

SUPREME COURT OF THE UNITED STATES

No.

RIAN G. WATERS,

Plaintiff - Applicant,

v.

FACEBOOK, INC.; GOOGLE LLC; AIDAN KEARNEY,

Defendants - Respondents,

**KATHERINE PETER; JEREMY HALEY; MARTHA SMITH-
BLACKMORE; WILLIAM HIGGINS; JIM DALTON; MAURA
TRACY HEALEY; JOHN DOES (1-10),**

Defendants.

Addendum

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Kim Waters

¹ In the First Circuit it is labeled A1-7 instead of A1-13

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

RIAN G. WATERS,

Plaintiff,

v.

FACEBOOK, INC., GOOGLE LLC, AIDAN
KEARNEY, KATHERINE PETER,
JEREMY HALEY, MARTHA SMITH-
BLACKMORE, WILLIAM HIGGINS, JIM
DALTON, MAURA HEALY, and JOHN
DOES 1-10,

Defendants.

Civil Action No. 20-30168-MGM

ORDER

May 11, 2021

MASTROIANNI, U.S.D.J.

This Order addresses several motions pending before the court. First, [81] Plaintiff's Third Motion to Amend his First Motion to File a Second Amended Complaint is GRANTED. *See* Fed. R. Civ. P. 15(a)(2). Plaintiff's Proposed Second Amended Complaint filed at Docket Number 81-1 is the operative complaint in this case. This court granted the *pro se* Plaintiff's motion to proceed *in forma pauperis* on November 16, 2020. *See* 28 U.S.C. § 1915(a). Pursuant to that same statute, the Second Amended Complaint is hereby DISMISSED WITH PREJUDICE. *See id.* at §1915(e)(2)(B). The remaining motions are DENIED AS MOOT.¹

¹ Specifically, the following motions are denied as moot: [17] Plaintiff's Emergency Ex Parte Motion for Temporary Restraining Order; [36, 37] Defendants' Motions to Dismiss the Complaint; [40] Assented-to Motion for Extension of Time to Answer the Complaint; [42] Plaintiff's Motion to Partially Stay Proceedings; [47, 49, 52, 62] Defendants' Motions to Dismiss the First Amended Complaint; [61] Plaintiff's Motion to File an Oversized Brief; [67] Plaintiff's Second Motion for Extension of Time to Oppose Motion to Dismiss; [69] Plaintiff's Motion for Extra Time to Oppose

“[T]he court shall dismiss the case at any time if the court determines that . . . the action . . . (i) is frivolous or malicious; (ii) fails to state a claim on which relief may be granted; or (iii) seeks monetary relief against a defendant who is immune from such relief.” 28 U.S.C. § 1915(e)(2)(B); *see Truman v. Armstrong*, No. 18-1095, 2018 WL 11241356, at *1 (1st Cir. Aug. 7, 2018) (affirming sua sponte dismissal pursuant to 28 U.S.C. § 1915).

The court accepts as true all well-plead allegations in the Second Amended Complaint, drawing reasonable inferences in Plaintiff's favor. *See Evergreen Partnering Grp., Inc. v. Pactiv Corp.*, 720 F.3d 33, 36 (1st Cir. 2013). Because Plaintiff proceeds *pro se*, the court interprets his allegations liberally. *See Haines v. Kerner*, 404 U.S. 519, 520-21 (1972).²

The Second Amended Complaint does not “contain sufficient factual matter, accepted as true to state a claim to relief that is plausible on its face.” *See Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009) (internal quotation marks omitted). Plaintiff alleges civil RICO, federal civil rights, and pendant state law claims against Defendants Facebook Inc., Google LLC, Aidan Kearney, and Katherine Peter. (*See* Dkt. No. 81-1, Second Amended Complaint (“SAC”).) Plaintiff's claims pursuant to 42 U.S.C. § 1983 (for violations of his First, Fourteenth, and Eighth Amendment rights) fail because Defendants are not state actors and Plaintiff does not allege that their conduct is “fairly attributable” to the state. *See Klos v. Klos*, No. 20-10757, 2020 WL 6291476, at *4 (D. Mass. Oct. 27,

Motion to Dismiss; [71] Plaintiff's Second Motion for Injunctive Relief; [75] Plaintiff's First Motion for Declaratory Judgment; and [85] Plaintiff's Motion for Discovery Subpoena. Plaintiff voluntarily withdrew [64] Plaintiff's First Motion to file a Second Amended Complaint and [72] Plaintiff's Second Motion to Amend his Motion to file a Second Amended Complaint. (*See* Dkt. No. 81 at 3.)

² The court notes that Plaintiff filed a defamation and libel suit against Aidan Kearney and his corporations in Hampden County Superior Court. Plaintiff is presently appealing that court's decision granting defendants summary judgment. *See Waters v. Kearney*, No. 2020-P-0088 (Mass. App. Ct.). To the extent that Plaintiff's Second Amended Complaint seeks relief from a state court judgment, such claim would be barred by the *Rooker-Feldman* doctrine. *See Linardon v. Wolohojian*, No. 20-10969, 2020 WL 6586629, at *2 (D. Mass. Nov. 10, 2020) (dismissing *pro se* action under *Rooker-Feldman* and *Younger* abstention doctrines).

2020) (quoting *Lugar v. Edmondson Oil Co., Inc.*, 457 U.S. 922, 937 (1982)) (dismissing Section 1983 claims).

Plaintiff's claim for a conspiracy in violation of 42 U.S.C. § 1985 fails because he does not allege any facts supporting an agreement by the parties to deprive him of equal protection of the law based on his membership in a protected class. See *Perez-Sanchez v. Pub. Building Auth.*, 531 F.3d 104, 107 (1st Cir. 2008) (holding that "a claim under § 1985(3) requires some racial, or perhaps otherwise class-based, invidiously discriminatory animus behind the conspirators' action") (internal quotation marks omitted). The Second Amended Complaint alleges that Defendants Google LLC and Facebook Inc. were motivated by profit and turned a blind eye to Defendants Kearney's and Peter's negative posts about Plaintiff. (See SAC at ¶ 126 ("Conspiratorial agreement can be inferred or implied from the circumstances that Google and Facebook share the common purpose with Aidan Kearney of continuing to profit from public shaming advertising revenue").) These allegations do not amount to a conspiracy under Section 1985. Nor does Plaintiff adequately allege a claim against Defendants Facebook Inc. and Google LLC for knowing about a Section 1985 conspiracy and refusing to prevent it. See 42 U.S.C. § 1986.

The Second Amended Complaint also fails to state a plausible basis for relief under the civil RICO statute. To plead a civil RICO action, a plaintiff must allege non-conclusory facts supporting the following elements: "(1) conduct (2) of an enterprise (3) through a pattern (4) of racketeering activity." See *DeMauro v. DeMauro*, 215 F.3d 1311, 2000 WL 231255 at *2 (1st Cir. Feb. 16, 2000) (affirming dismissal of civil RICO claims) (internal quotation marks omitted). "A pattern of racketeering activity requires at least two predicate acts" as defined by 18 U.S.C. § 1961. *Id.* As predicate acts, Plaintiff alleges the following: unidentified commenters on Defendant Kearney's blog posted death threats against him (SAC at ¶¶ 106-107); Defendant Kearney tried to "delay an official proceeding against the Ludlow jail" involving Plaintiff's request for gluten-free meals by making fun

of Plaintiff in a blog post (SAC ¶ 109); Defendant Kearney, through negative blog posts, “knowingly used intimidation . . . to influence or delay” Plaintiff’s submission of court filings (SAC at ¶ 111); Defendant Google LLC tried to persuade him to drop the instant lawsuit (SAC ¶¶ 80, 112); Defendant Kearney “harassed party and witness Katherine Peter several times” (SAC ¶ 113); Defendant Facebook Inc. did not remove objectionable content about Plaintiff (SAC ¶ 114); and Defendant Kearney used his blog to “harass and retaliate” against three individuals in unrelated matters (SAC ¶¶ 116-18). None of these allegations constitute predicate acts under RICO let alone a pattern of racketeering. *See* 18 U.S.C. § 1961. Plaintiff’s allegations of a civil RICO conspiracy also fail because he does not allege any agreement among Defendants.

Having dismissed Plaintiff’s federal claims, the court declines to exercise supplemental jurisdiction over Plaintiff’s state law claims against Defendants Google LLC and Facebook Inc. for violation of the implied warranty of merchantability and gross negligence. *See* 28 U.S.C. § 1367(c).³

The Second Amended Complaint does not allege any claims against Defendants Jeremy Haley, Martha Smith-Blackmore, William Higgins, Jim Dalton, Maura Healy, or the John Does, and they are dismissed.

For the reasons set forth above, Plaintiff’s Third Motion to Amend his First Motion to File a Second Amended Complaint is GRANTED; the Second Amended Complaint is DISMISSED WITH PREJUDICE; and the remaining motions are DENIED AS MOOT. The court certifies that an *in forma pauperis* appeal by Plaintiff from this dismissal would not be taken in good faith. *See* 28 U.S.C. § 1915(a)(3); *see also Kersey v. Trump*, No. 18-1056, 2018 WL 11303565, at *1 (1st Cir. Sept. 4, 2018) (affirming certification and denying IFP status for appeal).

The Clerk of Court is ordered to close this case.

³ The court lacks diversity jurisdiction pursuant to 28 U.S.C. § 1332.

It is So Ordered.

/s/ Mark G. Mastroianni
MARK G. MASTROIANNI
United States District Judge

United States Court of Appeals For the First Circuit

No. 21-1582

RIAN G. WATERS,

Plaintiff - Appellant,

v.

FACEBOOK, INC.; GOOGLE LLC; AIDAN KEARNEY,

Defendants - Appellees,

KATHERINE PETER; JEREMY HALEY; MARTHA SMITH-BLACKMORE; WILLIAM
HIGGINS; JIM DALTON; MAURA TRACY HEALEY; JOHN DOES (1-10),

Defendants.

Before

Howard, Chief Judge,
Thompson and Gelpi, Circuit Judges.

JUDGMENT

Entered: December 23, 2021

Pro se plaintiff-appellant Rian G. Waters appeals from the dismissal of his fourth amended complaint. We have conducted a careful de novo review of relevant portions of the record, including the operative complaint, and the arguments sufficiently developed by Waters with his submissions to this court. See Gonzalez-Gonzalez v. United States, 257 F.3d 31, 37 (1st Cir. 2001) (standard of review); Sparkle Hill, Inc. v. Interstate Mat Corp., 788 F.3d 25, 30 (1st Cir. 2015) (this court "do[es] not consider arguments for reversing a decision of a district court when the argument is not raised in a party's opening brief," particularly where "the opening brief presents no argument at all challenging [the] express grounds upon which the district court prominently relied in entering judgment"); United States v. Zannino, 895 F.2d 1, 17 (1st Cir. 1990) ("[I]ssues adverted to in a perfunctory manner, unaccompanied by some effort at developed argumentation, are deemed waived.").

We affirm the dismissal of the operative complaint, substantially for the reasons set forth by the district court in its May 11, 2021, order. See 1st Cir. R. 27.0(c) (court may summarily affirm

if no "substantial question" presented). We note that, on appeal, Waters complains that he was entitled to additional opportunities to amend his complaint, but he has not identified any potential amendment to the operative complaint that might have been capable of curing the multiple deficiencies identified by the district court. See Gonzalez-Gonzalez, 257 F.3d at 36-37.

Additionally, Waters has failed to elucidate an abuse of discretion as to the district court's denial of his Federal Rule of Civil Procedure 59 motion for relief from judgment. See Markel Am. Ins. Co. v. Díaz-Santiago, 674 F.3d 21, 32 (1st Cir. 2012) (Fed. R. Civ. P. 59(e) standard of review). Any challenge to the district court's ruling on Waters's motion invoking Federal Rule of Civil Procedure 60 is not properly before the court. See Fed. R. App. P. 3 & 4(a)(4)(B)(ii). Waters's motion to strike is denied. As for Waters's "Petition for En Banc Hearing," Waters is free to pursue a post-judgment petition for rehearing en banc that complies with relevant rules and deadlines. Finally, Waters's motions seeking injunctive and other relief, to the extent not mooted by the foregoing, are denied.

Affirmed. See 1st Cir. R. 27.0(c).

By the Court:

Maria R. Hamilton, Clerk

cc:

Rian G. Waters

Joseph H. Aronson

Matan Shacham

Erica Symone Miranda

Alan D. Rose Sr.

Jason B. Mollick

Laura B. Kirshenbaum

Ryan P. McLane

Andrew Martin Batchelor

United States Court of Appeals For the First Circuit

No. 21-1582

RIAN G. WATERS,

Plaintiff - Appellant,

v.

FACEBOOK, INC.; GOOGLE LLC; AIDAN KEARNEY,

Defendants - Appellees,

KATHERINE PETER; JEREMY HALEY; MARTHA SMITH-BLACKMORE; WILLIAM
HIGGINS; JIM DALTON; MAURA TRACY HEALEY; JOHN DOES (1-10),

Defendants.

Before

Howard, Chief Judge,
Thompson and Gelpí, Circuit Judges.

ORDER OF COURT

Entered: February 14, 2022

The court has carefully reviewed plaintiff-appellant Rian G. Waters's three pending motions and resolves the requests set out therein as follows:

The "motion for leave to file affidavit in support of the injunction" is granted, and the tendered documents are accepted for filing.

The "second motion to supplement the motion for an injunction pending appeal" is granted, and the tendered documents are accepted for filing.

The "second emergency motion for an injunction pending appeal" is denied. Waters has not met his burden to show that an injunction is warranted. See Respect Maine PAC v. McKee, 622 F.3d 13, 15 (1st Cir. 2010) (standard for obtaining injunctive relief pending appeal).

Waters's petition for rehearing en banc remains pending before the court and will be resolved in due course.

By the Court:

Maria R. Hamilton, Clerk

cc:

Rian G. Waters

Joseph H. Aronson

Matan Shacham

Erica Symone Miranda

Eric Shumsky

Alan D. Rose Sr.

Jason B. Mollick

Laura B. Kirshenbaum

Ryan P. McLane

Andrew Martin Batchelor

United States Court of Appeals For the First Circuit

No. 21-1582

RIAN G. WATERS,

Plaintiff - Appellant,

v.

FACEBOOK, INC.; GOOGLE LLC; AIDAN KEARNEY,

Defendants - Appellees,

KATHERINE PETER; JEREMY HALEY; MARTHA SMITH-BLACKMORE; WILLIAM
HIGGINS; JIM DALTON; MAURA TRACY HEALEY; JOHN DOES (1-10),

Defendants.

Before

Howard, Chief Judge,
Lynch*, Thompson, Kayatta
Barron and Gelpí, Circuit Judges.

ORDER OF COURT

Entered: February 14, 2022

Pursuant to First Circuit Internal Operating Procedure X(C), the petition for rehearing en banc also has been treated as a petition for rehearing before the original panel. The petition for rehearing having been denied by the panel of judges who decided the case, and the petition for rehearing en banc having been submitted to the active judges of this court and a majority of the judges not having voted that the case be heard en banc, it is ordered that the petition for rehearing and the petition for rehearing en banc be **DENIED**.

By the Court:

Maria R. Hamilton, Clerk

* Judge Lynch is recused and did not participate in the determination of this matter.

cc:

Rian G. Waters

Joseph H. Aronson

Matan Shacham

Erica Symone Miranda

Eric Shumsky

Alan D. Rose Sr.

Jason B. Mollick

Laura B. Kirshenbaum

Ryan P. McLane

Andrew Martin Batchelor

ADD011

		(Warnock, Douglas) (Entered: 01/20/2022)
01/24/2022	<u>118</u>	Judge Mark G. Mastroianni: ELECTRONIC ORDER entered DENYING <u>113</u> Plaintiff's Emergency Motion for Defendants to Preserve Evidence. This case was dismissed on May 11, 2021. Plaintiff is not entitled to seek discovery pursuant to the Federal Rules of Civil Procedure in a closed case. His motion, therefore, is denied. (Zamorski, Michael) (Entered: 01/24/2022)
02/14/2022	<u>119</u>	USCA Judgment as to <u>115</u> Notice of Appeal, filed by Rian G. Waters (Paine, Matthew) (Entered: 02/15/2022)
02/14/2022	<u>120</u>	MANDATE of USCA as to <u>115</u> Notice of Appeal, filed by Rian G. Waters. Appeal <u>115</u> Terminated (Paine, Matthew) (Entered: 02/15/2022)
02/22/2022	<u>121</u>	MANDATE of USCA as to <u>94</u> Notice of Appeal filed by Rian G. Waters. Appeal <u>94</u> Terminated. (Dore, Samantha) (Entered: 02/23/2022)
03/03/2022	<u>122</u>	Second MOTION to Reopen Case by Rian G. Waters. (Attachments: # <u>1</u> Affidavit, # <u>2</u> Exhibit, # <u>3</u> Exhibit, # <u>4</u> Exhibit, # <u>5</u> Exhibit)(Waters, Rian) (Entered: 03/03/2022)
03/09/2022	<u>123</u>	Judge Mark G. Mastroianni: ELECTRONIC ORDER entered DENYING <u>122</u> Plaintiff's Second Motion pursuant to Fed. R. Civ. P. 60(b) for substantially the same reasons as stated in the court's October 12, 2021 order denying Plaintiff's first Rule 60(b) motion. (See Dkt. No. 99 (allowing motion insofar as Plaintiff requested filing excess pages but denying substance of motion).) Namely, "a party who seeks recourse under Rule 60(b) must persuade the trial court, at a bare minimum... that exceptional circumstances exist favoring extraordinary relief; that if the judgment is set aside, he has the right stuff to mount a potentially meritorious claim or defense...." <i>Karak v. Bursaw Oil Corp.</i> , 288 F.3d 15, 19 (1st Cir. 2002). Plaintiff's new evidence further allegations of online feuding between Plaintiff and Defendant Aiden Kearney do not cure the defects in his case described in detail in the court's order dated May 11, 2021 (Dkt. No. 89). Plaintiff submitted an affidavit describing Defendant Kearney's fabrication of threats against Kearney's children, made in Plaintiff's name, for the purpose of filing a false police report. (Dkt. No. 122-1.) This behavior does not convert Defendant Kearney into a state actor for purposes of 42 U.S.C. § 1983. <i>See Howard v. Malac</i> , 270 F. Supp. 2d 132, 144 (D. Mass. 2003) (describing state action doctrines and gathering cases). (Figueroa, Tamara) (Entered: 03/09/2022)

PACER Service Center			
Transaction Receipt			
03/14/2022 10:45:56			
PACER Login:	Bigrivers42	Client Code:	
Description:	Docket Report	Search Criteria:	3:20-cv-30168-MGM
Billable Pages:	11	Cost:	1.10

January 24, 2022 Affidavit Of Rian Waters

1. Exhibit A is screenshots from a video John Doe 2 provided of Kearney's private Facebook group #BlogDat. 1-4 was on 11/19/2021, 5-7 in January 2022.
2. Exhibit B 1, is screenshots from the same Facebook group #BlogDat that Kearney published on January 20th 2022. Kearney decided that proving that he helped John Doe 2 commit witness intimidation would punish her. (Exhibit B 2)
3. On January 15th 2022 Kearney hosted an internet show on Facebook and while talking about John Doe 2 Kearney said;
4. "If you are listening to me right now... There might be some shots at me in there, I will survive, but you won't, you're gonna go to jail, you're gonna lose your fiancé over this.... What you're doing right now, you're not thinking, you are being self-destructive... but you don't have to lose your fiancé..."
5. "this person lives in Oxbridge"
6. "Up until January 6th I was talking to this person. But then somebody messaged me on Sunday and they sent me a screenshot of a blog in the blog there is screenshots of our group chat, not from

my perspective though...” [The blog he is referring to featured screenshots from the same group chat #BlogDat, and some from the same video.] <https://www.massholereport.com/2022/01/09/turtleboy-lies-about-hacking-to-cover-up-his-own-misdeeds/>

7. “Yeah they were not from Diane woods Emerson’s [“Diane” in the screenshots, John Doe 1] perspective. There is only four people in this group me, Diane woods Emerson, Laura from London, and the 4th [John Doe 2] who is taking the charge.”
8. “I hope she is scared because she should be, cause did you forget who the f*** I am, and what the f*** I could do? Did you hun? Did you? Are you s***** your pants yet, because you should be. What on earth would make you think, because you knew I was going to find out, when the screenshots came out and they’re from your perspective...”
9. “You wanted to f*** with me? Did you forget who the f*** I am? Did you? Because I am going to remind you. Did you think [providing evidence] this would kill me, cause it aint”
10. “The other people I that I have gone to war with they have nothing to lose, you have a lot to lose, you own a business... you live

in a \$600,000 house in Oxbridge, you have a fiancé who does not know that we talk. He is not going to like to see the messages...”

11. “I am going to still give you a chance to get out of this, you can call me whenever you want, if you don’t, February 17th I will be there at your court date.”

12. “I am going to bury you [58.17]... February 17th I am going to send you to jail and you’re going to get hand cuffed in front of your kids. Don’t poke the turtle.”

13. “I was down on Sunday, I literally wanted to f***** kill myself, I wanted to die, I had never been so upset, and it was like being stabbed in the heart over and over again when I saw that [inaudible]... you think you are going to get away with that. Never I will dedicate the rest of my life to making sure that you don’t get away with this.”

Subscribed under the pains and penalties of perjury.

/S/ Rian Waters Dated: January 24th, 2022
(530)739-8951 Watersrian@gmail.com

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

RIAN WATERS,
Plaintiff

FACEBOOK INC., et al.,
Defendants

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)
)
) 3:2020CV30168 - MGM
)
)
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Affidavit of Rian Waters 3/3/2022

1. On November 19th, 2021, Kearney got served with a motion to attach his bank account, which included a note from my old therapist¹ that described how the adjustment disorder that he caused had impaired me.
2. On November 19th, 2021, Kearney told his inner circle that “in order [for Rian] to win a lawsuit against [Kearney, Rian would] need to prove [Kearney] caused [Rian] to have a disorder.”
3. On November 19th, 2021, Kearney had a member of his “inner circle” Cristine Gagne, identify my therapist’s new name on his weaponized public shaming Facebook profile Clarence Woods Emerson.

¹ The only reason why I felt safe presenting the note is because my old therapist changed her name.

4. At around 10pm on November 19th, 2021, Kearney created a fake Facebook account in my name (Exhibit E pg1) and wrote psychopath threats directed at himself, threatening to murder his own children, (or mine, but I am too traumatized to argue the details of that point right now.) (Exhibit A 1-3 & Exhibit E pg. 2)
5. Kearney was one of four members in a Facebook group named #BlogDat, and the alias he used was a Facebook profile named "Clarence Woods Emerson." (Exhibit C pg. 3 at 2; pg. 5 at 2; pg. 4)
6. On or around January 3rd, 2022, Kearney told the Holden Police that he was the only person with access to his public shaming Facebook account, Clarence Woods Emerson. (Exhibit C pg. 5 at 1)
7. Kearney asked his accomplices in the Facebook group chat #BlogDat to publicly alert him of the fake threats. (Exhibit A 4)
8. Kearney was worried his plan failed after I reported the account and Facebook shut it down. But a member of Kearney's inner circle Cristine Gagne, had already got screenshots of the threats, (Exhibit A 4)

9. At Kearney's direction, another conspirator turned witness Cristina Yakimowsky, sent the threats to Kearney from multiple Facebook profiles (Exhibit A 4-6)
10. Kearney's accomplices noted (Exhibit A 7) that Kearney needed to crop the screenshots in (Exhibit A1-2) because they showed that he liked a comment by "Wendy Simpson Harrington."
11. Kearney filed for a malicious harassment order in Leominster District Court. (2161RO358) Kearney and I had a hearing for the matter on December 1st, 2022.
12. Aidan Kearney committed perjury on December 1st, 2021, trying to convince the judge that he was sure that the fake threats (that he sent) were sent by me because when he clicked on the threats they led to my profile with our past messages.
13. As I kept pressing to get the threats investigated, Cristina Yakimowsky was getting nervous because Kearney made her "an accomplice once again."² (Exhibit A 12) Kearney said there was nothing to worry about because "I'm the one who did it" (Exhibit A 13)

² The witness is currently facing criminal charges for wiretapping for Kearney.

14. Cristina Yakimowsky provided evidence that Kearney conspired to frame me for the fake threats, (Exhibit A) and she “honestly” told the police that she shared the evidence because she did not like Kearney hurting people. (Exhibit C pg. 3 at 2)

15. On January 15th, 2022, Kearney told his followers that he found out someone was leaking messages from his group chat, and he threatened and extorted Cristina Yakimowsky on Facebook. (Exhibit D 4-15) The video has been deleted, but I have it recorded. In the video Kearney stated;

a. There might be some shots at me in there, I will survive, but you won't, you're gonna go to jail, you're gonna lose your fiancé over this.... What you're doing right now, you're not thinking, you are being self-destructive... but you don't have to lose your fiancé...”

b. “I hope she is scared because she should be, cause did you forget who the f*** I am, and what the f*** I could do? Did you Hun? Did you? Are you shiting your pants yet? Because you should be. What on earth would make you think, because you knew I was going to find out, when the screenshots came

out and they're from your perspective..." He was talking about the screenshots in Katherine Peter's blog that has screenshots from the same conversation as Exhibit A but redacted.

<https://www.massholereport.com/2022/01/09/turtleboy-lies-about-hacking-to-cover-up-his-own-misdeeds/>

- c. "You wanted to f*** with me? Did you forget who the f*** I am? Did you? Because I am going to remind you. Did you think [providing evidence] this would kill me, cause it aint"
- d. "The other people I that I have gone to war with they have nothing to lose, you have a lot to lose, you own a business... you live in a \$600,000 house in Oxbridge, you have a fiancé who does not know that we talk. He is not going to like to see the messages..."
- e. "I am going to still give you a chance to get out of this, you can call me whenever you want, if you don't, February 17th I will be there at your court date."
- f. "I am going to bury you [58.17] ... February 17th I am going to send you to jail and you're going to get hand cuffed in front of your kids. Don't poke the turtle."

g. I will dedicate the rest of my life to making sure that you don't get away with this.

16. On January 20th, 2022, Kearney punished Cristina Yakimowsky by proving he conspired with her on Facebook to commit witness intimidation for her court case. (Exhibit B; Aff. at 2)

17. Cristina Yakimowsky told the Holden police she is scared to death because she shared messages from the #BlogDat group. (Exhibit C pg 3 at 2)

18. Laura Hakes, Cristina Yakimowsky, and I believe Kearney confirmed to the Holden police that the screenshots from Exhibit A are genuine. (Exhibit C pg. 3 at 1-3) Laura told a police officer she is getting threats (Exhibit C pg. 4) because of her leaked messages in screenshots Exhibit A9-13.

19. Kearney lied to an officer claiming that he had never sent specific pictures and information to anyone, (Exhibit C 2 and Exhibit C 5 at 1&4) when he had in fact shared the information in the #BlogDat group. The officer decided it was reasonable for Kearney to lie to him about who had access to the pictures, as

Kearney trusted his "inner circle." (Exhibit C pg. 3 at 1 & pg. 3 at 3)

20. On February 17th, 2022, Kearney, had a live show on YouTube and he;

a. said, "if you're listening Chrissy right now, and I'm sure you are, I'm sure you got your puppies in here and they're listening. What were you thinking? Why didn't you just wait? If you wanted to burn me like this, why didn't you just wait like three months two months? You couldn't wait until after the God dam trial? I mean, and then whatever then I wouldn't be able to turn you in and rat on you and stuff like that. You did it right before the court. Is this the stupidest ***** decision a human being has ever made in their life? what were you thinking? like I'm a, I've told, everybody knows that I am a vindictive cunt, everybody knows that.

b. Kearney discussed putting Cristina Yakimowsky's boyfriend's phone number on his public shaming blog, after several followers talked Kearney out of it, Kearney said "I wasn't

really going to put his number up there, I just wanted her to think I would.”

- c. Kearney justified his actions against Cristina saying, “you have no idea the damage that this person [Christina] has done, to not just my life, but a lot of people’s lives.”

21. On December 10th, 2021, I purchased a subscription service on Kearney’s website TBdailynews.com, right after I watched Kearney promote the subscription on YouTube, and he advertised that for \$20 a month you would get access to his private “Turtleboy Live” shows.

22. Kearney’s subscription service is loaded with evidence that would have been useful for the court case detailing how Kearney’s platform is weaponized, and how he is dependent on Facebook and Google, and much more.

23. On or around December 11th, 2021, Kearney locked me out of his subscription service by changing the password to my account for the subscription service and cancelling it on me. He also tried to keep the money.

24. On November 7th 2021 Kearney said, "People don't like victims, they like winners. They like people who punch the cancel mob in the face instead of playing defensive. What your fans want is for you to sink to your enemy's level. That's the Turtleboy philosophy at least. Principles get you nowhere against these people they want to make you destitute and harm your families and for that they must be destroyed, nothing is off limits. Find out everything about them. Learn what their vulnerabilities are. Attack that. Don't even go after them go after their employers, friends, and people they love. Those unrelated parties won't want to deal with it and will begin to pressure them to stop ruin their lives as best as you can and make them regret the day, they ever thought it was a good idea to poke you."

[https://tbdailynews.com/dave-portnoy-finally-fires-back-](https://tbdailynews.com/dave-portnoy-finally-fires-back-atbusiness-insider-for-hit-piece-smearing-him-as-sex-predator-momfiles-police-report-after-daughter-coerces-sister-into-sleeping-withhim/)

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1. On September 14th, 2021, and September 16th 2021, Kearney posted on Clarence Woods Emerson screenshots showing his

followers that Facebook suspended him from posting for violating their rules, but had allowed him to keep posting anyway.”

25. On or about December 11st 2021 Kearney told his inner circle that he was posting from another Facebook account because Facebook was preventing him from posting with Clarence Woods Emerson on his computer, although Kearney claimed Facebook was still letting him use the Clarence Woods Emerson account from other devices.

26. On or about November 24th 2021, Facebook deleted my account to cover up Kearney's crimes

27. On or about December 8th, 2021, Kearney told his followers that he is dependent on Facebook. (“We would not be here without Facebook”)

28. Kearney successfully used Facebook to search peoples information using their license plate number on April 16th 2019, May 17th 2020, January 8th, 2021, and November 15th 2021.

Signed under the pains and penalties of perjury 3/3/2022

/s/ Rian Waters 199 Allen St E. Longmeadow

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