

NO. D-1-GN-18-001835

NEIL HESLIN,

Plaintiff,

v.

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

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IN THE DISTRICT COURT OF

TRAVIS COUNTY, TEXAS

261st JUDICIAL DISTRICT

**SUPPLEMENTAL AFFIDAVIT IN SUPPORT OF DEFENDANTS’ FIRST AMENDED
RESPONSE TO PLAINTIFF’S MOTION FOR SANCTIONS AND MOTION FOR
EXPEDITED DISCOVERY AND DEFENDANTS’ MOTION FOR SANCTIONS**

COME NOW, Defendants Alex E. Jones, Infowars, LLC, Free Speech Systems, LLC,
and Owen Shroyer (collectively, the “Defendants”), and hereby file a supplemental affidavit in
support of their First Amended Response to Plaintiff’s Motion for Sanctions and Motion for
Expedited Discovery and Defendants’ Motion for Sanctions.

Defendants hereby file the Affidavit for Authentication of Business Records attached
hereto as Exhibit “A.”

RESPECTFULLY SUBMITTED,

GLAST, PHILLIPS & MURRAY, P.C.

 /s/ Mark C. Enoch
Mark C. Enoch
State Bar No. 06630360
14801 Quorum Drive, Suite 500
Dallas, Texas 75254-1449
Telephone: 972-419-8366
Facsimile: 972-419-8329
fly63rc@verizon.net

ATTORNEY FOR DEFENDANTS

CERTIFICATE OF SERVICE

I hereby certify that on this 29th day of August, 2018, the foregoing was sent via efiletcourts.gov's e-service system to the following:

Mark Bankston
Kaster Lynch Farrar & Ball
1010 Lamar, Suite 1600
Houston, TX 77002
713-221-8300
mark@fbtrial.com

/s/ Mark C. Enoch

Mark C. Enoch

NEIL HESLIN,

Plaintiff,

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ALEX E. JONES, INFOWARS, LLC,
FREE SPEECH SYSTEMS, LLC, and
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IN THE DISTRICT COURT OF

TRAVIS COUNTY, TEXAS

261ST JUDICIAL DISTRICT

AFFIDAVIT FOR AUTHENTICATION OF BUSINESS RECORDS

STATE OF TEXAS

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COUNTY OF TRAVIS

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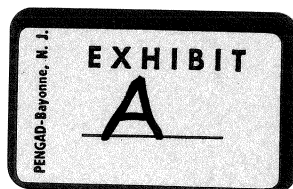
BEFORE ME, the undersigned authority on this date, personally appeared David Jones, who, being by me duly sworn, deposed and stated as follows:

1. My name is David Jones. I am over 18 years of age, am of sound mind, and am capable of making this affidavit. I am personally acquainted with the facts stated herein.

2. I am the Manager of Human Resources and Corporate Governance of Free Speech Systems, LLC ("FSS"). I have worked in this position since 2013. In that role I have become knowledgeable about FSS' business activities, operations and staff. I am a custodian of the records that are attached to this affidavit. I am, by reason of my duties and responsibilities, familiar with the manner in which FSS records are created and maintained.

3. Attached hereto are three pages of records. These are the original records or exact duplicates of the original records.

4. It is the regular practice of FSS to make this type of record at or near the time of each act, event, condition, opinion, or diagnosis set forth in the record.



5. It is the regular practice of FSS for this type of record to be made by, or from information transmitted by, persons with knowledge of the matters set forth in them.

6. It is the regular practice of FSS to keep this type of record in the course of its regularly conducted business activity.


7. It is the regular practice of the business activity to make and collect the records.

8. Mark I. Bailen is a lawyer for Defendant FSS.

9. FSS received the Exhibit "2" letter from Google on or about August 9, 2018. This is a true and correct copy of that letter.

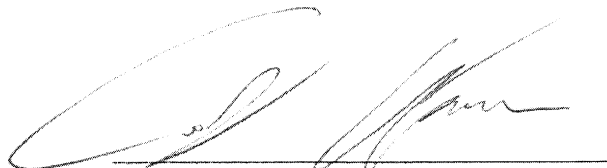
10. In response to that letter I immediately instructed Mark I. Bailen to quickly respond to Google and request that all content be preserved.

11. The attached letter marked at Exhibit "1" dated August 16, 2018 is the letter that Mr. Bailen sent at my request. This is a true and correct copy of that letter.



David Jones

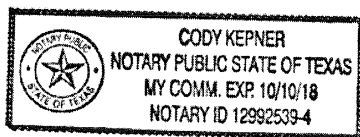
SUBSCRIBED AND SWORN TO BEFORE ME on August 29, 2018, to certify which witness my hand and official seal.



Notary Public in and for
the State of Texas

My Commission Expires:

10/10/18



BakerHostetler

Baker & Hostetler LLP

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1050 Connecticut Avenue, N.W.
Washington, DC 20036-5403

T 202 861 1600
F 202 861 1783
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Mark I. Bailen
direct dial 202 861 1715
MBailen@bakerlaw.com

August 16, 2018

VIA FEDEX

Philipp Schindler
Senior Vice President
Google LLC
1600 Amphitheatre Parkway
Mountain View, CA 94043

Dear Mr. Schindler:

We represent Free Speech Systems, LLC ("Free Speech") in certain federal court matters. Free Speech has forwarded to us your letter of August 9, 2018 regarding notice of termination of a Content Hosting Services Agreement ("CHSA"), dated December 12, 2013 and as amended on July 24, 2015. In accordance with its obligations in the court cases referenced above (as well as other litigated matters), Free Speech is required to preserve evidence including documents and videos posted pursuant to the CHSA.

It is not clear from your letter the specific grounds upon which Google is relying to terminate the CHSA. It is also not clear what is meant by your statement that "your Content Owner will be dissolved, but any active channels within that Content Owner and any live videos on those channels will remain." Please clarify what you mean by this statement and send us a copy of the CHSA, including all amendments, and any other documents that define "Content Owner" as referenced in the statement above.

Further, in light of its preservation obligations, Free Speech asks that Google refrain from deleting, destroying, dissolving, or otherwise rendering inoperable any videos or other documents posted by Free Speech or Alex Jones (or others at their direction) until Free Speech has retrieved all of the materials. We understand that Free Speech is currently unable to access these materials because its account is frozen.

You can email a copy of the CHSA to me at mbailen@bakerlaw.com. Please do so as soon as possible.

Atlanta Chicago Cincinnati Cleveland Columbus Costa Mesa Denver
Houston Los Angeles New York Orlando Philadelphia Seattle Washington, DC



August 16, 2018
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Thank you for your attention to this matter and please feel free to contact me if you have any questions or would like to discuss further.

Sincerely,

A handwritten signature in cursive script that reads "Mark I. Bailen". The signature is written in black ink and is positioned above the printed name and title.

Mark I. Bailen
Partner



August 9, 2018

Via Federal Express and Email

Google LLC
1600 Amphitheatre Parkway
Mountain View, CA 94043

Attn: Alex Jones and Buckley Hamman
Free Speech Systems, LLC ("Partner")
3019 Alvin DeVane Blvd Suite 350
Austin Texas 78741
infowarsman76@gmail.com, buckley@infowars.com

Attention: Legal Department
Re: Termination of Content Agreements

Dear Sir

We write on behalf of Google LLC f/k/a Google Inc. ("Google") to inform you that we are exercising our contractual rights to terminate the Content Hosting Services Agreement ("CHSA"), dated December 12, 2013, and as amended on July 24, 2015. This letter serves as written notice that Google is exercising its right to terminate the CHSA on 30 days prior written notice under section 11.2.

Accordingly, the CHSA will be terminated as of **September 10, 2018**. The Sections that are described as surviving in the CHSA will survive termination. Upon termination, your Content Owner will be dissolved, but any active channels within that Content Owner and any live videos on those channels will remain.

This notice is not a waiver of any claims or defenses available to Google, including those set forth under the agreements

Signed by an authorized representative of Google:

By:

Name:

Hubert Schaeffer
Customer Support

2018.08.10

07:08:00 -07'00'

Date:

