

NO. D-1-GN-18-1605

MARCEL FONTAINE,
Plaintiff,

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IN THE DISTRICT COURT OF

V.

TRAVIS COUNTY, T E X A S

ALEX E. JONES, INFOWARS, LLC,
FREE SPEECH SYSTEMS, LLC and
KIT DANIELS,
Defendants.

459th JUDICIAL DISTRICT

**DEFENDANTS’ SUPPLEMENTAL EVIDENTIARY OBJECTION TO
PLAINTIFF’S RESPONSE TO DEFENDANTS’ MOTION TO DISMISS**

Defendants Alex Jones (“Jones”), Infowars, LLC (“InfoWars”), Free Speech Systems, LLC (“Free Speech”) and Kit Daniels (“Daniels”) (collectively, the “Defendants”), hereby file this supplemental evidentiary objection to Plaintiff’s response to Defendants’ “Motion to Dismiss under the Texas Citizens Participation Act” (the “Motion”), and show the Court the following in support:

I. SUPPLEMENTAL OBJECTIONS TO EVIDENCE

Defendants specifically object to the admissibility of the following evidence submitted by Plaintiff in opposition to the Motion and seek a ruling thereof: the *Affidavit of Fred Zipp*, specifically including the statement on page 5 of the affidavit that states “I conclude that more likely than not, Mr. Daniels and InfoWars entertained serious doubts about the accuracy of the photograph found on 4chan.” This statement is speculative, not based upon any personal knowledge, and Mr. Zipp is not qualified to opine upon Mr. Daniels’ or Infowars’ state of mind at the time of the challenged publication. See Tex. R of Evid. 602, 701, 702. In addition, the statement is also objectionable to the extent that it seeks to invade the province of the jury by making a legal conclusion about an ultimately factual finding (i.e. actual malice).

II. PRAYER FOR RELIEF

WHEREFORE, Defendants respectfully requests that the Court sustain this supplemental objection, and the Court grant them such other and further relief as the Court deems equitable, just and proper.

Respectfully submitted,

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ATTORNEYS FOR DEFENDANTS

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing document has been served upon the parties listed below via email and the Court's e-filing system on August 2, 2018:

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