understood as assertions of fact, not opinions. Mr. Shroyer did not equivocate in his statements about Mr. Heslin. Mr. Shroyer claimed Mr. Heslin's statement about holding his son was "not possible." He also referenced the involvement of unspecified "fact-checkers," which obviously signals an assertion of fact, not an opinion. It is my conclusion that that InfoWars' 2017 statements about Mr. Heslin would tend to injure his reputation, impeach his honesty and integrity and expose him to contempt or ridicule.

2. InfoWars' accusations about Mr. Heslin were made with reckless disregard for truth.

I have reviewed materials which lead me to believe that InfoWars demonstrated a reckless disregard for truth. It is my opinion that InfoWars not only had serious doubts about the truth of their 2017 statements about Mr. Heslin, but that they were motivated by a desire to mislead and deceive.

A. InfoWars' accusations were inherently improbable and manufactured using edited out-of-context footage.

Mr. Shroyer's statements about Mr. Heslin were farfetched and shocking on their face. It required an extraordinary level of verification before being repeatedly stated as fact. Yet it is clear that InfoWars not only performed no verification, but also used edited source material in a misleading way. Both are serious departures from standard journalism practice.³⁴ For example, there is a full copy of Dr. Carver's interview posted on YouTube,³⁵ and portions of the interview show that Mr. Shroyer has edited out a small part to create the impression that the parents were not allowed access to their children. Dr. Carver clearly stated that at the time of his interview, the bodies had been released to private funeral homes on behalf of the families. Mr. Shroyer used the same dishonest tactic to edit a portion of an interview with Sandy Hook parents Chris and Lynn McDonnel. Mr. Shroyer cut off the end of Ms. McDonnel's answer to make it appear that she was not allowed to see her daughter's body. A full copy of the transcript shows that Ms. McDonnel

³² <http://www.nydailynews.com/opinion/defamed-devil-sandy-hook-parents-alex-jones-lies-article-1.3939094>

³³ <https://view2.fdu.edu/publicmind/2016/161011/>

³⁴ See Society of Professional Journalists Code of Ethics, at <https://www.spj.org/ethicscode.asp>; esp. "Take responsibility...", "Provide context..." and "Never deliberately distort..."

³⁵ <https://www.youtube.com/watch?v=k3NS1ILo6As>

had the opportunity to see her daughter's body.³⁶ Mr. Shroyer was only able to support his bogus accusations by using deceptively edited footage.

Serious claims require serious evidence. Here, Mr. Shroyer used sham evidence. Not only did InfoWars ignore basic precautions taken by journalists, but it intentionally distorted the evidence in a malicious way to attack and retaliate against Mr. Heslin.

B. InfoWars relied upon dubious and unhinged sources.

As noted above, Mr. Shroyer began the video by referencing a post on an anonymous blog known as "Zero Hedge." It appears that Mr. Shroyer aired his segment within hours of seeing the Zero Hedge blog post. It does not appear that Mr. Shroyer did anything to investigate the author behind the anonymous post. Given the seriousness of the accusations, Mr. Shroyer acted recklessly and in a manner contrary to standard journalism practice³⁷ by hastily endorsing the accusations of this anonymous author.

In addition, the Zero Hedge article cites accusations made by an individual named Jim Fetzer. In its Motion to Dismiss, InfoWars described Mr. Fetzer with an air of respectability, referring to him as "Professor Emeritus of the University of Minnesota." In truth, the retired professor has long been understood to be an unhinged crank. I do not use these terms lightly. Mr. Fetzer, author of the disturbingly titled self-published book "Nobody Died at Sandy Hook"³⁸ has spent years spreading ridiculous and bizarre claims about the event. For example, Mr. Fetzer is convinced that Sandy Hook parent Leonard Pozner is actually a different man named Reuben Vabner. Mr. Fetzer wrote:

Do not let the difference in Reuben and Lenny's ears fool you: they are still lopsided in the same direction even though the tops are bigger on Lenny, which we take to be one of the means they faked to deny they are the same. Fotoforensics demonstrates to anyone interested that Lenny's ears were extended at the tips. His chin was fattened up as well, which you can also see in photo forensics. Take away the ear tips and the double chin and you have Reuben Vabner.³⁹

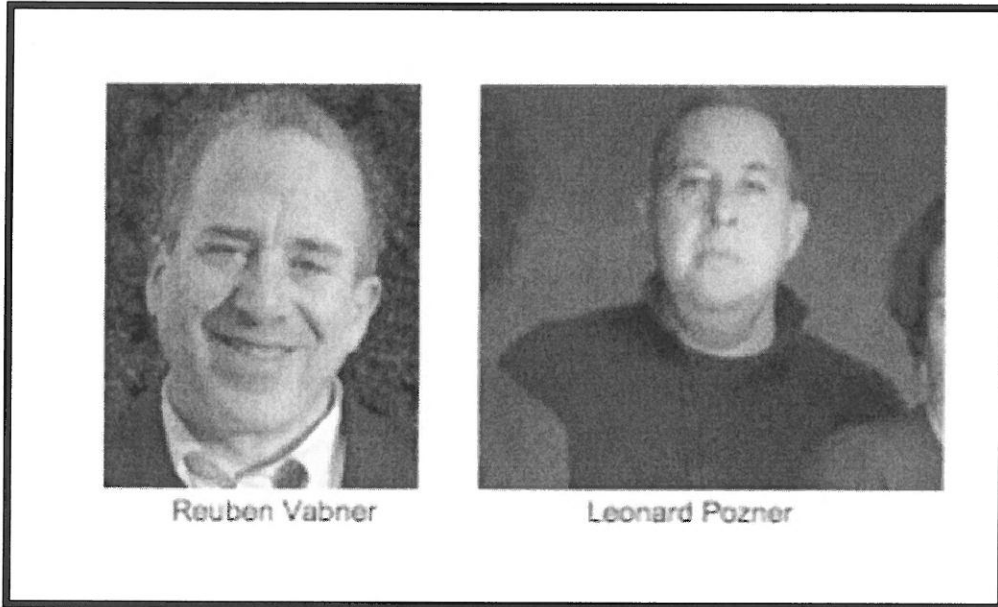
Mr. Fetzer also posts his purported "photo forensics" which he claims prove that Mr. Pozner is actually Mr. Vabner:

³⁶ <http://transcripts.cnn.com/TRANSCRIPTS/1212/18/acd.02.html>

³⁷ See Society of Professional Journalists Code of Ethics, at <https://www.spj.org/ethicscode.asp>; esp. "Take responsibility...." and "Identify sources..."

³⁸ https://books.google.com/books/about/Nobody_Died_at_Sandy_Hook.html?id=DH8cjwEACAAJ&source=kp_book_description

³⁹ <http://jamesfetzer.blogspot.com/2018/06/philip-kraske-sandy-hook-alex-jones.html>



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Mr. Fetzer's bizarre writings feature notably anti-Semitic rants about Mr. Pozner, who he insists is part of some international Jewish conspiracy:

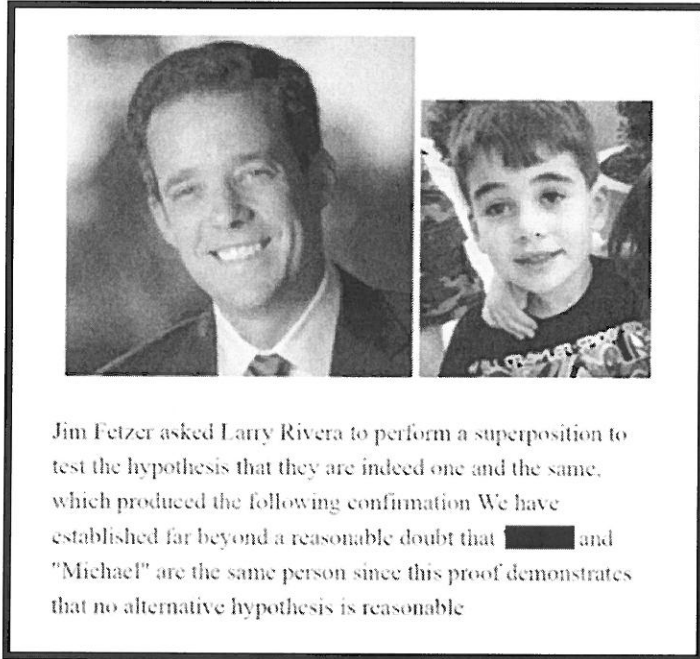
Pozner is the true picture of a traitor that has sold out his fellow man. He is a banker/financial consultant and an NWO shill that seems to have no remorse for lying and stealing everyone's donations. Not to mention the trauma our people in the U.S. have endured since 9/11.

Oh I know it's nothing like the Zionists say they went through during their years in the wilderness. Especially, since they are so much better than us and why Leonard Pozner thinks this is all ok to do.⁴¹

Mr. Fetzer is obsessed with the notion of faked identifies, and he makes similar accusations about the shooting victims, posting photo comparisons which he claims prove that the photos of children are actually adults:

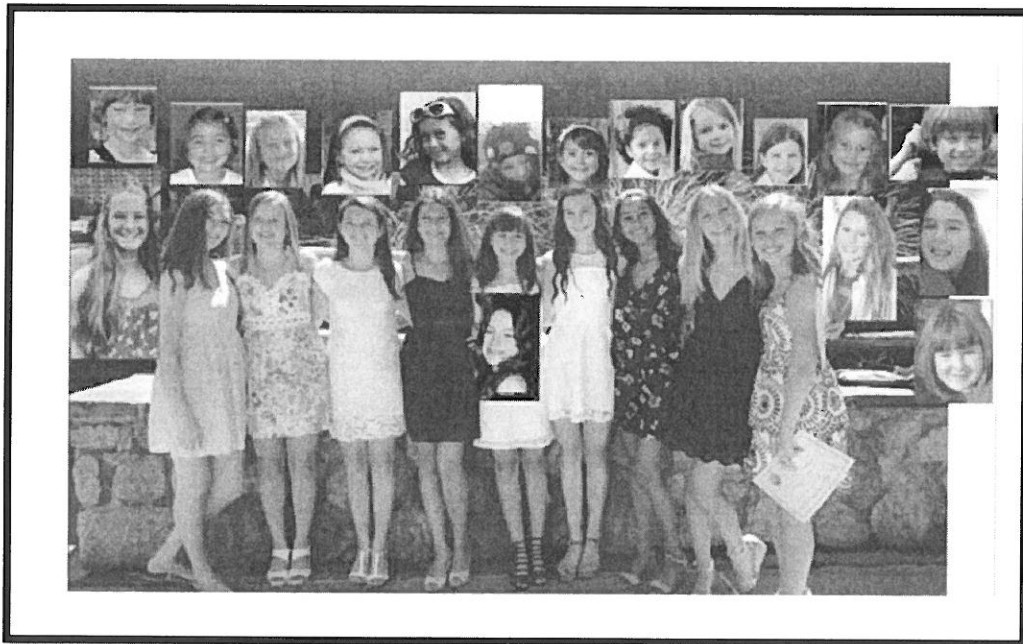
⁴⁰ *Id.*

⁴¹ *Id.*



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Mr. Fetzer tells his readers that he has located a photograph containing the female shooting victims, who are now allegedly adolescents:



43

⁴² *Id.*

⁴³ *Id.*

Mr. Fetzer has claimed, with no evidence, that the death certificates for shooting victims have been faked and that a shooting victim's gravestone was actually a computer-generated graphic.⁴⁴ In short, no rational journalist would ever rely on Mr. Fetzer as a source for anything, especially an allegation as improbable and serious as accusing a parent of lying about holding their dead child. InfoWars' uncritical endorsement of accusations being promoted by Mr. Fetzer demonstrates its reckless and deceptive conduct.

C. InfoWars has a long history of making false statements about Sandy Hook.

InfoWars has made wild claims about the Sandy Hook massacre from the beginning. InfoWars suggested the event was a "false flag" on the day on the shooting⁴⁵, and InfoWars explicitly made that claim over the next five years. The accusation about Mr. Heslin is simply the latest element of InfoWars' claim that the official story of Sandy Hook was a lie. He has continually repeated these falsehoods over the course of five years. Countless individuals and media organizations have thoroughly debunked each of InfoWars' claims over the years. Nonetheless, InfoWars has persisted in this malicious campaign.

As part of my evaluation in this case, I reviewed video clips from over twenty InfoWars' broadcasts between 2013-2016, all of which discuss the alleged conspiracy behind Sandy Hook. In the videos I reviewed, InfoWars made a variety of factual allegations which are readily disproved by basic journalistic efforts. The various claims made by Jones have been debunked from numerous groups and individuals using a wide variety of sources in the public record.

InfoWars had ample opportunity to investigate the accuracy of its assertions. It has devoted an enormous amount of airtime to the tragedy, with videos and articles making extreme assertions years after the event. Given the enormous public attention and outcry over InfoWars' allegations, I find it unlikely that InfoWars researchers could have avoided the widespread debunking efforts unless they were doing so intentionally. It is my opinion that any reasonable journalist who continued to publish these claims in 2017 would entertain serious doubts about the truth of their statements and that they would be acting with a desire to mislead their audience.

D. InfoWars has a long history of recklessly claiming that national tragedies were staged by the government.

Mr. Jones' rise to notoriety coincided with his assertions that the 9/11 terror attacks were orchestrated by the U.S. government. InfoWars' current promotional materials boast that "Alex Jones is considered by many to be the grandfather of what has come to be known as the 9/11 Truth Movement."⁴⁶ Regarding the shooting at Columbine High School, Jones told his audience, "Columbine, we know was a false flag. I'd say 100 percent false flag."⁴⁷ Jones claimed that

⁴⁴ *Id.*

⁴⁵ Exhibit A23 - Transcript - 2012-12-14 - Connecticut School Massacre Looks Like False Flag Says Witnesses (Clip at 9m30)

⁴⁶ Free Speech Systems, LLC Media Kit, p. 1.

⁴⁷ The Alex Jones Show, July 20, 2012, video available at:

<https://www.mediamatters.org/embed/clips/2016/11/23/51244/gcn-alexjones-20120720-columbinefalseflag>

Columbine “had globalist operations written all over it.”⁴⁸ Regarding the Oklahoma City bombing, Jones said the bombing was a “false flag” and that “we’ve never had one so open and shut.” He added that convicted bomber Timothy McVeigh “was a patsy, that was a staged event.”⁴⁹

Mere hours after James Holmes killed twelve people in a movie theater in Aurora, Colorado, Jones told his audience that there was a “100 percent chance” the shooting was a “false flag, mind control event.”⁵⁰

After the shooting of Rep. Gabrielle Giffords, Jones stated: “The whole thing stinks to high heaven.”⁵¹ Mr. Jones asserted that the Giffords shooting was “a staged mind-control operation.”

An April 18, 2013, headline on the InfoWars website read “Proof Boston Marathon Bombing Is False Flag Cover-Up.”⁵² A week later, Mr. Jones stated on his broadcast, “I have never seen a false flag, provocateured, staged event by a government come apart faster than it is right now.”⁵³ Jones said that “patsies were set up” after being recruited by “globalist intelligence agencies.”⁵⁴ Jones claimed that Dzhokhar Tsarnaev, who was convicted of the Boston Marathon bombing, “was totally set up, ladies and gentlemen, to sell the police state,” and that his brother worked for the CIA.⁵⁵

Mr. Jones made similar accusations about the Douglas High School shooting in Parkland, Florida, claiming a 90 percent probability that it was a false flag:

⁴⁸ The Alex Jones Show, July 20, 2012, video available at:
<https://www.mediamatters.org/embed/clips/2016/11/23/51241/gcn-alexjones-20120720-columbine>

⁴⁹ The Alex Jones Show, April 19, 2015, video available at:
<https://www.mediamatters.org/embed/clips/2016/11/21/51199/youtube-jones-20150419-okc>

⁵⁰ The Alex Jones Show, July 20, 2012, video available at:
<https://www.mediamatters.org/embed/clips/2016/11/23/51243/gcn-alexjones-20120720-100>

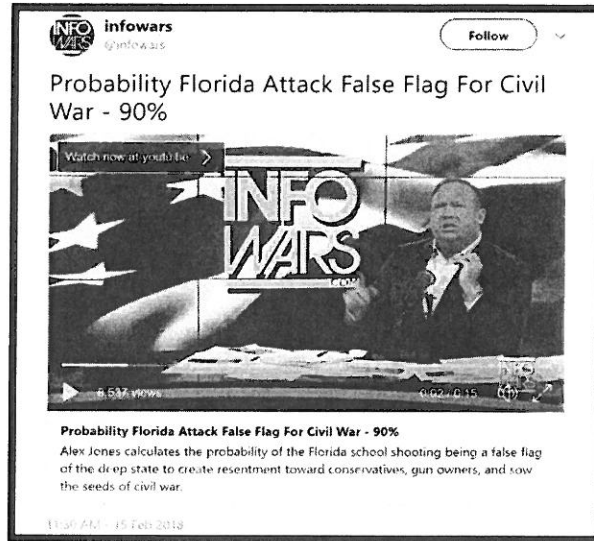
⁵¹ Interview with Rolling Stone, March 2, 2011, available at:
<http://www.rollingstone.com/politics/news/talk-radios-alex-jones-the-most-paranoid-man-in-america-20110302>

⁵² <http://www.infowars.com/proof-boston-marathon-bombing-is-staged-terror-attack/>

⁵³ The Alex Jones Show, April 26, 2013, available at:
<https://www.mediamatters.org/embed/clips/2016/11/29/51269/youtube-alexjones-20130426-staged>

⁵⁴ The Alex Jones Show, April 26, 2013, available at:
<https://www.mediamatters.org/embed/clips/2016/11/29/51271/youtube-alexjones-20130426-boston>

⁵⁵ The Alex Jones Show, April 8, 2015. Available at:
<http://mediamatters.org/video/2015/04/08/rand-pauls-ally-alex-jones-boston-marathon-bomb/203215>




In short, a major element of the InfoWars brand is built on allegations that major national tragedies are actually the result of orchestrated government actions. Given this background, I find that InfoWars' pattern of predictably asserting that events are "false flags," sometimes within hours of the event, is circumstantial evidence that InfoWars recklessly disregarded whether Jones' broadcast was true in this case.

CONCLUSION

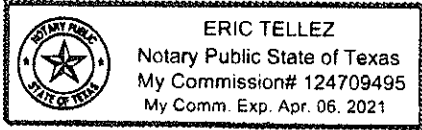
Based on the evidence I have reviewed at this early stage, it is my opinion that the Defendants failed to use reasonable care to ascertain the accuracy of their statements. Moreover, it is my opinion that the Defendants not only entertained serious doubts about the truth of their statements regarding the Plaintiffs, but that they were acting with the intent to deceive. Given the evidence I have reviewed, I conclude that the statements were published with reckless disregard for falsity. It is also my opinion that the statements by InfoWars were harmful to the Plaintiff, and could subject him to public contempt, hate or ridicule.

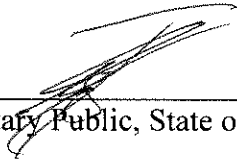
FURTHER YOUR AFFIANT SAYETH NOT


Fred Zipp

THE STATE OF TEXAS §
 §
COUNTY OF HARRIS §

SWORN to and SUBSCRIBED before, the undersigned authority, on the 21st day of August, 2018, by Mr. Fred Zipp.





Notary Public, State of Texas

My commission expires: 4-6-21

THIS EXHIBIT IS A PAPER COPY PLACEHOLDER FOR

Exhibit A1 - 2017-06-26 - Zero Hedge Discovers Anomaly In Alex Jones Hit Piece (Full
Segment)

THIS EXHIBIT IS A PAPER COPY PLACEHOLDER FOR

Exhibit A2 - 2012-12-14 - Connecticut School Massacre Looks Like False Flag Says Witnesses
(Clip at 9m30)

THIS EXHIBIT IS A PAPER COPY PLACEHOLDER FOR

Exhibit A3 - 2013-01-27 - Why People Think Sandy Hook is a Hoax (Clip at 1m12s)

THIS EXHIBIT IS A PAPER COPY PLACEHOLDER FOR

Exhibit A4 - 2013-04-16 - Shadow Govt Strikes Again (Clip at 13m20s)

THIS EXHIBIT IS A PAPER COPY PLACEHOLDER FOR

Exhibit A5 - 2014-03-14 - Sandy Hook, False Narratives Vs. The Reality (Clip at 26s)

THIS EXHIBIT IS A PAPER COPY PLACEHOLDER FOR

Exhibit A6 - 2014-05-13 - Bombshell Sandy Hook Massacre Was A DHS Illusion Says School
Safety Expert (Clip at 17m)

THIS EXHIBIT IS A PAPER COPY PLACEHOLDER FOR

Exhibit A7 - 2014-09-25 - Connecticut PD Has FBI Falsify Crime Statistics (Clip at 22m)

THIS EXHIBIT IS A PAPER COPY PLACEHOLDER FOR

Exhibit A8 - 2014-09-25 - Connecticut PD Has FBI Falsify Crime Statistics (Clip at 22m)

THIS EXHIBIT IS A PAPER COPY PLACEHOLDER FOR

Exhibit A9 - 2014-12-27 - Lawsuit Could Reveal Truth About Sandy Hook Massacre (Clip at
3m08s)

THIS EXHIBIT IS A PAPER COPY PLACEHOLDER FOR

Exhibit A10 - 2014-12-27 - Lawsuit Could Reveal Truth About Sandy Hook Massacre (Clip at
4m34s)

THIS EXHIBIT IS A PAPER COPY PLACEHOLDER FOR

Exhibit A11 - 2014-12-29 - America the False Democracy (Clip at 11m53s)

THIS EXHIBIT IS A PAPER COPY PLACEHOLDER FOR

Exhibit A12 - 2015-01-13 - Why We Accept Gov't Lies (Clip at 10m36s)

THIS EXHIBIT IS A PAPER COPY PLACEHOLDER FOR

Exhibit A13 - 2015-02-12 - InfoWars broadcast relating to HONR copyright claim (Clip at
0m26s)

THIS EXHIBIT IS A PAPER COPY PLACEHOLDER FOR

Exhibit A14 - 2015-03-04 - New Bombshell Sandy Hook Information In-Bound (Clip at 32m30s)

THIS EXHIBIT IS A PAPER COPY PLACEHOLDER FOR

Exhibit A15 - 2015-07-07 - Govt Is Manufacturing Crises (Clip at 32m)

THIS EXHIBIT IS A PAPER COPY PLACEHOLDER FOR

Exhibit A16 - 2015-07-07 - Retired FBI Agent Investigates Sandy Hook Mega Massive Cover
Up (Clip 0-5m)

THIS EXHIBIT IS A PAPER COPY PLACEHOLDER FOR

Exhibit A17 - 2015-07-07 - Retired FBI Agent Investigates Sandy Hook Mega Massive Cover
Up (Clip at 9m40s)

THIS EXHIBIT IS A PAPER COPY PLACEHOLDER FOR

Exhibit A18 - 2016-11-18 - Alex Jones Final Statement on Sandy Hook (Clip at 4m59s)

THIS EXHIBIT IS A PAPER COPY PLACEHOLDER FOR

Exhibit A19 - 2016-11-18 - Alex Jones Final Statement on Sandy Hook (Clip at 15m22s)

THIS EXHIBIT IS A PAPER COPY PLACEHOLDER FOR

Exhibit A20 - 2017-06-13 - What Alex Jones Really Believes About Sandy Hook (Clip at 14m)

THIS EXHIBIT IS A PAPER COPY PLACEHOLDER FOR
Exhibit A21 - 2017-06-19 - Megyn Kelly Profile (Clip at 7m55s)

THIS EXHIBIT IS A PAPER COPY PLACEHOLDER FOR

Exhibit A22 - 2017-10-26 - JFK Assassination Documents To DROP Tonight (Clip at
1h13m30s)

THIS EXHIBIT IS A PAPER COPY PLACEHOLDER FOR

Exhibit A23 - 2012-12-14 - Connecticut School Massacre Looks Like False Flag Says Witnesses
(Clip at 9m30)

AFFIDAVIT OF BROOKE BINKOWSKI

STATE OF TEXAS §
 §
COUNTY OF HARRIS §

Before me, the undersigned notary, on this day personally appeared Brooke Binkowski, a person whose identity has been established to me. Upon being duly sworn, Affiant states:

BACKGROUND

1. My name is Brooke Binkowski. I am over the age of 21 and competent to make this affidavit.
2. I have over twenty years of experience as a multimedia journalist and professional researcher.
3. I possess a Bachelor of Arts from the University of California in International Studies – Linguistics – Anthropology, and I am currently completing my Master’s thesis.
4. I am also a Fellow in Global Journalism at the Munk School of Global Affairs.
5. Over my career, I have worked in reporting, editing, and producing roles for CNN, CBS Radio, National Public Radio, Southern California Public Radio, Foreign Policy, Latino USA, and others as a freelance reporter.
6. I also served as the Managing Editor of Snopes.com from 2015 to 2018.
7. The Snopes.com website was founded in 1994 to research urban legends, and it has since grown into the oldest and largest fact-checking site on the Internet.
8. Over twenty years later, Snopes.com has come to be regarded as an essential source for research on rumors and misinformation. The work which I oversaw has been described as painstaking, scholarly, and reliable, and it has been lauded by the world’s top folklorists and journalists.
9. As part of my work with Snopes, I routinely investigated claims made in media and on the internet to assess their validity; last year, I received recognition from my colleagues in the form of what is called the Sunshine Award for my anti-disinformation work.
10. As part of my work, I have been called upon to assess the content and meaning of a variety of statements, ranging from news articles, video or written news content, oral

interviews, social media content, forwarded emails, anonymous viral content, and an endless supply of other materials.

11. As part of my work, I have years of experience in assessing the tone and intent of a given text, as well as expertise in parsing meaning and innuendo.
12. In the course of this work, I have become very familiar with InfoWars.
13. InfoWars frequently made factual claims in its videos and online articles which were the subject of fact-checking by the Snopes staff.
14. I am extremely familiar with the overall tone and style of the content produced by InfoWars.

THE JUNE 26, 2017 VIDEO

15. I have reviewed a video published by InfoWars on YouTube on June 26, 2017 relating to an interview given by Sandy Hook parent Neil Heslin. I have enclosed a USB flash drive with a copy of the video for filing with the Court.
16. The gist of the video segment is that Mr. Heslin is not telling the truth about having held his son and having seen a bullet wound in his head.
17. There are several parts of the language used in the video which I found quite significant.
18. First, it is notable that Mr. Shroyer only said the phrase “Zero Hedge” one time in the entire segment. Mr. Shroyer did not consistently attribute the allegations to Zero Hedge.
19. In discussing Mr. Heslin’s interview, Mr. Shroyer stated: “The statement he made, fact checkers on this have said cannot be accurate.”
20. This language is ambiguous in context. It can reasonably be interpreted in three ways. First, the “fact checkers” who purportedly examined the issue could work for InfoWars. Second, the “fact checkers” could be associated with Zero Hedge. Third, the “fact checkers” are some other unnamed source relied on by InfoWars.
21. A viewer of ordinary intelligence could hear this statement and reasonably believe that InfoWars had confirmed the accuracy of the Zero Hedge report with its own “fact checkers.” This interpretation is supported by the remainder of the segment in which Mr. Shroyer makes his own comments and shows footage assembled and edited by InfoWars.
22. Later in the video, Mr. Shroyer stated: “[Heslin] is claiming that he held his son and saw the bullet hole in his head. That is his claim. Now, according to a timeline of events and a coroner's testimony, that is not possible.”

23. A viewer of ordinary intelligence could hear this statement and conclude that Mr. Shroyer is making his own assertion. Zero Hedge is not mentioned. In fact, Mr. Shroyer's citation of "a timeline of events and a coroner's testimony" as the basis for his conclusion strongly suggests that InfoWars had examined the evidence itself.
24. At this point in the video, it is clear that Mr. Shroyer was making an assertion of fact, not giving his opinion. He asserted that Mr. Heslin's statement is not possible, and he cited evidence. He was unequivocal in his statements.
25. Mr. Shroyer's statement was false. Mr. Heslin stated to Megyn Kelly that "I lost my son. I buried my son. I held my son with a bullet hole through his head." The evidence shows that Mr. Heslin lost his son, and that he buried his son, and that it was indeed possible for Mr. Heslin to hold his child and see the bullet wound.
26. I have reviewed the affidavit of Dr. Wayne Carver, the Connecticut Medical Examiner cited in Mr. Shroyer's video.
27. Dr. Carver's affidavit stated that the bodies of the victims were released to funeral homes chosen by the families. He also stated Mr. Heslin had the opportunity to hold his son.
28. In addition, the funeral services in which the bodies were in the possession of the parents were widely reported in the press.¹ Several of these services had open caskets.²
29. It was widely reported in the media that Connecticut Governor Dannel Malloy personally observed the body of a Sandy Hook victim during one of the services.³
30. There is no reasonable basis to conclude that Mr. Heslin would have been unable to hold his son and see his wound merely because the initial identification was performed by photograph, and there is no doubt that he did in fact bury his son.
31. Later in the InfoWars video, Mr. Shroyer asserted that there was a "contradiction in the narrative." This was clearly Mr. Shroyer's own conclusion.
32. Mr. Shroyer also callously stated: "You would remember if you held your dead kid in your hands with a bullet hole. That's not something that you would just misspeak on." Not only is this statement sickening, but it further reinforces that Mr. Shroyer has taken his own position.

¹ <https://patch.com/connecticut/newtown/police-no-motive-emerging-in-newtown-school-shooting>;
<https://abcnews.go.com/US/photos/sandy-hook-moment-silence-18026580/image-18045101>

² https://www.washingtonpost.com/politics/funerals-for-newtown-massacre-victims-begin/2012/12/17/ffd0a130-486d-11e2-820e-17eefac2f939_story.html

³ <https://www.nhregister.com/connecticut/article/CONNIE-SCHULTZ-In-open-casket-boy-s-body-shows-11399159.php>; <https://forward.com/opinion/168707/wrestling-with-details-of-noah-pozners-killing/>

33. Later in the video, when speaking about Mr. Heslin's statements to Megyn Kelly, Mr. Shroyer stated: "Here is an account from the coroner that does not corroborate with that narrative." Again, Zero Hedge was not mentioned or attributed. Mr. Shroyer was presenting his own assertion that Mr. Heslin's interview is contradicted by the coroner. However, this is false. Mr. Heslin's interview is not contradicted by the coroner.
34. Mr. Shroyer also showed a video of an interview with Sandy Hook parents Chris and Lynn McDonnel to support his claim that the parents were not allowed access to their children, but as discussed below, this interview has been deceptively edited.
35. When ending his segment, Mr. Shroyer stated: "Will there be a clarification from Heslin or Megyn Kelly? I wouldn't hold your breath. [Laugh]." Mr. Shroyer's comment further reinforces InfoWars' endorsement of the truth of the allegations.
36. InfoWars should have known that it was reckless to endorse the truth of the statements made by a dubious anonymous blog. Indeed, the evidence shows that InfoWars was not only aware of Zero Hedge's dubious nature, but it was actively collaborating with Zero Hedge.

ZERO HEDGE

37. I have personal professional knowledge about the website "Zero Hedge." Researchers at Snopes continuously debunked claims made in Zero Hedge articles.
38. Nearly everything about Zero Hedge calls its reliability into question.
39. Zero Hedge is anonymous blog. Zero Hedge has no named editor-in-chief, and its articles are submitted by anonymous authors. The publication has no listed address nor phone number. Its website is registered anonymously.
40. The article in question purports to be authored by an anonymous individual(s) using the name "ZeroPointNow."
41. This anonymous individual(s) also appears to be a contributor to an anonymous website called "iBankCoin.com," a cryptocurrency website which likewise traffics fake news items.
42. The article in question contains a link at the bottom of the page for the YouTube channel for "ZeroPointNow," registered under the YouTube username "ibankcoin."⁴ However, the YouTube account page states: "This account has been terminated for violating YouTube's Community Guidelines."

⁴ https://www.youtube.com/subscription_center?add_user=ibankcoin

43. Zero Hedge began in 2009 as an anonymous blog focusing on Wall Street and investment rumors. Even from the beginning, its content consisted of unsourced hearsay and conspiracy theories about Wall Street.
44. However, over the past several years of my work, I have witnessed the website become increasingly flagrant as a producer of fake information and malicious accusations.
45. Zero Hedge's history of publishing egregiously fake information had been well-documented since at least the time of the 2016 presidential election.
46. A small selection of recent erroneous reporting and intentional agitation by Zero Hedge includes:
 - Falsely reporting that California Governor Jerry Brown had made it illegal to take a shower and do laundry on the same day.⁵
 - Publishing false information about non-existent restrictions on the use of solar panels in Florida.⁶
 - Publishing forged documents from the notorious website 4chan targeting French presidential candidate Emmanuel Macron.⁷
 - Falsely claiming anti-Trump protesters were bused into cities after the 2016 election.⁸
 - Falsely claiming that the Seattle Police Department had begun confiscating guns without a warrant or any crime being committed.⁹

⁵ <https://www.snopes.com/fact-check/california-laundry-and-shower/>; <https://www.zerohedge.com/news/2018-06-03/its-now-against-law-california-shower-and-do-laundry-same-day>

⁶ <https://www.snopes.com/fact-check/is-it-illegal-florida-power-home-solar-storm/>;
<https://www.zerohedge.com/news/2017-09-18/florida-you-cant-use-your-own-solar-panels-crisis>

⁷ <https://www.mediamatters.org/blog/2017/05/05/fake-news-and-alt-right-are-pushing-forged-documents-aid-marine-le-pen-frances-election/216305>; <https://www.zerohedge.com/news/2017-05-03/documents-indicate-emmanuel-macron-may-be-engaging-tax-evasion>

⁸ <https://www.snopes.com/fact-check/anti-trump-protesters-bused-into-austin/>;
<https://www.zerohedge.com/news/2016-11-13/blocks-anti-trump-protest-buses-caught-tape>;

⁹ <https://www.snopes.com/fact-check/seattle-police-confiscate-mans-guns-without-warrant/>;
<https://www.zerohedge.com/news/2018-03-06/seattle-police-begin-gun-confiscations-no-laws-broken-no-warrant-no-charges>

- Publishing false information to suggest that former President Obama was secretly behind a Hawaii federal judge’s ruling that blocked President Trump’s Muslim ban.¹⁰
- Publishing false information to suggest that a Bernie Sanders activist had been murdered in a coverup.¹¹
- Falsely claiming that 4chan users made up what is now known as the “pee tape” portion of the Trump dossier.¹²
- Falsely claiming that former Attorney General Loretta Lynch was “busted” for secretly using an alias to communicate with DOJ officials.¹³
- Publishing false information to suggest Jason Kessler, organizer of the white supremacist rally in Charlottesville, VA, was a liberal spy with past employment at CNN.¹⁴
- Falsely claiming that the participants in the Charlottesville protests were paid actors.¹⁵
- Reporting that the Defense Department would conduct a national blackout drill on the day protest group “Antifa”

¹⁰ <https://www.snopes.com/news/2017/03/21/ijr-obama-conspiracy-theory/>;
<https://www.mediamatters.org/research/2017/03/16/new-alt-right-theory-obama-was-secretly-behind-judicial-halt-trumps-muslim-ban/215712>; <https://www.zerohedge.com/news/2017-03-17/online-observers-accuse-obama-improper-intervention-hawaii-immigration-ruling>

¹¹ <https://www.snopes.com/news/2016/08/10/4th-mysterious-death-connected-to-the-dnc/>;
<https://www.zerohedge.com/news/2016-08-05/lead-attorney-anti-clinton-dnc-fraud-case-mysteriously-found-dead>

¹² <http://nymag.com/selectall/2017/01/4chan-really-wants-to-take-credit-for-trump-russia-rumors.html>;
<https://www.zerohedge.com/news/2017-01-11/how-4chan-mcfooled-john-mccain-buzzfeed-and-cia-believing-trumps-golden-showers>

¹³ <https://www.mediamatters.org/blog/2017/08/07/Pro-Trump-media-and-Russian-bots-push-self-debunking-story-attacking-Obama-attorney-genera/217541>; <https://www.zerohedge.com/news/2017-08-05/loretta-lynch-communicated-doj-officials-using-grandmothers-name-alias-0>

¹⁴ <https://www.snopes.com/news/2017/08/17/jason-kessler-soros-deep-state-plant/>;
<https://www.zerohedge.com/news/2017-08-14/report-%E2%80%98unite-right%E2%80%99-organizer-jason-kessler-was-occupy-movement-obama-supporter-8-m>

¹⁵ <https://www.factcheck.org/2017/08/counterprotesters-paid-charlottesville/>;
<https://web.archive.org/web/20180327154606/https://www.zerohedge.com/news/2017-08-16/why-was-crowd-hire-company-recruiting-25-hour-political-activists-charlotte-last-wee>

was supposedly planning to hold a violent revolution, both of which claims were false.¹⁶

- Falsely claiming that Coretta Scott King thanked Jeff Sessions for his help.¹⁷
- Publishing false information to suggest that the Clintons murdered a former Haitian government official.¹⁸
- Publishing false information to suggest there was a second shooter at the Las Vegas massacre.¹⁹

47. In the course of my work at Snopes, I observed that nearly all of these fake new items were also spread by InfoWars.

48. In addition, I have reviewed seven articles on InfoWars.com which were published under the author by-line “Zero Hedge” in just the two weeks leading up to Mr. Shroyer’s June 26, 2017 video.²⁰ Two such examples are shown below:

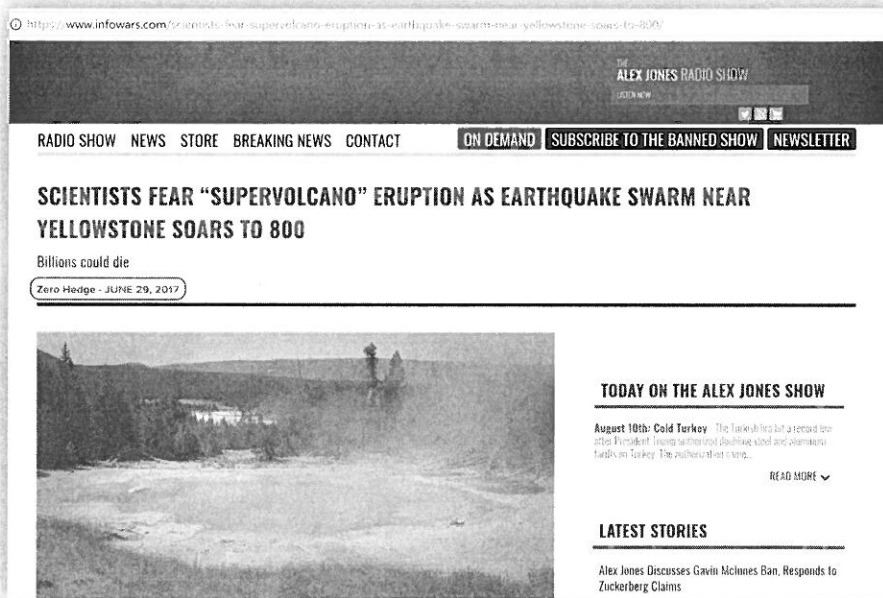
¹⁶ <https://www.snopes.com/fact-check/dod-drill-coincide-november-demonstrations/>;
<https://www.zerohedge.com/news/2017-10-26/dod-plans-solar-storm-based-national-blackout-drill-during-antifa-protests-november>; <http://time.com/5008829/antifa-november-4-rumors/>

¹⁷ <https://www.snopes.com/fact-check/coretta-scott-king-thanked-jeff-sessions/>;
<https://www.zerohedge.com/news/2017-02-08/elizabeth-warren-silenced-again-after-video-surfaces-mlks-wife-thanking-senator-sess>

¹⁸ <https://www.snopes.com/fact-check/klaus-eberwein/>; <https://www.zerohedge.com/news/2017-07-16/haiti-official-who-exposed-clinton-foundation-found-dead>

¹⁹ <https://www.snopes.com/fact-check/second-gunman-shoot-fourth-floor-mandalay-bay/>;
<https://www.zerohedge.com/news/2017-10-03/was-there-second-shooter-vegas>

²⁰ <https://www.infowars.com/citi-warns-inversion-looms-as-treasury-yield-curve-slumps-to-8-month-lows/>;
<https://www.infowars.com/heres-the-real-reason-tesla-makes-no-money/>; <https://www.infowars.com/unable-to-pay-bills-illinois-sends-dear-contractor-letter-telling-firms-to-halt-road-work-on-july-1/>;
<https://www.infowars.com/trump-reports-income-of-594-million-net-worth-of-at-least-1-1-billion/>;
<https://www.infowars.com/scientists-fear-supervolcano-eruption-as-earthquake-swarm-near-yellowstone-soars-to-800/>;
<https://www.infowars.com/mcdonalds-is-replacing-2500-human-cashiers-with-digital-kiosks-here-is-its-math/>;
<https://www.infowars.com/59-of-brits-agree-with-marxist-corbyn-empty-luxury-london-flats-should-be-used-to-house-homeless/>



49. From my personal knowledge, I have seen InfoWars and Zero Hedge, along with several other fake news websites, forge a cooperative relationship in which they publish, promote and endorse each other's content.
50. This pattern of amplification and endorsement is a key part of how fake news spreads.
51. The June 26, 2017 InfoWars video was not merely a report on a third-party's allegations. Rather, InfoWars adopted the allegations of a dubious anonymous website and reasserted

them as their own. InfoWars presented the allegations as true, and it made statements and played deceptive video edits which were meant to convince its viewers that Mr. Heslin's statements were not possible.

52. No competent journalist would republish allegations from an anonymous message on Zero Hedge without corroborating the accuracy of the allegations. However, in this case, it is clear that InfoWars not only understood Zero Hedge's reputation, but it was actively collaborating with Zero Hedge to spread fake news and dangerous conspiracy claims.

INTENTIONAL DECEPTION

53. It is my opinion from the context of the video and the surrounding factual circumstances that Mr. Shroyer was being intentionally deceptive in the video segment. This is not merely a case where Mr. Shroyer recklessly disregarded the truth. Rather, it is clear from the source material and the underlying facts that Mr. Shroyer was acting deceptively.
54. The allegation made by Mr. Shroyer was outlandish, inherently improbable, and obviously dubious.
55. The circumstances also show that Mr. Shroyer knew what he was claiming was false, or that he had serious doubts about its truth, based on the original Zero Hedge report and based on how he used the news footage in his segment.
56. Mr. Shroyer used contemporary press coverage in a misleading and dishonest way, with the clear goal of misleading his viewers.
57. I have located a copy of the same interview with Dr. Carver which InfoWars used in the video segment with Mr. Shroyer.²¹ There is additional footage from the interview -- not shown by InfoWars -- which directly contradicts the assertion made by Mr. Shroyer. I have included this footage on the USB flash drive enclosed with this affidavit.
58. At 11:03 in the video, a reporter asks Dr. Carver if there was a protocol as to the order he did the medical examinations. Dr. Carver states that it was his "goal was to get the kids out and available to the funeral directors first, just for, well, obvious reasons."
59. At 13:27 in the video, a reporter asks Dr. Carver if "all the children's bodies have been returned to the parents or mortuaries." Dr. Carver responds, "I don't know. The mortuaries have all been called." The reporter asks, "But they're ready to be released at this time?" Dr. Carver responds, "As of 1:30, the paperwork has been done. The usual drill is that the funeral homes call us, and as soon as the paperwork is done, we call them back. That process was completed for the children at 1:30 today."
60. I have also located a transcript on the CNN website of Anderson Cooper's interview with Sandy Hook parents Chris and Lynn McDonnell. Mr. Shroyer used a clip of the interview to suggest that the McDonnell's were not allowed access to their child prior to burial.

²¹ <https://www.youtube.com/watch?v=k3NS11Lo6As>

61. The use of the clip in this way was dishonest. The transcript shows that the InfoWars video clip cut off the end of the Mrs. McDonnell's answer. She stated, "And I had questioned maybe wanting to see her, *but then I thought, she was just so, so beautiful, and she wouldn't want us to remember her looking any different than her perfect hair bow on the side of her beautiful long blond hair.*"²²
62. In the interview, Mr. McDonnell stated, "But when we left the room, it was certainly so hard to leave her because that would be the last time that we would be able to be with her."²³ It is clear that the parents had to the opportunity to see their child's body, yet they chose not to do so.
63. It also clear that InfoWars and Mr. Shroyer used a deceptively edited copy of the interview to give the appearance that the parents were not allowed to see their daughter.
64. As noted above, there is also an abundance of primary sources that report the families having access to their children's bodies prior to burial.
65. There was no reasonable basis to conclude that it was impossible for Mr. Heslin to have held his son's body and seen his wound in connection with burying his son.
66. The only way a journalist could support such a conclusion is by intentionally distorting the evidence and Mr. Heslin's statements. The source material demonstrates that is exactly what occurred in this case.
67. Furthermore, in the Zero Hedge blog post mentioned by Mr. Shroyer, the author claims that Dr. Carver told the media that "the parents of the victims weren't allowed to see their children's bodies." But in the Zero Hedge blog post, the author later admits that "it's entirely possible that Mr. Heslin had access to his son after the shooting." Mr. Shroyer's video contains no such statements.
68. The surrounding circumstances show that Mr. Shroyer, Mr. Jones and InfoWars had an injurious motive. The broadcast was clearly an attack on Mr. Heslin, and to a lesser extent, on Megyn Kelly as well. Shortly prior to this video, Mr. Heslin had appeared on Ms. Kelly's show and pleaded with the public not to believe Mr. Jones' false statements about Sandy Hook.
69. By speaking out against Mr. Jones' claims that the families were actors, Mr. Heslin clearly provoked a retaliation from InfoWars in the form of Mr. Shroyer's video.
70. It is also clear that Mr. Shroyer's video segment was part of InfoWars' ongoing effort to support and justify its vile five-year lie that the Sandy Hook shooting was staged.

²² <http://transcripts.cnn.com/TRANSCRIPTS/1212/18/acd.02.html>

²³ *Id.*

- 71. Over the past five years, I have watched in horror along with the rest of America as InfoWars has repeatedly and systematically distorted facts and misrepresented video footage in order to make false claims about Sandy Hook.
- 72. InfoWars' past conduct with respect to Sandy Hook is clear evidence that its statements about Mr. Heslin were made in bad faith and with utter contempt for the truth.

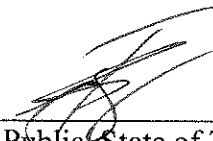
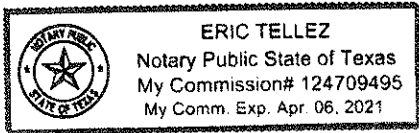
FURTHER YOUR AFFIANT SAYETH NOT



Brooke Binkowski

THE STATE OF TEXAS §
 §
COUNTY OF HARRIS §

SWORN to and SUBSCRIBED before, the undersigned authority, on the 21st day of August, 2018, by Ms. Brooke Binkowski.



Notary Public, State of Texas

My commission expires: 4-6-21

THIS EXHIBIT IS A PAPER COPY PLACEHOLDER FOR

Exhibit B1 - Zero Hedge Discovers Anomaly In Alex Jones Hit Piece (Full Segment)

THIS EXHIBIT IS A PAPER COPY PLACEHOLDER FOR

Exhibit B2 - Carver Interview

Exhibit B3 - McDonnell Interview Transcript

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Exhibit B3

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Remembering Connecticut Victims

Aired December 18, 2012 - 22:00 ET

THIS IS A RUSH TRANSCRIPT. THIS COPY MAY NOT BE IN ITS FINAL FORM AND MAY BE UPDATED.

ANDERSON COOPER, CNN ANCHOR: Good evening, everyone. It's 10:00 here on the East Coast.

And we are bringing you another broadcast tonight from Newtown, Connecticut, a town where many students returned to school today. Schools reopened, with the exception, of course, of Sandy Hook Elementary, the school that is now a crime scene.

The students of Sandy Hook will go back to school after the holidays in a different building eight miles away with 20 bright young faces missing from the halls and the classrooms. Everything is different now. The children in this town are facing a new reality, doing things they never should have to do at this young age, like writing goodbye letters to their friends.

Six-year-old Jack Pinto was buried yesterday. At the funeral, a note from his friend John reads: "Jack, you're my best friend. We had fun together. I will miss you. I will talk to you in my prayers. I love you, Jack. Love, John."

There were two more funerals today for two more 6-year-olds. Jessica Rekos and James Mattioli were laid to rest today. We will remember them tonight and honor them tonight. Our hearts and our thoughts are with their families and their friends and we wish peace and strength to all the people whose lives that Jessica and James touched in just six short years.

(BEGIN VIDEOTAPE)

COOPER: James Mattioli was known as And. Six years old, he was full of energy. He loved baseball, basketball, arm wrestling, but he especially loved swimming. His parents used to say he swam like a fish. And he loved to visit his grandparents and swim in their pools.

James also used to love ride his bike, no training wheels for him and he was proud of it. He tried to wear shorts and T-shirts all year round and loved to use hair gel in order to spike up his brown hair. He was a little boy who looked forward to growing up. He liked to sing at the top of his lungs and would ask how old do I have to be before I can sing on a stage? He also wanted to know when he'd be old enough to order a foot-long ham sandwich at Subway, one of his favorite places to stop for dinner.

James was born four weeks prematurely, and his family used to joke that he came into the world because he was hungry. His parents say he was an early riser, always the first to wake the family up, always eager to start the day. At the end of each day, he loved nothing more than to cuddle up with this mom under a blanket on the couch.

Home

his dad's minute mini look-alike."

Jessica Rekos loved everything about horses. She'd spend her free time reading books about them, watching movies about them, drawing horses, even writing stories about them. Six years old, she was waiting for the day she could get her very own horse. Her parents both raised in Newtown called her a beautiful, creative little girl who spent time writing in journals and making up stories. They spoke to ABC News.

UNIDENTIFIED FEMALE: I found a little journal. I don't even know what it's from. But I just opened the book and it was exactly what I needed. It says, "I love you so much, mama." It's like she knew we were going to need something to help us get through this. It's just like what an amazing girl she was.

COOPER: Jessica also became passionate about orca whales after watching the movie "Free Willy." She said her dream was to see a real orca and just a few months ago, she was able to see one in person at a trip to SeaWorld.

Jessica's has two younger brothers and was known as the little CEO of the family, the rock who kept everyone together. In a statement, her parents write, "We cannot imagine our life without her. We are mourning our loss, sharing our beautiful memories we have of her, and trying to help her brother Travis understand why he can't play with his best friend. We are devastated."

(END VIDEOTAPE)

COOPER: Two more little children laid to rest.

One thing that we have been doing here is really trying to keep focus on the lives that have been lost. We're not focusing on the killer, because he's gone, and frankly, we don't want him to be remembered. Certainly not by name. We have tried to be careful and respectful of what the families are going through, tried to not ever intrude on their suffering.

But after Sunday night's program, we got a call from the McDonnell family, 7-year-old Grace McDonnell's family. I spoke with Grace's parents, Chris and Lynn, at length. They told me about who Grace was, the light of their family, a little girl who loved school and her brother, Jack, a talented artist that lived life to the fullest, made the most of every day of her far-too-short life.

I was amazed at the strength that Grace's parents showed and they say it's Grace who is guiding them through these difficult days. Here's our conversation. Tonight, we honor Grace. We will remember her. (BEGIN VIDEOTAPE)

COOPER: What do you want people to know about Grace?

LYNN MCDONNELL, MOTHER OF GRACE MCDONNELL: Well, Grace had such a great spirit. She was a kind and gentle soul.

And she was just the light and love of our family. She was just truly a special, special little girl that we loved and she loved her brother so much. And she loved her school, Sandy Hook. In fact, this week, I was telling somebody she had a stomach ache one day, and I said to her, why don't you stay home with

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night before and ready to get on the bus in the morning and head off to school.

We would blow kisses every morning to each other. I remember that morning, putting her on the bus, she had a habit of blowing kisses, but then she would give me a big liver lip like, ooh.

(LAUGHTER)

L. MCDONNELL: But then I knew she was so happy to go off and get there. I would like to say is she was at a place that she loved, and so we take comfort in that, that we know she was in a place that she really loved.

COOPER: And with friends?

L. MCDONNELL: And with friends.

CHRIS MCDONNELL, FATHER OF GRACE MCDONNELL: And with friends, people that loved her. The whole community and the school and the teachers, they're all raising your child.

L. MCDONNELL: Exactly.

C. MCDONNELL: And it's a special place.

L. MCDONNELL: It is. And I take comfort that she was with all her friends.

And I just envision all of them holding hands. And they're all together up there. And they're up there with their wonderful principal. I mean, they have so many people up there helping them. And I said to somebody, Sandy Hook, we have so many angels and so many bright stars shining over all of us in this town right now.

And each one of those children was -- you look at their pictures, they were so beautiful. And they all had a story and a talent.

COOPER: What did you say to Jack? I mean, how did you -- because there's a lot of parents right now who are trying to figure out what to say to their children all around the world about this.

C. MCDONNELL: Telling him was by far the toughest thing to do. And I think what we did was truthful, honest, words that he could understand, and hoping that he will be able to process this and how we help to guide him to process this over the long journey ahead.

COOPER: You met with President Obama yesterday. What was that like?

L. MCDONNELL: I did.

You know, I know he's the leader of our country, when he walked into that room, it was a very private meeting. But when he walked in the room to greet us, it was just a dad. He's just a dad coming in to meet a dad and a mom and a son. And we really felt that. We felt his support and it was really -- it was

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L. MCDONNELL: We did. We told him that Grace had two things in common with him, their love for Martha's Vineyard and Hawaii. And Grace's dream was to live on the beach and be a painter. And so we offered him one of her paintings, which he said he would treasure. So that gave us great comfort, too.

But really it just felt like a dad surrounding us and feeling our pain. You know, when he walked in the room, I realized he has to go to so many families today, and this is not the first time he's had to do this. So, I have to look at him and pray for him for strength.

COOPER: I was talking to you before we began. One of the things we were saying is you don't want to have hate or anger in your heart.

L. MCDONNELL: No. I had said that to Jack that it's OK to be angry because, sure, we have anger and we're upset and we don't know why. But I told Jack that he could never live with hate. Grace didn't have an ounce of hate in her. And so we have to live through Grace and realize that hate is not how our family is and not -- certainly not how Grace is.

And I know all those beautiful little children, they didn't have any hate in them either. So we will just take the lead from them, and we will not go down that road. But we will let them guide us.

COOPER: It's a hard thing, though, isn't it to not feel that?

C. MCDONNELL: We're going to go on and we're going to use her positive energy to help guide us forward.

L. MCDONNELL: One of Gracie's favorite thing to paint or draw was a peace sign. And she just had a birthday in November when she turned 7. And she requested -- I said, what would you like your cake to look like, Grace? And she said, I want a purple cake with a turquoise peace sign and polka dots.

And, sure enough, her cake was purple, turquoise, and polka dots. It was totally Grace. It was so colorful.

C. MCDONNELL: It's one of a kind, too.

(LAUGHTER)

L. MCDONNELL: And it was all -- she was all about peace. She really was. And I was looking -- the morning after, I was in the bathroom, and I used to dry her hair next to the window. And the window would fog up and she would write notes in the window to me.

And on Saturday morning, I was standing at that window in the bathroom, and it had fogged up. And I looked, and there was her peace sign in the window. And I was like, that's a sign from my Grace. And the pane above it said, "Grace, mom," and she drew a heart. So, she was all about peace and gentleness and kindness.

COOPER: You went to the funeral home, and you were telling me the story of -- she has a white casket'

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But earlier in the morning, I decided because Grace loved art so much, we were packing sharpies in our pockets. And when we got in, after we did our big family hug with Grace, we sat down and we busted out the sharpies. And we decided that were -- at first, I envisioned maybe a little heart. But by the time we were done, there wasn't an inch of white. It was so covered with all the things that she loved.

And her brother, we wrote her notes and her nicknames and all the things that she loved, cupcakes.

C. MCDONNELL: The places we had been together.

L. MCDONNELL: Ice cream cones, lighthouses, seagulls. And we were saying, she's laughing at us right now because our artwork was terrible.

(LAUGHTER)

L. MCDONNELL: But when we left the room, it was certainly so hard to leave her because that would be the last time that we would be able to be with her.

We had to take great joy in knowing that when we walked in there it was so white and our breath was taken away. But when we walked out of there, it was like we had joy again. It had so much color and it was Grace. It was so Grace.

COOPER: You were able to give her things as well?

L. MCDONNELL: Yes. We brought her her favorite pocketbook. And we had seashells and flip-flops and sunglasses. And she loved to cook. We had a frying pan. And she loved music. She has Taylor Swift Christmas song in there.

She has her dad's New York Yankee hat. So she had all the things that she loved with her. So we took -- we had peace when we left last night.

COOPER: It's got to be hard not to have been not actually to see her.

L. MCDONNELL: Well, at first, I thought that. And I had questioned maybe wanting to see her, but then I thought, she was just so, so beautiful, and she wouldn't want us to remember her looking any different than her perfect hair bow on the side of her beautiful long blond hair.

And so we will take comfort in looking. We have so many beautiful pictures of her. We will take comfort in remembering her beautiful smile. And I will remember her blowing the kisses that day, getting off the bus, going off to school.

(END VIDEOTAPE)

COOPER: I want to thank the McDonnells for inviting us into their home. It was a true honor getting to hear about Grace.

After that interview, I gave them my number, and I said that if there's anything that they forgot to say,

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And I'm not going to share the whole note with you because some of it is private, but she wrote: "When Anderson visited our house, I showed him one of our picture books in Martha's vineyard. I have always said that I took my photographs to be my children's eyes. I wanted them to remember everything from our adventures together. And now I'm not only going to be Grace's eyes, but I'm going to be her voice. But I feel fearless. I will never feel any pain greater than I do right now. I'm going to take on the world for our Gracie girl, for I myself have nothing to lose and everything to gain. Jack and Grace always said you have conquer your fear. I'm doing it now for both of them."

Such strength. I will not forget the McDonnells or their amazing Grace.

You heard Lynn talk about giving President Obama one of Gracie's pictures. She gave me the same picture, a Xerox copy of it. This is an owl that Grace had drawn it. And President Obama said that he would cherish it. And I'm certainly going to frame this and cherish it as well.

Here are a few more pictures as we go to break.

(COMMERCIAL BREAK)

COOPER: You're looking at one of the many memorials to the victims here in Newtown tonight.

As we mentioned earlier, for the first time today since Friday's tragedy, Newtown students returned to classrooms. Every school but Sandy Hook Elementary has reopened. The question is, what should be routine, of course, is no more. Returning students and staff were met by more police officers and counselors than there were before.

For some today, it was their first chance really to talk about what happened with their friends and with their teachers.

Kyung Lah joins me now with more.

It had to be an extraordinarily difficult day for these students.

KYUNG LAH, CNN CORRESPONDENT: A difficult day, but a really necessary day. We spoke to parents and students who were returning.

And what we are really hearing from them, Anderson, is that parents say they're eager to get back to the routine. They know that kids like routine. If you're a parent, you know that's what your kids want. The students say when they were on the bus it was extraordinarily quiet. They were starting to have those quiet conversations.

Inside school, an 11-year-old boy told us he actually felt better being in school. He felt protected there. His teacher was reaching out to them. Those counseling sessions were happening inside school. As a sign of comfort, it was across Newtown and in the surrounding communities. There were police cars at every single school.

The high school I was at here at Newtown, three police cars. And the students say it made them feel better.

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It's been particularly difficult, obviously, for students to go back to school.

Dr. David Schonfeld is a crisis counselor who gave a presentation to teachers in Newtown about how to talk to children at this incredibly difficult time. He's the director of the National Center for School Crisis and Bereavement. And he joins me now right now live.

Thank you very much for being with us.

DR. DAVID SCHONFELD, DIRECTOR, NATIONAL CENTER FOR SCHOOL CRISIS AND BEREAVEMENT: Thank you.

COOPER: You met with teachers, administrators, and basically all employees of the school. What was your message to them?

SCHONFELD: Well, there were a couple messages I wanted to get across. The first thing is to recognize how heroic it is to be able to help students in a time like this, because we have to remember all of the staff are -- they're grieving some of their own members of the staff. They're definitely grieving the loss of the children that they were close to and that they care about.

COOPER: Sure.

SCHONFELD: They're also impacted by going through a traumatic event.

The first thing is to recognize what they're doing and how courageous that is.

COOPER: One of the things I heard you say, too, is that it's OK for them -- it's OK for them to show emotion when talking with the students.

SCHONFELD: Right.

A lot of times, we don't want to upset children and so we don't want to show them that we're upset. But really, the kids are already upset. They already know about this. We want to do is help them be able to cope with the feelings. But if we never so them distress, we can't model for them how to cope with it.

Seeing some distress among adults that they care about, particularly when it's followed by suggestions about how to deal with that and cope with it effectively is really helpful for them to start to heal.

COOPER: What else did you want them to know?

SCHONFELD: I also wanted them to know we had to change some of the expectations of what we could accomplish in terms of learning over the next week. I told the teachers that really we have to meet the students where they are right now.

And we also have to meet the teachers and the other school staff where they are. I told them that as far as I was concerned there was only one lesson plan that they needed to teach before they broke for the New Year's. And that was to make sure that the children knew they were safe, and that they cared about

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death, that they have had to deal with this at all.

SCHONFELD: It is for many of the children. Unfortunately, we know that nine out of 10 children are going to experience a significant loss, the death of a family member or friend, by the time they complete high school. So for many children, it will not be a new experience, but obviously, this is a profound experience for anyone.

COOPER: And how do you -- I mean, do you talk to kids? Or I guess part of the lesson is that not all teachers will be counselors, that if somebody needs extensive conversation, there are other people to refer them to.

SCHONFELD: I think it's important that we underscore what we're asking the teaching staff to do and the rest of the staff in the school, the support staff, is to create a supportive environment, not to provide counseling. It doesn't need to be -- it's not their responsibility to provide therapy.

There are others in the school that will do that and others in the community that have that role. But what we want from the school staff is to be able to create a safe and supportive environment.

COOPER: You have obviously dealt with this sort of thing before. How do you think this community is doing?

SCHONFELD: Well, I arrived here Saturday night. Actually, the American Federation of Teachers reached out to me on Friday and asked me to come and help their staff and then I arrived here on Saturday. I was greeted immediately by the commissioner of education, Stefan Pryor. And we met well into the night about what to do.

And then when I came and actually was able to meet with the superintendent, Janet Robinson, and the other staff, I was really impressed by the concern, the caring, and the profound commitment that they have to these children.

COOPER: It's a very close-knit community. Dave, I appreciate you being with us. Thank you very much.

SCHONFELD: Thank you very much.

COOPER: I know it's been a long day for you.

But up next, a special mission for Noah, 6-year-old Noah Pozner, laid to rest yesterday. His cousin couldn't make it to the funeral but wanted to make sure he got his goodbye letter. Ahead, see who answered the call for help and made sure that Noah got that letter. We will talk to Noah's uncle.

(COMMERCIAL BREAK)

(BEGIN VIDEO CLIP)

UNIDENTIFIED MALE: The look and fear and uncertainty in everybody's eyes that day is probably what I will never forget.

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UNIDENTIFIED MALE: The sounds of the sirens just kept coming and coming and coming. And it seems like it never ended that day.

(END VIDEO CLIP)

COOPER: Those 20 families here in Newtown face the unimaginable task of burying their 6- and 7-year-old children.

We want to share with you a poignant story about the funeral of Noah Pozner, 6 years old, laid to rest yesterday. Noah's mother wanted to bury handwritten notes from family members with her son. Noah's cousin, Ethan, also 6 years old, almost 6 years old, lives in Seattle, he made a card for Noah.

The problem is getting it to Connecticut in time for the funeral. On Sunday, Ethan's mom took to Twitter looking for help and soon enough got this message from JetBlue airline. "We're sorry for your loss. Please D.M. us your best contact phone number. And we will have someone reach out to you."

With JetBlue's help, Ethan's finale note to his cousin made it to Connecticut in time to be buried with Noah. Ethan's mom shared the card on Twitter. She wrote, "Noah is shown with a heart body, and the flower represents his life, life in general. The inside says I love you, Noah."

Joining me now is Alexis Haller, Noah Pozner's uncle.

Alexis, I appreciate you joining us.

ALEXIS HALLER, UNCLE OF NOAH POZNER: Thank you.

COOPER: Just a little bit, what do you want people to know about Noah?

HALLER: Well, Noah was a great kid. He was smart as a whip, bit of a maverick.

COOPER: Mischievous, I heard.

HALLER: Mischievous. Loved his family more than anything else.

When his mom would say I love you, Noah would respond, not as much as I love you. And he loved his siblings, too. He had a twin sister.

COOPER: They were very, very close.

HALLER: Extremely close. When they were babies, they would babble at each from their cribs.

COOPER: Really?

HALLER: And got into all sorts of trouble, and inseparable.

COOPER: I heard he used to tell his other siblings that he worked at a taco factory?

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(LAUGHTER)

COOPER: That's great. I love that story.

HALLER: Yes. But Noah was also just a normal little kid, a real little kid. He loved "Mario Brothers" and animals and LEGOs and superheroes. and all the stuff that a normal 6-year-old loves.

You know, that's Noah.

COOPER: I know you wanted to talk about -- there's some scams out there that the family is obviously concerned about. What are you hearing?

HALLER: That's correct.

Today, we found out that there was a domain name set up in Noah's name. And we have since challenged that. And it's been taken offline by GoDaddy. But we also were made aware of an e-mail scam where somebody was...

COOPER: Oops, sorry, sorry.

HALLER: ... purporting -- somebody was purporting to solicit money on behalf of the family.

COOPER: That's unbelievable.

HALLER: Yes. And it was going to an address in the Bronx. There are misspellings in the e-mail, so you have to look at pretty carefully to discern. But there's also a lot of information.

And it sounds like it is potentially in from a family friend.

COOPER: But it's not?

HALLER: And it's not. I guess we want to get it out there for the public, so that if people want to contribute, that they're aware to be careful.

COOPER: You have set up a Web site?

HALLER: That's right. We have set up a Web site, and there's also an address. The Web site is NoahsArkofHopeFund.com.

COOPER: And we are putting that up on the screen.

HALLER: And there's also a few other friends. We have Friends of Maddie, for example, that was set up. And that is a legitimate donations site.

But there are also ones that are scams. And we want to get that out to the public. And we also want to get it out, frankly, to the other victims' families so that...

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word out.

COOPER: I saw a Twitter page set up in the name of another child that I thought was real at first. And I contacted the family, and they said they don't know anything about it. So there are these horrible people out there. The idea that anybody out there could do this is just disgusting, but I'm glad you cleared it up. And again, we're putting the correct Web site's name up on our screen.

What -- I mean, it's a dumb question, but how are you -- how are you holding up? How is the family holding up?

HALLER: The family is devastated. It was, you know, the worst four days of our lives. It's kind of like you're in a waking nightmare. Never experienced anything even remotely close to it, felt like, four years. And as bad as -- as devastated as the family was, the parents, you know, they were suffering -- they were suffering so much more.

COOPER: Of course.

HALLER: Everybody was suffering so much. And it's been a horrible, horrible -- you know, but we're sticking together and we're coming together as a family very strongly. And we want to, you know, focus on making something positive out of it.

And frankly, the only positive parts to the last two days. There's two things. First when I see Noah's siblings, Ariela (ph) and Sophia (ph), they both survived. So they...

COOPER: They were in the school?

HALLER: They were in the school. Sophia, as I understand it, her teacher put all the kids in the closet and shushed them. And as I understand it, the killer opened the door and thought there were no kids there and didn't find them.

And so whenever I see them, the family, I just see them, and that brings me joy that they made it.

And the other thing that brings me joy is just the outpouring of support from everybody. Friends, community, the country, everything. And that's made a huge difference.

And -- and, finally, the other thing that kind of got us through was certain people that played kind of guardian angels. And we had a state trooper assigned to us, Sean Hickey, who is kind of a rock for us. And made a huge difference. We had a grief counselor, Dr. Laura Asher. Another rock. And for families to get through stuff like this, you need those rocks, and you need wind at -- wind at your back, to kind of push you forward. And we got that. We got that from friends and community.

COOPER: I know there's a lot of difficult weeks and months even years ahead. But I appreciate you talking tonight. And I wish you the best.

HALLER: Thank you. Appreciate it.

COOPER: Thanks very much, Alexis.

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Five days ago -- the violence that shattered this community, five days ago is raising some familiar questions about those killings. Investigators are digging through the gunman's medical history for possible clues. We're going to talk to chief medical correspondent Dr. Sanjay Gupta about -- about that ahead. We'll be right back.

(COMMERCIAL BREAK)

(BEGIN VIDEO CLIP)

UNIDENTIFIED MALE: I feel worried, nervous, but at the same time, I'm feeling happy to be back at school, because the -- the whole thing just, everyone will be together will probably be a good thing for the victims as well -- the siblings, the families of the victims.

(END VIDEO CLIP)

COOPER: One of Newtown's students talking about his mixed feelings about returning to class today.

As we mentioned Sandy Hook Elementary remains closed, of course, but other schools in Newtown are reopening their doors.

The tragedy here sparking, obviously, nationwide dialogue on issues like gun control, mental health, school security. Today, the National Rifle Association announced a news conversation set for Friday and released this statement, saying in part, "The National Rifle Association of America is made up of four million moms and dads, sons and daughters, and we were shocked, saddened and heartbroken by the news of the horrific and senseless murders in Newtown. Out of respect for the families, and as a matter of common decency, we have given time for mourning, prayer and a full investigation of the facts before commenting. The NRA is prepared to offer meaningful contributions to help make sure this never happens again."

What exactly that means, we're not sure. We'll see more of what they say on Friday.

Making sure it never happens again is also obviously a top priority for many here in this community. Lillian Bittman joins me now. She's the former chairwoman of the Newtown Board of Education and a former Sandy Hook parent.

You were at a wake earlier for Daniel.

LILLIAN BITTMAN, FORMER CHAIRWOMAN, NEWTOWN BOARD OF EDUCATION: Daniel Barden.

COOPER: Daniel Barden. You were a friend of the family. What...

BITTMAN: That's the family we're closest to. And the family very much wanted me to deliver something tonight. They were interviewed on another network and they're just -- I'm sorry.

COOPER: That's OK.

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Obama question when they met before the vigil.

COOPER: Right.

BITTMAN: And she was -- one of my best reporters. And this really -- she was one of these usually gung-ho little kids, but you know, she obviously was intimidated. And -- and anyway, they were hoping that President Obama would hear her words tonight if we could get them read on air.

So she gave me a letter, and unfortunately, there were too many people at the wake for me to get up to actually see the family. So the letter was passed back to me. But this is what she wrote. If you could read it because I can't.

COOPER: OK. The family gave permission?

BITTMAN: The family wants -- they told me to bring it to you.

COOPER: OK. It says, "My name is Natalie Barden, and I wanted to tell the president that only police officers and the military should get guns. If people want to do it as a sport then they could go to a shooting range, and the guns would not be able to leave there."

That's what she wanted President Obama to hear?

BITTMAN: Yes, that is what the question she wanted to ask him. And when she told me this, we were talking about this, and she wrote the letter, I had told her, I said, "Well, now you're a member of the White House press corps." And she giggled at that. And that was really good, because she wants to make a difference. And this was her little way of making a difference.

And in a -- kind of one of those wonderful things, it's helping her heal, because now she can make Daniel's life count for something and try to get this to the president and hopefully to Congress and everyone else.

COOPER: You can tell her that the world has heard her letter tonight.

BITTMAN: I will.

COOPER: And hopefully, the White House has, as well.

BITTMAN: I will.

COOPER: You were telling me earlier at the memorial service. I mean, conversations are already being had here about -- that something has to come out of this. This cannot go...

BITTMAN: Yes, yes. Over and over again at this wake, I was standing with people, and also in other conversations, and everyone is saying we have to make this count for something. We have to make change.

And there's lots of different things happening to try to do that, but the most important thing that

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COOPER: And you're hearing civil conversations?

BITTMAN: I am. And actually, earlier today I was invited to be part of an online panel, and I was with a gun proponent and a woman out of Virginia Tech, an English teacher in that situation and several others. And we had a civil discourse online for about an hour. That's what we need to do, us have that civil discourse, so that we can find the solutions. It's not just one thing. It's a multitude of things. But we'll never get there if we can't talk to each other.

COOPER: But the idea that, you know, the media will go away...

BITTMAN: Right.

COOPER: ... and things will just kind of quiet down and nothing will change, that would break the hearts of people here?

BITTMAN: Well, somebody called me Cinderella because they thought that my trying to get this message out and trying to keep this in the forefront before our politicians would never happen. I say it can.

I say we can effect change if we stand together and we work with all the countries across this country that have been affected by mass shootings, and we hold our politicians accountable to make change. No just in one area, but let's find a way so that these kinds of things don't happen again. We have to have that discussion.

COOPER: How are you holding up?

BITTMAN: Oh, today was -- today took me off guard. Our schools were two hours delayed. And I have my seventh grader, so I drove him to the bus stop, just because, and all the moms were there. And I was just crying. And I didn't see that coming, and telling my high- schooler goodbye when he drove away. And then suddenly, everybody was texting me, and all the moms were crying.

And I think it was not just the fear of sending them to school. I truly wasn't afraid of that. It was just that it was kind of returning to normal, and that doesn't feel right. And then -- I think we just sort of collapsed because of that. So... COOPER: We find that tears come at odd times, too.

BITTMAN: Very odd times.

COOPER: It's like it comes in waves.

BITTMAN: Yes.

COOPER: And when you least expect it, suddenly, you find yourself crying.

BITTMAN: My husband actually is crying anytime someone does something nice for him or says something nice. He just loses it. And he's not someone to cry like that. So yes.

I mean, it's typical grief, I mean, but it's more horrific because we -- you know, there's something else

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that's associated with these families.

You know, think about that. When you have a child that's playing soccer, that little baby in the stroller, you kind of know about that little sibling, but you focus on the child playing soccer. Those are the connections that we're -- that we're figuring out.

COOPER: One of the things that Lynn McDonnell said to me about Grace, is that it gives her comfort to know that Grace was with her friends and that they were -- that they were holding hands in her mind. And she likes to think of them all in heaven right now holding hands together.

BITTMAN: Yes, I understand that.

COOPER: Thank you very much.

BITTMAN: Thank you, Anderson, I appreciate it.

COOPER: Next, we've got new information from the medical examiner on the gunman. We'll talk about it with Sanjay Gupta about that. We'll be right back.

(COMMERCIAL BREAK)

(BEGIN VIDEO CLIP)

LT. PAUL VANCE, CONNECTICUT STATE POLICE: People responded once they heard about the scene, about the situation. They responded to come and retrieve their children. And when they couldn't find their children, fear set in. Panic set in. Pain set in. It was fear of the unknown. And when the notification finally had to be made, it was absolutely heartbreaking.

(END VIDEO CLIP) COOPER: Well, we said repeatedly, we're not going to focus on the gunman who destroyed all these families five days ago. We don't say his name hardly at all. We frankly don't want history to remember his name or him.

But at the same time as the investigation unfolds, we do have to talk about the killer. Authorities are digging through every facet of his life, including his medical history.

Today, the medical examiner told our sister network, HLN, that they'd been told the 20-year-old was diagnosed with Asperger's Syndrome but didn't know if that diagnosis was actually correct.

The former director of security for Newtown public schools also told CNN the gunman had Asperger's Syndrome, based on documents he'd seen and conversations with his mother years ago.

Until now, no one in any official capacity had commented directly on this possible piece of the case, if it, in fact, has anything to do with the case at all. It's a very sensitive issue. Many people worry that violence will somehow be incorrectly linked to Asperger's Syndrome.

Chief medical correspondent Dr. Sanjay Gupta joins -- joins me now.

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DR. SANJAY GUPTA, CNN CORRESPONDENT: Well, Asperger is something that is typically on something known as the autism spectrum, and they use this term "spectrum" sort of on purpose to be a little bit vague, because there's all sorts of different, you know, sort of symptoms with this.

But Asperger's sort of considered the highest functioning form of autism, in some ways. People, you know, it's -- they're oftentimes socially awkward. They have a hard time making eye contact, strong social connections.

But again, you know, Anderson, you and I talked about this, there are people who are running major companies in this country who have come out and said they also have Asperger's. So you can be very highly functional with this. And it's hard to characterize or pinpoint specific symptoms.

COOPER: I know several people with Asperger's. Oftentimes, they're particularly experts in one particular realm or have particular interests. But just have sort of -- as you said, they're socially awkward.

I know you've dug into this. Is there any evidence at all that autism spectrum disorders, which are not mental disorders, are linked to violence, planned violence in particular?

GUPTA: There's not. And you know, I don't want to dance around the edges here at all or beat around the bush, because this has come up quite a bit. And I knew that there wasn't -- since we started reporting on this, I talked to several experts in this about this specific issue. There just isn't.

There's a paper that's sort of the most often quoted paper with regard to this issue, Anderson. It's a study of 132 people who had -- were high-functioning -- had high-functioning autism. Out of those 132 people, three episodes of violence. None of those episodes were, as you say, preplanned violence. It was typically reactive violence or outbursts. You know, so just a very different thing.

So I think we can just dispense with this myth, frankly, that there's a connection between Asperger and planned violence.

COOPER: And autism spectrum disorders, again, I want to repeat this, are not mental illnesses. And people who suffer from autism spectrum disorders, do we know if they are any more likely than anybody else to suffer from a mental illness?

GUPTA: There has been some data on that second party oppression (ph), that there could be more likely of a concordance mental illness. Or you know, somebody who would develop mental illness later on.

But I want to be clear about something. These terms, again, as you always say, Anderson, matter, but when you say something is a neurodevelopmental disorder, what that really is saying is this is something that the person has probably had since birth. Something that has an inherent quality to it.

Whereas you know -- we've been talking about this -- several of these mental illnesses that develop late on in life, meaning, you know, late teens, early 20s, that's one of the differences between neurodevelopment disorder and what they call mental disorder, mental illness. The Asperger's is a neurodevelopmental disorder.

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GUPTA: Yes, and I think, you know, the evidence is pretty sketchy. So over the last couple of days I looked at the data pretty carefully. I will tell you since 1972, before these videogames were even out there, there was concerns about violent programming. The surgeon general, actually, was warning 40 years ago about could violent programming lead to aggressive behavior?

There's been a couple of studies looking specifically at increase in heart rate and blood pressure in people who are playing. There were some -- one study that showed an increased lack of empathy overall. Case studies (AUDIO GAP) also, that the game makes a person more aggressive. Or are aggressive people more likely to play the game? I just think it's hard to draw this connection, Anderson.

COOPER: All right, Sanjay, appreciate that. Thanks very much. We'll be right back. A lot more ahead.
(COMMERCIAL BREAK)

(BEGIN VIDEO CLIP)

UNIDENTIFIED FEMALE: It just doesn't seem like Christmas, you know. It's really, really hard.

(END VIDEO CLIP)

COOPER: Burying little boys and girls days before Christmas, days after Hanukkah, no one should have to face that.

You can feel the sadness in Newtown. You can also feel incredible strength. I want to show you a picture we just got of one of the little girls who was killed. This is Allison Wyatt. A family friend of the Wyatts just came by, asked us to mention Allison tonight.

In a statement, Allison's parents said she was kind-hearted, loved drawing, loved to laugh. Was sweet, creative, funny and intelligent. They said, "She was developing her own wonderful sense of humor that went from being a silly 6-year-old to coming up with observations that more than once had us crying with laughter." Those are the words of their -- of Allison's parents, 6 years old. We will remember her.

Earlier you heard Lynn and Chris McDonnell talk so movingly about their 7-year-old daughter Grace. The joy she brought them and her brother Jack and everyone she touched.

Lynn told me their family will open presents on Christmas like they always do, because that's what Grace would want.

It's hard to hear the song "Amazing Grace." I told her -- I told Lynn that it's one of my favorite songs and that from now on, every time I hear it, I'll think of their amazing Grace.

Lynn said she believes that all the little children, as I mentioned, who are gone are holding hands together in heaven, bright stars shining down over Newtown.

She said none of the kids had hate in their hearts. And she acknowledged that the journey ahead is difficult, but she'll let the children guide them.

[Home](#)

(BEGIN VIDEOTAPE)

(MUSIC: "Amazing Grace")

(END VIDEO CLIP)

COOPER: "Amazing Grace." That does it for us here in Newtown. "ERIN BURNETT OUTFRONT" starts now.

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AFFIDAVIT OF NEIL HESLIN

STATE OF CONNECTICUT §
 § Shelton
FAIRFIELD COUNTY §

Before me, the undersigned notary, on this day personally appeared NEIL HESLIN, a person whose identity is known to me. Upon being duly sworn, Affiant states:

1. My name is Neil Heslin. I am over the age of 21 and competent to make this affidavit.
2. Mr. Jones and InfoWars began spreading lies about Sandy Hook and the death of my son within the first month following the tragedy.
3. I have seen Mr. Jones claim on numerous occasions that the Sandy Hook shooting was fake, phony, and synthetic.
4. For many years, I made a conscious effort not to get drawn into the hoax “controversy” caused by Mr. Jones’ statements. I had no interest in dignifying Mr. Jones by participating in the discussion.
5. Before this tragedy, I had no contact with the media. In the aftermath of the shooting, I granted some of the interview requests to media outlets who wanted to speak to me about my experience.
6. Following the tragedy, I was asked to appear before the U.S. Senate and Connecticut legislators to give testimony about my experience and my opinion on school safety.
7. I never sought to be any kind of public figure. I merely recognized that I was involved in a matter that had attracted public attention. It was not my intention to give up my privacy or surrender my interest in the protection of my own name in all aspects of my life.
8. I had some tangential involvement in speaking out on sensible gun regulations, but I do not consider myself an activist. I have not been a vigorous participant or a noteworthy part of that on-going debate.
9. Contrary to the claims in InfoWars’ Motion to Dismiss, I do not seek to destroy the Second Amendment, and this lawsuit has nothing to do with the Second Amendment or political purposes. I am an NRA member and registered Republican. I have no desire to limit Mr. Jones’ rights under the First Amendment or prevent his ability to speak about his personal opinions, however bizarre. I object to his malicious pattern of lies, especially about Sandy Hook and my son.
10. I never sought to participate in any public debate over whether the events at Sandy Hook were staged. Nor did I seek to participate in any public debate over whether my son died.

11. Over the years, I remained silent as Mr. Jones continued to make disgusting false claims about Sandy Hook, telling his viewers that the children were fake and that the parents were liars and evil conspirators.
12. In 2017, Megyn Kelly was in the process of producing a profile on Mr. Jones when she asked me for an interview. Though I was very conflicted as to whether to grant an interview, I agreed to speak on camera only to help set the record straight about the lies told by Mr. Jones about Sandy Hook, specifically that the event was staged and involved actors.
13. I gave comments to Ms. Kelly stating the reality: The shooting happened. I stated that I buried my son, that I held my son's body, and that I saw a bullet hole through his head.
14. I made these statements not to invite debate, but to clear my name and protect the memory of my son.
15. On Ms. Kelly's show, Mr. Jones did not apologize for his comments. He also said he there was a cover-up, and that he wasn't sure kids actually died.
16. After my interview with Ms. Kelly, I tried my best to avoid any coverage of Mr. Jones. Yet almost a year later, I was alarmed that people seemed to still be talking online about Sandy Hook being a hoax.
17. During the first week of April 2018, I became aware that InfoWars had made numerous videos over the past year trying to convince its viewers that Sandy Hook was a hoax, including a segment on June 26, 2017, featuring reporter Owen Shroyer which focused on me.
18. The June 26, 2017 video directly addressed the comments I made to Megyn Kelly. Mr. Shroyer claimed in the video that my statements about holding my son and seeing a bullet wound are not possible.
19. Mr. Shroyer further stated in the video that statements made by the authorities do not corroborate with my statement.
20. Mr. Shroyer then accused me of lying, saying "You would remember if you held your dead kid in your hands with a bullet hole. That's not something you would just misspeak on."
21. The June 26, 2017 video is false. I buried my son. I held his body. I saw a bullet hole through his head.
22. Mr. Jones' prior videos had deeply disturbed me, but this 2017 InfoWars video was far worse.

23. This broadcast was the first time that InfoWars had featured me by name. In the past, when InfoWars discussed other specific parents, they had become subject to terrible harassment. For example, I was aware of the case of Lucy Richards, an InfoWars fan who was arrested and sentenced to federal prison for death threats against Sandy Hook parent Leonard Pozner. I was also aware of threats and harassment being directed at other parents.
24. I was also aware that some conspiracy fanatics online had become convinced I was a "crisis actor." There is even an insane theory that I am a fireman who supposedly died on 9/11. Upon seeing Mr. Shroyer's video, I became intensely alarmed that his lie would embolden these dangerous people.
25. When I learned about Mr. Shroyer's video and InfoWars' other 2017 statements, I knew that my safety and the safety of my family had been placed at risk. This fear dominated my thoughts.
26. I have suffered a high degree of psychological stress and mental pain due to InfoWars using me and my child to revive the Sandy Hook hoax conspiracy in 2017. I had hoped that this ugly lie would go away, but now Mr. Jones had singled me out in his campaign of harassment, along with the memory of my son. This realization has caused a severe disruption to my daily life.
27. I find that I can think of little else. I have experienced terrible bouts of insomnia, and periods in which I am filled with nothing but outrage, and I find that I am unable to do anything productive. Other times, I am filled with grief knowing that InfoWars has ensured that its sick lie continues, and I am dismayed that my last moments with my son have become a part of that. I decided to return to grief counselling to help address these issues, but I feel that I have been changed in a way that can never be fixed.
28. Since learning of Mr. Shroyer's video, I have incurred counselling expenses of \$875. This counselling has been aimed at helping me cope with becoming a featured part of the Sandy Hook hoax claims.
29. Since learning of Mr. Shroyer's video, I purchased a one-year, two-person plan for the DeleteMe Privacy Protection service, which provides online monitoring and removal of your personal information. Given that I had specifically targeted by InfoWars, I wanted to take action to prevent an InfoWars follower from discovering my family's personal details and location. A year of this service cost me \$229.
30. For the same reasons, I also purchased a year's plan for the LifeLock service, which guards against the unauthorized use of personal information and identity theft attacks. I was concerned that conspiracy fanatics may use identify theft techniques to gain access to my personal details. This service cost me \$360.
31. Since learning of Mr. Shroyer's video, I have incurred expenses of \$598 in purchases for home security. I strongly prefer not to disclose the exact nature of the security items in a

public document, but suffice to say they consist of consumer products for my home and my ex-wife's home to detect, monitor, record, and alert of potential intruders. I purchased these items due to the fear that InfoWars' false statements would cause individuals to confront my family. I felt these items were necessary to help address my mental stress.

FURTHER YOUR AFFIANT SAYETH NOT



Neil Heslin

Subscribed and sworn to before me, this 22nd day of August, 2018 by Neil Heslin.



Caroline Allegretta
Notary Public
My Commission Expires: 07/31/2020

AFFIDAVIT OF H. WAYNE CARVER II, M.D.

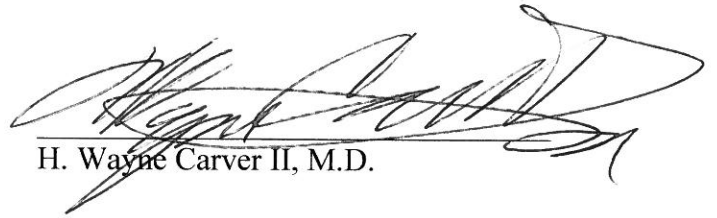
STATE OF Connecticut §
New Haven COUNTY § Old Lyme

Before me, the undersigned notary, on this day personally appeared H. Wayne Carver II, M.D., a person whose identity has been established to me. Upon being duly sworn, Affiant states:

1. My name is H. Wayne Carver, M.D. I am over the age of 21 and competent to make this affidavit.
2. For 26 years, I was the State of Connecticut's chief medical examiner.
3. I oversaw the process by which medical examinations were performed on victims of the Sandy Hook massacre.
4. I was one of the many state employees who entered Sandy Hook Elementary School on December 14, 2012.
5. Upon entering the building, it was obvious that Sandy Hook was a functioning elementary school. It was not rotting or falling apart. The school was filled with evidence that it had been in operation.
6. I am personally familiar with individuals who had children attending Sandy Hook Elementary School between 2008-2012.
7. Based on my firsthand observations, I know that paramedics and tactical paramedics entered the building to assess and triage the victims.
8. Upon completion of the medical examinations, the victim's bodies were released to the custody of funeral homes who had been engaged by the families.
9. Autopsy and or postmortem examinations had been performed. These procedures are designed so as not to interfere with usual American funereal practices.
10. Medical examiners made no efforts to conceal injuries.

11. I am familiar with Alex Jones and InfoWars. I am aware of prior statements by Mr. Jones in which he has asserted that the Sandy Hook massacre was staged. These comments have generated significant pain in the Newtown community.
12. I have viewed a June 26, 2017 video segment hosted broadcast by InfoWars entitled "Zero Hedge Discovers Anomaly In Alex Jones Hit Piece."
13. This video make claims about Sandy Hook parent Neil Heslin, the father of deceased minor J.L.
14. After watching these segments, I understood InfoWars was claiming that Mr. Heslin could not have held his son's body and seen the bullet wound in his head.
15. The InfoWars reporter stated: "According to a timeline of events and a coroner's testimony, that is not possible." I understood this statement to be InfoWars' assessment of the truth of Mr. Heslin's account.
16. After viewing the statements, it was my understanding that the broadcast was intended to reinforce the validity of Mr. Jones' prior statements about Sandy Hook, and act as further evidence that the event was staged.
17. Based on all the comments made in the video, it was clear to me that the InfoWars host was not merely reporting what an internet article had said. Rather, it was clear that the InfoWars host was endorsing the factual assertions in the article, and that the InfoWars host was asserting that it was impossible for Mr. Heslin to have held his son and seen his injuries.
18. Given my personal involvement in the events of the Sandy Hook massacre, I know that Mr. Heslin would have had an opportunity to hold his son's body and see his injuries if he chose to do so.
19. I also understood the comments by InfoWars to be an attack on Mr. Heslin's honesty and integrity.
20. In the context of Mr. Jones' years of accusations about Sandy Hook, I also understood the InfoWars' comments to implicate Mr. Heslin in criminal conduct, such as making false statements to government officials or engaging in other forms of criminal misrepresentation.
21. After viewing the video segments, I also drew the conclusion that InfoWars was accusing other families and state officials, including myself, of engaging in a fraud or cover-up of the truth regarding the Sandy Hook massacre, since I understood the underlying point of InfoWars argument about Sandy Hook was that the event was staged.

FURTHER YOUR AFFIANT SAYETH NOT



H. Wayne Carver II, M.D.

Karen C. Pompea

KAREN C. POMPEA
NOTARY PUBLIC OF CONNECTICUT
COMMISSION EXPIRES 10/31/2020

AFFIDAVIT OF SCARLETT LEWIS

STATE OF CONNECTICUT §
 §
FAIRFIELD COUNTY §

Before me, the undersigned notary, on this day personally appeared SCARLETT LEWIS, a person whose identity is known to me. Upon being duly sworn, Affiant states:

- My name is SCARLETT LEWIS. I am over the age of 21 and competent to make this affidavit.
- I am personally acquainted with Neil Heslin.
- I have viewed a June 26, 2017 broadcast from InfoWars featuring Owen Shroyer discussing Neil Heslin. ([https://www.youtube.com/watch?v= WINB5FWUmY](https://www.youtube.com/watch?v=WINB5FWUmY))
- I am also generally familiar with the prior allegations from InfoWars that the Sandy Hook massacre was staged or a hoax.
- After viewing the June 26, 2017 broadcast, I understood Mr. Shroyer to be making the claim that it was impossible for Neil Heslin to have held his child’s body.
- After viewing the June 26, 2017 broadcast, I understood Mr. Shroyer to be making the claim that it was impossible for Neil Heslin to have seen his child’s injuries firsthand.
- After viewing the June 26, 2017 broadcast, I understood Mr. Shroyer to be making the claim that Mr. Heslin was lying about having held the body of his son, and that Mr. Heslin was engaging in a fraud or cover-up of the truth regarding the Sandy Hook massacre.
- After viewing the June 26, 2017 broadcast, I understood Mr. Shroyer to be making the claim that Mr. Heslin was working in collusion with the media, specifically Megyn Kelly, to perpetrate a fraud on the public.
- After viewing the June 26, 2017 broadcast, I understood Mr. Shroyer to be making an attack on Mr. Heslin’s honesty and integrity.
- Due to the nature of Mr. Shroyer’s statements and the general context of InfoWars prior statements about Sandy Hook, I understood the June 26, 2017 broadcast to

implicate Mr. Heslin in criminal conduct, such as making false statements to government officials or engaging in other forms of criminal misrepresentation.

FURTHER YOUR AFFIANT SAYETH NOT



Scarlett Lewis
Scarlett Lewis

Kerry Kazmercyk 7/7/18

**KERRY KAZMERCYK
NOTARY PUBLIC
CONNECTICUT**

AFFIDAVIT OF JOHN CLAYTON

STATE OF WASHINGTON §
 §
KING COUNTY §

Before me, the undersigned notary, on this day personally appeared JOHN CLAYTON, a person whose identity has been established to me. Upon being duly sworn, Affiant states:

1. My name is John Clayton. I am over the age of 21 and competent to make this affidavit.
2. For the past twenty years, I have been a radio talk show host and independent journalist.
3. I maintained a close professional association with Alex Jones during the years 2002 through 2009.
4. During those years, I hosted or appeared on InfoWars programming on numerous occasions. I worked alongside Mr. Jones in investigating, researching, and creating news content. I gained an extensive understanding of Mr. Jones' media operation.
5. I stopped working with Mr. Jones in 2009.
6. My primary motivations for no longer working with Mr. Jones was that he no longer had any commitment to the principles and philosophy of the independent media movement.
7. One of those principles is the practice of rigorous journalism. In alternative media, it is imperative that we get our facts right.
8. Near the end of my work with Mr. Jones, it became apparent that he had made the conscious decision not to care about accuracy. He made it clear that his goal was to produce views on InfoWars content.
9. I personally observed that it become standard practice in InfoWars to disregard basic protocols in journalism.
10. I personally observed countless situations in which Mr. Jones made claims on the air for which he knew had no substantiating evidence.

11. From my personal experience, I knew that Mr. Jones understood that the information he put on the air had not been adequately checked for accuracy, and in many cases, he knew the information was false. He did not care.
12. One of the differences of opinion I had with Mr. Jones is that I believe it is good and healthy for journalists to ask questions, but I believe it is dangerous to assert facts with no evidence.
13. I felt the way in which Mr. Jones and InfoWars came to operate was dangerous and wrong.
14. Given my intimate and personal discussions with Mr. Jones on these topics, and after seeing Mr. Jones consciously discard any sense of journalistic obligation, there is no question in my mind that Mr. Jones made the choice to willfully disregard accuracy in pursuit of a larger audience.

FURTHER YOUR AFFIANT SAYETH NOT



John Clayton

NOTARY



7/18/18

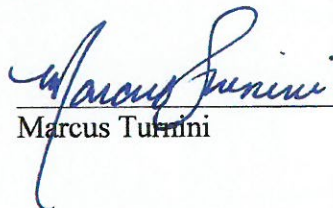
AFFIDAVIT OF MARCUS TURNINI

STATE OF TEXAS §
 §
HARRIS COUNTY §

Before me, the undersigned notary, on this day personally appeared Marcus Turnini, a person whose identity is known to me. Upon being duly sworn, Affiant states:

1. My name is Marcus Turnini. I am over the age of 21 and competent to make this affidavit.
2. I am employed by the law firm Kaster Lynch Farrar & Ball, LLP as a paralegal.
3. Attached to this affidavit is a true and correct copy of the website located at the URL <https://web.archive.org/web/20180214101615/https://www.infowars.com/terms-of-service/>. I visited the website on August 1, 2018, and I saved a PDF copy of the website's contents.
4. Attached to this affidavit is a true and correct copy of the website located at the URL <https://www.infowars.com/terms-of-service/>. I visited the website on August 1, 2018, and I saved a PDF copy of the website's contents.

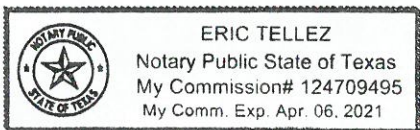
FURTHER YOUR AFFIANT SAYETH NOT



Marcus Turnini

STATE OF TEXAS §
 §
HARRIS COUNTY §

SWORN to and SUBSCRIBED before, the undersigned authority, on the 2nd day of August 2018, by Marcus Turnini.





Notary Public, State of Texas

My commission expires: 4.6.21

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the incorporated privacy policy, between us and you.

1.2. "Licensed Materials" means our intellectual property, including but not limited to, our logos, trade names, service marks, trademarks, and trade dress.

1.3. "Membership" means anyone holding an account in compliance with this Agreement.

1.4. "Profile" means the membership information, including but not limited to your legal name, address, telephone, fax, email.

1.5. "Product" means each and every product we offer.

1.6. "Profile Page" means the page of the same name on the Website where your membership information is shown.

1.7. "Services" means each and every service we offer.

1.8. "Website" means planet.infowars.com and all other Uniform Resource Identifier we use to provide our Products and Services.

1.9. "System" means all of our software and hardware, whether owned or leased or otherwise contracted.

1.10. "We," "us," and "our" means Infowars, LLC, a Texas limited liability company.

1.11. "You," "your," and "yourself" means any person, organization or business entity that seeks to use our Services, as well as their agents, assigns, and successors.

1.12. "Active" (Group) means users post comments, group information is updated, events and missions are created. If a group is inactive for more than 30 days it will be deleted.

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2.2. You may not access the Website or utilize our Services if you are under eighteen (18) years of age or otherwise not competent to enter into a binding contract.

2.3. Before you may use any of our Services, you must:

2.3.1. read and agree to comply with this Agreement and

2.3.2. understand and accept that this Agreement:

2.3.2.1. takes effect the moment you access the Website;

2.3.2.2. may only be amended or modified by us, unless we agree otherwise in writing with you;

2.3.2.3. may be amended or modified by us at any time and all such changes shall take full effect as soon as they are posted on the Website and your continued use of our Services shall be irrefutable proof of your consent to the terms and conditions of the most current version of this Agreement;

2.3.2.4. is the entire and only agreement between you and us;

2.3.2.5. contain all terms and conditions of your relationship with us and your use of our Services; and

2.3.2.6. shall only terminate under the conditions provided for herein.

2.4. This Agreement shall in no way create an agency, employee-employer, franchis or franchisee, joint enterprise, joint venture, or partnership relationship between you and us.

2.5. Our failure to require your performance of any provision of this Agreement shall not affect our right to require subsequent performance at any time of the same provision.

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- 2.6.1. immediately lower, suspend or cancel your account and membership with us;
- 2.6.2. use your personal information to collect all pending and applicable fees and other amounts due;
- 2.6.3. charge you for all administrative costs in connection with any violation by you of any provision of this Agreement; and
- 2.6.4. bring legal action to enjoin violations and/or to collect all damages caused by your violations of this Agreement.
- 2.7. We cooperate with law enforcement and all other appropriate authorities and organizations.
- 2.8. Unless otherwise provided herein, you agree that:

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on file to no longer be valid and

2.8.2. all notices from you to us shall be:

2.8.2.1. sent to support@Infowars.com and deemed immediately delivered.

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3. PRIVACY

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3.2. You agree that we may use your personal identifying information to enforce this Agreement, and when complying with an order of a court or other government entity of competent jurisdiction.

3.4. We use cookies, log files, and third parties to create a profile of our users and the information gathered is personally identifiable as belonging to you so that we can better determine what Services and System adjustments will optimize your experience at the Website. We may share this information with third parties but only in a way that does not identify you or any particular person individually.

3.5. The System allows you to use and purchase our Products and Services online. PayPal or another merchant account service provider processes your payments, and we do not store your financial information.

3.6. We may offer you opportunities to communicate with third parties, whether other on our Website or that of an affiliate. Please remember that we do not control or guarantee in any way the accuracy or safety of the content on websites not operated by us or even content provided by others on our Website.

3.7. Any information you disclosed to third parties on our Website or other websites becomes public information, and you should exercise caution when deciding to disclose any personal information.

3.8. We follow established security procedures to keep your personal information safe from unauthorized third parties.

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3.10. You alone are responsible for confirming the accuracy of your personal information that we use to contact you. Any email messages we receive that appear to be from the email address we have on file for you shall be deemed to have been sent by you or your duly authorized agent with full authority to act on your behalf.

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4. PAYMENTS

4.1. You are responsible for making timely payment of all amounts you owe us when they come due.

4.2. Should we charge fees, we may change our fees at any time, and the new fees shall take immediate effect.

4.3. Your obligation to make due payments shall survive termination of this Agreement.

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5. REFUNDS/NO CHARGEBACKS

5.1. No payments, whether purchases or donations, shall be refunded and sales are final.

5.2. You shall not chargeback any payments to us, unless you have been the victim of identity theft and provide us with a valid police report. Your failure to comply with this section may result in immediate termination of your use of our Services.

5.3. Except for confirmed manufacturer defects, you are responsible for all freight and shipping charges as well as a restocking fee of 15%, of the sale price, for unaccepted or refused delivery shipments.

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6.1. We may offer you the opportunity to enjoy a pay membership at various levels with each level priced differently and granting you the opportunity to make use of a greater number of our Services.

6.2. Members with a pay membership pay for their particular pay membership level and fees at all levels shall be recurring with a \$100 administrative fee applied to every chargeback you make on charges for payment to us; see 4.6 above for more details.

6.3. We may lower, suspend or terminate your Membership if we determine, in our sole discretion, that you have violated the terms of this Agreement.

6.4. You may terminate your Membership by simply writing us at support@Infowars.com, and your cancellation shall take effect twenty-four (24) hours later.

6.5. Planetinfowars.com (Planet.infowars.com) does not require a membership and/or service fee.

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7. SHIPPING

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packages. If you choose another method of shipping, you hereby accept all liability for lost or damaged orders. We will not and cannot do anything for lost or damaged orders that were not sent via UPS.

7.2. Shipping: Shipping charges are nonrefundable. You are responsible for all freight charges for refused shipments and they will be added to the invoice total. Freight/insurance costs are prepaid. All items are shipped via USPS or UPS. Items will be shipped within one week of receipt of order, though generally much sooner. Out of stock items will be shipped according to availability of product. Dimensions/oversize weights are applied to freight charges when applicable.

7.3. Backorders: If your order contains a pre-ordered item, or a back-ordered item, the entire order will ship once all items are in stock. If you would like to have a partial order shipped immediately and are willing to pay an additional shipping charge, please contact our offices at (512) 291-5750 Ext. 56 or 96.

7.4. Damage/Loss: All claims for damage/pilferage must be filed by you with the delivering carrier. We cannot file these for you. All claims for incorrect shipments/billing must be made within 10 days of receipt. In the event of a faulty product, meaning the manufacturer has confirmed the defect, we will request that you return the product, after which we will ship out a replacement product.

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amount. You alone are responsible for sales taxes due outside the State of Texas.

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8. POSTED CONTENT

8.1. We may review and delete any content you post on the Website or elsewhere utilizing our Services or System if we determine, in our sole discretion, that the content violates the rights of others, is not appropriate for the Website, or otherwise violates this Agreement.

8.2. We may allow you to upload content, such as photographs, but only to your account with us.

8.3. You must hold all intellectual rights to content, such as text or photographs, you upload to the Website.

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9. INTELLECTUAL PROPERTY

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than through normal use of the Website.

9.2. You retain all of your rights, titles, and interests in and to the content provided by you.

9.3. You hereby grant us a perpetual, worldwide license to use, host, store, reproduce, modify, create derivative works, communicate, publish, publicly perform, publicly display, distribute and otherwise use all content that you post on the Website or otherwise through the use of our Services or System.

9.4. If you did not create or obtain a license to use content on the Website, you may not use content on the Website other than through normal use of the Website, as intended by us.

9.5. If you believe that your intellectual property rights have been violated, please contact us at support@infowars.com and provide a brief but complete description of the intellectual property at issue.

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10. NO THIRD-PARTY BENEFICIARIES

There shall be no third-party beneficiaries to this Agreement. All assignments are void unless consented to by us in writing. [Back to Top ^](#)

11. LIMITATION OF LIABILITY

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- 11.1.1. any act or omission by you or your agent, whether authorized or unauthorized;
- 11.1.2. your use or inability to use our Services;
- 11.1.3. public or private information, whether accurate or inaccurate or fraudulent, provided by you or a third party;
- 11.1.4. access delays or access interruptions to our Services;
- 11.1.5. the failure to deliver or erroneous delivery of information;
- 11.1.6. any breach of contract you have with a third party, such as an employer;
- 11.1.7. any breach of a 3rd party's intellectual property as a result of information posted by you;
- 11.1.8. your failure to pay us any applicable due payment;
- 11.1.9. the actions, orders and judgments of administrative, judicial and other governmental bodies.
- 11.2. We shall not be liable to you or anyone else for delays in or failures to perform our obligations under this Agreement that directly or indirectly result from events or causes beyond our reasonable control including, but not limited to: hardware or software failures, other equipment failures, electrical power failures, labor disputers, strikes, riots, hurricanes, fires, floods, storms, explosions, acts of God, war, governmental actions, orders of domestic or foreign courts or administrative bodies, or the non-performance of third parties.

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or other intangibles whether in contract, tort or negligence even if you we are aware of the possibility or probability of such damages.

11.4. If a competent court deems us liable to you, our maximum possible liability to you for any reason shall not exceed \$100.

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12. INDEMNITY

12.1. YOU AGREE TO DEFEND, INDEMNIFY AND HOLD US AND OUR MEMBERS, OFFICERS, EMPLOYEES, AFFILIATES AND AGENTS HARMLESS FROM AND AGAINST ANY AND ALL LIABILITIES, LOSSES, DAMAGES OR COSTS, INCLUDING ALL ATTORNEY FEES, COLLECTION FEES AND COURT COSTS, RELATED TO ANY DEMAND OR LITIGATION IN ANY WAY RELATED TO:

12.1.1. YOUR USE OF OUR SERVICES;

12.1.2. YOUR BREACH OF THIS AGREEMENT;

12.1.3. INACCURATE OR FRAUDULENT INFORMATION PROVIDED BY YOU OR A THIRD PARTY;

12.1.4. THE CANCELLATION OR LIMITATION OF YOUR ABILITY TO USE OUR SYSTEM AND SERVICES, INCLUDING BUT NOT LIMITED TO OUR WEBSITE; OR

12.1.5. INFRINGEMENT OF ANY THIRD-PARTY RIGHTS ARISING FROM YOU'RE YOUR USE OF OUR SYSTEM OR SERVICES.

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information or documents you provide to us contain fraudulent or otherwise inaccurate information.

13.1.2. you will immediately update your Profile information after it becomes inaccurate;

13.1.3. you will not directly or indirectly infringe the legal rights of third parties or our Licensed Materials;

13.1.4. you have not entered into this Agreement and will not enter into any additional agreements with us in bad faith; and

13.1.5. you are at least legally competent to enter into a binding contract with us.

13.2. We make no representations or warranties of any kind in connection with this Agreement.

13.3. With regard to the Website and our Services:

13.3.1. We expressly disclaim all warranties, express or implied, including, but not limited to, the implied warranties of merchantability and fitness for a particular purpose.

13.3.2. We do not warrant that our Services will meet your requirements, be uninterrupted or error free.

13.3.3. We do not make any warranties or representations regarding use, correctness, accuracy, or reliability.

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13.4.2. you use the Website and our Products and Services on an "as-is" and "asavailable" basis and at your own risk and discretion;

13.4.3. you alone are responsible for any damage to your hardware and software or loss of data in any way related to your use of the Website or our Services;

13.4.4. neither we nor our members, officers, employees or agents shall have any liability to you; and

13.4.5. no advice or information, whether oral or written, obtained by you from us shall create any warranty not expressly stated in this Agreement.

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14. BREACH, REVOCATION AND CANCELLATION.

14.1. In the event that you breach any provision of this Agreement, you agree that we may immediately terminate your use of our Services and System.

14.2. In the event such a breach occurs by you, we may post on the Website that you have violated our terms and conditions of service.

14.3. In the event we determine that you have or continue to violate this Agreement:

14.3.1. We reserve the right to prosecute civil and/or criminal actions against you for any abusive behavior you engage in regarding your use of our Services and System; and

14.3.2. You will also be subject to legal (\$200 per hour), administrative (\$75 per hour), and technical (\$150 per hour) fees in a reasonable amount for damages incurred by us for any violations of this Agreement.

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15.1. In the event that one or more provisions of this Agreement is deemed unenforceable or invalid, the unaffected provisions of this Agreement shall continue in effect, and the unenforceable or invalid provisions shall be amended or replaced by us with a provision that is valid and enforceable and which achieves, to the greatest extent possible, the objectives and intent of the original provisions.

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16. GOVERNING LAW

16.1. This Agreement shall be governed by the federal laws of the United States and the laws of the State of Texas, without regard to any conflict of laws provisions.

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17. EXCLUSIVE VENUE

17.1. Any actions relating to or arising out of this Agreement or any use of our Website or Services that include us as a party shall be brought exclusively in the federal and state courts for Travis County, Austin, Texas, and you consent to the exercise of personal jurisdiction over you by these courts in all such actions.

17.2. You agree that you shall submit, without prejudice to other potentially applicable jurisdictions, to the jurisdiction of the courts of your domicile and Travis County, Austin, Texas.

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Agreement, the prevailing party will be entitled to an award of all reasonable fees and costs, regardless of whether a judgment is rendered or suit is ever filed.

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19. PUBLISHING RULES (WHEN CREATING ARTICLES)

You will stay on topic. (Post under the proper category)

You will post articles to the ONE category that best applies.

You will not spam. (Spam is flooding the Internet with many copies of the same message, in an attempt to force the message on people who would not otherwise choose to receive it.)

You will not include links to websites and videos not associated with the topic.

You will not post the same comment or article multiple times or multiple categories.

You will not solicit anyone to buy or sell products or services, or to make donations of any kind. You will not include links to products in your status updates, comments, articles or groups.

You will not post anything libelous, defamatory, harmful, threatening, harassing, abusive, invasive of another's privacy, hateful, racially or ethnically objectionable, or otherwise illegal.

You will not make threats to other users or people not associated with the site.

If you violate these rules, your posts and/or user name will be deleted.

Remember: you are a guest here. It is not censorship if you violate the rules and your post is deleted. All civilizations have rules and if you violate them you can expect to be

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By using Infowars.com, you agree to the following when making a comment:

You will stay on topic.

You will not spam. (Spam is flooding the Internet with unnecessary or out of topic comments)

You will not include links to websites and videos not associated with the topic.

You will not post the same comment multiple times on the same of different articles

You will not solicit anyone to buy or sell products or services, or to make donations of any kind. You will not include links to products in your status updates, comments, articles or groups.

You will not post anything libelous, defamatory, harmful, threatening, harassing, abusive, invasive of another's privacy, hateful, racially or ethnically objectionable, or otherwise illegal.

You will not make threats to other users or people not associated with the site.

If you violate these rules, your comment(s) and/or user name will be deleted.

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21. Groups

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Your group will not be based on anything libelous, defamatory, harmful, threatening, harassing, abusive, invasive of another's privacy, hateful, racially or ethnically objectionable, or otherwise illegal.

Your group will not solicit anyone to buy or sell products or services, or to make donations of any kind.

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INFOWARS LLC, TERMS OF USE & PRIVACY POLICY

IMPORTANT - PLEASE READ

Reading and accepting the following terms of use and incorporated privacy policy, as they are periodically updated, are required before you may begin or continue to interact with this website. Your use of this website for any purpose other than to read the terms of use and privacy policy is considered as your full consent to all provisions of the most current versions of the terms of use and privacy policy.

1. DEFINITIONS

2. GENERAL PROVISIONS

3. PRIVACY

4. PAYMENTS

5. REFUNDS/NO CHARGEBACKS

6. PAYMENT

7. SHIPPING

8. POSTED CONTENT

9. INTELLECTUAL PROPERTY

10. NO THIRD-PARTY BENEFICIARIES

11. LIMITATION OF LIABILITY

12. INDEMNITY

13. REPRESENTATIONS AND WARRANTIES

14. BREACH, REVOCATION AND CANCELLATION

15. SEVERABILITY

16. GOVERNING LAW

17. EXCLUSIVE VENUE

18. DISPUTE FEES AND COSTS

19. PUBLISHING RULES (WHEN CREATING ARTICLES)

20. COMMENT RULES

21. GROUPS

1. DEFINITIONS

- 1.1. "Agreement" means the most current version of this terms of use agreement, including the incorporated privacy policy, between us and you.
- 1.2. "Licensed Materials" means our intellectual property, including but not limited to, our logos, trade names, service marks, trademarks, and trade dress.
- 1.3. "Membership" means anyone holding an account in compliance with this Agreement.
- 1.4. "Profile" means the membership information, including but not limited to your legal name, address, telephone, fax, email.
- 1.5. "Product" means each and every product we offer.
- 1.6. "Profile Page" means the page of the same name on the Website where your membership information is shown.
- 1.7. "Services" means each and every service we offer.
- 1.8. "Website" means planet.infowars.com and all other Uniform Resource Identifier we use to provide our Products and Services.
- 1.9. "System" means all of our software and hardware, whether owned or leased or otherwise contracted.
- 1.10. "We," "us," and "our" means Infowars, LLC, a Texas limited liability company.
- 1.11. "You," "your," and "yourself" means any person, organization or business entity that seeks to use our Services, as well as their agents, assigns, and successors.
- 1.12. "Active" (Group) means users post comments, group information is updated, events and missions are created. If a group is inactive for more than 30 days it will be deleted.

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2. GENERAL PROVISIONS

- 2.1. Please direct any questions not answered by reading this Agreement to us at support@Infowars.com.
- 2.2. You may not access the Website or utilize our Services if you are under eighteen (18) years of age or otherwise not competent to enter into a binding contract.
- 2.3. Before you may use any of our Services, you must:
 - 2.3.1. read and agree to comply with this Agreement and
 - 2.3.2. understand and accept that this Agreement:
 - 2.3.2.1. takes effect the moment you access the Website;
 - 2.3.2.2. may only be amended or modified by us, unless we agree otherwise in writing with you;
 - 2.3.2.3. may be amended or modified by us at any time and all such changes shall take full effect as soon as they are posted on the Website and your continued use of our Services shall be irrefutable proof of your consent to the terms and conditions of the most current version of this Agreement;
 - 2.3.2.4. is the entire and only agreement between you and us;
 - 2.3.2.5. contain all terms and conditions of your relationship with us and your use of our Services; and
 - 2.3.2.6. shall only terminate under the conditions provided for herein.
- 2.4. This Agreement shall in no way create an agency, employee-employer, franchis or franchisee, joint enterprise, joint venture, or partnership relationship between you and us.
- 2.5. Our failure to require your performance of any provision of this Agreement shall not affect our right to require subsequent performance at any time of the same provision.
- 2.6. Should we determine, in our sole discretion, that you have violated any provisions of this Agreement or applicable laws, we may, with subsequent notice to you:

- 2.6.1. immediately lower, suspend or cancel your account and membership with us;
 - 2.6.2. use your personal information to collect all pending and applicable fees and other amounts due;
 - 2.6.3. charge you for all administrative costs in connection with any violation by you of any provision of this Agreement; and
 - 2.6.4. bring legal action to enjoin violations and/or to collect all damages caused by your violations of this Agreement.
- 2.7. We cooperate with law enforcement and all other appropriate authorities and organizations.
- 2.8. Unless otherwise provided herein, you agree that:

2.8.1. all notices from us to you shall be sent to the most recent email address on file with us and will be deemed immediately delivered even if you have allowed your email address on file to no longer be valid and

2.8.2. all notices from you to us shall be:

2.8.2.1. sent to support@Infowars.com and deemed immediately delivered.

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3. PRIVACY

3.1. Protecting your privacy is very important to us; so we do not sell your personal information and will only use it for obvious, legitimate business purposes.

3.2. You agree that we may use your personal identifying information to enforce this Agreement, and when complying with an order of a court or other government entity of competent jurisdiction.

3.4. We use cookies, log files, and third parties to create a profile of our users and the information gathered is personally identifiable as belonging to you so that we can better determine what Services and System adjustments will optimize your experience at the Website. We may share this information with third parties but only in a way that does not identify you or any particular person individually.

3.5. The System allows you to use and purchase our Products and Services online. PayPal or another merchant account service provider processes your payments, and we do not store your financial information.

3.6. We may offer you opportunities to communicate with third parties, whether other on our Website or that of an affiliate. Please remember that we do not control or guarantee in any way the accuracy or safety of the content on websites not operated by us or even content provided by others on our Website.

3.7. Any information you disclosed to third parties on our Website or other websites becomes public information, and you should exercise caution when deciding to disclose any personal information.

3.8. We follow established security procedures to keep your personal information safe from unauthorized third parties.

3.9. You alone are responsible for maintaining the security of your account access information—i.e., username, password and email address.

3.10. You alone are responsible for confirming the accuracy of your personal information that we use to contact you. Any email messages we receive that appear to be from the email address we have on file for you shall be deemed to have been sent by you or your duly authorized agent with full authority to act on your behalf.

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4. PAYMENTS

4.1. You are responsible for making timely payment of all amounts you owe us when they come due.

4.2. Should we charge fees, we may change our fees at any time, and the new fees shall take immediate effect.

4.3. Your obligation to make due payments shall survive termination of this Agreement.

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5. REFUNDS/NO CHARGEBACKS

5.1. No payments, whether purchases or donations, shall be refunded and sales are final.

5.2. You shall not chargeback any payments to us, unless you have been the victim of identity theft and provide us with a valid police report. Your failure to comply with this section may result in immediate termination of your use of our Services.

5.3. Except for confirmed manufacturer defects, you are responsible for all freight and shipping charges as well as a restocking fee of 15%, of the sale price, for unaccepted or refused delivery shipments.

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6. MEMBERSHIPS

6.1. We may offer you the opportunity to enjoy a pay membership at various levels with each level priced differently and granting you the opportunity to make use of a greater number of our Services.

6.2. Members with a pay membership pay for their particular pay membership level and fees at all levels shall be recurring with a \$100 administrative fee applied to every chargeback you make on charges for payment to us; see 4.6 above for more details.

6.3. We may lower, suspend or terminate your Membership if we determine, in our sole discretion, that you have violated the terms of this Agreement.

6.4. You may terminate your Membership by simply writing us at support@Infowars.com, and your cancellation shall take effect twenty-four (24) hours later.

6.5. Planetinfowars.com (Planet.infowars.com) does not require a membership and/or service fee.

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7. SHIPPING

7.1. Shipping Methods: We highly recommend that you choose UPS for the shipping method. UPS provides tracking information for all orders and insurance for lost or damaged packages. If you choose another method of shipping, you hereby accept all liability for lost or damaged orders. We will not and cannot do anything for lost or damaged orders that were not sent via UPS.

7.2. Shipping: Shipping charges are nonrefundable. You are responsible for all freight charges for refused shipments and they will be added to the invoice total. Freight/insurance costs are prepaid. All items are shipped via USPS or UPS. Items will be shipped within one week of receipt of order, though generally much sooner. Out of stock items will be shipped according to availability of product. Dimensions/oversize weights are applied to freight charges when applicable.

7.3. Backorders: If your order contains a pre-ordered item, or a back-ordered item, the entire order will ship once all items are in stock. If you would like to have a partial order shipped immediately and are willing to pay an additional shipping charge, please contact our offices at (512) 291-5750 Ext. 56 or 96.

7.4. Damage/Loss: All claims for damage/pilferage must be filed by you with the delivering carrier. We cannot file these for you. All claims for incorrect shipments/billing must be made within 10 days of receipt. In the event of a faulty product, meaning the manufacturer has confirmed the defect, we will request that you return the product, after which we will ship out a replacement product.

7.5. For Products shipped within the State of Texas, applicable sales taxes are automatically applied to the purchase total and must be paid as part of the total purchase amount. You alone are responsible for sales taxes due outside the State of Texas.

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8. POSTED CONTENT

8.1. We may review and delete any content you post on the Website or elsewhere utilizing our Services or System if we determine, in our sole discretion, that the content violates the rights of others, is not appropriate for the Website, or otherwise violates this Agreement.

8.2. We may allow you to upload content, such as photographs, but only to your account with us.

8.3. You must hold all intellectual rights to content, such as text or photographs, you upload to the Website.

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9. INTELLECTUAL PROPERTY

9.1. You may not copy or otherwise attempt to benefit or assist others to benefit, directly or indirectly, from use of our Licensed Materials or intellectual property of third parties other than through normal use of the Website.

9.2. You retain all of your rights, titles, and interests in and to the content provided by you.

9.3. You hereby grant us a perpetual, worldwide license to use, host, store, reproduce, modify, create derivative works, communicate, publish, publicly perform, publicly display, distribute and otherwise use all content that you post on the Website or otherwise through the use of our Services or System.

9.4. If you did not create or obtain a license to use content on the Website, you may not use content on the Website other than through normal use of the Website, as intended by us.

9.5. If you believe that your intellectual property rights have been violated, please contact us at support@infowars.com and provide a brief but complete description of the intellectual property at issue.

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10. NO THIRD-PARTY BENEFICIARIES

There shall be no third-party beneficiaries to this Agreement. All assignments are void unless consented to by us in writing. [Back to Top](#) ^

11. LIMITATION OF LIABILITY

- 11.1. You agree that we will not be liable for any harm or loss that may occur in connection with:
- 11.1.1. any act or omission by you or your agent, whether authorized or unauthorized;
 - 11.1.2. your use or inability to use our Services;
 - 11.1.3. public or private information, whether accurate or inaccurate or fraudulent, provided by you or a third party;
 - 11.1.4. access delays or access interruptions to our Services;
 - 11.1.5. the failure to deliver or erroneous delivery of information;
 - 11.1.6. any breach of contract you have with a third party, such as an employer;
 - 11.1.7. any breach of a 3rd party's intellectual property as a result of information posted by you;
 - 11.1.8. your failure to pay us any applicable due payment;
 - 11.1.9. the actions, orders and judgments of administrative, judicial and other governmental bodies.
- 11.2. We shall not be liable to you or anyone else for delays in or failures to perform our obligations under this Agreement that directly or indirectly result from events or causes beyond our reasonable control including, but not limited to: hardware or software failures, other equipment failures, electrical power failures, labor disputers, strikes, riots, hurricanes, fires, floods, storms, explosions, acts of God, war, governmental actions, orders of domestic or foreign courts or administrative bodies, or the non-performance of third parties.
- 11.3. We shall not be liable for any direct, indirect, consequential, incidental, special or exemplary damages of any kind, including but not limited to lost: profits, goodwill, use, data or other intangibles whether in contract, tort or negligence even if you we are aware of the possibility or probability of such damages.

11.4. If a competent court deems us liable to you, our maximum possible liability to you for any reason shall not exceed \$100.

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12. INDEMNITY

12.1. YOU AGREE TO DEFEND, INDEMNIFY AND HOLD US AND OUR MEMBERS, OFFICERS, EMPLOYEES, AFFILIATES AND AGENTS HARMLESS FROM AND AGAINST ANY AND ALL LIABILITIES, LOSSES, DAMAGES OR COSTS, INCLUDING ALL ATTORNEY FEES, COLLECTION FEES AND COURT COSTS, RELATED TO ANY DEMAND OR LITIGATION IN ANY WAY RELATED TO:

12.1.1. YOUR USE OF OUR SERVICES;

12.1.2. YOUR BREACH OF THIS AGREEMENT;

12.1.3. INACCURATE OR FRAUDULENT INFORMATION PROVIDED BY YOU OR A THIRD PARTY;

12.1.4. THE CANCELLATION OR LIMITATION OF YOUR ABILITY TO USE OUR SYSTEM AND SERVICES, INCLUDING BUT NOT LIMITED TO OUR WEBSITE; OR

12.1.5. INFRINGEMENT OF ANY THIRD-PARTY RIGHTS ARISING FROM YOUR USE OF OUR SYSTEM OR SERVICES.

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13. REPRESENTATIONS AND WARRANTIES

13.1. You represent and warrant that:

13.1.1. all Profile information you provide to us is accurate and none of the Profile information or documents you provide to us contain fraudulent or otherwise inaccurate information.

13.1.2. you will immediately update your Profile information after it becomes inaccurate;

13.1.3. you will not directly or indirectly infringe the legal rights of third parties or our Licensed Materials;

13.1.4. you have not entered into this Agreement and will not enter into any additional agreements with us in bad faith; and

13.1.5. you are at least legally competent to enter into a binding contract with us.

13.2. We make no representations or warranties of any kind in connection with this Agreement.

13.3. With regard to the Website and our Services:

13.3.1. We expressly disclaim all warranties, express or implied, including, but not limited to, the implied warranties of merchantability and fitness for a particular purpose.

13.3.2. We do not warrant that our Services will meet your requirements, be uninterrupted or error free.

13.3.3. We do not make any warranties or representations regarding use, correctness, accuracy, or reliability.

13.4. You agree that:

13.4.1. you use the Website and our Products and Services at your own risk;

13.4.2. you use the Website and our Products and Services on an "as-is" and "asavailable" basis and at your own risk and discretion;

13.4.3. you alone are responsible for any damage to your hardware and software or loss of data in any way related to your use of the Website or our Services;

13.4.4. neither we nor our members, officers, employees or agents shall have any liability to you; and

13.4.5. no advice or information, whether oral or written, obtained by you from us shall create any warranty not expressly stated in this Agreement.

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14. BREACH, REVOCATION AND CANCELLATION.

14.1. In the event that you breach any provision of this Agreement, you agree that we may immediately terminate your use of our Services and System.

14.2. In the event such a breach occurs by you, we may post on the Website that you have violated our terms and conditions of service.

14.3. In the event we determine that you have or continue to violate this Agreement:

14.3.1. We reserve the right to prosecute civil and/or criminal actions against you for any abusive behavior you engage in regarding your use of our Services and System; and

14.3.2. You will also be subject to legal (\$200 per hour), administrative (\$75 per hour), and technical (\$150 per hour) fees in a reasonable amount for damages incurred by us for any violations of this Agreement.

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15. SEVERABILITY

15.1. In the event that one or more provisions of this Agreement is deemed unenforceable or invalid, the unaffected provisions of this Agreement shall continue in effect, and the unenforceable or invalid provisions shall be amended or replaced by us with a provision that is valid and enforceable and which achieves, to the greatest extent possible, the objectives and intent of the original provisions.

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16. GOVERNING LAW

16.1. This Agreement shall be governed by the federal laws of the United States and the laws of the State of Texas, without regard to any conflict of laws provisions.

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17. EXCLUSIVE VENUE

17.1. Any actions relating to or arising out of this Agreement or any use of our Website or Services that include us as a party shall be brought exclusively in the federal and state courts for Travis County, Austin, Texas, and you consent to the exercise of personal jurisdiction over you by these courts in all such actions.

17.2. You agree that you shall submit, without prejudice to other potentially applicable jurisdictions, to the jurisdiction of the courts of your domicile and Travis County, Austin, Texas.

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18. DISPUTE RELATED FEES AND COSTS

18.1. If we reasonably decide to retain an attorney or a collection agency to enforce this Agreement, the prevailing party will be entitled to an award of all reasonable fees and costs, regardless of whether a judgment is rendered or suit is ever filed.

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19. PUBLISHING RULES (WHEN CREATING ARTICLES)

You will stay on topic. (Post under the proper category)

You will post articles to the ONE category that best applies.

You will not spam. (Spam is flooding the Internet with many copies of the same message, in an attempt to force the message on people who would not otherwise choose to receive it.)

You will not include links to websites and videos not associated with the topic.

You will not post the same comment or article multiple times or multiple categories.

You will not solicit anyone to buy or sell products or services, or to make donations of any kind. You will not include links to products in your status updates, comments, articles or groups.

You will not post anything libelous, defamatory, harmful, threatening, harassing, abusive, invasive of another's privacy, hateful, racially or ethnically objectionable, or otherwise illegal.

You will not make threats to other users or people not associated with the site.

If you violate these rules, your posts and/or user name will be deleted.

Remember: you are a guest here. It is not censorship if you violate the rules and your post is deleted. All civilizations have rules and if you violate them you can expect to be ostracized from the tribe. [Back to Top](#) ^

20. COMMENT RULES

By using Infowars.com, you agree to the following when making a comment:

You will stay on topic.

You will not spam. (Spam is flooding the Internet with unnecessary or out of topic comments)

You will not include links to websites and videos not associated with the topic.

You will not post the same comment multiple times on the same of different articles

You will not solicit anyone to buy or sell products or services, or to make donations of any kind. You will not include links to products in your status updates, comments, articles or groups.

You will not post anything libelous, defamatory, harmful, threatening, harassing, abusive, invasive of another's privacy, hateful, racially or ethnically objectionable, or otherwise illegal.

You will not make threats to other users or people not associated with the site.

If you violate these rules, your comment(s) and/or user name will be deleted.

[Back to Top](#) ^

21. Groups

Your group must remain active, otherwise, after 30 days it will be deleted.

(See 'active' definition above in section 1.12)

Your group will not be based on anything libelous, defamatory, harmful, threatening, harassing, abusive, invasive of another's privacy, hateful, racially or ethnically objectionable, or otherwise illegal.

Your group will not solicit anyone to buy or sell products or services, or to make donations of any kind.

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T.O.S. Corrections

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All rights reserved. Digital Millennium Copyright Act Notice.

NEIL HESLIN
Plaintiff

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IN DISTRICT COURT OF

VS.

TRAVIS COUNTY, TEXAS

ALEX E. JONES, INFOWARS, LLC,
FREE SPEECH SYSTEMS, LLC, and
OWEN SHROYER,
Defendants

261st DISTRICT COURT

**PLAINTIFF’S REQUESTS FOR ADMISSIONS, REQUESTS FOR INTERROGATORIES AND
REQUESTS FOR PRODUCTION TO DEFENDANT, ALEX E. JONES**

TO: Defendant, Alex E. Jones, by and through his attorney of record, Marc C. Enoch, Glast, Phillips & Murray, P.C., 14801 Quorum Drive, Ste.500, Dallas, Texas 75254.

COMES NOW, Neil Heslin, Plaintiff, in the above-styled and numbered cause, and serves the following Requests for Admissions, Requests for Interrogatories and Requests for Production to Defendant, Alex E. Jones, under the Texas Rules of Civil Procedure. Plaintiff hereby requests that answers and responses to the same be answered in writing under oath, within the time and manner prescribed by the applicable rules. Plaintiff further requests that Defendant produce the following documents, or things, within thirty (30) days of service of this request by either producing the original of such documents for examination and copying or delivering legible and accurate copies thereof to the office of the undersigned during usual business hours.

Respectfully submitted,

KASTER LYNCH FARRAR & BALL, LLP



MARK D. BANKSTON
State Bar No. 24071066
mark@fbtrial.com
KYLE W. FARRAR
State Bar No. 24034828
WILLIAM R. OGDEN

State Bar No. 24073531
1010 Lamar, Suite 1600
Houston, Texas 77002
713.221.8300 Telephone
713.221.8301 Fax

ATTORNEYS FOR PLAINTIFF

CERTIFICATE OF SERVICE

I hereby certify that a copy of the above and foregoing instrument has been served on counsel of record in compliance with the Texas Rules of Civil Procedure on this 27th day of August, 2018 by facsimile, US Postal Mail, hand-delivery, and/or e-mail.

Via E-Service: fly63rc@verizon.net

Mark C. Enoch
Glast, Phillips & Murray, P.C.
14801 Quorum Drive, Ste. 500
Dallas, Texas 75254



MARK D. BANKSTON

DEFINITIONS

As used herein, the words defined below shall be deemed to have the following meanings:

1. “Communication” as used in these requests means the conveying or sharing of information, ideas, or feelings, by whatever medium, be it oral, written, electronic, or otherwise. These requests seek all communications in your custody or constructive possession.
2. “Document” as used in these requests means all handwritten, typed, audio recorded, video recorded, or electronic representation of any kind, including legal instruments, agreements, letters, e-mails, text messages, notices, specifications, instructions, literature, books, magazines, newspapers, booklets, notes, notebooks, log books, diaries, memoranda, manuscripts, manifestos, data compilations, reports, studies, analyses, surveys, calculations, videos, sound files, photographs, image macros, memes, blog posts, internet articles, social media posts, internet comments, screenshots, blockchains, illustrations, diagrams, symbols, bulletins, circulars, telegrams, telexes, or any other reasonably similar representational thing, as well as any deleted copies of the aforesaid or drafts upon which have been placed any additional marks or notations. These requests seek all documents in your custody or constructive possession.
3. “InfoWars,” generically, means the brand name of the media organization founded by Alex Jones, whether operating as InfoWars LLC, Free Speech Systems LLC, or any other corporate name.
4. “Instant messenger logs” means any written or electronic records reflecting the content of any online chat that offers real-time text transmission over the Internet.
5. “Video” as used in these requests means any discrete and identifiable piece of InfoWars video content.

**PLAINTIFF'S FIRST SET OF ADMISSIONS
TO DEFENDANT ALEX E. JONES**

REQUEST FOR ADMISSION NO. 1: Admit that prior to responding to these discovery requests, you searched all documents in your possession or control that may contain responsive information.

RESPONSE:

REQUEST FOR ADMISSION NO. 2: Admit that as of June 26, 2017, you had the right to direct or control the work performed by employees of Free Speech Systems, LLC and InfoWars, LLC.

RESPONSE:

**PLAINTIFF'S FIRST SET OF INTERROGATORIES
TO DEFENDANT ALEX E. JONES**

INTERROGATORY NO. 1: Describe your job duties, responsibilities, and authority with Free Speech Systems, LLC as of June 26, 2017.

ANSWER:

INTERROGATORY NO. 2: Describe your job duties, responsibilities, and authority with InfoWars, LLC as of June 26, 2017.

ANSWER:

INTERROGATORY NO. 3: Describe your education and training in journalism.

ANSWER:

INTERROGATORY NO. 4: Describe your process for ensuring that factual assertions made in InfoWars programming are vetted for accuracy as of June 26, 2017.

ANSWER:

INTERROGATORY NO. 5: Identify the factual basis for any defense(s) to the causes of actions asserted in Plaintiff's petition.

ANSWER:

**PLAINTIFF'S FIRST REQUESTS FOR PRODUCTION
TO DEFENDANT ALEX E. JONES**

REQUEST FOR PRODUCTION NO. 1: All communications, including letters, memoranda, emails, text messages, instant messenger logs, or other electronic communications in which the follow topics are referenced:

- a) Sandy Hook
- b) Neil Heslin or his son
- c) Dr. Wayne Carver
- d) Zero Hedge
- e) Jim Fetzer

RESPONSE:

REQUEST FOR PRODUCTION NO. 2: All documents or communications relating to the June 26, 2017 YouTube video entitled "Zero Hedge Discovers Anomaly in Alex Jones Hit Piece" or the episode of InfoWars programming it originated from.

RESPONSE:

REQUEST FOR PRODUCTION NO. 3: All documents or communications relating to Neil Heslin's interview with Megyn Kelly on June 18, 2017.

RESPONSE:

REQUEST FOR PRODUCTION NO. 4: All documents or communications relating to Neil Heslin's interview with Megyn Kelly on April 19, 2018.

RESPONSE:

REQUEST FOR PRODUCTION NO. 5: All communications between you and Owen Shroyer, InfoWars, LLC, or Free Speech Systems, LLC, or anyone acting on their behalf, regarding policies and procedures for the factual vetting for reporting on InfoWars programming.

RESPONSE:

REQUEST FOR PRODUCTION NO. 6: All communications between you and Owen Shroyer, InfoWars, LLC, or Free Speech Systems, LLC, or anyone acting on their behalf, regarding Megyn Kelly.

RESPONSE:

REQUEST FOR PRODUCTION NO. 7: All contracts between you, Owen Shroyer, InfoWars, LLC, or Free Speech Systems, LLC.

RESPONSE:

CAUSE NO. D-1-GN-18-001835

NEIL HESLIN
Plaintiff

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IN DISTRICT COURT OF

VS.

TRAVIS COUNTY, TEXAS

ALEX E. JONES, INFOWARS, LLC,
FREE SPEECH SYSTEMS, LLC, and
OWEN SHROYER,
Defendants

261st DISTRICT COURT

VERIFICATION

STATE OF TEXAS

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COUNTY OF _____

BEFORE ME, the undersigned notary public, on this day personally appeared ALEX E. JONES, known to me to be the person whose signature is affixed hereto, and swore and acknowledged to me that the answers to the above and foregoing answers to Interrogatories are true and correct to the best of his/her personal knowledge and belief.

ALEX E. JONES

SUBSCRIBED AND SWORN TO BEFORE ME, this the _____ day of _____, 2018.

Notary Public in and for the State of Texas

My Commission Expires:

NEIL HESLIN
Plaintiff

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IN DISTRICT COURT OF

VS.

TRAVIS COUNTY, TEXAS

ALEX E. JONES, INFOWARS, LLC,
FREE SPEECH SYSTEMS, LLC, and
OWEN SHROYER,
Defendants

261st DISTRICT COURT

**PLAINTIFF’S REQUESTS FOR ADMISSIONS, REQUESTS FOR INTERROGATORIES
AND REQUESTS FOR PRODUCTION TO DEFENDANT, OWEN SHROYER**

TO: Defendant, Owen Shroyer, by and through his attorney of record, Marc C. Enoch, Glast, Phillips & Murray, P.C., 14801 Quorum Drive, Ste.500, Dallas, Texas 75254.

COMES NOW, Neil Heslin, Plaintiff, in the above-styled and numbered cause, and serves the following Requests for Admissions, Requests for Interrogatories and Requests for Production to Defendant, Owen Shroyer, under the Texas Rules of Civil Procedure. Plaintiff hereby requests that answers and responses to the same be answered in writing under oath, within the time and manner prescribed by the applicable rules. Plaintiff further requests that Defendant produce the following documents, or things, within thirty (30) days of service of this request by either producing the original of such documents for examination and copying or delivering legible and accurate copies thereof to the office of the undersigned during usual business hours.

Respectfully submitted,

KASTER LYNCH FARRAR & BALL, LLP



MARK D. BANKSTON
State Bar No. 24071066

mark@fbtrial.com
KYLE W. FARRAR
State Bar No. 24034828
WILLIAM R. OGDEN
State Bar No. 24073531
1010 Lamar, Suite 1600
Houston, Texas 77002
713.221.8300 Telephone
713.221.8301 Fax

ATTORNEYS FOR PLAINTIFF

CERTIFICATE OF SERVICE

I hereby certify that a copy of the above and foregoing instrument has been served on counsel of record in compliance with the Texas Rules of Civil Procedure on this 27th day of August, 2018 by facsimile, US Postal Mail, hand-delivery, and/or e-mail.

Via E-Service: fly63rc@verizon.net

Mark C. Enoch
Glast, Phillips & Murray, P.C.
14801 Quorum Drive, Ste. 500
Dallas, Texas 75254



MARK D. BANKSTON

DEFINITIONS

As used herein, the words defined below shall be deemed to have the following meanings:

1. “Communication” as used in these requests means the conveying or sharing of information, ideas, or feelings, by whatever medium, be it oral, written, electronic, or otherwise. These requests seek all communications in your custody or constructive possession.
2. “Document” as used in these requests means all handwritten, typed, audio recorded, video recorded, or electronic representation of any kind, including legal instruments, agreements, letters, e-mails, text messages, notices, specifications, instructions, literature, books, magazines, newspapers, booklets, notes, notebooks, log books, diaries, memoranda, manuscripts, manifestos, data compilations, reports, studies, analyses, surveys, calculations, videos, sound files, photographs, image macros, memes, blog posts, internet articles, social media posts, internet comments, screenshots, blockchains, illustrations, diagrams, symbols, bulletins, circulars, telegrams, telexes, or any other reasonably similar representational thing, as well as any deleted copies of the aforesaid or drafts upon which have been placed any additional marks or notations. These requests seek all documents in your custody or constructive possession.
3. “InfoWars,” generically, means the brand name of the media organization founded by Alex Jones, whether operating as InfoWars LLC, Free Speech Systems LLC, or any other corporate name.
4. “Instant messenger logs” means any written or electronic records reflecting the content of any online chat that offers real-time text transmission over the Internet.
5. “Video” as used in these requests means any discrete and identifiable piece of InfoWars video content.

**PLAINTIFF'S FIRST SET OF ADMISSIONS
TO DEFENDANT OWEN SHROYER**

REQUEST FOR ADMISSION NO. 1: Admit that prior to responding to these discovery requests, you searched all documents in your possession or control that may contain responsive information.

RESPONSE:

REQUEST FOR ADMISSION NO. 2: Admit that on June 25-26, 2017, you knew it was possible that Neil Heslin held his dead son and saw a bullet wound to his forehead.

RESPONSE:

REQUEST FOR ADMISSION NO. 3: Admit that on June 25-26, 2017, you had no legitimate basis to claim it was impossible for Neil Heslin to have held his dead son and saw a bullet wound to his forehead.

RESPONSE:

REQUEST FOR ADMISSION NO. 4: Admit that as of June 26, 2017, you were employed by Free Speech Systems, LLC.

RESPONSE:

REQUEST FOR ADMISSION NO. 5: Admit that as of June 26, 2017, Alex Jones had the right to direct or control the work you perform.

RESPONSE:

REQUEST FOR ADMISSION NO. 6: Admit that as of June 26, 2017, agent(s) of InfoWars, LLC had the right to direct or control the work you perform.

RESPONSE:

**PLAINTIFF'S FIRST SET OF INTERROGATORIES
TO DEFENDANT OWEN SHROYER**

INTERROGATORY NO. 1: Identify every step you took in assessing the credibility of Jim Fetzer.

ANSWER:

INTERROGATORY NO. 2: Identify every step you took in assessing the credibility of Zero Hedge.

ANSWER:

INTERROGATORY NO. 3: Describe your education and training in journalism.

ANSWER:

INTERROGATORY NO. 4: Identify the factual basis for any defense(s) to the causes of actions asserted in Plaintiff's petition.

ANSWER:

**PLAINTIFF'S FIRST REQUESTS FOR PRODUCTION
TO DEFENDANT OWEN SHROYER**

REQUEST FOR PRODUCTION NO. 1: All communications, including letters, memoranda, emails, text messages, instant messenger logs, or other electronic communications in which the follow topics are referenced:

- a) Sandy Hook
- b) Neil Heslin or his son
- c) Dr. Wayne Carver
- d) Zero Hedge
- e) Jim Fetzer

RESPONSE:

REQUEST FOR PRODUCTION NO. 2: All documents or communications relating to the June 26, 2017 YouTube video entitled "Zero Hedge Discovers Anomaly in Alex Jones Hit Piece" or the episode of InfoWars programming it originated from.

RESPONSE:

REQUEST FOR PRODUCTION NO. 3: All documents or communications relating to Neil Heslin's interview with Megyn Kelly on June 18, 2017.

RESPONSE:

REQUEST FOR PRODUCTION NO. 4: All documents or communications relating to Neil Heslin's interview with Megyn Kelly on April 19, 2018.

RESPONSE:

REQUEST FOR PRODUCTION NO. 5: All communications between you and Alex Jones, InfoWars, LLC, or Free Speech Systems, LLC, or anyone acting on their behalf, regarding policies and procedures for the factual vetting for reporting on InfoWars programming.

RESPONSE:

REQUEST FOR PRODUCTION NO. 6: All communications between you and Alex Jones, InfoWars, LLC, or Free Speech Systems, LLC, or anyone acting on their behalf, regarding Megyn Kelly.

RESPONSE:

CAUSE NO. D-1-GN-18-001835

NEIL HESLIN
Plaintiff

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IN DISTRICT COURT OF

VS.

TRAVIS COUNTY, TEXAS

ALEX E. JONES, INFOWARS, LLC,
FREE SPEECH SYSTEMS, LLC, and
OWEN SHROYER,
Defendants

261st DISTRICT COURT

VERIFICATION

STATE OF TEXAS

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COUNTY OF _____

BEFORE ME, the undersigned notary public, on this day personally appeared OWEN SHROYER, known to me to be the person whose signature is affixed hereto, and swore and acknowledged to me that the answers to the above and foregoing answers to Interrogatories are true and correct to the best of his/her personal knowledge and belief.

OWEN SHROYER

SUBSCRIBED AND SWORN TO BEFORE ME, this the _____ day of _____, 2018.

Notary Public in and for the State of Texas

My Commission Expires:

NEIL HESLIN
Plaintiff

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IN DISTRICT COURT OF

VS.

TRAVIS COUNTY, TEXAS

ALEX E. JONES, INFOWARS, LLC,
FREE SPEECH SYSTEMS, LLC, and
OWEN SHROYER,
Defendants

261ST DISTRICT COURT

**PLAINTIFF’S REQUESTS FOR ADMISSIONS, REQUESTS FOR INTERROGATORIES
AND REQUESTS FOR PRODUCTION TO DEFENDANT, FREE SPEECH SYSTEMS, LLC**

TO: Defendant, Free Speech Systems, LLC, by and through its attorney of record, Marc C. Enoch, Glast, Phillips & Murray, P.C., 14801 Quorum Drive, Ste.500, Dallas, Texas 75254.

COMES NOW, Neil Heslin, Plaintiff, in the above-styled and numbered cause, and serves the following Requests for Admissions, Requests for Interrogatories and Requests for Production to Defendant, Free Speech Systems, LLC, under the Texas Rules of Civil Procedure. Plaintiff hereby requests that answers and responses to the same be answered in writing under oath, within the time and manner prescribed by the applicable rules. Plaintiff further requests that Defendant produce the following documents, or things, within thirty (30) days of service of this request by either producing the original of such documents for examination and copying or delivering legible and accurate copies thereof to the office of the undersigned during usual business hours.

Respectfully submitted,

KAster LYNCH FARRAR & BALL, LLP



MARK D. BANKSTON
State Bar No. 24071066
mark@fbtrial.com

KYLE W. FARRAR
State Bar No. 24034828
WILLIAM R. OGDEN
State Bar No. 24073531
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Houston, Texas 77002
713.221.8300 Telephone
713.221.8301 Fax

ATTORNEYS FOR PLAINTIFF

CERTIFICATE OF SERVICE

I hereby certify that a copy of the above and foregoing instrument has been served on counsel of record in compliance with the Texas Rules of Civil Procedure on this 27th day of August, 2018 by facsimile, US Postal Mail, hand-delivery, and/or e-mail.

Via E-Service: fly63rc@verizon.net

Mark C. Enoch
Glast, Phillips & Murray, P.C.
14801 Quorum Drive, Ste. 500
Dallas, Texas 75254



MARK D. BANKSTON

DEFINITIONS

As used herein, the words defined below shall be deemed to have the following meanings:

1. “Communication” as used in these requests means the conveying or sharing of information, ideas, or feelings, by whatever medium, be it oral, written, electronic, or otherwise. These requests seek all communications in your custody or constructive possession, including communications in the custody of any employee or agent of Free Speech Systems LLC.
2. “Document” as used in these requests means all handwritten, typed, audio recorded, video recorded, or electronic representation of any kind, including legal instruments, agreements, letters, e-mails, text messages, notices, specifications, instructions, literature, books, magazines, newspapers, booklets, notes, notebooks, log books, diaries, memoranda, manuscripts, manifestos, data compilations, reports, studies, analyses, surveys, calculations, videos, sound files, photographs, image macros, memes, blog posts, internet articles, social media posts, internet comments, screenshots, blockchains, illustrations, diagrams, symbols, bulletins, circulars, telegrams, telexes, or any other reasonably similar representational thing, as well as any deleted copies of the aforesaid or drafts upon which have been placed any additional marks or notations. These requests seek all documents in your custody or constructive possession, including documents in the custody of any employee or agent of Free Speech Systems LLC.
3. “InfoWars,” generically, means the brand name of the media organization founded by Alex Jones, whether operating as InfoWars LLC, Free Speech Systems LLC, or any other corporate name.
4. “Instant messenger logs” means any written or electronic records reflecting the content of any online chat that offers real-time text transmission over the Internet.
5. “Organizational chart” means a diagram that shows the structure of an organization and the relationships and relative ranks of its parts and positions/jobs.
6. “Video” as used in these requests means any discrete and identifiable piece of InfoWars video content.

**PLAINTIFF’S FIRST SET OF ADMISSIONS
TO DEFENDANT FREE SPEECH SYSTEMS, LLC**

REQUEST FOR ADMISSION NO. 1: Admit that prior to responding to these discovery requests, you searched all documents in your possession or control that may contain responsive information.

RESPONSE:

REQUEST FOR ADMISSION NO. 2: Admit that on June 26, 2017, Free Speech Systems, LLC knew it was possible that Neil Heslin held his dead son and saw a bullet wound to his forehead.

RESPONSE:

REQUEST FOR ADMISSION NO. 3: Admit that Free Speech Systems, LLC was involved in the creation, research, editing, marketing, funding, staffing, distribution, or publication of the June 26, 2017 video entitled “Zero Hedge Discovers Anomaly in Alex Jones Hit Piece.”

RESPONSE:

REQUEST FOR ADMISSION NO. 4: Admit that Free Speech Systems, LLC possesses intellectual property rights and copyright over the June 26, 2017 video entitled “Zero Hedge Discovers Anomaly in Alex Jones Hit Piece.”

RESPONSE:

**PLAINTIFF'S FIRST SET OF INTERROGATORIES
TO DEFENDANT FREE SPEECH SYSTEMS, LLC**

INTERROGATORY NO. 1: Identify all persons answering or supplying information used in answering these discovery requests and identify their job duties at Free Speech Systems, LLC.

ANSWER:

INTERROGATORY NO. 2: Identify the factual basis for any defense(s) to the causes of actions asserted in Plaintiff's petition.

ANSWER:

INTERROGATORY NO. 3: Identify every employee or agent of Free Speech Systems, LLC who was involved in the creation, research, editing, marketing, funding, distribution, or publication of the June 26, 2017 video entitled "Zero Hedge Discovers Anomaly in Alex Jones Hit Piece," and describe their specific role.

ANSWER:

INTERROGATORY NO. 4: State your principal place of business, including mailing address, physical address, and telephone number.

ANSWER:

INTERROGATORY NO. 5: For each person who had ownership interest in Free Speech Systems, LLC on June 26, 2017, state:

- a) their full name, address, telephone number, as well as each business address and each business telephone number.
- b) the date(s) upon which the person acquired their ownership interest.
- c) the consideration paid or promised for the ownership interest and the date(s) on which it was paid or promised.
- d) the nature of percentage of that individual's ownership interest.
- e) whether the person is related by blood or marriage to any other person who is or has been a shareholder, officer, or director of Free Speech Systems, LLC, and, if so, the identity of the other person and the nature of the relationship.

ANSWER:

INTERROGATORY NO. 6: Identify each person who has served as an officer, director, or management-level employee of Free Speech Systems, LLC at any time during the past five years.

ANSWER:

**PLAINTIFF'S FIRST REQUESTS FOR PRODUCTION
TO DEFENDANT FREE SPEECH SYSTEMS, LLC**

REQUEST FOR PRODUCTION NO. 1: A copy of all documents relating to Sandy Hook which have been deleted or removed from public availability since the inception of this lawsuit.

RESPONSE:

REQUEST FOR PRODUCTION NO. 2: All documents or communications which reference the following topics:

- a) Neil Heslin or his son
- b) Dr. Wayne Carver
- c) Zero Hedge
- d) ZeroPointNow
- e) iBankCoin.com
- f) Jim Fetzer

RESPONSE:

REQUEST FOR PRODUCTION NO. 3: Transcripts of all InfoWars videos in which Sandy Hook is discussed.

RESPONSE:

REQUEST FOR PRODUCTION NO. 4: Transcripts of all InfoWars videos in which the Plaintiff is discussed.

RESPONSE:

REQUEST FOR PRODUCTION NO. 5: All communications, including letters, memoranda, emails, text messages, instant messenger logs, or other electronic communications in which Sandy Hook is discussed.

RESPONSE:

REQUEST FOR PRODUCTION NO. 6: A copy of all articles featuring Sandy Hook posted on a website operated under the brand name "InfoWars" from December 14, 2012 to June 25, 2018.

RESPONSE:

REQUEST FOR PRODUCTION NO. 7: All documents or communications relating to the June 26, 2017 YouTube video entitled "Zero Hedge Discovers Anomaly in Alex Jones Hit Piece" or the episode of InfoWars programming it originated from.

RESPONSE:

REQUEST FOR PRODUCTION NO. 8: All documents or communications relating to the July 20, 2017 video in which the June 26 video featuring Mr. Shroyer was re-published.

RESPONSE:

REQUEST FOR PRODUCTION NO. 9: All documents or communications relating to Neil Heslin's interview with Megyn Kelly on June 18, 2017.

RESPONSE:

REQUEST FOR PRODUCTION NO. 10: All documents or communications relating to Neil Heslin's interview with Megyn Kelly on April 19, 2018.

RESPONSE:

REQUEST FOR PRODUCTION NO. 11: All documents or communications relating to the April 22, 2017 broadcast entitled "Sandy Hook Vampires Exposed."

RESPONSE:

REQUEST FOR PRODUCTION NO. 12: All documents relating to disciplinary or corrective actions taken against any employee or agent of InfoWars due to the publication of false or incorrect information during the past ten years.

RESPONSE:

REQUEST FOR PRODUCTION NO. 13: All documents used to train or instruct InfoWars' employees of the vetting of factual information for publication, as in effect on June 26, 2017.

RESPONSE:

REQUEST FOR PRODUCTION NO. 14: All documents reflecting policies for the factual vetting of information published by InfoWars, as in effect on June 26, 2017.

RESPONSE:

REQUEST FOR PRODUCTION NO. 15: All documents setting forth InfoWars' editorial standards or guidelines, as in effect on June 26, 2017.

RESPONSE:

REQUEST FOR PRODUCTION NO. 16: All documents setting forth InfoWars' prior or superseded editorial standards or guidelines, as in effect between December 14, 2012 and June 25, 2017.

RESPONSE:

REQUEST FOR PRODUCTION NO. 17: All documents setting forth InfoWars' disciplinary rules or code of conduct for reporters and editorial staff, as in effect on June 26, 2017.

RESPONSE:

REQUEST FOR PRODUCTION NO. 18: All documents setting forth InfoWars' prior or superseded disciplinary rules or code of conduct for reporters and editorial staff, as in effect between December 14, 2012 and June 25, 2017.

RESPONSE:

REQUEST FOR PRODUCTION NO. 19: All documents contained within Owen Shroyer's personnel file.

RESPONSE:

REQUEST FOR PRODUCTION NO. 20: Owen Shroyer's employment agreement.

RESPONSE:

REQUEST FOR PRODUCTION NO. 21: An organizational chart for Free Speech Systems, LLC as of June 26, 2017.

RESPONSE:

REQUEST FOR PRODUCTION NO. 22: All documents or communications exchanged between any agent of Free Speech Systems, LLC and any agent of InfoWars, LLC regarding the operation of the InfoWars website, the operation or maintenance of the InfoWars studios, the sale or promotion of supplements or other products on the InfoWars website or in InfoWars' programming, or the employment or compensation of on-air personalities, researchers, journalists, editors, videographers, visual effect artists, camera operators, or crew involved in the production of The Alex Jones Show.

RESPONSE:

REQUEST FOR PRODUCTION NO. 23: All documents or communications reflecting the ownership of The Alex Jones Show, InfoWars.com, the InfoWars' brand, and its related intellectual property from 2017 to the present.

RESPONSE:

REQUEST FOR PRODUCTION NO. 24: All contracts in effect between Free Speech Systems, LLC and InfoWars, LLC.

RESPONSE:

REQUEST FOR PRODUCTION NO. 25: All documents or communications relating to any parent of a child killed in the Sandy Hook massacre.

RESPONSE:

REQUEST FOR PRODUCTION NO. 26: All incorporating documents for Free Speech Systems,

LLC, including article of incorporation, bylaws, certificate of incorporation, and notice of incorporation.

RESPONSE:

REQUEST FOR PRODUCTION NO. 27: All documents reflecting any loans made to Free Speech Systems, LLC by any named party or any shareholder, officer, or director of Free Speech Systems, LLC.

RESPONSE:

REQUEST FOR PRODUCTION NO. 28: All documents reflecting any loans made to any named party or any shareholder, officer, or director of Free Speech Systems, LLC by Free Speech Systems, LLC.

RESPONSE:

REQUEST FOR PRODUCTION NO. 29: All documents reflecting any occasion in which a person or entity ever agreed to guaranty or cosign any obligation of Free Speech Systems, LLC.

RESPONSE:

REQUEST FOR PRODUCTION NO. 30: All documents reflecting any occasion in which Free Speech Systems, LLC ever agreed to guaranty or cosign any obligation of another person or entity.

RESPONSE:

REQUEST FOR PRODUCTION NO. 31: Copies of the minutes of all meetings of shareholders or Board of Directors of Free Speech Systems, LLC.

RESPONSE:

REQUEST FOR PRODUCTION NO. 32: For each bank account maintained in the name of Free Speech Systems, LLC, a copy of the monthly statement for the period beginning April 2015 and ending in April 2018.

RESPONSE:

REQUEST FOR PRODUCTION NO. 33: Copies of the federal tax returns of Free Speech Systems, LLC, including all schedules and attachments, for each of the past five years.

RESPONSE:

CAUSE NO. D-1-GN-18-001835

NEIL HESLIN
Plaintiff

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IN DISTRICT COURT OF

VS.

TRAVIS COUNTY, TEXAS

ALEX E. JONES, INFOWARS, LLC,
FREE SPEECH SYSTEMS, LLC, and
OWEN SHROYER,
Defendants

261st DISTRICT COURT

VERIFICATION

STATE OF TEXAS

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COUNTY OF _____

BEFORE ME, the undersigned notary public, on this day personally appeared _____, known to me to be the person whose signature is affixed hereto, and swore and acknowledged to me that the answers to the above and foregoing answers to Interrogatories are true and correct to the best of his/her personal knowledge and belief.

AFFIANT

SUBSCRIBED AND SWORN TO BEFORE ME, this the _____ day of _____, 2018.

Notary Public in and for the State of Texas

My Commission Expires:

NEIL HESLIN
Plaintiff

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IN DISTRICT COURT OF

VS.

TRAVIS COUNTY, TEXAS

ALEX E. JONES, INFOWARS, LLC,
FREE SPEECH SYSTEMS, LLC, and
OWEN SHROYER,
Defendants

261ST DISTRICT COURT

**PLAINTIFF’S REQUESTS FOR ADMISSIONS, REQUESTS FOR INTERROGATORIES
AND REQUESTS FOR PRODUCTION TO DEFENDANT, INFOWARS, LLC**

TO: Defendant, InfoWars, LLC, by and through its attorney of record, Marc C. Enoch, Glast, Phillips & Murray, P.C., 14801 Quorum Drive, Ste.500, Dallas, Texas 75254.

COMES NOW, Neil Heslin, Plaintiff, in the above-styled and numbered cause, and serves the following Requests for Admissions, Requests for Interrogatories and Requests for Production to Defendant, InfoWars, LLC, under the Texas Rules of Civil Procedure. Plaintiff hereby requests that answers and responses to the same be answered in writing under oath, within the time and manner prescribed by the applicable rules. Plaintiff further requests that Defendant produce the following documents, or things, within thirty (30) days of service of this request by either producing the original of such documents for examination and copying or delivering legible and accurate copies thereof to the office of the undersigned during usual business hours.

Respectfully submitted,

KAster LYNCH FARRAR & BALL, LLP



MARK D. BANKSTON
State Bar No. 24071066
mark@fbtrial.com

KYLE W. FARRAR
State Bar No. 24034828
WILLIAM R. OGDEN
State Bar No. 24073531
1010 Lamar, Suite 1600
Houston, Texas 77002
713.221.8300 Telephone
713.221.8301 Fax

ATTORNEYS FOR PLAINTIFF

CERTIFICATE OF SERVICE

I hereby certify that a copy of the above and foregoing instrument has been served on counsel of record in compliance with the Texas Rules of Civil Procedure on this 27th day of August, 2018 by facsimile, US Postal Mail, hand-delivery, and/or e-mail.

Via E-Service: fly63rc@verizon.net

Mark C. Enoch
Glast, Phillips & Murray, P.C.
14801 Quorum Drive, Ste. 500
Dallas, Texas 75254



MARK D. BANKSTON

DEFINITIONS

As used herein, the words defined below shall be deemed to have the following meanings:

1. “Communication” as used in these requests means the conveying or sharing of information, ideas, or feelings, by whatever medium, be it oral, written, electronic, or otherwise. These requests seek all communications in your custody or constructive possession, including communications in the custody of any employee or agent of InfoWars LLC.
2. “Document” as used in these requests means all handwritten, typed, audio recorded, video recorded, or electronic representation of any kind, including legal instruments, agreements, letters, e-mails, text messages, notices, specifications, instructions, literature, books, magazines, newspapers, booklets, notes, notebooks, log books, diaries, memoranda, manuscripts, manifestos, data compilations, reports, studies, analyses, surveys, calculations, videos, sound files, photographs, image macros, memes, blog posts, internet articles, social media posts, internet comments, screenshots, blockchains, illustrations, diagrams, symbols, bulletins, circulars, telegrams, telexes, or any other reasonably similar representational thing, as well as any deleted copies of the aforesaid or drafts upon which have been placed any additional marks or notations. These requests seek all documents in your custody or constructive possession, including documents in the custody of any employee or agent of InfoWars LLC.
3. “InfoWars,” generically, means the brand name of the media organization founded by Alex Jones, whether operating as InfoWars LLC, Free Speech Systems LLC, or any other corporate name.
4. “Organizational chart” means a diagram that shows the structure of an organization and the relationships and relative ranks of its parts and positions/jobs.
5. “Video” as used in these requests means any discrete and identifiable piece of InfoWars video content.

**PLAINTIFF'S FIRST SET OF ADMISSIONS
TO DEFENDANT INFOWARS, LLC**

REQUEST FOR ADMISSION NO. 1: Admit that InfoWars, LLC was involved in the creation, research, editing, marketing, funding, staffing, distribution, or publication of the June 26, 2017 video entitled "Zero Hedge Discovers Anomaly in Alex Jones Hit Piece."

RESPONSE:

REQUEST FOR ADMISSION NO. 2: Admit that InfoWars, LLC possesses intellectual property rights and copyright over any part of the June 26, 2017 video entitled "Zero Hedge Discovers Anomaly in Alex Jones Hit Piece."

RESPONSE:

REQUEST FOR ADMISSION NO. 3: Admit that InfoWars, LLC derives revenue from the sale of supplements promoted in InfoWars programming and on the InfoWars website.

RESPONSE:

REQUEST FOR ADMISSION NO. 4: Admit that InfoWars, LLC has the authority to remove content from InfoWars.com if InfoWars, LLC determines that the content violates the rights of others or is not appropriate for the website.

RESPONSE:

**PLAINTIFF'S FIRST SET OF INTERROGATORIES
TO DEFENDANT INFOWARS, LLC**

INTERROGATORY NO. 1: Identify all persons answering or supplying information used in answering these discovery requests and identify their job duties at InfoWars, LLC.

ANSWER:

INTERROGATORY NO. 2: Describe the business purpose of InfoWars, LLC.

ANSWER:

INTERROGATORY NO. 3: Describe all the ways in which InfoWars, LLC generates revenue.

ANSWER:

INTERROGATORY NO. 4: Identify every employee or agent of InfoWars, LLC who was involved in the creation, research, editing, marketing, funding, staffing, distribution, or publication of the June 26, 2017 video entitled "Zero Hedge Discovers Anomaly in Alex Jones Hit Piece," and describe their specific role.

ANSWER:

INTERROGATORY NO. 5: Identify the factual basis for any defense(s) to the causes of actions asserted in Plaintiff's petition.

ANSWER:

INTERROGATORY NO. 6: Does InfoWars, LLC share office space with any other named party?

ANSWER:

INTERROGATORY NO. 7: Does InfoWars, LLC share common employees with any other named party?

ANSWER:

INTERROGATORY NO. 8: Has an employee or agent of InfoWars, LLC ever rendered services on behalf on any named other party, or has an employee or agent of any named party ever rendered services on behalf on InfoWars, LLC? Describe.

ANSWER:

INTERROGATORY NO. 9: Has InfoWars, LLC ever made an undocumented transfer of funds to any named party, or has any named party ever made an undocumented transfer of funds to InfoWars, LLC? Describe.

ANSWER:

INTERROGATORY NO. 10: State your principal place of business, including mailing address, physical address, and telephone number.

ANSWER:

INTERROGATORY NO. 11: For each person who had ownership interest in InfoWars, LLC on June 26, 2017, state:

- a) their full name, address, telephone number, as well as each business address and each business telephone number.
- b) the date(s) upon which the person acquired their ownership interest.
- c) the consideration paid or promised for the ownership interest and the date(s) on which it was paid or promised.
- d) the nature of percentage of that individual's ownership interest.
- e) whether the person is related by blood or marriage to any other person who is or has been a shareholder, officer, or director of InfoWars, LLC, and, if so, the identity of the other person and the nature of the relationship.

ANSWER:

INTERROGATORY NO. 12: Identify each person who has served as an officer, director, or management-level employee of InfoWars, LLC at any time during the past five years.

ANSWER:

**PLAINTIFF'S FIRST REQUESTS FOR PRODUCTION
TO DEFENDANT INFOWARS, LLC**

REQUEST FOR PRODUCTION NO. 1: An organizational chart for InfoWars, LLC as of June 26, 2017.

RESPONSE:

REQUEST FOR PRODUCTION NO. 2: All documents or communications exchanged between any agent of InfoWars, LLC and any agent of Free Speech Systems, LLC or Alex Jones regarding the operation of the InfoWars website, the operation or maintenance of the InfoWars studios, the sale or promotion of supplements or other products on the InfoWars website or in InfoWars' programming, or the employment or compensation of on-air personalities, researchers, journalists, editors, videographers, visual effect artists, camera operators, or crew involved in the production of The Alex Jones Show.

RESPONSE:

REQUEST FOR PRODUCTION NO. 3: All contracts in effect between InfoWars, LLC and any other party.

RESPONSE:

REQUEST FOR PRODUCTION NO. 4: All documents in the possession of InfoWars, LLC regarding the ownership, management, or administration of the InfoWars.com website.

RESPONSE:

REQUEST FOR PRODUCTION NO. 5: All incorporating documents for InfoWars, LLC, including article of incorporation, bylaws, certificate of incorporation, and notice of incorporation.

RESPONSE:

REQUEST FOR PRODUCTION NO. 6: All documents reflecting any loans made to InfoWars, LLC by any named party or any shareholder, officer, or director of InfoWars, LLC.

RESPONSE:

REQUEST FOR PRODUCTION NO. 7: All documents reflecting any loans made to any named party or any shareholder, officer, or director of InfoWars, LLC by InfoWars, LLC.

RESPONSE:

REQUEST FOR PRODUCTION NO. 8: All documents reflecting any occasion in which a person or entity ever agreed to guaranty or cosign any obligation of InfoWars, LLC.

RESPONSE:

REQUEST FOR PRODUCTION NO. 9: All documents reflecting any occasion in which InfoWars, LLC ever agreed to guaranty or cosign any obligation of another person or entity.

RESPONSE:

REQUEST FOR PRODUCTION NO. 10: Copies of the minutes of all meetings of shareholders or Board of Directors of InfoWars, LLC.

RESPONSE:

REQUEST FOR PRODUCTION NO. 11: For each bank account maintained in the name of InfoWars, LLC, a copy of the monthly statement for the period beginning April 2015 and ending in April 2018.

RESPONSE:

REQUEST FOR PRODUCTION NO. 12: Copies of the federal tax returns of InfoWars, LLC, including all schedules and attachments, for each of the past five years

RESPONSE:

REQUEST FOR PRODUCTION NO. 13: All documents or communications reflecting the ownership of The Alex Jones Show, InfoWars.com, the InfoWars' brand, and its related intellectual property from 2017 to the present.

RESPONSE:

REQUEST FOR PRODUCTION NO. 14: All contracts in effect between Free Speech Systems, LLC and InfoWars, LLC.

RESPONSE:

REQUEST FOR PRODUCTION NO. 15: All documents or communications in the possession of InfoWars, LLC relating to The Alex Jones Show.

RESPONSE:

REQUEST FOR PRODUCTION NO. 16: All incorporating documents for InfoWars, LLC, including article of incorporation, bylaws, certificate of incorporation, and notice of incorporation.

RESPONSE:

REQUEST FOR PRODUCTION NO. 17: All documents reflecting any loans made to InfoWars, LLC by any named party or by any shareholder, officer, or director of Free Speech Systems, LLC.

RESPONSE:

REQUEST FOR PRODUCTION NO. 28: All documents reflecting any loans made to any named party or any shareholder, officer, or director of Free Speech Systems, LLC by InfoWars, LLC.

RESPONSE:

REQUEST FOR PRODUCTION NO. 29: All documents reflecting any occasion in which a person or entity ever agreed to guaranty or cosign any obligation of InfoWars, LLC.

RESPONSE:

REQUEST FOR PRODUCTION NO. 30: All documents reflecting any occasion in which InfoWars, LLC ever agreed to guaranty or cosign any obligation of another person or entity.

RESPONSE:

REQUEST FOR PRODUCTION NO. 31: Copies of the minutes of all meetings of shareholders or Board of Directors of InfoWars, LLC.

RESPONSE:

REQUEST FOR PRODUCTION NO. 32: For each bank account maintained in the name of InfoWars, LLC, a copy of the monthly statement for the period beginning April 2015 and ending in April 2018.

RESPONSE:

REQUEST FOR PRODUCTION NO. 33: Copies of the federal tax returns of InfoWars, LLC, including all schedules and attachments, for each of the past five years.

RESPONSE:

CAUSE NO. D-1-GN-18-001835

NEIL HESLIN
Plaintiff

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IN DISTRICT COURT OF

VS.

TRAVIS COUNTY, TEXAS

ALEX E. JONES, INFOWARS, LLC,
FREE SPEECH SYSTEMS, LLC, and
OWEN SHROYER,
Defendants

261st DISTRICT COURT

VERIFICATION

STATE OF TEXAS

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COUNTY OF _____

BEFORE ME, the undersigned notary public, on this day personally appeared _____, known to me to be the person whose signature is affixed hereto, and swore and acknowledged to me that the answers to the above and foregoing answers to Interrogatories are true and correct to the best of his/her personal knowledge and belief.

AFFIANT

SUBSCRIBED AND SWORN TO BEFORE ME, this the _____ day of _____, 2018.

Notary Public in and for the State of Texas

My Commission Expires:

NOTICE OF VIOLATION

California Safe Drinking Water and Toxic Enforcement Act

Lead in Infowars Life Dietary Supplements Sold in Capsule & Powder Form

October 16, 2017

This Notice of Violation is provided to you pursuant to and in compliance with California Health and Safety Code section 25249.7(d).

- For general information regarding the California Safe Drinking Water and Toxic Enforcement Act, see the attached summary provided by the California EPA (copies not provided to public enforcement agencies).
- This Notice of Violation is provided by the Center for Environmental Health (“CEH”), 2201 Broadway, Suite 302, Oakland, CA 94612, (510) 655-3900. CEH is a nonprofit corporation dedicated to protecting the environment, improving human health, and supporting environmentally sound practices. Charlie Pizarro is the Associate Director of and a responsible individual within CEH.

Description of Violation:

- Violators: The names of the violators are Free Speech Systems, LLC and Infowars, LLC.
- Time Period of Exposure: The violations have been occurring since at least October 16, 2014, and are ongoing.
- Provision of Proposition 65: This Notice of Violation covers the “warning provision” of Proposition 65, which is found at California Health and Safety Code Section 25249.6.
- Chemical(s) Involved: The names of the listed chemicals involved in these violations are lead and lead compounds (“Lead”). Exposures to Lead occur from consumption of the products identified in this Notice.
- Type of Product: The specific type of product causing these violations is Infowars Life dietary supplements sold in capsule and powder form. Non-exclusive examples of this specific type of product are the Infowars Life Caveman True Paleo Formula Powder, Chocolate Formula, SKU No. IWL-CAVEMAN-1, and the Infowars Life Myco-ZX Dietary Supplement, SKU No. IWL-MYCOZX-1, UPC No. 7-89185-75865-3.
- Description of Exposure: This Notice addresses consumer exposures to Lead. Consumption of the products identified in this Notice results in human exposures to Lead. The products contain Lead. The primary route of exposure for the

violations is direct ingestion when individuals consume the products. These exposures occur in homes, workplaces and everywhere else throughout California where the products are consumed. No clear and reasonable warning is provided with these products regarding the carcinogenic or reproductive hazards of Lead.

Resolution of Noticed Claims:

Based on the allegations set forth in this Notice, CEH intends to file a citizen enforcement lawsuit against the alleged violators unless such violators agree in a binding written instrument to: (1) recall products already sold; (2) provide clear and reasonable warnings for products sold in the future or reformulate such products to eliminate the Lead exposures; and (3) pay an appropriate civil penalty based on the factors enumerated in California Health and Safety Code section 25249.7(b). If the alleged violators are interested in resolving this dispute without resort to expensive and time-consuming litigation, please feel free to contact CEH through its counsel identified below. It should be noted that CEH cannot: (1) finalize any settlement until after the 60-day notice period has expired; nor (2) speak for the Attorney General or any District or City Attorney who received CEH's 60-day Notice. Therefore, while reaching an agreement with CEH will resolve its claims, such agreement may not satisfy the public prosecutors.

Preservation of Relevant Evidence:

This Notice also serves as a demand that each alleged violator preserve and maintain all relevant evidence, including all electronic documents and data, pending resolution of this matter. Such relevant evidence includes but is not limited to all documents relating to the presence or potential presence of Lead in Infowars Life dietary supplements sold in capsule and powder form; purchase and sales information for such products; efforts to comply with Proposition 65 with respect to such products; communications with any person relating to the presence or potential presence of Lead in such products; and representative exemplars of each lot of each variety of any such product sold by each alleged violator since one year prior to the date of this Notice through the date of any trial of the claims alleged in this Notice.

Please direct any inquiries regarding this Notice to CEH's counsel Eric S. Somers at Lexington Law Group, 503 Divisadero Street, San Francisco, CA 94117, (415) 913-7800, ssomers at lexlawgroup.com.

CERTIFICATE OF MERIT
Health & Safety Code § 25249.7(d)

I, Eric S. Somers, hereby declare:

1. This Certificate of Merit accompanies the attached sixty-day notice in which it is alleged that the parties identified in the notice have violated Health & Safety Code § 25249.6 by failing to provide clear and reasonable warnings.

2. I am an attorney with the Lexington Law Group, and I represent the noticing party, the Center for Environmental Health.

3. Members of my firm and I have consulted with one or more persons with relevant and appropriate experience or expertise who has reviewed facts, studies or other data regarding the exposures to the listed chemical that is the subject of the action.

4. Based on the information obtained through those consultations, and on other information in my possession, I believe there is a reasonable and meritorious case for the private action. I understand that "reasonable and meritorious case for the private action" means that the information provides a credible basis that all elements of the plaintiff's case can be established and the information did not prove that the alleged violators will be able to establish any of the affirmative defenses set forth in the statute.

5. The copy of the Certificate of Merit served on the Attorney General attaches to it factual information sufficient to establish the basis for this certificate, including the information identified in Health & Safety Code § 25249.7(h)(2), i.e. (1) the identity of the persons consulted with and relied on by the certifier, and (2) the facts, studies or other data reviewed by those persons.

October 16, 2017



Eric S. Somers
Attorney for CENTER FOR
ENVIRONMENTAL HEALTH

PROOF OF SERVICE BY MAIL AND ELECTRONIC MAIL

I declare that:

I am employed in San Francisco County, California; my business address is 503 Divisadero Street, San Francisco, California 94117. I am over the age of 18 years and not a party to the within cause and my electronic notification address is aklompus@lexlawgroup.com.

On October 16, 2017, I served true copies of the following documents:

NOTICE OF VIOLATION OF CALIFORNIA SAFE DRINKING WATER AND TOXIC ENFORCEMENT ACT;

CERTIFICATE OF MERIT; and

THE SAFE DRINKING WATER AND TOXIC ENFORCEMENT ACT OF 1986 (PROPOSITION 65): A SUMMARY (only sent to those on service list marked with an asterisk).

On this date, I deposited fully prepaid and sealed envelopes containing the above-mentioned documents with the United States Postal Service, addressed to the following individuals:

Please see attached service list.

Also on this date, I transmitted via electronic mail the documents listed above to the electronic mail addresses set forth below at 5:20 p.m. on October 16, 2017:

Stacey Grassini, Deputy District Attorney
Contra Costa County
900 Ward Street
Martinez, CA 94553
sgrassini@contracostada.org

Michelle Latimer, Program Coordinator
Lassen County
220 S. Lassen Street
Susanville, CA 96130
mlatimer@co.lassen.ca.us

Yen Dang
Supervising Deputy District Attorney
Santa Clara County
70 West Hedding Street, West Wing
San Jose, CA 95110
epu@da.sccgov.org

Allison Haley, District Attorney
Napa County
931 Parkway Mall
Napa, CA 94559
CEPD@countyofnapa.org

Stephan R. Passalacqua, District Attorney
Sonoma County
600 Administration Drive, Rm. 212J
Santa Rosa, CA 95403
jbarnes@sonoma-county.org

Phillip J. Cline, District Attorney
Tulare County
221 S. Mooney Avenue, Rm. 224
Visalia, CA 93291
Prop65@co.tulare.ca.us

Paul E. Zellerbach, District Attorney
Riverside County
4075 Main Street
Riverside, CA 92501
Prop65@rivcoda.org

Gregory D. Totten, District Attorney Ventura
County
800 South Victoria Avenue
Ventura, CA 93009
daspecialops@ventura.org

Jeff W. Reisig, District Attorney
Yolo County
301 Second Street
Woodland, CA 95695
cfepd@yolocounty.org

Gregory Alker, Assistant District Attorney
San Francisco County
732 Brannan Street
San Francisco, CA 94103
gregory.alker@sfgov.org

Dije Ndreu, Deputy District Attorney
Monterey County
1200 Aguajito Road
Monterey, CA 93940
Prop65DA@co.monterey.ca.us

Anne Marie Schubert, District Attorney
Sacramento Country
901 G Street
Sacramento, CA 95814
Prop65@sacda.org

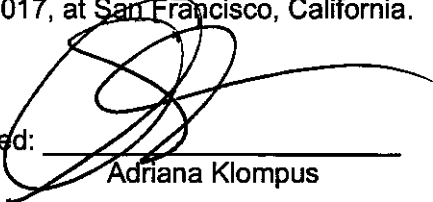
Tori Verber Salazar, District Attorney
San Joaquin County
222 E. Weber Avenue, Room 202
Stockton, CA 95202
DACConsumer.Environmental@sjcda.org

Eric J. Dobroth, Deputy District Attorney
San Luis Obispo County
County Government Center Annex, 4th Floor
San Luis Obispo, CA 93408
edobroth@co.slo.ca.us

The transmission was reported as complete and without error.

I declare under penalty of perjury that the foregoing is true and correct, and that this declaration was executed on October 16, 2017, at San Francisco, California.

Signed: _____


Adriana Klompus

SERVICE LIST

District Attorney of Alameda County 1225 Fallon Street, Rm. 900 Oakland, CA 94612	District Attorney of Kern County 1215 Truxtun Avenue Bakersfield, CA 93301	District Attorney of Placer County 10810 Justice Center Drive, Ste. 240 Roseville, CA 95678
District Attorney of Alpine County P.O. Box 248 Markleeville, CA 96120	District Attorney of Kings County 1400 West Lacey Blvd. Hanford, CA 93230	District Attorney of Plumas County 520 Main Street, Rm. 404 Quincy, CA 95971
District Attorney of Amador County 708 Court Street, Ste. 202 Jackson, CA 95642	District Attorney of Lake County 255 N. Forbes Street Lakeport, CA 95453	District Attorney of San Benito County 419 Fourth Street, 2 nd Fl. Hollister, CA 95023
District Attorney of Butte County Administration Building 25 County Center Drive Oroville, CA 95965	District Attorney of Los Angeles County Hall of Justice 211 W. Temple Street, Ste. 1200 Los Angeles, CA 90012-3210	District Attorney of San Bernardino County 316 N. Mountain View Avenue San Bernardino, CA 92415
District Attorney of Calaveras County 891 Mountain Ranch Road San Andreas, CA 95249	District Attorney of Madera County 209 West Yosemite Avenue Madera, CA 93637	District Attorney of San Diego County 330 West Broadway, Ste. 1300 San Diego, CA 92101
District Attorney of Colusa County 346 Fifth Street, Suite 101 Colusa, CA 95932	District Attorney of Marin County 3501 Civic Center Drive, Rm. 130 San Rafael, CA 94903	District Attorney of San Mateo County 400 County Center, 3 rd Fl. Redwood City, CA 94063
District Attorney of Del Norte County 450 H Street, Ste. 171 Crescent City, CA 95531	District Attorney of Mariposa County P.O. Box 730 Mariposa, CA 95338	District Attorney of Santa Cruz County 701 Ocean Street, Rm. 200 Santa Cruz, CA 95060
District Attorney of El Dorado County 515 Main Street Placerville, CA 95667	District Attorney of Mendocino County P.O. Box 1000 Ukiah, CA 95482	District Attorney of Santa Barbara County 1112 Santa Barbara Street Santa Barbara, CA 93101
District Attorney of Fresno County 2220 Tulare Street, Ste. 1000 Fresno, CA 93721	District Attorney of Merced County 2222 "M" Street Merced, CA 95340	District Attorney of Shasta County 1355 West Street Redding, CA 96001
District Attorney of Glenn County P.O. Box 430 Willows, CA 95988	District Attorney of Modoc County 204 S. Court Street, Rm. 202 Alturas, CA 96101-4020	District Attorney of Sierra County Courthouse 100 Courthouse Sq., 2 nd Fl. Downieville, CA 95936
District Attorney of Humboldt County 825 5th Street Eureka, CA 95501	District Attorney of Mono County P.O. Box 617 Bridgeport, CA 93546	District Attorney of Siskiyou County P.O. Box 986 Yreka, CA 96097
District Attorney of Imperial County 939 Main Street, Ste. 102 El Centro, CA 92243	District Attorney of Nevada County 201 Commercial Street Nevada City, CA 95959	
District Attorney of Inyo County P.O. Drawer D Independence, CA 93526	District Attorney of Orange County 401 Civic Center Drive West Santa Ana, CA 92701	

District Attorney of Solano County Alex Jones, Manager*
675 Texas Street, Ste. 4500 Free Speech Systems, LLC
Fairfield, CA 94533 3005 S. Lamar Blvd., Ste D109-
317

District Attorney of Stanislaus County Austin, TX 78704
832 12th Street, Ste. 300
Modesto, CA 95354 Free Speech Systems, LLC
c/o Eric Taube

District Attorney of Sutter County 100 Congress Avenue, 18th Floor
446 Second Street Austin, TX 78701
Yuba City, CA 95991

District Attorney of Tehama County Infowars, LLC*
P.O. Box 519 c/o Elizabeth M. Schurig
Red Bluff, CA 96080 100 Congress Avenue, 22nd Floor
Austin, TX 78701

District Attorney of Trinity County Alex Jones, Manager*
P.O. Box 310 Infowars, LLC
11 Court Street P.O. Box 19549
Weaverville, CA 96093 Austin, TX 78760

District Attorney of Tuolumne County
423 N. Washington Street
Sonora, CA 95370

District Attorney of Yuba County
215 Fifth Street
Marysville, CA 95901

Los Angeles City Attorney's Office
City Hall East
200 N. Main Street, Rm. 800
Los Angeles, CA 90012

San Diego City Attorney's Office
1200 Third Avenue, Ste. 1620
San Diego, CA 92101

San Francisco City Attorney's Office
City Hall, Room 234
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102

San Jose City Attorney's Office
200 East Santa Clara Street
San Jose, CA 95113

California Attorney General's Office
Attention: Proposition 65 Coordinator
and Robert Thomas
1515 Clay Street, Ste. 2000
P.O. Box 70550
Oakland, CA 94612-0550

- Various articles and social media content from InfoWars.
- Various articles and reference materials concerning InfoWars
- My own personal reference materials and texts.
- Video clips containing statements by InfoWars about Sandy Hook, along with transcripts of those video clips created by a court reporter. Those transcripts are attached to my affidavit.

It is my belief that discovery will likely to produce further relevant evidence, but I am confident that enough material exists in the public domain to reach reliable opinions for the purposes of these initial findings.

BACKGROUND KNOWLEDGE OF INFOWARS

Having been involved in media in Austin for 23 years, I am aware of Alex Jones and InfoWars, although I felt no need to pay close attention to either one before agreeing to review the materials in this lawsuit. Nonetheless, I was aware of InfoWars' extremely poor reputation in the media industry with respect to the reliability of the information it publishes, and I also knew Mr. Jones had alleged the Sandy Hook Elementary School shooting was a government hoax involving actors.

After I asked to review the events of this lawsuit, I have spent a significant amount of time reading articles on InfoWars.com and reviewing audio and video recordings posted to the website. While the site purports to be a news and information operation, it is clear that it is actually a propaganda outlet for Mr. Jones' theories about a global conspiracy to control and enslave the world's population.

Alex Jones and InfoWars generally have a signature style: rapid-fire assertion of various data points with little or, more often, no attribution. The assertions are presented to the viewer as facts. Underlying the presentation is the premise that Jones is at war with "the globalists" and that he wins the war by marshaling his assertions more effectively than they do. In traditional journalism, by contrast, attributing assertions to sources is an essential element of the work, and the attribution becomes more important in proportion to the seriousness of the facts asserted.

According to the American Press Institute, "Journalism is the activity of gathering, assessing, creating, and presenting news and information. It is also the product of these activities...These elements not only separate journalism from other forms of communication, they are what make it indispensable to democratic societies."¹ The process of journalism is dependent on responsible verification in which information is gathered and its accuracy is evaluated. In

¹ <https://www.americanpressinstitute.org/journalism-essentials/what-is-journalism/>

coming to my opinions, I have analyzed InfoWars' conduct against the well-established standards of the journalism profession.

INFOWARS' 2017 BROADCASTS

1. **InfoWars' April 22, 2017 broadcast falsely stated that Plaintiff Veronique De La Rosa participated in a fake blue-screen interview with Anderson Cooper to cover up the truth about Sandy Hook.**

A central element of Mr. Jones' years of allegations that Sandy Hook was staged fake focuses an interview between Sandy Hook parent Veronique De La Rosa and Anderson Cooper. Mr. Jones insists this interview was fake, and that it was conducted in front of blue-screen. On the April 22, 2017 InfoWar's broadcast entitled "Sandy Hook Vampires Exposed," Alex Jones made the following statements:

So here are these holier than thou people, when we question CNN, who is supposedly at the site of Sandy Hook, and they got in one shot leaves blowing, and the flowers that are around it, and you see the leaves blowing, and they go [gestures]. They glitch. They're recycling a green-screen behind them...

[Shows video footage of interview between Veronique De La Rosa and Anderson Cooper]

And then we've got Anderson Cooper, famously, not just with the flowers blowing and a fake, but when he turns, his nose disappears repeatedly because the green-screen isn't set right. And they don't like to do live feeds because somebody might run up. CNN did that in the Gulf War and admitted it. They just got caught two weeks ago doing it in supposedly Syria. And all we're saying is, if these are known liars that lied about WMDs, and lied to get us in all these wars, and backed the Arab Spring, and Libya, and Syria, and Egypt, and everywhere else to overthrow governments, and put in radical Islamicists (sic), if they do that and have blood on their hands, and lied about the Iraq War, and were for the sanctions that killed half a million kids, and let the Islamicists (sic) attack Serbia, and lied about Serbia launching the attack, when it all came out later that Serbia didn't do it, *how could you believe any of it if you have a memory?* If you're not Dory from 'Finding Dory,' you know, the Disney movie. Thank god you're so stupid, thank god you have no memory. It all goes back to that.²

My review suggests this statement is false, both in their explicit text and in their implications. The available public evidence suggests that Anderson Cooper interviewed Veronique

² Ex. A26 - 2017-04-22 - Sandy Hook Vampires Exposed (Clip at 29m)

De La Rosa in Newtown. An expert review by video analyst Grant Fredericks concluded that there is no reasonable basis to believe the interview used a blue-screen and that the compression artifact would be understood by anyone with a basic understanding of digital video.³ For this reason and other discussed more fully below, it is clear to me that any broadcaster would have serious doubts about stating a blue-screen was used. In sum, there was no reasonable basis to believe that Veronique De La Rosa participated in a faked interview, and any publisher would entertain serious doubts about the truth of such a claim.

2. InfoWars' April 22, 2017 broadcast made additional false statements about the Sandy Hook shooting and investigation meant to imply that Mrs. De La Rosa's interview is covering up a terrible secret truth.

In order to justify the implication that the Sandy Hook shooting was a hoax, Mr. Jones has repeatedly provided his viewers with false assertions which he claims are evidence of a cover-up. In the April 22, 2017 broadcast, Mr. Jones followed this pattern by making several statements of fact which are contradicted by the publicly available evidence. These statements have been made by Mr. Jones on numerous prior occasions, and they are used as part of his efforts to convince his audience that a terrible secret truth about Sandy Hook is being covered up by the Plaintiffs and many others.

A. In the April 22, 2017 broadcast, InfoWars falsely asserted that "the school was closed until that year, in the videos it's all rotting and falling apart and nobody is even in it."

In the April 22, 2017 broadcast, Mr. Jones asserted that Sandy Hook Elementary School had not been open for years, and the incident was staged in a decaying school which had not been in operation. Mr. Jones has repeated this argument many times over the years.

I have reviewed the affidavit of Dr. H. Wayne Carver, the chief medical examiner who attended to the dead at Sandy Hook. Dr. Carver stated that the school was operational and not rotting or falling apart. I have also viewed publicly available photos of the school's interior taken by law enforcement, as well as video taken by law enforcement, both of which were included in the official Sandy Hook report. The school appears perfectly normal, bearing all the signs of an operational school. The school is not rotting or falling apart, just as Dr. Carver stated.

In order to believe Mr. Jones' statements, one must believe that all photos taken inside Sandy Hook are actually older photos, since Jones alleged that the school was shut down for several years. However, the most well-known and widely publicized photo of Sandy Hook victim N.P. was taken inside Sandy Hook Elementary School. N.P. is wearing a t-shirt made to promote the movie *The Amazing Spiderman*, which he is also seen wearing in other photos.⁴

³ Affidavit of Grant Fredericks

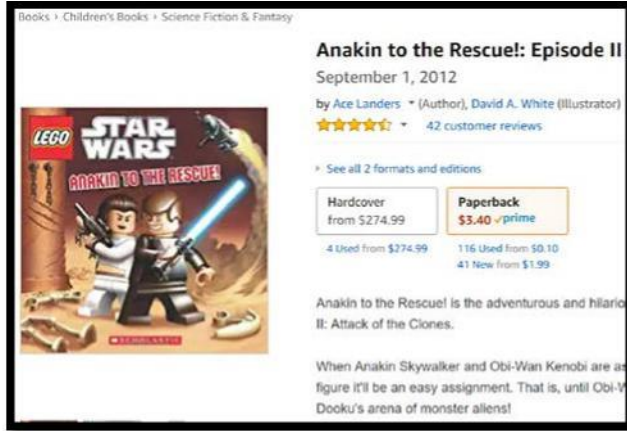
⁴ Photos provided and used with permission of the Pozner family.



Given the production date of the film, the t-shirt worn by N.P. establishes that the photos could not have been taken before 2012, indicating that the school was open and in operation during that year.



Similarly, there is a photograph of N.P. taken on the same day in which he is holding a copy of a LEGO Star Wars book entitled "Anakin to the Rescue." The book was published on September 1, 2012.



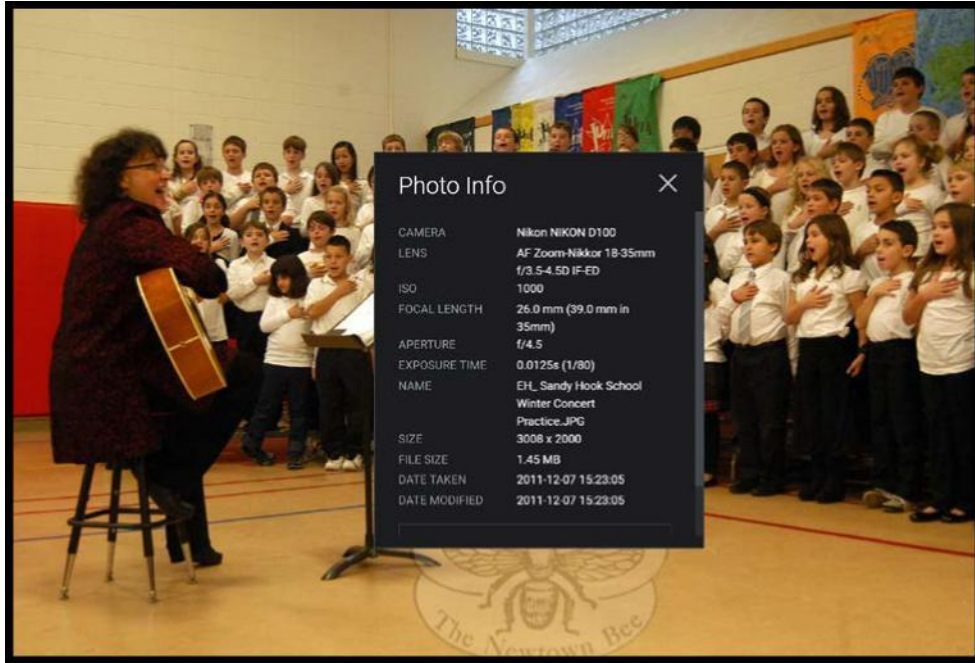
Finally, N.P. and his sisters are present in a photo taken inside Sandy Hook Elementary School for a Veteran's Day celebration, which matches footage recorded in the school on the day of the shooting.



Researchers have catalogued at least 180 news articles appearing in the Newtown Bee, the Danbury Newstimes, and the Newtown Patch between 2008-2012 which discuss activities at Sandy Hook Elementary.⁵ The Newtown Bee hosts a photo archive which contains pictures from stories on Sandy Hook, along with viewable metadata. For example, a photo taken in 2011 shows choir practice in Sandy Hook.⁶

⁵ <http://www.crisisactorsguild.com/2016/08/25/sandy-hook-elementary-was-open-part-eleven-180-articles-referencing-sandy-hook-school-written-between-2008-2012/>

⁶ <https://photos.newtownbee.com/Journalism/Photos-from-the-issue-59/i-p8G52Rv>



There are countless examples of the school’s operation between 2008-2012 in the form of social media posts, photographs, and school publications. The evidence I have reviewed shows that the school was not shut down in the years leading up to the shooting. Rather, all evidence indicates that N.P. was a student attending Sandy Hook Elementary School and that it was operational through 2012.

B. In the April 22, 2017 broadcast, InfoWars falsely asserted that “the kids are going in circles, in and out of the building with their hands up.”

In the April 22, 2017 broadcast, Mr. Jones repeated a false statement he has made many times about kids walking in circles back into Sandy Hook Elementary School with their hands up. In an earlier broadcast on November 18, 2016, Mr. Jones discussed this claim, stating “We watched footage of kids going in circles, in and out of the building. You’d be running them away from the building.”⁷ Mr. Jones showed news helicopter footage taken on the afternoon of the incident showing a line of people exiting the rear of a building and walking in a line to the building’s front entrance.

⁷ Ex. A24 - 2016-11-18 - Alex Jones Final Statement on Sandy Hook (Clip at 4m59s)



Mr. Jones lead his audience to believe this building is Sandy Hook Elementary School. The building is actually a Newtown fire station. The fire station was used as a staging location near the school. This fact is obvious from the same news helicopter footage.



As can be seen in the footage, the shooting has long since ended, and there was no danger to any of the individuals in the staging area. Moreover, none of these individuals walking in line are elementary-aged children. Rather, they are adults with some late adolescent children. None of the individuals have their hands up.



The footage shows people were calmly walking to the front of the firehouse. The reasonable inference is that this group of parents had been ordered by authorities to walk to the front of the building, and they could not travel through the building without disrupting official operations occurring inside.⁸ Whatever the reason for these individuals walking in a line to the front of the building, it did not involve kids with their hands up, nor did it reasonably suggest any cover-up or manipulation. In short, there is no truth to the claim on the April 22, 2017 broadcast that “the kids are going in circles, in and out of the building with their hands up.” Furthermore, any reasonable publisher would have known the claim was not true.

C. In the April 22, 2017 broadcast, InfoWars asserted that “they had Port-A-Potties being delivered an hour after it happened, for the big media event.”

To reinforce the idea that the event was staged, Mr. Jones claimed that port-a-potties were delivered to Sandy Hook Elementary School within an hour. However, the arrival of port-a-potties was recorded by an officer’s dashboard camera, which was part of the publicly available report. The dashboard camera shows the port-a-potties arrived around 1:30 p.m., nearly four hours after the shooting.

⁸ Sandy Hook Official Report - Book 6, Document 40345.



D. In the April 22, 2017 broadcast, InfoWars asserted that law enforcement was “pulling guns out of cars.”

During the April 22, 2017 broadcast, InfoWars reporter Rob Dew alleged that authorities found multiple guns in Adam Lanza’s car. On prior occasions, Mr. Jones has stated that the shooter’s semi-automatic rifle was found inside his car. On January 4, 2013, Mr. Jones stated: “They said he had an AR-15...M4 inside, and it was in the car.”⁹ The implication is that Lanza could not have used his semi-automatic rifle to commit the crime because he did not take it into the building.

However, there was only one weapon found in Lanza’s vehicle. That weapon was a shotgun, not his semi-automatic rifle. Lanza took his rifle and pistols into the building. Newtown Police Officer Leonard Pena found a shotgun in Lanza’s vehicle and secured it in the trunk in the early moments of the response.¹⁰ A police photo¹¹ shows the Saiga 12 shotgun in the truck of Lanza’s car.

⁹ Ex. A2 - 2013-01-04 - Callers React to Foreign Media Pushing Total Gun Confiscation (Clip at 20m25s)

¹⁰ Sandy Hook Official Report - Book 6 Doc 258036

¹¹ Sandy Hook Official Report - Meehan Parking Lot Photo 37



There is no evidence that police found any other weapon in Lanza's vehicle. Likewise, there is no evidence that police were "pulling guns out of cars." The statements in the April 22, 2017 broadcast were false.

E. In the April 22, 2017 broadcast, InfoWars asserted that law enforcement authorities were "finding people in the back woods who are dressed up in SWAT gear."

In the April 22, 2017 broadcast, InfoWars reporter Rob Dew claimed that men wearing SWAT gear were detained in the woods behind Sandy Hook Elementary School. Mr. Jones responded: "And that's on helicopter footage, and then they say it never existed, and later admit it does."

The helicopter footage referenced by Mr. Jones depicts police detaining two reporters who were walking through the woods carrying cameras. The helicopter footage of this encounter has been available online through the Associated Press' YouTube channel since the day of the shooting.¹² Multiple police reports also described this encounter and identified the individuals as reporters. Newtown Police Officer Jason Flynn discussed the encounter in his post-incident interview.¹³ He described running into the woods and detaining the reporters with fellow officers:

I then remained outside and assisted Officers with securing the scene. I was near Ofc. Hull near the dumpsters when we heard some Officers in the woods yelling "show me your hands". Ofc. Hull and I then ran into the woods with our sidearm drawn, where several Connecticut Environmental Conservation Officers had two males at gunpoint. As I approached the males I observed they had several straps around their bodies with cameras

¹² <https://www.youtube.com/watch?v=-uor8MnOTM8>

¹³ Sandy Hook Official Report - Book 6, Document 28227

on them with long lenses. The straps and the cameras with lenses made it appear they were holding weapons. The two men were patted down for weapons and none were found. I took the two men's identifications. One man had a Connecticut drivers license with OLN # [REDACTED] 04 [REDACTED]. I contacted dispatch to perform a NCIC check. OLN # [REDACTED] 04 [REDACTED] came back valid to a [REDACTED] 04, 03 [REDACTED]. The second man had a New York drivers license with OLN [REDACTED] 04 [REDACTED]. I had dispatch perform a NCIC check on that OLN. OLN # [REDACTED] came back valid to a [REDACTED] 04, 03 [REDACTED]. The two males were asked what they were doing and they said they were reports and didn't realize they were entering the property of the school. We advised the two men that they were to leave the area immediately and if they returned they would be arrested.

Newtown Police Officer Liam Seabrook also discussed the encounter with the reporters in his post-incident interview.¹⁴

While at the front of the school, Newtown Police Officer Hull, who was standing on the front right corner of the school, yelled that he heard people shouting "put your hands up". I then ran over to the location to where Ofc. Hull indicated he heard the shouts. I observed three DEP police officers, with their weapons pointed at two male individuals that were in the woods on the right side of the school. I then ran up the hill, in the woods, to the

three DEP police officers. As I approached the three DEP officers, I also pointed my rifle at the two males standing with their hands in the air. I approached the male on the right and handcuffed him. I then searched the male for weapons with negative results. Newtown Police Ofc. Flynn then ran both parties over the radio. One of the DEP officers recorded the two males information. The two males were then identified as reporters for newspapers. It was then determined that the two reporters were going to be set free for the time being. The two reporters were then told to immediately leave the area. I then returned to the front of the school.

Two other individuals were known to be detained in the aftermath of the shooting, but neither were in the woods wearing SWAT gear. First, a parent of a child attending Sandy Hook, Chris Manfredoni, was briefly detained. His detention was described in contemporary press accounts.¹⁵ His detention was also discussed in a post-incident report.¹⁶ This parent was not in the woods, and he was certainly not in SWAT gear. Second, an unarmed man was detained for getting too close to the school. Police reports indicate he had an app on his phone that alerted him to police emergencies.¹⁷ There was also a news interview with a witness who saw this man detained.¹⁸ Finally, there was a report in the Newtown Bee that a man in civilian clothes seen by residents in the woods with a gun was an off-duty police officer responding to the emergency.¹⁹ There were no reports of anybody wearing SWAT gear, and there is no report that this off-duty officer was detained. In sum, there is no reasonable basis for an assertion that police found men in the woods wearing SWAT gear.

It was not necessary to obtain a subpoena to secure the materials needed to fact-check these claims. All these materials exist in the public domain, and they have been discussed by Sandy

¹⁴ Sandy Hook Official Report - Book 6, Document 29085

¹⁵ <http://articles.latimes.com/2012/dec/14/nation/la-na-1215-newtown-school-shooting-20121215>

¹⁶ Sandy Hook Official Report - Book 5, Document 14498

¹⁷ Sandy Hook Official Report - Book 6, Document 2060; Book 6, Document 40345

¹⁸ <https://www.youtube.com/watch?v=PqY9Xvr0Ts8> ¹⁹<https://www.snopes.com/fact-check/sandy-hook-exposed/>;

https://www.salon.com/2013/01/18/your_comprehensive_answer_to_every_sandy_hook_conspiracy_theory/;
https://www.huffingtonpost.com/2013/02/11/sandy-hook-hoax-theories-explained-debunking-newtown-truther_n_2627233.html

Hook researchers online. A variety of individuals have debunked these claims over the years while providing verifiable information from the public record. Any responsible publisher would have known Mr. Jones' claims were false, or otherwise entertained serious doubts about their accuracy.

OPINIONS

1. InfoWars' False Statements in 2017 Impugned the Reputation of the Plaintiffs.

It is my opinion that the statements made in the April 22, 2017 broadcast entitled "Sandy Hook Vampires Exposed" were capable of defaming Veronique De La Rosa and Leonard Pozner by impugning their reputation with false information about their honesty or integrity.

A. Background

InfoWars' April 22, 2017 statements were not made in isolation. The 2017 statements repeated and elaborated on allegations that InfoWars had been making for over four years. Mr. Jones used these false statements as evidence for his contention that the Sandy Hook shooting was faked or staged, and that the participants are engaged in a sinister cover-up.

In a January 27, 2013 broadcast entitled "Why People Think Sandy Hook is a Hoax," Mr. Jones first alleged that Veronique De La Rosa's interview was evidence of a cover-up:

In the last month and a half, I have not come out and said that this was clearly a staged event. Unfortunately, evidence is beginning to come out that points more and more in that direction...Something serious is going on here, and CNN over and over again is at the heart of the fishy things that are happening...

We've got Anderson Cooper supposedly at Sandy Hook, and it's clearly blue screen. I've worked with blue screen for 17 years. We've got it right in there. We know what it looks like. We know what the anomalies look like, and we know what happens when you don't tune it properly. It's clearly blue screen, and you can draw from that what you want...²⁰

Now, ladies and gentlemen, the finale. I saw this footage where Anderson Cooper turns. He's supposedly there at Sandy Hook in front of the memorial, and his whole forehead and nose blurs out. I've been working with blue screen, again, for 17 years. I know what it looks like. It's clearly blue screen, clearly.²¹

In an April 16, 2013 broadcast entitled "Shadow Govt Strikes Again," Mr. Jones was discussing various plots behind various national tragedies. During his remarks, he stated:

²⁰ Ex. A3 - 2013-01-27 - Why People Think Sandy Hook is a Hoax (Clip at 1m12s)

²¹ Ex. A4 - 2013-01-27 - Why People Think Sandy Hook is a Hoax (Clip at 12m58)

“They staged Sandy Hook. The evidence is just overwhelming, and that’s why I’m so desperate and freaked out.”²²

In a March 14, 2014 broadcast entitled “Sandy Hook, False Narratives Vs. The Reality,” Mr. Jones again repeated his false claim about Mrs. De La Rosa’s interview with Anderson Cooper, along with several other irresponsible claims. Mr. Jones then asserted that the event was pre-planned and featured actors as a part of a cover-up:

Folks, we’ve got video of Anderson Cooper with clear blue-screen out there. [Shaking head]. He’s not there in the town square. We got people clearly coming up and laughing and then doing the fake crying. We’ve clearly got people where it’s actors playing different parts for different people, the building bulldozed, covering up everything. Adam Lanza trying to get guns five times we’re told. The witnesses not saying it was him...I’ve looked at it and undoubtedly, there’s a cover-up, there’s actors, they’re manipulating, they’ve been caught lying, and they were pre-planning before it and rolled out with it.²³

In a May 13, 2014 broadcast entitled “Bombshell Sandy Hook Massacre Was A DHS Illusion Says School Safety Expert,” Mr. Jones again repeated his false statements,

They don't even hide this stuff, ladies and gentlemen. Anderson Cooper, CIA, up there, who cares if it's blue screen. Just like CNN - - I'm going back to our guest -- Just like CNN back there in the first Gulf War was at the broadcast center in Atlanta on top of a roof with a blue screen behind them saying they were in Riyadh, Saudi Arabia, and Israel different days being hit by nerve gas. And then they went on air for parts of it with the blue screen not even turned on with blue behind them...

You're looking at how they don't any of the standard stuff, the paperwork, the police reports, no helicopter sent, no rescue, kids going in circles totally staged, men with guns in the woods getting grabbed, no names released. They deny it went on. Later have to admit it went on but say we're not answering questions. I mean, clearly it's a drill, just like the Boston bombing. I don't know exactly what's going on, but it just -- the official story isn't true.²⁴

In a September 25, 2014 broadcast entitled “Connecticut PD Has FBI Falsify Crime Statistics,” Mr. Jones stated

²² Ex. A5 - 2013-04-16 - Shadow Govt Strikes Again (Clip at 13m20s)

²³ Ex. A6 - 2014-03-14 - Sandy Hook, False Narratives Vs. The Reality (Clip at 26s)

²⁴ Ex. A7 - 2014-05-13 - Bombshell Sandy Hook Massacre Was A DHS Illusion Says School Safety Expert (Clip at 17m)

This is not a game. They are hopping mad we're covering this. CNN admits they did fake scud attacks on themselves back in 1991, 1990. Would they stage this? I don't know. Do penguins live in Antarctica? Wolfgang W. Halbig's our guest, former state police officer, then worked for the customs department, and then over the last decade's created one of the biggest, most successful school safety training grips. And he just has gone and investigated, and it's just phony as a three-dollar bill...²⁵

If you've got a school of 100 kids and then nobody can find them, and you've got parents laughing going "Ha, Ha, Ha," and then they walk over to the camera and go (crying), and I mean, not just one, but a bunch of parents doing this and then photos of kids that are still alive they said die. I mean, they think we're so dumb that it's really hidden in plain view, and so the preponderance -- I mean, I thought they had some scripting early on to exacerbate and milk the crisis as Rahm Emmanuel said, but when you really look at it, where are the lawsuits? There would be incredible lawsuits and payouts, but there haven't been any filed, nothing. I've never seen this. This is incredible.²⁶

In a December 27, 2014 broadcast entitled "Lawsuit Could Reveal Truth About Sandy Hook Massacre," Mr. Jones stated:

All I know is I saw Cooper with blue screen out there, green screen. I know I saw the kids doing fake, you know, rotations in and out of the building. They tore it down, all the unprecedented gag orders, you know, the police in anti-terror outfits in the woods. Then they denied that, that had been in the news. I mean, something is being hidden there...²⁷

I said they may have killed real kids, but they're practicing how to propagandize, and how to control the press, and how to put out a product that's a fraud when I just saw the heavy, heavy, heavy scripting. That was what was so clear. And then the parents laughing and then one second later doing the actor breathing to cry. I mean, it just -- it's just over the top. Over the top sick.²⁸

In a December 29, 2014 broadcast entitled "America the False Democracy," Mr. Jones continued to insist that Sandy Hook was fake:

²⁵ Ex. A8 - 2014-09-25 - Connecticut PD Has FBI Falsify Crime Statistics (Clip at 22m)

²⁶ Ex. A8 - 2014-09-25 - Connecticut PD Has FBI Falsify Crime Statistics (Clip at 22m)

²⁷ Ex. A9 - 2014-12-27 - Lawsuit Could Reveal Truth About Sandy Hook Massacre (Clip at 3m08s)

²⁸ Ex. A10 - 2014-12-27 - Lawsuit Could Reveal Truth About Sandy Hook Massacre (Clip at 4m34s)

I've had investigators on. I've had the state police have gone public, you name it. The whole thing is a giant hoax. And the problem is how do you deal with a total hoax? I mean it's just -- how do you even convince the public something is a total hoax?

The general public doesn't know the school was actually closed the year before. They don't know. They've shielded it all, demolished the building. They don't know that they had their kids going in circles in and out of the building as a photo op. Blue screen, green screens, they got caught using. I mean the whole thing.

But remember, this is the same White House that's been caught running the fake Bin Laden raid that's come out and been faked. It's the same White House that got caught running all these other fake events over and over again, and it's the same White House that says I never said that you could keep your doctor when he did say you could keep doctor. People just instinctively know that there's a lot of fraud going on, but it took me about a year with Sandy Hook to come to grips with the fact that the whole thing was fake. I mean, even I couldn't believe it. I knew they jumped on it, used the crisis, hyped it up, but then I did deep research; and my gosh, it just pretty much didn't happen. ²⁹

In a January 13, 2015 broadcast entitled “Why We Accept Gov't Lies,” Mr. Jones continued his allegations about Sandy Hook, including his allegation about Mrs. De La Rosa's interview, as well allegations about her son. He asserted that the event was “completely fake” and “manufactured”:

You learn the school had been closed and re-opened. And you've got video of the kids going in circles, in and out of the building, and they don't call the rescue choppers for two hours, and then they tear the building down, and seal it. And they get caught using blue-screens, and an email by Bloomberg comes out in a lawsuit, where he's telling his people get ready in the next 24 hours to capitalize on a shooting.

Yeah, so Sandy Hook is a synthetic, completely fake with actors, in my view, manufactured. I couldn't believe it at first. I knew they had actors there, clearly, but I thought they killed some real kids. And it just shows how bold they are that they clearly used actors. I mean they even ended up using photos of kids killed in mass shootings here in a fake mass shooting in Turkey, or Pakistan. The sky is now the limit. ³⁰

²⁹ Ex. A11 - 2014-12-29 - America the False Democracy (Clip at 11m53s)

³⁰ Ex. A12 - 2015-01-13 - Why We Accept Gov't Lies (Clip at 10m36s)

In a February 12, 2015 broadcast with an unknown title, Mr. Jones continued to repeat his false claims. Mr. Jones stated, "I know they're using blue screens...There are literally hundreds of smoking guns here that this thing doesn't add up."³¹

In a March 4, 2015 broadcast entitled "New Bombshell Sandy Hook Information In-Bound," Mr. Jones stated, "We know it stinks. I mean, it's phony. The question is what is going on. We don't know. We just know it's fake. How fake we don't know. It's sick."³²

In a July 7, 2015 broadcast entitled "Government Is Manufacturing Crises," Mr. Jones again asserted that Sandy Hook was staged:

If they did kill kids, they knew it was coming, stocked the school with kids, killed them, and then had the media there, and that probably didn't even happen. I mean, no wonder we get so many death threats and so much heat and so much other stuff I'm not going to get into, behinds the scenes, when we touch Sandy Hook because, folks, it's as phony as a three-dollar bill.³³

In a July 7, 2015 broadcast entitled "Retired FBI Agent Investigates Sandy Hook Mega Massive Cover Up," Mr. Jones repeated a large selection of his prior false claims about Sandy Hook:

No emergency helicopters were sent. The ambulances came an hour and a half later and parked down the road. DHS an hour and a half later with the time stamp put up signs saying sign in here. They had porta-potties being delivered within an hour and a half. It looked like a carnival. It looked like a big PR stunt.

Came out that Bloomberg a day before sent an email out to his gun control groups in all 50 states saying, "Prepare to roll, maybe operation coming up." That came out in the news.

We have the emails from city council back and forth and the school talking about it being down a year before. We have the school then being demolished, and the records being sealed. We have videos that look just incredibly suspicious where people are laughing and everything, and then they start huffing and puffing and start crying on TV, which is pure acting method...

But I mean, this is just so big. And the more we look at Sandy Hook, I don't want to believe it's a false flag. I don't know if kids really got killed. But you got green screen with Anderson Cooper where I was watching the video and the flowers and plants are blowing in some

³¹ Ex. A13 - 2015-02-12 - InfoWars broadcast relating to HONR copyright claim (Clip at 0m26s)

³² Ex. A20 - 2015-03-04 - New Bombshell Sandy Hook Information In-Bound (Clip at 32m30s)

³³ Ex. A21 - 2015-07-07 - Government Is Manufacturing Crises (Clip at 32m)

of them, and then they blow again the same way. It's looped, and then his nose disappears. I mean, it's fake.

The whole thing is just -- I don't know what happened. It's kind of like if you see a hologram at Disney World in the Haunted House, you know. I don't know how they do it, but it's not real. When you take your kids to see, you know, the Haunted House and ghosts are flying around, they're not real, folks. It's staged.³⁴

Mr. Jones also stated, "It's 101, they're covering up...This is mega-massive cover-up. My God." Mr. Jones stated that the tragedy was "totally made up with green screens, everything. And we've got them on green screens." Mr. Jones stated, "That's how evil these people are is that they can have CNN involved, all these people."³⁵

In a November 18, 2016 broadcast entitled "Alex Jones Final Statement on Sandy Hook," Mr. Jones directly addressed the growing public controversy caused by his statements. In doing so, he began by repeating the numerous false claims he has made over the years.

Number one, the day before this tragic event happened an email was sent out by Bloomberg's anti-gun group saying prepare for a big event. But the biggest piece of evidence, the smoking gun, if you would, of a cover-up, of whatever really happened is the Wayback Machine, the internet archive. We see Sandy Hook's Newtown website K through 12 having zero traffic 2008, '09, '10, '11, '12, and then all of a sudden it just explodes. It's impossible to have zero traffic to a K through 12 entire school system. And the word is that school system was shut down for those years. That's what the records show. They tell us it was open...

And early on, that day we watched footage of kids going in circles in and out of the building. You'd be running them away from the building. Emergency helicopters weren't called. Instead port-potties were prepared for the press within hours of the event. I saw the helicopters that did respond, the police helicopters saying that there were men or a man in the woods in camouflage...

And then I saw Anderson Cooper -- I've been in TV for 20-something years; I know a blue screen or a green screen -- turn, and his nose disappears. Then I saw clearly that they were using footage on the green screen looped because it would show flowers and other things during other broadcasts that were moving and then basically cutting to the same piece of footage...

³⁴ Ex. A22 - 2015-07-07 - Retired FBI Agent Investigates Sandy Hook Mega Massive Cover Up (Clip 0-5m)

³⁵ Ex. A23 - 2015-07-07 - Retired FBI Agent Investigates Sandy Hook Mega Massive Cover Up (Clip at 9m40s)

Then we see footage of one of the reported fathers of the victims, Robby Parker, doing classic acting training where he's laughing and joking. And they say, hey, we're live, and he goes, oh. And maybe that's real. I'm sure it is.

But you add it to all the other things that were happening and all the other fake news the media has been caught in, and CNN back in 1991 openly faking scud missile attacks on Saudi Arabia and Israel when they were back in Atlanta; and the satellite feeds caught them admitting that it was all fake. We'd be crazy not to question this because bare minimum they were faking some of the shots and some of the coverage.

So to be clear, we point out clear chroma key, also known as blue screen or green screen being used, and we're demonized. We point out they're clearly doing fake interviews.³⁶

In other words, Mr. Jones used Mrs. De La Rosa's "fake" interview as proof that the truth about Sandy Hook was being artificially manipulated. In a chilling finale, Mr. Jones told his audience that the parents were actors:

And why should anybody fear an investigation if they have nothing to hide. In fact, isn't that in Shakespeare's Hamlet, "me thinks you protest too much."

But this particular case they are so scared of an investigation. So everything they do basically ends up blowing up in their face. So you guys are going to get what you want now. I'm going to start reinvestigating Sandy Hook and everything else that happened with it...

And so if children were lost in Sandy Hook, my heart goes out to each and every one of those parents and the people that say they're parents that I see on the news. The only problem is I've watched a lot of soap operas, and I've seen actors before. And I know when I'm watching a movie and when I'm watching something real.³⁷

On April 22, 2017, InfoWars aired the "Sandy Hook Vampires Exposed" broadcast. During that broadcast, InfoWars once again made the false accusation that Ms. De La Rosa conducted a fake interview with Anderson Cooper as evidence of a conspiracy to cover up the truth about Sandy Hook. This broadcast was not an isolated statement, and it was clearly meant to reinforce years of claims about Sandy Hook. InfoWars should have known these claims were not true.

³⁶ Ex. A24 - 2016-11-18 - Alex Jones Final Statement on Sandy Hook (Clip at 4m59s)

³⁷ Ex. A25 - 2016-11-18 - Alex Jones Final Statement on Sandy Hook (Clip at 15m22s)

The statements made in the April 22, 2017 broadcast were further reinforced by comments Mr. Jones and InfoWars made later in 2017. On June 13, 2017, Mr. Jones stated in a Facebook video that “there's been a cover-up, and Anderson Cooper got caught faking where his location was with blue screen.”³⁸ On June 19, 2017, Mr. Jones appeared for an interview with Megyn Kelly. During this interview, Mr. Jones continued to insist there had been a cover-up. While he waffled on whether he now believed children were killed, he did not abandon his accusations about a cover-up. Mr. Jones claimed it was suspicious that the children’s autopsy records were not released to the public, and he again claimed to see video of kids going in circles in and out of Sandy Hook elementary. Mr. Jones stated, “I do think there's some cover-up and some manipulation.”³⁹

In an October 26, 2017 broadcast entitled “JFK Assassination Documents To DROP Tonight,” Mr. Jones again returned to the subject of Sandy Hook. In this broadcast, he repeated his accusation that “it's as phony as a three-dollar bill with CNN doing fake newscasts, with blue screens.”⁴⁰

B. The reasonable meaning of InfoWars’ 2017 broadcasts

Before publishing, journalists must evaluate how their story will be received by the public. The editorial process includes an analysis of how ordinary readers of average intelligence will understand and interpret the story. During my years in newspaper journalism, I gained extensive expertise in assessing the reasonable meanings of a text. As editor, I routinely applied this expertise in order to avoid creating a misimpression among our readership. In this case, I likewise analyzed the publication to determine what meaning could be reasonably understood by a person of average intelligence.

It is my opinion that a person of ordinary intelligence could reasonably understand InfoWars’ 2017 statements to accuse Ms. De La Rosa in colluding in an act of technical trickery to simulate her presence in Newtown when she was not actually there. A person of ordinary intelligence could reasonably understand that Mr. Jones was claiming this trickery was consistent with a series of deceptions perpetrated by CNN to facilitate violence and abuses of power. Unquestionably, the gist of the broadcast is that Ms. De La Rosa’s fake interview is evidence of an evil conspiracy underlying Sandy Hook. Given the circumstances, it is my opinion that a person of ordinary intelligence could reasonably draw the implication that InfoWars was alleging Mrs. De La Rosa’s interview is evidence that Sandy Hook was staged and that the alleged parents are participating in a cover-up. A person of ordinary intelligence could also reasonably draw the implication that InfoWars was alleging that Ms. De La Rosa is not a parent, but rather an actor participating in CNN’s insidious scheme.

While the statements do not feature him specifically, a person of ordinary intelligence acquainted with Leonard Pozner, who was Ms. De La Rosa’s husband, could reasonably have understood that the allegations also implicated him. Given the nature of the allegations about Ms. De La Rosa’s conduct, and given the allegations that Sandy Hook was a staged event, a person of

³⁸ Ex. A28 - 2017-06-13 - What Alex Jones Really Believes About Sandy Hook (Clip at 14m)

³⁹ Ex. A29 - 2017-06-19 - Megyn Kelly Profile (Clip at 7m55s)

⁴⁰ Ex. A30 - 2017-10-26 - JFK Assassination Documents To DROP Tonight (Clip at 1h13m30s)

ordinary intelligence could reasonably draw the implication that Leonard Pozner must also have been participating in a cover-up of the event.

Not only is it my opinion that these statements could be understood in this manner, but there is ample evidence that Mr. Jones' statements were indeed understood in this manner by the public at large. The nature of Mr. Jones' statements about Sandy Hook have been widely reported in the media. The national outrage created by the unmistakable meaning of Mr. Jones' statements about Sandy Hook is well documented. In an April 19, 2018 editorial entitled "Thank You for Suing Alex Jones," the Hartford Courant editorial board wrote:

Alex Jones and his website Infowars offer the worst kind of free speech — incendiary malice, based in falsehood, with no social value...They claim the Sandy Hook parents are actors. They claim the children never existed. They weave wild conspiracies from thin air. They have no regard for human suffering.⁴¹

The New York Daily News Editorial Board wrote about Jones' statements in an editorial on April 17, 2018 entitled "Defamed by the devil: Sandy Hook parents take on Alex Jones' lies." The Board wrote:

All decent people should cheer on Leonard Pozner, Veronique De La Rosa and Neil Heslin...for filing a defamation lawsuit in Texas court against Alex Jones. As a radio show host and the grand poobah of [Infowars.com](http://infowars.com), Jones has peddled wretched whole-cloth lies about the 2012 Newtown massacre: that it was all a hoax, that the victims and their mourning mothers and fathers are actors.⁴²

In short, nobody who has been paying attention to Mr. Jones has any ambiguity about the meaning of his claims. His statements about Mrs. De La Rosa's interview form a central part of his years-long campaign to convince his viewers that the events of Sandy Hook should not be believed. Given the persistence of the Sandy Hook hoax conspiracy online, it is clear that many of Mr. Jones' followers have accepted his allegations as true. A 2016 poll conducted by Fairleigh Dickinson University found that 24% of Americans believe Sandy Hook was either "definitely" or "possibly" faked.⁴³

Additionally, it is clear from my review that Mr. Jones' statements would be reasonably understood as assertions of fact, not opinions. Mr. Jones did not equivocate in his statements about a blue-screen or his other false statements about Sandy Hook. Mr. Jones has frequently claimed special expertise and assured his audience that the interview "clearly" used a blue screen. In the April 22, 2017 broadcast, Mr. Jones confidently stated that "the green-screen isn't set right."⁴⁴

⁴¹ <http://www.courant.com/g00/opinion/editorials/hc-ed-alex-jones-sandy-hook-hoax-lawsuit-20180417-story.html?i10c.encReferrer=&i10c.ua=1&i10c.dv=14>

⁴² <http://www.nydailynews.com/opinion/defamed-devil-sandy-hook-parents-alex-jones-lies-article-1.3939094>

⁴³ <https://view2.fdu.edu/publicmind/2016/161011/>

⁴⁴ Ex. A26 - 2017-04-22 - Sandy Hook Vampires Exposed (Clip at 29m)

It is my opinion that that InfoWars' 2017 statements would tend to injure a person's reputation and impeach their honesty and integrity. It is also clear these statements could expose a person to contempt or ridicule.

2. InfoWars' accusations about Sandy Hook and Ms. De La Rosa's interview were made with reckless disregard for truth.

I have reviewed materials which lead me to believe that InfoWars demonstrated a reckless disregard for truth. It is my opinion that InfoWars had serious doubts about the truth of their 2017 broadcasts and were motivated by a desire to mislead.

A. InfoWars's accusations were inherently improbable.

Mr. Jones' assertion about the blue-screen was farfetched to the say the least. It required an extraordinary level of verification before being repeatedly stated as fact. Yet it is clear that InfoWars performed no verification because any genuine inquiry would have shown the accusation was bogus. As demonstrated by video analyst Grant Fredericks, any minimal competent video professional would have understood that the blue-screen was not used.

Another problem with InfoWars' allegation is that it makes no sense to use a blue screen to simulate an interview in a location that is a short drive from Anderson Cooper's office in New York City. In addition, there is copious third-party evidence that Mr. Cooper was in Newtown. For example, on December 15, 2012, an Anderson Cooper fan blog, "All Things Anderson," posted photographs of Mr. Cooper in Newtown.⁴⁵



Mr. Jones' accusation proves the adage that serious claims require serious evidence. Yet it does not appear that Mr. Jones had any evidence to make his assertions, relying instead on his own self-professed expertise in video technology. As such, Mr. Jones ignored basic precautions taken

⁴⁵ <http://www.allthingsandersoncooper.com/2012/12/anderson-cooper-live-in-newtown-ct.html>

by journalists. Rather than meaningfully investigate his claim or produce corroborating evidence, Mr. Jones made these statements with reckless disregard for whether they were true or not.

B. InfoWars has a long history of making false statements about Sandy Hook.

InfoWars has made wild claims about the Sandy Hook massacre from the beginning. Mr. Jones suggested the event was a “false flag” on the day on the shooting⁴⁶, and InfoWars explicitly made that claim over the next five years. The accusation that Ms. De La Rosa’s interview was conducted in front of a blue-screen became a central element of InfoWars’ claim that the official story of Sandy Hook was a lie. In a 2013 broadcast entitled “Why People Think Sandy Hook is Hoax,” Mr. Jones called Ms. De La Rosa’s interview footage “the finale” in his parade of evidence that the event was staged. He continued to repeat this falsehood on numerous broadcasts over the new five years, along with other false assertions about Sandy Hook.

As part of my evaluation in this case, I reviewed video clips from over twenty InfoWars’ broadcasts between 2013-2016, all of which discuss the alleged conspiracy behind Sandy Hook. In the videos I reviewed, InfoWars made a variety of factual allegations which are readily disproved by basic journalistic efforts. The various claims made by Jones have been debunked from numerous groups and individuals using a wide variety of sources in the public record.

InfoWars had ample opportunity to investigate the accuracy of its assertions. It has devoted an enormous amount of airtime to the tragedy, with broadcasts making extreme assertions years after the event. Given the enormous public attention and outcry over Jones’ allegations, I find it unlikely that InfoWars researchers could have avoided the widespread debunking efforts unless they were doing so intentionally. It is my opinion that any reasonable journalist who continued to publish these claims in 2017 would entertain serious doubts about the truth of their statements, and that they would be acting with a desire to mislead their audience.

C. InfoWars has a long history of recklessly claiming that national tragedies were staged by the government.

Mr. Jones’ rise to notoriety coincided with his assertions that the 9/11 terror attacks were orchestrated by the U.S. government. His current promotional materials boast that “Alex Jones is considered by many to be the grandfather of what has come to be known as the 9/11 Truth Movement.”⁴⁷ Regarding the shooting at Columbine High School, Jones told his audience, “Columbine, we know was a false flag. I’d say 100% false flag.”⁴⁸ Jones claimed that Columbine “had globalist operations written all over it.”⁴⁹ Regarding the Oklahoma City bombing, Jones said

⁴⁶ Ex. A1 - 2012-12-14 - Connecticut School Massacre Looks Like False Flag Says Witnesses (Clip at 9m30)

⁴⁷ Free Speech Systems, LLC Media Kit, p. 1.

⁴⁸ The Alex Jones Show, July 20, 2012, video available at: <https://www.mediamatters.org/embed/clips/2016/11/23/51244/gcn-alexjones-20120720-columbinefalseflag>

⁴⁹ The Alex Jones Show, July 20, 2012, video available at: <https://www.mediamatters.org/embed/clips/2016/11/23/51241/gcn-alexjones-20120720-columbine>

the bombing was a “false flag” and that “we’ve never had one so open and shut.” He added that convicted bomber Timothy McVeigh “was a patsy, that was a staged event.”⁵⁰

Mere hours after James Holmes killed twelve people in a movie theater in Aurora, CO, Jones told his audience that there was a “100 percent chance” the shooting was a “false flag, mind control event.”⁵¹

After the shooting of Rep. Gabrielle Giffords, Jones stated: “The whole thing stinks to high heaven.”⁵² Mr. Jones asserted that the Giffords shooting was “a staged mind-control operation.”

An April 18, 2013 headline on the InfoWars website read “Proof Boston Marathon Bombing Is False Flag Cover-Up.”⁵³ A week later, Mr. Jones stated on his broadcast, “I have never seen a false flag, provocateured, staged event by a government come apart faster than it is right now.”⁵⁴ Jones said that “patsies were set up” after being recruited by “globalist intelligence agencies.”⁵⁵ Jones claimed that Dzhokhar Tsarnaev, who was convicted of the Boston Marathon bombing, “was totally set up, ladies and gentlemen, to sell the police state,” and that his brother worked for the CIA.⁵⁶

Mr. Jones made similar accusations about the Douglas High School shooting in Parkland, Florida, claiming a 90% probability that it was a false flag:

⁵⁰ The Alex Jones Show, April 19, 2015, video available at:

<https://www.mediamatters.org/embed/clips/2016/11/21/51199/youtube-jones-20150419-okc>

⁵¹ The Alex Jones Show, July 20, 2012, video available at:

<https://www.mediamatters.org/embed/clips/2016/11/23/51243/gcn-alexjones-20120720-100>

⁵² Interview with Rolling Stone, March 2, 2011, available at:

<http://www.rollingstone.com/politics/news/talk-radios-alex-jones-the-most-paranoid-man-in-america-20110302>

⁵³ <http://www.infowars.com/proof-boston-marathon-bombing-is-staged-terror-attack/>

⁵⁴ The Alex Jones Show, April 26, 2013, available at:

<https://www.mediamatters.org/embed/clips/2016/11/29/51269/youtube-alexjones-20130426-staged>

⁵⁵ The Alex Jones Show, April 26, 2013, available at:

<https://www.mediamatters.org/embed/clips/2016/11/29/51271/youtube-alexjones-20130426-boston>

⁵⁶ The Alex Jones Show, April 8, 2015. Available at:

<http://mediamatters.org/video/2015/04/08/rand-pauls-ally-alex-jones-boston-marathon-bomb/203215>



In short, a major element of Mr. Jones’ brand is built on his allegations that major national tragedies are actually the result of orchestrated government actions. Given this background, I find that Mr. Jones’ pattern of predictably asserting that events are “false flags,” sometimes within hours of the event, is circumstantial evidence that Mr. Jones recklessly disregarded whether his broadcast was true in this case.

D. There is evidence of personal animus to the Pozner family.

According to his affidavit, Plaintiff Leonard Pozner has spent significant effort online attempting to stop the spread of Mr. Jones’ hoax fantasies. Mr. Pozner started a non-profit known as the HONR Network that seeks to have false statements about victims of mass shooting events removed from the internet.

In 2015, HONR lodged a complaint with YouTube over an InfoWars video that featured photographs of Mr. Pozner’s son. When these complaints caused the video to be deleted, a visibly angry Jones discussed the issue on his February 12, 2015 broadcast. Mr. Jones stated, “We’re going to be countering this, and we’re going to be dealing with this.”⁵⁷ Mr. Jones then stated, “We need to stop cowing down to these people, and let them know we’re not putting up with their bullying anymore.”⁵⁸

Mr. Jones later took a live phone call from a fellow Sandy Hook denier who was also upset with Mr. Pozner. The caller stated, “Lenny, if you’re listening, your day is coming, my friend. It is coming.” Mr. Jones responded, “This sounds like a war is going on. I think they made a major mistake involving us.” The caller then stated, “Oh, I totally agree. They don’t know what they bit off. Go after them, Alex. Crush them.” Mr. Jones responded, “I’m not somebody to mess with.”⁵⁹

⁵⁷ Ex. A14 - 2015-02-12 - InfoWars broadcast relating to HONR copyright claim (Clip at 23m34s)

⁵⁸ Ex. A15 - 2015-02-12 - InfoWars broadcast relating to HONR copyright claim (Clip at 31m14s)

⁵⁹ Ex. A16 - 2015-02-12 - InfoWars broadcast relating to HONR copyright claim (Clip at 34m10s)

Following this call, InfoWars reporter Rob Dew showed personal addresses of Mr. Pozner and displayed maps of these locations.⁶¹ Mr. Jones stated that, "I guess I'm going to have to probably go on up to Newtown. I'm going to have to probably go investigate Florida as well."⁶²

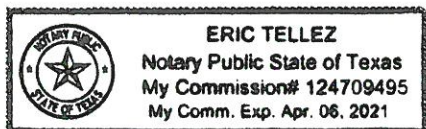
A few weeks after the broadcast discussing Mr. Pozner, InfoWars featured another broadcast about Sandy Hook on March 4, 2015 entitled "New Bombshell Sandy Hook Information In-Bound." Over the course of the one-hour broadcast, Mr. Jones made repeated reference to Mrs. De La Rosa's interview, such as:

If we've seen false flags over and over again and then you've got all these anomalies and clear loop tapes and clear blue screen/green screens -- I mean, they really screwed up. CNN screwed up during the Gulf War with fake green screen stuff. It was blue screen in that case, chroma key...And you know, fake scud attacks that are admitted. So I just -- it had all the signs too. How they were so ready that day, how they capitalized them, how they rolled out all these groups.⁶³


Mr. Jones and InfoWars continued to make false statements over the next year, culminating the statements in the April 22, 2017 broadcast entitled "Sandy Hook Vampires Exposed." I find there is circumstantial evidence that InfoWars' continuing allegations were motivated in part by personal malice towards Leonard Pozner.

CONCLUSION

Based on the evidence I have reviewed at this early stage, it is my opinion that the Defendants failed to use reasonable care to ascertain the accuracy of their statements. Moreover, it is my opinion that the Defendants entertained serious doubts about the truth of their statements regarding the Plaintiffs. Given the evidence I have reviewed, I conclude that the statements were published with reckless disregard for falsity. It is also my opinion that the statements by InfoWars were harmful to the Plaintiff, and could subject them to public contempt, hate, or ridicule.




Fred Zipp


Eric Tellez
My commission expires 4-6-21

⁶⁰ Ex. A17 - 2015-02-12 - InfoWars broadcast relating to HONR copyright claim (Clip at 38m59s)

⁶¹ Ex. A18 - 2015-02-12 - InfoWars broadcast relating to HONR copyright claim (Clip at 42m23s)

⁶² Ex. A19 - 2015-03-04 - New Bombshell Sandy Hook Information In-Bound (Clip at 16m53s)