APPENDIX A

Opinion of the Connecticut Supreme Court, *Lafferty v. Jones*, SC20327 (July 23, 2020).

ERICA LAFFERTY ET AL. *v.* ALEX EMRIC JONES ET AL.

WILLIAM SHERLACH *v.* ALEX JONES ET AL.

WILLIAM SHERLACH ET AL. *v.* ALEX EMRIC JONES ET AL.
(SC 20327)

Robinson, C. J., Palmer, McDonald, D'Auria, Mullins, Kahn and Ecker, Js.*

Argued September 26, 2019—officially released July 23, 2020**

Procedural History

Action, in the first case, to recover damages for, inter alia, invasion of privacy, and for other relief, brought to the Superior Court in the judicial district of Fairfield, where the defendant Alex Emric Jones et al. filed a special motion to dismiss, action, in the second case, to recover damages for, inter alia, invasion of privacy, and for other relief, brought to the Superior Court in the judicial district of Fairfield, where the court, *Bellis*, *J.*, granted the plaintiff William Sherlach's motion to add Robert Parker as a plaintiff, and the defendant Alex Jones et al. filed a special motion to dismiss, and action, in the third case, to recover damages for, inter alia, invasion of privacy, and for other relief, brought to the Superior Court in the judicial district of Fairfield, where the defendant Alex Emric Jones et al. filed a special motion to dismiss; thereafter, the cases were consolidated and transferred to the Complex Litigation Docket, judicial district of Waterbury; subsequently, the court, *Bellis*, *J.*, granted the motions for sanctions filed by the plaintiffs in each case, and the defendant Alex Emric Jones et al., upon certification by the Chief Justice pursuant to General Statutes § 52-265a that a matter of substantial public interest was at issue, appealed to this court. *Affirmed*.

Norman A. Pattis, with whom was *Kevin Smith*, for the appellants (named defendant et al.).

Joshua D. Koskoff, with whom was *Alinor C. Sterling*, for the appellees (plaintiffs).

Opinion

ROBINSON, C. J. This public interest appeal presents the opportunity to consider the scope of a trial court's inherent authority to sanction a party to litigation for his or her remarks about the case in light of that party's right to free speech under the first amendment to the United States constitution. The plaintiffs in these cases, a first responder and family members of those killed in the mass shooting at Sandy Hook Elementary School,[1] brought these actions against the defendants, Alex Emric Jones and several of his affiliated corporate entities,[2] claiming that statements made on Jones' radio show advancing certain conspiracy theories about the Sandy Hook shooting were tortious in nature. The defendants appeal[3] from the orders of the trial court sanctioning them by revoking their opportunity to pursue the special motions to dismiss provided by Connecticut's anti-SLAPP[4] statute, General Statutes § 52-196a,[5] issued after the trial court found that the defendants had violated numerous discovery orders and that Jones personally had engaged in harassing and intimidating behavior directed at the plaintiffs' counsel, Attorney Christopher Mattei. On appeal, the defendants claim, inter alia, that the trial court (1) improperly sanctioned the defendants because Jones' speech was protected under the first amendment, and (2) abused its discretion in sanctioning the defendants because the trial court improperly permitted discovery that exceeded the limited scope contemplated by § 52-196a (d). The defendants also claim that the trial court violated their due process rights by failing to afford them sufficient notice and a meaningful opportunity to be heard before issuing the sanctions orders. We disagree and, accordingly, affirm the trial court's sanctions orders.

The record reveals the following relevant facts and procedural history. On December 14, 2012, Adam Lanza murdered twenty children and six staff members in a mass shooting at Sandy Hook Elementary School in Newtown. Some conspiracy theorists questioned the circumstances surrounding the shooting and called it a hoax. In response to statements made by Jones and other individuals featured on his radio show, the plaintiffs brought three separate civil actions against the defendants in 2018. The complaints alleged counts of invasion of privacy by false light, defamation and defamation per se, intentional infliction of emotional distress, and negligent infliction of emotional distress, all of which were accompanied by counts of civil conspiracy. In addition, the complaints claimed violations of the Connecticut Unfair Trade Practices Act, General Statutes § 42-110a et seq. The trial court consolidated all three cases.

In November, 2018, the defendants filed special motions to dismiss the plaintiffs' complaints pursuant to the anti-SLAPP statute. See General Statutes § 52-

196a (b). In order to respond to the special motions to dismiss, the plaintiffs moved for limited discovery pursuant to § 52-196a (d). The plaintiffs argued that they had demonstrated good cause to entitle them to "specified and limited discovery relevant to the special motion[s] to dismiss" pursuant to § 52-196a (d) and asked the trial court to permit discovery on every issue raised by the defendants' special motions to dismiss to allow them to demonstrate probable cause of success on the merits of their complaints. See General Statutes § 52-196a (e) (3). The defendants opposed the plaintiffs' motion for limited discovery, claiming that the plaintiffs' broad discovery requests were contrary to the purpose of the anti-SLAPP statute and that the plaintiffs had failed to show good cause.

With respect to the specific discovery requests, the plaintiffs initially requested five special interrogatories and twenty-one requests for production from Jones.[6] At a hearing on December 17, 2018, the trial court found good cause and granted the plaintiffs' motion for limited discovery but indicated that it would not grant all of the plaintiffs' requests and would consider each of the defendants' objections individually. The trial court then allowed the parties numerous opportunities to mediate disputes and delineate their discovery obligations at discovery status conferences.

After narrowing the plaintiffs' requests, the trial court initially ordered the defendants to produce their discovery compliance by February 23, 2019. The defendants failed to meet that deadline.[7] The defendants then filed motions for an extension of time, which the trial court granted, allowing them until March 20, 2019, to produce their discovery materials. In granting the motions, the trial court "urge[d] the defendants to honor this court ordered deadline because the defendants are the ones [who] want their motion[s] to dismiss adjudicated, but if they're going to continue to ignore court deadlines, they're going to lose the ability . . . to pursue their [special] motion[s] to dismiss."

Two days before the March 20, 2019 discovery deadline, the defendants again moved for an extension of time. This time, the trial court denied the motions, indicating at a hearing with the parties that the defendants had not substantially complied with its discovery orders. The trial court explained that the "defendants, at this point, are coming from a position of weakness. They've blown past the court's deadlines. There hasn't been a single piece of paper [produced] or interrogatory answered." In light of the defendants' noncompliance, the plaintiffs moved for sanctions on March 20, 2019. Specifically, the plaintiffs argued that, under Practice Book § 13-14[8] and the trial court's inherent authority, the court should impose sanctions for the defendants' violations of discovery deadlines.

At a hearing on April 3, 2019, the trial court began to

address the plaintiffs' motions for sanctions but delayed ruling on them to allow the defendants' counsel time to resolve an unspecified ethical concern. Subsequently, on April 10, 2019, the court heard argument on the motions for sanctions. The defendants argued that they had responded by that time to almost every discovery request and that they were in substantial compliance with the court's discovery orders. The trial court agreed with the defendants, concluding that, although they had not complied with every discovery request, the production to that point was sufficient to allow them to pursue the merits of the special motions to dismiss.

Subsequently, in late May, 2019, the plaintiffs brought additional discovery issues to the trial court's attention. Specifically, the plaintiffs requested, inter alia, additional responsive marketing data from Google Analytics and a complete search of Jones' cell phone. After another hearing, the trial court ordered the defendants to produce marketing data responsive to the court approved production requests. The court warned that it would "consider appropriate sanctions for the defendants' failure to fully and fairly comply" with its latest orders.

On Friday, June 14, 2019, Jones and his attorney, Norman A. Pattis, appeared together on Jones' radio broadcast to discuss the pending case. Jones explained to the broadcast audience that someone had embedded child pornography in e-mails turned over to the plaintiffs in discovery. Jones then began a long invective against those whom he believed had planted the child pornography, which we quote in relevant part:[9]

"Jones: I'm here to tell the little pimps, the Senator Murphys and the prosecutor, the Obama appointed prosecutor [who's] doing all this, bitch, I don't need to talk about poor dead kids to have listeners.

* * *

"Jones: They say you're a pedophile. We knew it was coming. And when the Obama appointed [United States] attorney demanded, out of 9.6 million e-mails in the last seven years since Sandy Hook, metadata, which meant tracking the e-mails and where they went, well, we fought it in court. The judge ordered for us to release a large number of those e-mails. That's Chris Mattei [who] got that done, a very interesting individual with the firm of Koskoff & Koskoff run by Senator Murphy and Senator Blumenthal that say, for America to survive, quote, I must be taken off the air. . . .

"It was hidden. In Sandy Hook e-mails threatening us, there was child porn. . . . And they get these e-mails a few weeks ago, and they go right to the [Federal Bureau of Investigation (FBI)] and say, '[w]e've got him with child porn.' The FBI says, '[h]e never opened it. He didn't send it.' And then they act like, oh, they're our friends. They're not going to do anything with

this. . . .

"Now, I wonder who during discovery would send e-mails out of millions and then know what to search and look at. . . . One million dollars on conviction for who sent the child porn. . . . We're going to turn you loose, the [internet service providers], the law enforcement. You know who did it. . . .

"You think when you call up, oh, we'll protect you. We found the child porn. I like women with big giant tits and big asses. I don't like kids like you goddamn[ed] rapists, f-heads. In fact, you fucks are going to get it, you fucking child molesters. I'll fucking get you in the end, you fucks. . . . You're trying to set me up with child porn. I'm going to get your ass. One million dollars. One million dollars, you little gang members. One million dollars to put your head on a pike. One million dollars, bitch. I'm going to get your ass. You understand me now? You're not going to ever defeat Texas, you sacks of shit. So you get ready for that.

* * *

"Jones: Why does law enforcement say $5000, dead or alive? One million. 'Cause we all know who did it.

* * *

"Jones: What a nice group of Democrats. How surprising. What nice people. Chris Mattei, Chris Mattei. Let's zoom in on Chris Mattei. Oh, nice little Chris Mattei. What a good American. What a good boy. You think you'll put on me—anyways, I'm done. Total war. You want it? You got it. I'm not into kids like your Democratic party, you cocksuckers. So get ready. . . .

"Jones: The point is, I'm not putting up . . . with these guys anymore, man, and their behavior, 'cause I'm not an idiot. They literally went right in there and found this hidden stuff. Oh, my God. Oh, my God. And they're my friends. We want to protect you now, Alex. Oh, you're not going to get in trouble for what we found. F-U man, F-U to hell. I pray God, not anybody else, God visit[s] vengeance upon you in the name of Jesus Christ and all the saints. I pray for divine intervention against the powers of Satan. I literally would never have sex with children. I don't like having sex with children. I would never have sex with children. I am not a Democrat. I am not a liberal. I do not cut children's genitals off like the left does.

* * *

"Jones: I want them to. I want them to track it back to you know who. . . . I wonder who the person of interest is.

"Pattis: Look, are you showing Chris Mattei's photograph on here?[10]

"Jones: Oh, no. That was an accidental cut. He's a nice Obama boy. . . . He's a white . . . boy that thinks he

owns America.

* * *

"Jones: That's why I said, one million. I'm not BS-ing. One million dollars when they are convicted. The bounty is out, bitches, and you know, you feds, they're going to know you did it. They're going to get your ass, you little dirt bag. One million, bitch. It's out on your ass. . . .

"Jones: One million—I pay all debts—one million is on the street for who sent me—and we're going to get the e-mails. We're going to publish them next week. And we're going to make a whole thing. We're not going to show the child porn, but we're going to put the e-mails out, and we're going to show you where they came from. One million on the street. . . .

"Jones: A million dollars is after them. So I bet you'll sleep real good tonight, little jerk. 'Cause your own buddies are going to turn you in, and you're going to go to prison, you little white . . . boy jerkoff. Son of a bitch. I mean, I can't handle them. They want war? They're going to get war. I am sick of these people, a bunch of chicken craps [who] have taken this country over [who] want to attack real Americans. . . .

"Jones: We're going to get them. One million. One million dollars is on the street against you. You didn't destroy America on time, bitch. I am pissed, man. I will give everything I have to stop living in this world with these people.

* * *

"Jones: I am sure that [the United States] attorneys appointed by Obama are sweet little cupcakes. Come on. . . .

"Jones: I don't even think errand boy did this. I'm actually not saying that.[11] . . . And so, if they want war—you know, it's not a threat. It's like an AC/DC song. If you want blood, you've got it. Blood on the streets, man. . . .

"Jones: And I'm just asking the Pentagon and the patriots that are left, and 4chan and 8chan, and Anonymous, anybody [who's] a patriot, I am under attack, and if they bring me down, they'll bring you down. I just have faith in you. I'm under attack. And I summon the mean war. I summon all of it against the enemy. . . .

"Jones: . . . How would you like an Obama appointed [United States] attorney, man, [who] literally found a needle in a field of haystacks and tried to go to the feds and get me indicted? . . . And now I ask my listeners and everyone, you claimed I sent people. I never sent anybody. And I want legal and lawful action. But I pray to God that America awaken[s]. Will Texas be defeated? You will now decide. This is war." (Foot-

notes added.)

The very next Monday, June 17, 2019, the plaintiffs filed motions asking the trial court to review the broadcast. The plaintiffs also asked for "an expedited briefing schedule concerning what orders must issue in connection with [Jones'] on-air statements . . . ." In those motions, the plaintiffs explained that a data firm they had retained located child pornography in the defendants' metadata and that they "immediately contacted the FBI." That same day, the trial court issued an order that "[c]ounsel should be prepared to address the matter at tomorrow's hearing . . . ."

The next day, June 18, 2019, the parties appeared and argued whether the trial court should order sanctions as a result of the broadcast. After hearing argument, the trial court imposed sanctions against the defendants and revoked their opportunity to pursue the merits of their special motions to dismiss pursuant to § 52-196a (b).[12] This expedited public interest appeal followed. See footnote 3 of this opinion.

On appeal, the defendants claim that the trial court (1) improperly sanctioned them in violation of their first amendment rights, (2) abused its discretion in fashioning sanctions for discovery noncompliance, and (3) denied them due process by failing to afford them notice and a meaningful opportunity to be heard.

I

We begin with the defendants' challenge to the merits of the sanctions orders, which the trial court based on two grounds. First, the trial court found that the defendants were noncompliant with discovery, with their failure to comply with additional production deadlines viewed in light of their previous noncompliance. Second, the trial court found that, on the June 14, 2019 broadcast, Jones accused Mattei of committing a felony and then harassed, intimidated, and threatened him.[13] Because the trial court provided these two bases for its sanctions orders, we must assess the court's orders both for their propriety as sanctions and their constitutionality. We first conclude that the sanctions did not run afoul of the first amendment because they addressed speech that was an imminent and likely threat to the administration of justice. We also conclude that these two rationales, when considered together, provided sufficient grounds for sanctioning the defendants. Accordingly, it was not an abuse of the trial court's discretion to sanction the defendants for their discovery violations and Jones' vituperative speech.

A

We first consider whether the trial court's sanctions were permissible under the first amendment's free speech protections. The defendants argue that the trial court's ruling is "bereft of any analysis of the first amendment" and that the court's inherent authority is

not an adequate ground to sanction them on the basis of Jones' speech. The defendants further contend that, because Jones' broadcast was not a true threat, did not incite violence, and did not constitute fighting words, the trial court's sanction was impermissible under the first amendment. In response, the plaintiffs first submit that the sanctions were a constitutionally permissible exercise of the trial court's authority to sanction bad faith litigation misconduct, which includes the harassment and intimidation of opposing counsel. Second, the plaintiffs argue that the broadcast was not protected speech because it was a true threat. Although we agree with the defendants that a trial court's inherent authority is subject to constitutional limitations, we nevertheless conclude that Jones' speech during his June 14, 2019 broadcast was not protected by the first amendment because it posed an imminent and likely threat to the administration of justice.

It is well settled that a trial court "has the inherent authority to impose sanctions against an attorney and his client for a course of claimed dilatory, bad faith and harassing litigation conduct . . . ." (Internal quotation marks omitted.) *CFM of Connecticut, Inc.* v. *Chowdhury*, 239 Conn. 375, 393, 685 A.2d 1108 (1996), overruled in part on other grounds by *State* v. *Salmon*, 250 Conn. 147, 735 A.2d 333 (1999); see also R. Pushaw, "The Inherent Powers of Federal Courts and the Structural Constitution," 86 Iowa L. Rev. 735, 764–65 (2001) ("The inherent authority to administer judicial proceedings carries with it a corollary power to control those involved in court business—parties, witnesses, jurors, spectators, and lawyers—to maintain order, decorum, and respect. Sanctions have long been deemed imperative to protect against the disruption or abuse of judicial processes and to ensure obedience to a court's orders, thereby preserving its authority and dignity." (Footnote omitted.)).

A long line of decisions makes clear that this inherent authority to sanction a party extends to sanctioning participants to litigation for engaging in threatening and harassing behavior. See *Maurice* v. *Chester Housing Associates Ltd. Partnership*, 188 Conn. App. 21, 22–23, 204 A.3d 71 (dismissing writ of error stemming from sanctions order, issued under court's inherent authority, against nonparty partner in defendant partnership for sending "an inappropriate e-mail" to opposing counsel and telling her to "sit on his fucking head" (internal quotation marks omitted)), cert. denied, 331 Conn. 923, 206 A.3d 765 (2019);[14] see also *Waivio* v. *Board of Trustees of the University of Illinois*, 290 Fed. Appx. 935, 936–37 (7th Cir. 2008) (affirming judgment of dismissal when plaintiff engaged in "delaying and threatening conduct in the course of the litigation," including threatening to kill opposing counsel), cert. denied, 557 U.S. 926, 129 S. Ct. 2842, 174 L. Ed. 2d 563 (2009); *Thomas* v. *Tenneco Packaging Co.*, 293 F.3d 1306, 1308 (11th Cir.

2002) (upholding sanctions against lawyer for filings "directed at opposing counsel" that trial court "deemed abusive and offensive"); *Carroll* v. *The Jaques Admiralty Law Firm*, *P.C.*, 110 F.3d 290, 291–93 (5th Cir. 1997) (upholding sanction of defendant attorney who engaged in "abusive conduct at his deposition"); *Michael* v. *Boutwell*, 138 F. Supp. 3d 761, 785–87 (N.D. Miss. 2015) (concluding that defendant's threatening of witness warranted sanction of attorney's fees, expenses and $1000 fine but not dispositive sanction of default judgment); *Kalwasinski* v. *Ryan*, Docket No. 96-CV-6475, 2007 WL 2743434, *3 (W.D.N.Y. September 17, 2007) (dismissing self-represented inmate's federal civil rights action because he "deliberately and intentionally participat[ed] in making threats of physical harm against parties and witnesses in his case"); *Fidelity National Title Ins. Co. of New York* v. *Intercounty National Title Ins. Co.*, Docket No. 00 C 5658, 2002 WL 1433717, *12–13 (N.D. Ill. July 2, 2002) (dismissing defendant's counterclaims "[p]ursuant to [the court's] inherent authority to sanction bad faith conduct in litigation" on basis of his "abusive and threatening" letter to opposing counsel).

When acting under its inherent powers, a court should proceed with caution; "[b]ecause of their very potency, inherent powers must be exercised with restraint and discretion." *Chambers* v. *NASCO*, *Inc.*, 501 U.S. 32, 44, 111 S. Ct. 2123, 115 L. Ed. 2d 27 (1991). This cautionary approach requires that any exercise of the inherent power to sanction be limited by constitutional concerns, such as the requirements of due process. See, e.g., *Roadway Express*, *Inc.* v. *Piper*, 447 U.S. 752, 767, 100 S. Ct. 2455, 65 L. Ed. 2d 488 (1980) ("[l]ike other sanctions, attorney's fees certainly should not be assessed lightly or without fair notice and an opportunity for a hearing on the record"); R. Pushaw, supra, 86 Iowa L. Rev. 784 ("[t]o be sure, the [c]ourt has recognized that the [c]onstitution limits federal judges' inherent powers"). As a result, a trial court's exercise of its inherent authority to sanction a party for harassing or threatening speech in the context of litigation is limited by the protections of the first amendment.[15] "The [f]irst [a]mendment requires courts to tread warily when restricting litigants' speech. They may do so only when necessary to protect the fairness or integrity of the particular litigation before them." *Bank of Hope* v. *Chon*, 938 F.3d 389, 397 (3d Cir. 2019); see also *Economy Carpets Manufacturers & Distributors*, *Inc.* v. *Better Business Bureau of Baton Rouge Area*, *Inc.*, 330 So. 2d 301, 304 (La. 1976) ("the judicial authority, as all powers of government, is not without limit, and [when] it is asserted an individual's right of free speech has been abridged by the exercise of that power, the burden is [on] us to define its limitations"). Speech that might otherwise be protected may be restricted under certain circumstances because of pending judicial proceedings.

See, e.g., *In re Brianna B.*, 66 Conn. App. 695, 701, 785 A.2d 1189 (2001) ("[t]he [United States Supreme Court] has . . . emphasized the vitality of individual rights to free speech during legal proceedings, such as discovery, but that the right to free speech is not without limit").

Fundamental first amendment principles guide our analysis of the defendants' claims in this appeal. "The [f]irst [a]mendment, applicable to the [s]tates through the [due process clause of the] [f]ourteenth [a]mendment, provides that Congress shall make no law . . . abridging the freedom of speech. The hallmark of the protection of free speech is to allow free trade in ideas—even ideas that the overwhelming majority of people might find distasteful or discomforting. . . . Thus, the [f]irst [a]mendment ordinarily denies [the government] the power to prohibit dissemination of social, economic and political doctrine [that] a vast majority of its citizens believes to be false and fraught with evil consequence. . . . The [f]irst [a]mendment affords protection to symbolic or expressive conduct as well as to actual speech. . . . The protections afforded by the [f]irst [a]mendment, however, are not absolute, and we have long recognized that the government may regulate certain categories of expression consistent with the [c]onstitution." (Internal quotation marks omitted.) *State* v. *Moulton*, 310 Conn. 337, 348–49, 78 A.3d 55 (2013), quoting *Virginia* v. *Black*, 538 U.S. 343, 358, 123 S. Ct. 1536, 155 L. Ed. 2d 535 (2003).

Whether the trial court's sanctions constitute an impermissible restriction on the defendants' speech presents a question of law, over which our review is plenary. "In certain first amendment contexts . . . appellate courts are bound to apply a de novo standard of review. . . . [In such cases], the inquiry into the protected status of . . . speech is one of law, not fact. . . . As such, an appellate court is compelled to examine for [itself] the . . . statements [at] issue and the circumstances under which they [were] made to [determine] whether . . . they . . . are of a character [that] the principles of the [f]irst [a]mendment . . . protect. . . . [I]n cases raising [f]irst [a]mendment issues [the United States Supreme Court has] repeatedly held that an appellate court has an obligation to make an independent examination of the whole record in order to make sure that the judgment does not constitute a forbidden intrusion [in] the field of free expression. *New York Times Co.* v. *Sullivan*, [376 U.S. 254, 284–86, 84 S. Ct. 710, 11 L. Ed. 2d 686 (1964)]. . . . This rule of independent review was forged in recognition that a [reviewing] [c]ourt's duty is not limited to the elaboration of constitutional principles . . . . [Rather, an appellate court] must also in proper cases review the evidence to make certain that those principles have been constitutionally applied. . . . Therefore, even though, ordinarily . . . [f]indings of fact . . . shall not be set aside unless clearly erroneous, [appellate courts] are obliged to [per-

form] a fresh examination of crucial facts under the rule of independent review." (Internal quotation marks omitted.) *State* v. *Krijger*, 313 Conn. 434, 446–47, 97 A.3d 946 (2014). However, "the heightened scrutiny that this court applies in first amendment cases does not authorize us to make credibility determinations regarding disputed issues of fact." Id., 447.

Whether judicial sanctions imposed for extrajudicial statements made by a party to pending litigation run afoul of the first amendment presents a question of first impression in Connecticut. We find instructive the test that the United States Supreme Court has adopted for considering the constitutionality of contempt as a sanction for out-of-court statements commenting on judicial proceedings.[16] The leading case is *Bridges* v. *California*, 314 U.S. 252, 275–77, 62 S. Ct. 190, 86 L. Ed. 192 (1941), in which the Supreme Court considered whether a union leader could be held in contempt when a newspaper published statements that he had made threatening a strike. The court considered whether the speech presented a "clear and present danger" to the administration of justice. Id., 261–262, 273. Specifically, the court analyzed "the particular utterances . . . in question and the circumstances of their publication to determine to what extent the substantive evil of unfair administration of justice was a likely consequence, and whether the degree of likelihood was sufficient to justify summary punishment." Id., 271. The court reversed the contempt finding because it concluded that a threat to call an impending strike, which the court observed was a *legal* course of action,[17] had not interfered with the administration of justice. Id., 277–78.

Subsequently, in *Craig* v. *Harney*, 331 U.S. 367, 368, 375–78, 67 S. Ct. 1249, 91 L. Ed. 1546 (1947), the court applied *Bridges* to a contempt finding imposed for news articles that criticized a judge's ruling and discussed the community's response. Illuminating further clear and present danger, the court explained: "The vehemence of the language used is not alone the measure of the power to punish for contempt. The fires which it kindles must constitute *an imminent*, *not merely a likely*, threat to the administration of justice. The danger must not be remote or even probable; it must immediately imperil." (Emphasis added.) Id., 376. In *Craig*, the court deemed speech critical of an elected judge "appropriate, if not necessary." Id., 377. Because "there was . . . no threat or menace to the integrity of the trial"; id.; the court held that the speech was protected. Id., 378.

The Supreme Court again considered the applicability of *Bridges* in *Wood* v. *Georgia*, 370 U.S. 375, 82 S. Ct. 1364, 8 L. Ed. 2d 569 (1962). In *Wood*, a state court judge convened a grand jury to investigate election law violations, and a local sheriff published a written statement outside of court criticizing the judge and the inves-

tigation, which was made available to the grand jury. Id., 376–80, 393. As a result, the state judge held the sheriff in contempt. Id., 380. The Supreme Court concluded that, "in the absence of some other showing of a substantive evil actually designed to impede the course of justice in justification of the exercise of the contempt power to silence the [sheriff], his utterances are entitled to be protected." Id., 389. The court emphasized that *Wood* did not involve a trial or a "judicial proceeding pending" in which such speech could result in prejudice to the other side. (Internal quotation marks omitted.) Id. The court reversed the state court's order of contempt because the sheriff's speech did not pose a clear and present danger to the administration of justice in the absence of evidence of "actual interference"[18] with the grand jury investigation. Id., 393, 395.

But, as first amendment case law has progressed, the clear and present danger standard articulated in *Bridges* has been subject to criticism. For example, Justice William O. Douglas excoriated the use of clear and present danger in his concurrence in *Brandenburg* v. *Ohio*, 395 U.S. 444, 452–54, 89 S. Ct. 1827, 23 L. Ed. 2d 430 (1969). See also, e.g., T. Emerson, "Toward a General Theory of the First Amendment," 72 Yale L.J. 877, 912 (1963) ("There is still some blood remaining in the doctrine, and it has continued to be used in certain types of situations. But, as a general test of the limits of the first amendment, [clear and present danger] must be regarded as unacceptable." (Footnote omitted.)). One major criticism is the ease with which the test may be manipulated to include protected speech. See *Brandenburg* v. *Ohio*, supra, 454 (Douglas, J., concurring) ("When one reads the opinions closely and sees when and how the 'clear and present danger' test has been applied, great misgivings are aroused. . . . [T]he threats were often loud but always puny and made serious only by judges so wedded to the status quo that critical analysis made them nervous."); L. Kendrick, "On 'Clear and Present Danger,' " 94 Notre Dame L. Rev. 1653, 1660 (2019) (explaining that clear and present danger "has been criticized time and again for depending too much on circumstances and thereby giving judges too much discretion and failing to give speakers proper notice of the legality of their activities" (footnotes omitted)).

Although the United States Supreme Court has not directly rejected clear and present danger, the court has alluded to its evolution as a first amendment doctrine. For example, Justice David Souter, in his concurrence in *Denver Area Educational Telecommunications Consortium, Inc.* v. *Federal Communications Commission*, 518 U.S. 727, 778, 116 S. Ct. 2374, 135 L. Ed. 2d 888 (1996), argued that clear and present danger has evolved into the incitement test from *Brandenburg*, under which "constitutional guarantees of free speech and free press do not permit a [s]tate to forbid or pro-

scribe advocacy of the use of force or of law violation except where such advocacy is directed to inciting or producing imminent lawless action and is likely to incite or produce such action." *Brandenburg* v. *Ohio*, supra, 395 U.S. 447. The United States Supreme Court also alluded to this divergence in *Landmark Communications, Inc.* v. *Virginia*, 435 U.S. 829, 98 S. Ct. 1535, 56 L. Ed. 2d 1 (1978), stating: "The Supreme Court of Virginia relied on the [clear and present danger] test . . . . We question the relevance of that standard here; moreover we cannot accept the mechanical application of the test which led that court to its conclusion. [The] test was never intended 'to express a technical legal doctrine or to convey a formula for adjudicating cases.' " Id., 842. Nevertheless, the court went on to apply the test and hold that a newspaper article that disclosed confidential information did not meet the test. Id., 844–45.

More recently, the United States Supreme Court considered a similar issue to that presented in this case in the context of attorney speech. See generally *Gentile* v. *State Bar of Nevada*, 501 U.S. 1030, 111 S. Ct. 2720, 115 L. Ed. 2d 888 (1991). In *Gentile*, the court concluded that a "substantial likelihood of material prejudice" standard was a constitutionally permissible standard to limit extrajudicial attorney speech. (Internal quotation marks omitted.) Id., 1075. In the absence of an express indication from the Supreme Court that a lower standard is permissible, we decline to extend the court's holding in *Gentile* to nonattorneys. This is because the court supported its reasoning by relying on the special status of attorneys, demonstrated through the government's role in attorney regulation and rules already in existence restricting attorney speech. See id., 1066–74. The court specifically declined to state which standard would apply to the speech of nonattorneys. See id., 1072–73 n.5 (noting that rule being interpreted did not apply to nonattorneys or attorneys outside of pending case).

Courts after *Gentile* have continued to apply clear and present danger to extrajudicial speech in certain circumstances. See, e.g., *In re Kendall*, 712 F.3d 814, 826 (3d Cir. 2013) (applying clear and present danger when analyzing whether judge was improperly held in criminal contempt for speech contained in judicial opinion); *Standing Committee on Discipline* v. *Yagman*, 55 F.3d 1430, 1443 (9th Cir. 1995) (applying clear and present danger to attorney speech outside of pending judicial proceeding); *United States* v. *Bingham*, 769 F. Supp. 1039, 1045 (N.D. Ill. 1991) (concluding that defense counsel's speech in televised interview on eve of jury selection constituted clear and present danger). For example, the court in *In re White*, Docket No. 2:07CV342, 2013 WL 5295652, *24–26, *68 (E.D. Va. September 13, 2013), considered whether sanctions for attorney's fees should enter as a result of a nonparty's allegedly threatening speech. The court analyzed this

request for sanctions in light of different first amendment tests, including clear and present danger.[19] See id., *70 ("[a]lthough there is some indication that *Brandenburg*'s more stringent standard—incitement to imminent lawlessness—has displaced the 'clear and present danger' test articulated in . . . earlier cases, the [c]ourt observes that some post-*Brandenburg* cases continue to apply the 'clear and present danger' test to court restrictions of speech threatening the due and orderly administration of justice" (footnote omitted)). The court determined that there was "no indication" that White's online statements had "disrupted or interfered with a [c]ourt proceeding, [or] that his commentary was imminently likely to so interfere," and, as such, his speech did not pose "a serious and imminent threat to the administration of justice." (Emphasis omitted; internal quotation marks omitted.) Id. This lack of clarity surrounding clear and present danger, as noted in *In re White*, similarly leaves open the question of what standard applies to the speech of *parties to the litigation*. See *Wilson* v. *Moore*, 193 F. Supp. 2d 1290, 1293 (S.D. Fla. 2002) (applying clear and present danger to speech of criminal defendant made during appeal process).

"The [United States] Supreme Court has held that speech otherwise entitled to full constitutional protection may nonetheless be sanctioned if it obstructs or prejudices the administration of justice." *Standing Committee on Discipline* v. *Yagman*, supra, 55 F.3d 1442, citing *Gentile* v. *State Bar of Nevada*, supra, 501 U.S. 1074–75, and *Sheppard* v. *Maxwell*, 384 U.S. 333, 363, 86 S. Ct. 1507, 16 L. Ed. 2d 600 (1966). Importantly, "[a] rule governing speech, even speech entitled to full constitutional protection, need not use the words 'clear and present danger' in order to pass constitutional muster." *Gentile* v. *State Bar of Nevada*, supra, 1036 (Kennedy, J.). Because the Supreme Court has not yet clearly supplanted clear and present danger in the area of extrajudicial speech, we will use it as a guideline in our analysis. Even still, it is necessary to refine the standard to our present circumstances to incorporate the requirements of *Brandenburg* and the inquiries outlined in *Gentile*. "Properly applied, the test requires a court to make its own inquiry into the imminence and magnitude of the danger said to flow from the particular utterance and then to balance the character of the evil, as well as its likelihood, against the need for free and unfettered expression." *Landmark Communications, Inc.* v. *Virginia*, supra, 435 U.S. 842–43; see also *Turney* v. *Pugh*, 400 F.3d 1197, 1202 (9th Cir. 2005). We conclude that, if extrajudicial speech by a party to litigation poses an imminent and likely threat to the administration of judicial proceedings at issue, a court may sanction a party for that speech.

It is necessary to outline certain factors that affect whether extrajudicial speech threatens the administra-

tion of justice. "The [United States Supreme] Court gave two principal reasons for adopting this lower threshold [in *Gentile*], one concerned with the identity of the speaker, the other with the timing of the speech." *Standing Committee on Discipline* v. *Yagman*, supra, 55 F.3d 1442; see *In re Hinds*, 90 N.J. 604, 609, 449 A.2d 483 (1982) (in using reasonable likelihood standard, "the determination of whether a particular statement is likely to interfere with a fair trial involves a careful balancing of factors, including consideration of the status of the attorney, the nature and timing of the statement, as well as the context in which it was uttered"); see also *In re Hinds*, supra, 622–23. As a result, we, too, will consider such factors.

If the speaker is a party to litigation, the government's interest in ensuring the fair administration of justice is heightened, especially if the trial involves a criminal defendant. See *Chicago Council of Lawyers* v. *Bauer*, 522 F.2d 242, 248 (7th Cir. 1975) ("[t]hat courts have the duty to ensure fair trials—'the most fundamental of all freedoms'—is beyond question" (footnote omitted)), cert. denied sub nom. *Cunningham* v. *Chicago Council of Lawyers*, 427 U.S. 912, 96 S. Ct. 3201, 49 L. Ed. 2d 1204 (1976); id., 257–58 ("we require even a greater insularity against the possibility of interference with fairness in criminal cases"). Judicial restrictions on a litigant's speech are more permissible than judicial restrictions on comments made by an outsider to the litigation, such as the press. See *In re Application of Dow Jones & Co.*, 842 F.2d 603, 608 (2d Cir.) ("there is a substantial difference between a restraining order directed against the press—a form of censorship which the [f]irst [a]mendment sought to abolish from these shores—and the order here directed solely against trial participants"), cert. denied sub nom. *Dow Jones & Co.* v. *Simon*, 488 U.S. 946, 109 S. Ct. 377, 102 L. Ed. 2d 365 (1988); see also *Standing Committee on Discipline* v. *Yagman*, supra, 55 F.3d 1443 ("[w]hen lawyers speak out on *matters unconnected to a pending case*, there is no direct and immediate impact on the fair trial rights of litigants" (emphasis added)).

Relying in part on the distinction made in *Gentile* between trial participants and those outside the litigation, the Fifth Circuit declined to apply the stringent clear and present danger standard to a trial participant gag order. *United States* v. *Brown*, 218 F.3d 415, 426–27 (5th Cir. 2000), cert. denied, 531 U.S. 1111, 121 S. Ct. 854, 148 L. Ed. 2d 769 (2001). In *Brown*, the court decided that the lower standard in *Gentile* may be extended to nonattorney litigation participants, as there was "no reason . . . to distinguish between [attorneys and parties] for the purpose of evaluating a gag order directed at them both." Id., 428; see also *State* v. *Carruthers*, 35 S.W.3d 516, 562–63 (Tenn. 2000) (declining to apply clear and present danger to trial participants), cert. denied, 533 U.S. 953, 121 S. Ct. 2600, 150 L. Ed.

2d 757 (2001). We decline to completely extend the reasoning in *Brown* to this case and instead invoke a higher standard reminiscent of clear and present danger that takes into account the speaker's identity. See *Commission for Lawyer Discipline* v. *Benton*, 980 S.W.2d 425, 431 (Tex. 1998) (describing "the *Gentile* standard [as] a constitutional minimum"), cert. denied, 526 U.S. 1146, 119 S. Ct. 2021, 143 L. Ed. 2d 1033 (1999). We recognize that Jones' position, as a civil defendant, presents a different situation than a plaintiff, who affirmatively requests a court's jurisdiction over her case. See *United States* v. *Carmichael*, 326 F. Supp. 2d 1267, 1294 (M.D. Ala. 2004) (declining to apply lower standard in *Gentile* to criminal defendant). Accordingly, we afford Jones the benefit of the doubt and engage in the most rigorous and searching review of any infringement of his first amendment rights.

Courts must have the ability to restrict the rights of participants to the extent necessary to protect the fairness of the litigation. "Although litigants do not surrender their [f]irst [a]mendment rights at the courthouse door . . . those rights may be subordinated to other interests that arise in this setting. For instance, on several occasions [the] [c]ourt has approved restriction on the communications of trial participants where necessary to ensure a fair trial for a criminal defendant. . . . In the conduct of a case, a court often finds it necessary to restrict the free expression of participants, including counsel, witnesses, and jurors." (Citations omitted; internal quotation marks omitted.) *Seattle Times Co.* v. *Rhinehart*, 467 U.S. 20, 32–33 n.18, 104 S. Ct. 2199, 81 L. Ed. 2d 17 (1984). "Neither prosecutors, counsel for defense, the accused, witnesses, court staff nor enforcement officers coming under the jurisdiction of the court should be permitted to frustrate its function." (Internal quotation marks omitted.) *Gentile* v. *State Bar of Nevada*, supra, 501 U.S. 1072. "[The United States Supreme Court] expressly contemplated that the speech of those participating before the courts could be limited. This distinction between participants in the litigation and strangers to it is brought into sharp relief by [the] holding in *Seattle Times Co.* v. *Rhinehart*, [supra, 20]." (Emphasis omitted; footnote omitted.) *Gentile* v. *State Bar of Nevada*, supra, 1072–73. "The primary danger of extrajudicial speech to the administration of justice must be that the outcome of a judicial proceeding, or the ability of the court to do its work, might be improperly influenced by people who have no legitimate part in the courts' resolution of that matter. Of course, the person making an extrajudicial statement might actually be a party in an ongoing proceeding. Or, an out-of-court statement might not affect any pending matter, but might influence the course of some future proceeding. The point is that an attempt to interfere with the outcome of a case is properly punishable because justice is being affected through means other

than those established for the proper disposition of a controversy." L. Raveson, "Advocacy and Contempt: Constitutional Limitations on the Judicial Contempt Power; Part One: The Conflict Between Advocacy and Contempt," 65 Wash. L. Rev. 477, 499–500 (1990).

A related, but necessary inquiry, considers the timing and the nature of the speech. Speech is more likely to interfere with the administration of justice if it is calculated to intimidate or threaten other participants in the litigation. "It is without question that courts may sanction parties and their attorneys who engage in harassment of their opponents. . . . The [f]irst [a]mendment does not shield improper tactics used by litigants to advance their interests, even if those tactics involve communication of a message." (Citation omitted.) *B. Willis, C.P.A., Inc.* v. *Goodpaster*, 183 F.3d 1231, 1234 (10th Cir.), cert. denied sub nom. *Willis* v. *Goodpaster*, 528 U.S. 1046, 120 S. Ct. 581, 145 L. Ed. 2d 483 (1999); see *D'Agostino* v. *Lynch*, 382 Ill. App. 3d 960, 970, 887 N.E.2d 590 ("harassing the court and the litigants appearing before it" was "calculated to disrupt court proceedings and bring the administration of law into disrepute"), appeal denied, 229 Ill. 2d 619, 897 N.E.2d 250 (2008); *Fidelity National Title Ins. Co. of New York* v. *Intercounty National Title Ins. Co.*, supra, 2002 WL 1433717, *11 ("A party's use of anonymous letters to opposing counsel to sabotage the litigation is an abuse of the judicial process. Anonymous, threatening letters prevent a speedy, open, and just resolution of the dispute on its merits.").

Additionally, "[t]he possibility that other measures will serve the [s]tate's interests should also be weighed." *Landmark Communications, Inc.* v. *Virginia*, supra, 435 U.S. 843. We also consider whether the sanction is narrowly tailored to achieve the government's substantial interest in ensuring the administration of justice. *Gentile* v. *State Bar of Nevada*, supra, 501 U.S. 1075.

Our analysis also is informed by several cases from our sister states' appellate courts applying clear and present danger to uphold contempt findings arising from statements by litigants.[20] In one recent decision, the Georgia Court of Appeals upheld the contempt conviction of a witness who, while at the courthouse as a character witness in his son's criminal trial, insulted the minor victim's mother in the hallway outside the courtroom and "exclaim[ed] that he hoped God would make the children and grandchildren of those who lied about his son suffer in the same way his son was currently suffering." See *Moton* v. *State*, 332 Ga. App. 300, 300–301, 772 S.E.2d 393 (2015). An Illinois appeals court upheld a contempt conviction after the contemnor filed a motion alleging, inter alia, that the opposing parties and their attorney were part of the Mafia and had bribed the presiding judge. See *D'Agostino* v. *Lynch*, supra, 382 Ill. App. 3d 961. In that case, the court stated that

"[c]omments that are systematically designed to thwart the judicial process constitute a 'clear and present danger' to the administration of justice" and concluded that the "unsubstantiated accusations" against the judge qualified. Id., 970–72; see also *People* v. *Goss*, 10 Ill. 2d 533, 536–37, 141 N.E.2d 385 (1957) (upholding contempt order under clear and present danger when nonparty appeared on television show and accused party to court proceeding of being from "a family with [court admitted] hoodlum connections" and called witness "professional sneak and liar" (internal quotation marks omitted)).

In establishing the constitutional bounds of the court's authority, we also find instructive those cases concluding that the litigant's conduct did not present a clear and present danger to the administration of justice. See *Pennekamp* v. *Florida*, 328 U.S. 331, 336–39, 348, 66 S. Ct. 1029, 90 L. Ed. 1295 (1946) (publishers of editorials and cartoon critical of judges did not pose clear and present danger); *Garland* v. *State*, 253 Ga. 789, 789, 791, 325 S.E.2d 131 (1985) (reversing contempt conviction of attorney whose remarks criticizing judge for violating judicial ethics and conducting "sham proceeding" were published in newspaper (internal quotation marks omitted)); *Worcester Telegram & Gazette, Inc.* v. *Commonwealth*, 354 Mass. 578, 579–83, 238 N.E.2d 861 (1968) (reversing contempt convictions of publisher and reporter, whose newspaper article inferred that defendant in pending criminal proceeding previously had been "convicted of a serious crime" leading to mistrial, because they did not purposefully try to affect trial's outcome); *In re Contempt of Dudzinski*, 257 Mich. App. 96, 106–107, 667 N.W.2d 68 (reversing contempt conviction of appellant who had worn "Kourts Kops Krooks" shirt in courtroom while quietly observing proceedings (internal quotation marks omitted)), appeal denied, 469 Mich. 988, 673 N.W.2d 756 (2003); *Smith* v. *Pace*, 313 S.W.3d 124, 126–27, 137 (Mo. 2010) (concluding that there was no interference or imminent threat of interference with administration of justice when lawyer defendant used "strong words . . . in petitioning the court . . . for a writ seeking to quash a subpoena" and therein accused judge and prosecutor of "misconduct" and "impropriety" (internal quotation marks omitted)). These cases demonstrate the types of speech that are protected and stand in stark contrast to Jones' speech in this case.

In applying this precedent to the speech at issue in the present case, we first observe that the trial court did not expressly consider whether the speech posed an imminent and likely threat to the administration of justice in ruling on the motions for sanctions.[21] The trial court instead found its authority to sanction under the court's inherent authority "to address out-of-court, bad faith litigation misconduct where there is a claim that a party harassed or threatened or sought to intimidate

counsel on the other side" and noted its "obligation to ensure the integrity of the judicial process and [the] functioning of the court." Nevertheless, the findings that led the trial court to sanction the defendants are consistent with our aforementioned standard. Specifically, the trial court found that, on the June 14, 2019 broadcast, Jones (1) accused opposing counsel of a felony ("planting child pornography"), (2) used threatening language toward opposing counsel through violent rhetoric, and (3) harassed and intimidated opposing counsel, calling him "a bitch, a sweet little cupcake, a sack of filth," and declaring war on him. It is obvious that the central reason why Jones' speech was censured and why it ultimately could pose a threat to the administration of justice is its genuine potential to influence the fairness of the proceedings. Specifically, Jones' broadcast produced additional threats to those involved in the case and created a hostile atmosphere that could discourage individuals from participating in the litigation.

Balancing the risk of fairness to the proceedings with "the need for free and unfettered expression," as required by *Landmark Communications, Inc.* v. *Virginia*, supra, 435 U.S. 843, does not render Jones' speech immune to sanctions under the first amendment, and we reject the defendants' assertion that "there is no barrier to a litigant, especially a litigant who is a broadcaster, speaking freely about pending litigation. [Jones'] decision to air his grievances over the airwaves and online is hardly remarkable. These media constitute the new public square." Although we recognize and reaffirm the importance of robust public comment about the court system and the judicial process, and acknowledge that, outside of litigation, Jones' speech may be protected,[22] the trial court's duty to ensure a fair trial for those appearing before it permits some restrictions on harassing and threatening speech toward participants in the litigation. Without the ability to place such restrictions, trial courts will be left defenseless to stop both actual interference and perceived threats to just adjudications. " 'Freedom of discussion should be given the widest range compatible with the essential requirement of the fair and orderly administration of justice.' *Pennekamp* v. *Florida*, [supra, 328 U.S. 347]. But it must not be allowed to divert the trial from the 'very purpose of a court system . . . to adjudicate controversies, both criminal and civil, in the calmness and solemnity of the courtroom according to legal procedures.' " *Sheppard* v. *Maxwell*, supra, 384 U.S. 350–51.

Regardless of whether enforcement comes in the form of civil or criminal penalties, speech that interferes with the administration of justice cannot be tolerated. In *State* v. *Taupier*, 330 Conn. 149, 193 A.3d 1 (2018), cert. denied, U.S. , 139 S. Ct. 1188, 203 L. Ed. 2d 202 (2019), this court considered a first amendment

challenge to a defendant's conviction of threatening in the first degree for an e-mail communication concerning a Superior Court judge. Id., 153–54. In that case, the defendant had "made it clear that he was extremely angry at the 'court,' over which [the judge] had presided, that he had discovered where [the judge] lived, that he had surveilled [the judge's] residence, that he had thought through a very detailed and specific way to kill [the judge] at that location, and that he had anticipated being punished for his conduct." Id., 191. The court concluded that the speech was a true threat and, therefore, was unprotected. Id., 199. This conclusion was, in part, implicitly supported by the effect such speech had on the administration of justice, i.e., threatening violence against the judge presiding over the defendant's family court proceedings. See id., 184 (pointing to judge's reaction, defendant's history with family court system, and defendant and judge's past history as evidence supporting conviction). Such a threat, at the very least, could require the judge to recuse herself from the defendant's cases and, as such, interferes with a fair adjudication.

There are two important distinctions between *Bridges* and its progeny, on the one hand, and the present case, on the other, that lead us to conclude that Jones' broadcast posed an imminent and likely threat to the administration of justice. The first is Jones' role as a party in the litigation and the second is the unmistakably threatening and vituperative nature of the speech at issue. Both of these factors influence the imminence and likelihood of the threatened harm. In both *Wood* and *Bridges*, the statements were made by nonparties criticizing judicial action. In the present case, Jones is a party commenting on his own litigation and, therefore, has a greater opportunity and perceived incentive to affect the outcome of the case.[23] As a party to a judicial proceeding, Jones is participating in a government function and therefore is under the court's jurisdiction. For this reason, the trial court may sanction him for speech that, when made by a stranger to the litigation, may be acceptable.[24]

The second difference between the present case and *Bridges* and *Woods* is the nature of the intimidating and threatening speech, which demonstrates the coercive influence that might reasonably be expected as a result of Jones' broadcast. "Since we are committed to a government of laws and not of men, it is of the utmost importance that the administration of justice be absolutely fair and orderly. [The United States Supreme Court] has recognized that the unhindered and untrammeled functioning of our courts is part of the very foundation of our constitutional democracy." *Cox* v. *Louisiana*, 379 U.S. 559, 562, 85 S. Ct. 476, 13 L. Ed. 2d 487 (1965). "Courts must have [the] power to protect the interests of . . . litigants before them from unseemly efforts to pervert judicial action." *Pennekamp*

v. *Florida*, supra, 328 U.S. 347. The record in this case reflects additional threats targeting those involved in the case in connection with Jones' speech.[25] In an order dated June 21, 2019, the trial court stated: "In the interest of full disclosure to all parties, the court was contacted by the Connecticut State Police, [which was] reportedly contacted by the FBI regarding threats against the undersigned [judge] made by individuals on the . . . Infowars website."[26] In addition, the plaintiffs' counsel also represented to the trial court that, as a result of the broadcast, they had "since received threats from the outside" and even obtained police protection when attending the court hearing after the broadcast. We take seriously these statements on the record because "[i]t long has been the practice that a trial court may rely [on] certain representations made to it by attorneys, who are officers of the court and bound to make truthful statements of fact or law to the court." (Internal quotation marks omitted.) *State* v. *Chambers*, 296 Conn. 397, 419, 994 A.2d 1248 (2010).

Jones' speech further was calculated to interfere with the fairness of the proceedings as it directly targeted opposing counsel, accusing him of felonious behavior and threatening him, and reasonably can be expected to influence how the plaintiffs litigate their case.[27] On the broadcast, Jones declared war on those who planted the child pornography, implicated the plaintiffs' counsel, and promoted a million dollar bounty. Jones stated: "You're trying to set me up with child porn. I'm going to get your ass. One million dollars. One million dollars, you little gang members. One million dollars to put your head on a pike. One million dollars, bitch. I'm going to get your ass." A party who places a one million dollar bounty on the head of opposing counsel, whether literally or figuratively in the form of his conviction, undeniably interferes with the proceedings. This speech clearly " 'is directed to inciting or producing' a threat to the administration of justice that is both 'imminent' and 'likely' to materialize." *Turney* v. *Pugh*, supra, 400 F.3d 1202. Harassing and intimidating counsel so that they withdraw from litigating a case is beyond cavil; it is an unfair and inappropriate litigation strategy that strikes at the core of our system.[28] See *Harry* v. *Lagomarsine*, Docket No. 18-CV-1822 (BMC) (LB), 2019 WL 1177718, *3 (E.D.N.Y. March 13, 2019) (explaining how threats to opposing counsel "effected a permanent change in [the] defendants' representation"); *Kalwasinski* v. *Ryan*, supra, 2007 WL 2743434, *3 ("[b]y deliberately and intentionally participating in making threats of physical harm against parties and witnesses in his case, he has engaged in conduct that he should have known would threaten a fair decision in this matter"). We recognize that there is a place for strong advocacy in litigation, but language evoking threats of physical harm is not tolerable. In light of these reasons, we conclude that Jones' speech could pose a threat to the

plaintiffs' ability to litigate their case, rendering it an imminent and likely threat to the administration of justice.

Finally, we consider whether the state's interests may be served in another manner and whether the sanctions imposed are narrowly tailored to the state's interest in ensuring fair judicial proceedings. See, e.g., *Gentile* v. *State Bar of Nevada*, supra, 501 U.S. 1076; *Landmark Communications, Inc.* v. *Virginia*, supra, 435 U.S. 843. The trial court penalized the defendants in a restrained manner in order to preserve the judicial process. In this case, the trial court might have issued a gag order, but such a measure could improperly penalize future speech in the form of a prior restraint. See, e.g., *Kemner* v. *Monsanto Co.*, 112 Ill. 2d 223, 249–50, 492 N.E.2d 1327 (1986) (noting that there are less restrictive means than a gag order "to preserve the integrity of the proceedings before it," such as contempt). Instead, the court appropriately dealt with two issues in a proportional sanction that was more measured than the individual punishments of civil or criminal contempt that have been upheld as a consequence for similar conduct. Indeed, the court refrained from imposing the more severe sanction requested by the plaintiffs, specifically, defaulting the defendant. The court selected a lower penalty, namely, the revocation of special statutory benefit, because the defendants abused the process set out in the statute through their discovery practices. Accordingly, we conclude that the trial court did not violate the first amendment when it imposed sanctions on the basis of Jones' broadcast, which presented an imminent and likely threat to the administration of justice.[29]

B

We next consider whether the trial court abused its discretion by sanctioning the defendants for their discovery abuses and Jones' broadcast. A trial court's power to sanction a litigant or counsel stems from two different sources of authority, its inherent powers and the rules of practice. *Millbrook Owners Assn., Inc.* v. *Hamilton Standard*, 257 Conn. 1, 9–10, 776 A.2d 1115 (2001) ("One source of the trial court's authority to impose sanctions is the court's inherent power. . . . In addition, our rules of practice, adopted by the judges of the Superior Court in the exercise of their inherent rule-making authority . . . also [provide] for specific instances in which a trial court may impose sanctions." (Citations omitted; footnote omitted.)); see *Chambers* v. *NASCO, Inc.*, supra, 501 U.S. 50–51 (discussing relationship between sanctions under Federal Rules of Civil Procedure and court's inherent power). As discussed previously, this inherent authority permits sanctions for "dilatory, bad faith and harassing litigation conduct . . . ." (Internal quotation marks omitted.) *CFM of Connecticut, Inc.* v. *Chowdhury*, supra, 239 Conn. 393.

Additionally, under Practice Book § 13-14, a court may sanction a party for noncompliance with the court's discovery orders. Among the permissible sanctions is foreclosing judgment on the merits for a party, such as by rendering a default judgment against a defendant or by dismissing a plaintiff's case. See Practice Book § 13-14 (b). The anti-SLAPP statute does not limit the court's authority to impose sanctions. See General Statutes § 52-196a (h) (2).

In reviewing the portion of the sanctions based on the violation of discovery orders, we consider three factors. "First, the order to be complied with must be reasonably clear. In this connection, however, we also state that even an order that does not meet this standard may form the basis of a sanction if the record establishes that, notwithstanding the lack of such clarity, the party sanctioned in fact understood the trial court's intended meaning. This requirement poses a legal question that we will review de novo. Second, the record must establish that the order was in fact violated. This requirement poses a question of fact that we will review using a clearly erroneous standard of review. Third, the sanction imposed must be proportional to the violation. This requirement poses a question of the discretion of the trial court that we will review for abuse of that discretion." *Millbrook Owners Assn., Inc.* v. *Hamilton Standard*, supra, 257 Conn. 17–18. "The determinative question for an appellate court is not whether it would have imposed a similar sanction but whether the trial court could reasonably conclude as it did given the facts presented. Never will the case on appeal look as it does to a [trial court] . . . faced with the need to impose reasonable bounds and order on discovery." (Internal quotation marks omitted.) *Usowski* v. *Jacobson*, 267 Conn. 73, 85, 836 A.2d 1167 (2003). "Trial court judges face great difficulties in controlling discovery procedures which all too often are abused by one side or the other and this court should support the trial judges' reasonable use of sanctions to control discovery." (Internal quotation marks omitted.) *Mulrooney* v. *Wambolt*, 215 Conn. 211, 223, 575 A.2d 996 (1990).

In its oral decision granting the motions for sanctions, the trial court observed that "the discovery in this case has been marked with obfuscation and delay on the part of the defendants . . . ." The court cited two specific examples of discovery noncompliance: (1) the defendants failed to produce adequate Google Analytics information with respect to marketing data and to conduct a complete search of Jones' cell phone, and (2) the defendants "disregarded" discovery deadlines on multiple occasions, "continue[d] to object to . . . discovery, and failed to produce that which is within their knowledge, possession, or power to obtain."

It is undisputed that the trial court's discovery orders were reasonably clear and that the defendants violated

four of them.[30] The defendants do not raise distinct arguments under the first two prongs of *Millbrook Owner's Assn., Inc.*, but, instead, largely challenge the "harshness" of the sanctions imposed. In considering whether the sanction revoking the defendants' opportunity to pursue the special motions to dismiss was proportional to the defendants' discovery violations, we are guided by "the factors we previously have employed when reviewing the reasonableness of a trial court's imposition of sanctions: (1) the cause of the [party's] failure to respond to the posed questions, that is, whether it is due to inability rather than the [wilfulness], bad faith or fault of the [party] . . . (2) the degree of prejudice suffered by the opposing party, which in turn may depend on the importance of the information requested to that party's case; and (3) which of the available sanctions would, under the particular circumstances, be an appropriate response to the disobedient party's conduct." (Internal quotation marks omitted.) *Yeager* v. *Alvarez*, 302 Conn. 772, 787, 31 A.3d 794 (2011). We also consider how Jones' broadcast impacted the trial court's decision sanctioning the defendants for bad faith litigation practices. See *MacCalla* v. *American Medical Response of Connecticut, Inc.*, 188 Conn. App. 228, 230, 239, 204 A.3d 753 (2019) (upholding sanction of dismissal on basis of plaintiffs' noncompliance with discovery orders and "the unprofessional and dilatory conduct of the plaintiffs' counsel," who called "a party's corporate representative [who was] attending a deposition a trespasser," and holding that this conduct "evinces a disregard for the provisions of the Practice Book and the authority of the court").

The plaintiffs argue that the sanctions are proportional because the defendants' violations were "deliberate," "wilful," and in "bad faith . . . ." The defendants counter that their actions were not taken in bad faith. "[I]n assessing proportionality, a trial court must consider the totality of the circumstances, including, most importantly, the nature of the conduct itself." *Ridgaway* v. *Mount Vernon Fire Ins. Co.*, 328 Conn. 60, 76, 176 A.3d 1167 (2018); see also *Millbrook Owners Assn., Inc.* v. *Hamilton Standard*, supra, 257 Conn. 16 ("dismissal of an action is not an abuse of discretion where a party shows a deliberate, contumacious or unwarranted disregard for the court's authority" (internal quotation marks omitted)). In the present case, the trial court did not expressly find that the defendants' discovery abuses were performed in bad faith but, in its oral decision, pointedly characterized their actions as being marked by a pattern of "obfuscation and delay . . . ." Additionally, the record supports the trial court's finding that the defendants repeatedly ignored court deadlines and continued to challenge the underlying merits of discovery, even after the court found the requisite good cause to allow discovery under § 52-196a (d).[31] See, e.g.,

National Hockey League v. *Metropolitan Hockey Club, Inc.*, 427 U.S. 639, 643, 96 S. Ct. 2778, 49 L. Ed. 2d 747 (1976) (upholding dismissal of action in light of "[the] respondents' 'flagrant bad faith' and their counsel's 'callous disregard' of their responsibilities" when respondents failed to answer written interrogatories by deadline). Accordingly, we conclude that the record supports the trial court's finding that the defendants wilfully disregarded the court's discovery orders.

This wilful disregard was exacerbated by Jones' conduct during the June 14, 2019 broadcast. The trial court found that Jones' actions were "indefensible, unconscionable, despicable, and possibly criminal," and that the "deliberate tirade and harassment and intimidation against Attorney Mattei and his firm [were] unacceptable and sanctionable." Because Jones' statements were one part of a whole picture of bad faith litigation misconduct, we conclude that the trial court's reliance on Jones' speech as part of the rationale for the sanctions orders was appropriate in this context.

With respect to the defendants' ability to comply with discovery, one mitigating factor that potentially could have explained the defendants' noncompliance with the discovery deadlines was their change in counsel midway through the discovery process. Although the parties disagree as to whether this change in counsel was a "strategic" tactic, the record indicates that, even under the defendants' original counsel, the documents were still far from ready for production.[32] Moreover, the record supports the trial court's determination that the change in counsel did not by itself affect the defendants' ability to produce the discovery on time.[33]

Turning to the prejudice factor, we consider the importance of the undisclosed discovery material, the effect the information would have on the party requesting it, and whether the information was available through other means. *Yeager* v. *Alvarez*, supra, 302 Conn. 787–88; see id., 789–90 (defendants were not prejudiced by noncompliance when materials that they sought had been indirectly included in plaintiffs' production). In the present case, the record supports the trial court's implicit finding that the defendants' noncompliance was prejudicial to the plaintiffs[34] because, each time the defendants did not comply with the court ordered discovery, the plaintiffs were unable to access information that could assist them in proving probable cause that they would succeed on the merits of their complaints. For example, access to the defendants' marketing data would be relevant to proving a financial connection between the defendants' actions and the statements made during the broadcast.[35] See *Krahel* v. *Czoch*, 186 Conn. App. 22, 35–36, 198 A.3d 103 (considering importance of unproduced discovery and its effect on plaintiff's case when analyzing prejudice), cert. denied, 330 Conn. 958, 198 A.3d 584 (2018).

Finally, we consider the proportionality of the specific sanction employed to the violations at issue. Here, the trial court was not just considering one violation of a court deadline but several, and, therefore, the defendants' noncompliance warranted an appropriate sanction by that court. See *Emerick* v. *Glastonbury*, 177 Conn. App. 701, 736–37, 173 A.3d 701 (2017) ("The plaintiff's conduct, considered in its entirety, satisfied this standard. . . . The court's repeated warnings, suggestions and fines had no impact on the plaintiff, as he ignored the court's admonitions and continued to delay the trial." (Citation omitted.)), cert. denied, 327 Conn. 994, 175 A.3d 1245 (2018). These violations, when considered together, reasonably could be found to make up a pattern of wilfulness on the part of the defendants. But cf. *D'Ascanio* v. *Toyota Industries Corp.*, 309 Conn. 663, 681, 72 A.3d 1019 (2013) (reversing sanction of dismissal because "the objectionable conduct at issue was an isolated event and was not one in a series of actions in disregard of the court's authority"); *Usowski* v. *Jacobson*, supra, 267 Conn. 93 (trial court abused its discretion in sanctioning party by dismissing action on ground that "the record does not establish that the failure to comply with the discovery orders constituted a continuing pattern of violations" because "other factors of a mitigating nature also were present"). The trial court considered this wilfulness along with the defendants' harassing and intimidating speech toward the plaintiffs' counsel, which together created a whole spectrum of bad faith litigation misconduct. "As is often the case in life . . . the whole of abusive action is greater than the sum of the parts of which it is made. Were we to view judicial abuses piecemeal, each one might not be worthy of sanctions, or even comment. But these incremental abuses chip away at the fair administration of justice . . . ." *Fuery* v. *Chicago*, 900 F.3d 450, 454 (7th Cir. 2018). "[I]t is the [trial] court [that] can evaluate the whole ball of wax and determine whether the small incremental blows to the integrity of the trial add up to something that requires sanctioning. Death by a thousand cuts is no less severe than death by a single powerful blow." Id., 464.

Although the sanctions imposed by the trial court are not the sanctions enumerated within the rules of practice, this does not mean they were disproportionate or impermissible as a matter of law. For example, in *Yeager* v. *Alvarez*, supra, 302 Conn. 772, we concluded that a trial court had the authority to "strike an otherwise valid offer of compromise" as a sanction for a discovery violation; id., 778; because it "falls well within the ambit of judicial power contemplated by both the court's inherent authority and the rules of practice. Significantly, [Practice Book § 13-14 (a)] authorizes a trial court to penalize discovery violations by entering orders 'as the ends of justice require.' In fact, § 13-14 (b) contains sanctions even more severe than those

imposed in this matter. These severe sanctions, which may strip a party of all prospect of prevailing, logically encompass a host of lesser penalties. Such milder sanctions may include orders that reduce a party's likelihood of success at trial . . . ." Id., 781.

The sanctions imposed by the trial court in the present case revoked a statutory benefit, namely, the opportunity to pursue the special motions to dismiss under § 52-196a (d), which further penalized the defendants by rescinding a stay of the full discovery process. Nonetheless, as the trial court found, this was a measured sanction for the defendants' noncompliance with limited discovery, which was an abuse of the very benefit they sought to utilize. Moreover, the sanctions imposed were well short of a default or dismissal, insofar as they do not preclude the defendants from having the merits of their cases adjudicated in a conventional manner, such as by summary judgment or trial. See *Millbrook Owners Assn., Inc.* v. *Hamilton Standard*, supra, 257 Conn. 16 ("the court's discretion should be exercised mindful of the 'policy preference to bring about a trial on the merits of a dispute whenever possible and to secure for the litigant his day in court' "); cf. *Emerick* v. *Glastonbury*, supra, 177 Conn. App. 737 (upholding sanction of dismissal when plaintiff engaged in "continuing and deliberate misconduct . . . [that] demonstrated . . . deliberate disregard for the court's orders").

In assessing the proportionality of the sanctions, we next turn to the defendants' central argument for excusing their noncompliance, namely, that the discovery in this case was overbroad and that the sanctions, therefore, were not appropriate. According to the defendants, "[w]hen discovery is allowed under § 52-196a, it is allowed as an exception to the statutory rule that discovery is to be stayed pending a decision on the special motion to dismiss, and—when allowed—it must be specific and limited. But, without any clarity from the court as to how the specific and limited discovery should proceed, the plaintiffs exploited the untended frontiers of the judge's order until the specific and limited discovery ordered by the court was indistinguishable from the broad contours of general discovery in all civil cases . . . ." (Emphasis omitted; footnote omitted.)

First, notwithstanding the merits of the defendants' breadth argument, the plaintiffs correctly point out that, despite the defendants' grievances with the scope of discovery, the defendants are still required to comply with the court's orders. "[A] party has a duty to obey a court order even if the order is later held to have been unwarranted." *Tomasso Bros., Inc.* v. *October Twenty-Four, Inc.*, 230 Conn. 641, 658 n.20, 646 A.2d 133 (1994); see also *Mulholland* v. *Mulholland*, 229 Conn. 643, 649, 643 A.2d 246 (1994). "An order of the court must be

obeyed until it has been modified or successfully challenged, and the consequences for noncompliance may be severe indeed." *Fox* v. *First Bank*, 198 Conn. 34, 40 n.3, 501 A.2d 747 (1985).

Second, nothing in the anti-SLAPP statute limits the trial court's discretion to order "specified and limited discovery relevant to the special motion to dismiss" beyond the "good cause" standard set forth in § 52-196a (d).[36] We will not fill this legislative silence by imposing broad restrictions on the trial court's discretion to determine good cause, insofar as each case will present different claims and defenses bearing on whether limited discovery should be granted. Cf. *Standard Tallow Corp.* v. *Jowdy*, 190 Conn. 48, 57, 459 A.2d 503 (1983) ("[t]he granting or denial of a discovery request rests in the sound discretion of the court"); *Coss* v. *Steward*, 126 Conn. App. 30, 46–47, 10 A.3d 539 (2011) (discussing good cause requirement for protective orders and trial court's discretion in granting them). We conclude, therefore, that the defendants' claims that discovery was improvidently granted under the anti-SLAPP statute does not excuse their failure to comply with the trial court's orders. Accordingly, the trial court did not abuse its discretion in sanctioning the defendants for discovery violations and Jones' June 14, 2019 broadcast.

II

The final issue in this appeal is whether the defendants were afforded adequate notice and a meaningful opportunity to respond before the trial court imposed sanctions. The defendants argue that the court ordered sanctions in an overly summary process because, on Monday, June 17, 2019, the plaintiffs filed their motion requesting court review of the broadcast, along with expedited briefing on "what orders must issue in connection with [Jones'] on-air statements," and indicated they would move for "specific relief on an expedited basis," and, the very next day, the court ruled on the merits of the plaintiffs' motion for sanctions without any briefing by the defendants. Additionally, the defendants argue that the court handed their attorney a copy of a recent judicial decision the court considered instructive; see *Maurice* v. *Chester Housing Associates Ltd. Partnership*, supra, 188 Conn. App. 21; and gave the defendants' counsel only the lunch hour to prepare for argument on whether the trial court should order sanctions. The plaintiffs counter that the defendants were afforded sufficient due process because the trial court repeatedly had warned them that it would revoke the opportunity to pursue the special motions to dismiss. They also point out that a June 17, 2019 court order notified counsel that they should be prepared to discuss the broadcast at the hearing scheduled for the following day. Finally, the plaintiffs argue that the defendants did not at any point indicate to the court

that they needed additional time to prepare. We agree with the plaintiffs and conclude that the trial court's sanctions did not violate the defendants' due process rights.

"At their core, the due process clauses of the state and federal constitutions require that one subject to a significant deprivation of liberty or property must be accorded adequate notice and a meaningful opportunity to be heard." *Council on Probate Judicial Conduct re James H. Kinsella*, 193 Conn. 180, 207, 476 A.2d 1041 (1984); see *CFM of Connecticut, Inc.* v. *Chowdhury*, supra, 239 Conn. 393 ("As a procedural matter, before imposing . . . sanctions, the court must afford the sanctioned party or attorney a proper hearing on the . . . motion for sanctions. . . . There must be fair notice and an opportunity for a hearing on the record." (Citation omitted; internal quotation marks omitted.)). "Whether the defendant was deprived of his due process rights is a question of law, to which we grant plenary review." (Internal quotation marks omitted.) *New Hartford* v. *Connecticut Resources Recovery Authority*, 291 Conn. 489, 500, 970 A.2d 570 (2009).

Having reviewed the record, we conclude that the defendants received adequate notice so as to be apprised of the possibility of sanctions entering as a result of their conduct.[37] Specifically, the plaintiffs filed a motion seeking sanctions several months earlier because of the defendants' discovery noncompliance. The trial court discussed the possibility of sanctioning the defendants on several occasions and had reissued this warning in its order on June 10, 2019, regarding the outstanding Google Analytics material. The day before the hearing, the plaintiffs indicated that they would seek interim relief, and the court issued an order stating that it would address the broadcast at the hearing. Because of the trial court's countless warnings that it would sanction the defendants in this specific manner, the defendants cannot reasonably contest that they were not adequately notified of the possibility of such sanctions. Cf. *Fattibene* v. *Kealey*, 18 Conn. App. 344, 350, 353–54, 558 A.2d 677 (1989) (reversing sanctions order when trial court ruled on motion for sanctions without first considering plaintiff's objection). In addition, the trial court held a hearing, at which it heard thorough argument on the issue, and at no point during the argument did the defendants request additional time.[38] This satisfies the due process requirement for a meaningful opportunity to be heard. See, e.g., *Thalheim* v. *Greenwich*, 256 Conn. 628, 650–51, 775 A.2d 947 (2001) (concluding that sanctioned attorney had been afforded "adequate notice and a meaningful opportunity to be heard" when trial court issued order requesting that he "show cause why [he] should not be sanctioned" and attorney received hearing (internal quotation marks omitted)).

The sanctions orders are affirmed.

In this opinion the other justices concurred.

* The listing of justices reflects their seniority status on this court as of the date of oral argument.

This case originally was scheduled to be argued before a panel of this court consisting of Chief Justice Robinson and Justices Palmer, McDonald, D'Auria, Mullins, Kahn and Ecker. Although Justice Palmer was not present when the case was argued before the court, he has read the briefs and appendices, and listened to a recording of the oral argument prior to participating in this decision.

** July 23, 2020, the date that this decision was released as a slip opinion, is the operative date for all substantive and procedural purposes.

[1] The plaintiffs are Erica Lafferty, David Wheeler, Francine Wheeler, Jacqueline Barden, Mark Barden, Nicole Hockley, Ian Hockley, Jennifer Hensel, Jeremy Richman, Donna Soto, Carlee Soto-Parisi, Carlos M. Soto, Jillian Soto, and William Aldenberg.

[2] The defendants participating in this appeal are Jones and several of his affiliated corporate entities, namely, Infowars, LLC, Free Speech Systems, LLC, Infowars Health, LLC, and Prison Planet TV, LLC. We refer to these parties collectively as the defendants and, when necessary, individually by name.

The additional defendants named in the complaint, Wolfgang Halbig, Cory T. Sklanka, Genesis Communications Network, Inc., and Midas Resources, Inc., are not parties to this appeal.

[3] The defendants appeal pursuant to the Chief Justice's grant of their petition to file an expedited public interest appeal pursuant to General Statutes § 52-265a. A sanctions order for discovery violations generally is considered interlocutory and is not appealable until a party is held in contempt for noncompliance. *Incardona* v. *Roer*, 309 Conn. 754, 760, 73 A.3d 686 (2013). We have appellate jurisdiction, however, because it is well established that "appeals from interlocutory orders may be taken pursuant to § 52-265a." *Foley* v. *State Elections Enforcement Commission*, 297 Conn. 764, 767 n.2, 2 A.3d 823 (2010).

[4] SLAPP is an acronym for "strategic lawsuit against public participation," the "distinctive elements of [which] are (1) a civil complaint (2) filed against a nongovernment individual (3) because of their communications to government bodies (4) that involves a substantive issue of some public concern. . . . The purpose of a SLAPP suit is to punish and intimidate citizens who petition state agencies and have the ultimate effect of chilling any such action." (Citation omitted; internal quotation marks omitted.) *Field* v. *Kearns*, 43 Conn. App. 265, 275–76, 682 A.2d 148, cert. denied, 239 Conn. 942, 684 A.2d 711 (1996).

[5] General Statutes § 52-196a provides in relevant part: "(b) In any civil action in which a party files a complaint, counterclaim or cross claim against an opposing party that is based on the opposing party's exercise of its right of free speech, right to petition the government, or right of association under the Constitution of the United States or the Constitution of the state in connection with a matter of public concern, such opposing party may file a special motion to dismiss the complaint, counterclaim or cross claim.

"(c) Any party filing a special motion to dismiss shall file such motion not later than thirty days after the date of return of the complaint, or the filing of a counterclaim or cross claim described in subsection (b) of this section. The court, upon a showing of good cause by a party seeking to file a special motion to dismiss, may extend the time to file a special motion to dismiss.

"(d) The court shall stay all discovery upon the filing of a special motion to dismiss. The stay of discovery shall remain in effect until the court grants or denies the special motion to dismiss and any interlocutory appeal thereof. Notwithstanding the entry of an order to stay discovery, the court, upon motion of a party and a showing of good cause, or upon its own motion, may order specified and limited discovery relevant to the special motion to dismiss.

"(e) (1) The court shall conduct an expedited hearing on a special motion to dismiss. . . . (2) When ruling on a special motion to dismiss, the court shall consider pleadings and supporting and opposing affidavits of the parties attesting to the facts upon which liability or a defense, as the case may be, is based. (3) The court shall grant a special motion to dismiss if the moving party makes an initial showing, by a preponderance of the evidence, that the opposing party's complaint, counterclaim or cross claim is based on the

moving party's exercise of its right of free speech, right to petition the government, or right of association under the Constitution of the United States or the Constitution of the state in connection with a matter of public concern, unless the party that brought the complaint, counterclaim or cross claim sets forth with particularity the circumstances giving rise to the complaint, counterclaim or cross claim and demonstrates to the court that there is probable cause, considering all valid defenses, that the party will prevail on the merits of the complaint, counterclaim or cross claim. (4) The court shall rule on a special motion to dismiss as soon as practicable.

"(f) (1) If the court grants a special motion to dismiss under this section, the court shall award the moving party costs and reasonable attorney's fees, including such costs and fees incurred in connection with the filing of the special motion to dismiss. (2) If the court denies a special motion to dismiss under this section and finds that such special motion to dismiss is frivolous and solely intended to cause unnecessary delay, the court shall award costs and reasonable attorney's fees to the party opposing such special motion to dismiss.

"(g) The findings or determinations made pursuant to subsections (e) and (f) of this section shall not be admitted into evidence at any later stage of the proceeding or in any subsequent action. . . ."

[6] Similar interrogatories and requests for production, with small variations in number and language, were made to Cory T. Sklanka, Wolfgang Halbig, Free Speech Systems, LLC, Infowars Health, LLC, Infowars, LLC, Prison Planet TV, LLC, Midas Resources, Inc., and Genesis Communications Network, Inc. In addition, the plaintiffs noticed the individual depositions of Jones, Sklanka, Halbig, Kurt Nimmo, the former editor of Infowars, LLC, and Steve Pieczenik, a guest on Jones' radio show who had expressed that the Sandy Hook shooting was a hoax, as well as the corporate designees of Free Speech Systems, LLC, Genesis Communications Network, Inc., Infowars Health, LLC, Infowars, LLC, Midas Resources, Inc., and Prison Planet TV, LLC.

[7] The defendants filed motions for an extension of time on February 22, 2019, the day before production was due. It does not appear that the trial court decided those motions.

[8] Practice Book § 13-14 provides in relevant part: "(a) If any party has failed to answer interrogatories or to answer them fairly, or has intentionally answered them falsely or in a manner calculated to mislead, or has failed to respond to requests for production or for disclosure of the existence and contents of an insurance policy or the limits thereof, or has failed to submit to a physical or mental examination, or has failed to comply with a discovery order made pursuant to Section 13-13, or has failed to comply with the provisions of Section 13-15, or has failed to appear and testify at a deposition duly noticed pursuant to this chapter, or has failed otherwise substantially to comply with any other discovery order made pursuant to Sections 13-6 through 13-11, the judicial authority may, on motion, make such order as the ends of justice require.

"(b) Such orders may include the following: (1) The entry of a nonsuit or default against the party failing to comply . . . [and] (5) If the party failing to comply is the plaintiff, the entry of a judgment of dismissal. . . ."

[9] The defendants and the plaintiffs both included transcripts of the June 14, 2019 broadcast in their appendices filed with this court. Their transcripts do not differ materially with respect to the language quoted in this opinion except for one phrase. The defendants' transcript uses the phrase "white shoe boy," whereas the plaintiffs' transcript uses the phrase "white Jew boy . . . ." The trial court, in its oral decision ordering sanctions, relied on the plaintiffs' transcript containing the phrase "white Jew boy . . . ." The defendants subsequently filed a motion to correct the transcript, which the trial court did not decide.

In their appellate briefs, the defendants noted the inconsistencies between the two transcripts and that the trial court had not ruled on their motion to correct, but they do not specifically challenge the accuracy of this phrase on appeal. As the trial court did not decide the motion to correct, we omit the words "Jew" and "shoe" in the quoted transcript.

The transcripts of the broadcast each exceed thirty pages, so we have not reproduced them in their entirety. We include only those portions relied on by the trial court, supplemented when necessary for context. Specifically, we have omitted those portions in which Jones discusses the case's background and the details of the child pornography incident, Jones' introduction of Pattis, Jones' critique of the plaintiffs' case and the Google Analytics reports, discussion of the first amendment ramifications of questioning the

veracity of the Sandy Hook shooting, most of Pattis' statements, and other duplicative or irrelevant portions of the broadcast.

[10] The defendants' transcript provides: "Look. You're showing Chris Mattei's photograph on the air."

[11] The defendants' transcript provides: "No, I'm sure—you don't think errand boy did this. I'm actually not saying that."

[12] The trial court also indicated that it would award attorney's fees related to the child pornography issue at a later date, "upon further hearing and the filing of affidavits . . . ."

[13] The trial court also stated: "Now, the transcript doesn't reflect this, but, when I listened to the broadcast, I heard, I'm going to kill. Now, that's not in the transcript, but that is my read and understanding, and what I heard [o]n the broadcast." Because the word "kill" is not mentioned in the transcripts, we do not consider it in our analysis of the trial court's sanctions orders.

[14] The defendants incorrectly state that the sanctioned party in *Maurice* v. *Chester Housing Associates Ltd. Partnership*, supra, 188 Conn. App. 21, did not challenge the sanction on first amendment grounds. Instead, the Appellate Court declined to reach the issue, deeming the courthouse a nonpublic forum. Id., 33 n.11.

[15] These first amendment implications, however, often are not raised or deeply considered. For example, in *Carroll* v. *Jaques Admiralty Law Firm, P.C.*, supra, 110 F.3d 294, the court succinctly concluded, without substantive discussion, that the sanction imposed did not violate the affected party's first amendment rights. But see *In re White*, Docket No. 2:07CV342, 2013 WL 5295652, *38 (E.D. Va. September 13, 2013) ("[w]here government action, such as an award of sanctions, is directed toward presumptively protected expression, our system of justice places 'the duty . . . on this [c]ourt to say where the individual's freedom ends and the [s]tate's power begins' ").

[16] Contempt cases are instructive because the power to sanction and the power to hold an individual in contempt both stem from the court's inherent authority. See, e.g., *Jaconski* v. *AMF, Inc.*, 208 Conn. 230, 232–33, 543 A.2d 728 (1988); 17 Am. Jur. 2d 399, Contempt § 1 (2004).

[17] The importance of the legality of the action at issue is demonstrated by the fact that the United States Supreme Court mentioned it twice. See *Bridges* v. *California*, supra, 314 U.S. 277 ("[o]n no construction, therefore, can the telegram be taken as a threat either by [the defendant] or the union to follow an illegal course of action"); id., 278 ("[l]et us assume that the telegram could be construed as an announcement of [the defendant's] intention to call a strike, something which, it is admitted, neither the general law of California nor the court's decree prohibited").

[18] Actual interference might be construed as an additional factor under the clear and present danger test. See *Wood* v. *Georgia*, supra, 370 U.S. 399 (Harlan, J., dissenting). Read in context, however, *Wood* suggests that the court's search for actual interference likely stems from the facts of *Wood* rather than a substantive alteration to the *Bridges* standard, as the court stated: "[I]n the absence of any showing of an actual interference with the undertakings of the grand jury, *this record lacks persuasion in illustrating the serious degree of harm to the administration of law* . . . ." (Emphasis added.) Id., 393. Indeed, the court specifically observed that the harm that speech could cause to a grand jury investigation is different from that of a trial. See id., 390 ("the limitations on free speech assume a different proportion when expression is directed toward a trial as compared to a grand jury investigation"). Also, earlier cases construing this test required an analysis of imminence and likelihood, which is inconsistent with an actual interference requirement. See *Craig* v. *Harney*, supra, 331 U.S. 373, 376; *Pennekamp* v. *Florida*, 328 U.S. 331, 334, 350, 66 S. Ct. 1029, 90 L. Ed. 1295 (1946); *Bridges* v. *California*, supra, 314 U.S. 263. As a result, we interpret *Wood* in harmony with those cases that came before it and conclude that a showing of actual interference is but one factor in the clear and present danger analysis.

[19] The District Court also analyzed whether sanctions should enter under a strict scrutiny analysis. *In re White*, supra, 2013 WL 5295652, *71.

[20] Additionally, courts have applied *Bridges* to extrajudicial speech restrictions beyond contempt. For example, it was discussed recently by the Colorado Supreme Court in examining a jury tampering conviction. See *People* v. *Iannicelli*, 449 P.3d 387, 392–93 (Colo. 2019). Although the case ultimately was decided on grounds of statutory construction; see id., 394–97; the court recognized that "[s]peech concerning judicial proceedings is not without limits . . . because like free speech, a fair trial is one 'of the most cherished policies of our civilization' and must also be protected." Id., 392; see id.,

396 n.3 ("[W]e acknowledge that defining the precise scope of [Colorado's jury tampering statute] presents complex questions as to both [f]irst [a]mendment rights and the [s]tate's interest in ensuring the fair and orderly administration of justice. The facts of this case, however, do not require us to attempt to craft an all-encompassing rule applicable in every factual scenario. Accordingly, we leave that difficult task for another day."); see also *United States* v. *Heicklen*, 858 F. Supp. 2d 256, 274 (S.D.N.Y. 2012) ("[t]he relevant cases establish that the [f]irst [a]mendment squarely protects speech concerning judicial proceedings and public debate regarding the functioning of the judicial system, so long as that speech does not interfere with the fair and impartial administration of justice").

[21] In their argument before the trial court, the defendants contended that the broadcast "did not disrupt the administration of justice."

[22] "Men are entitled to speak as they please on matters vital to them; errors in judgment or unsubstantiated opinions may be exposed, of course, but not through punishment for contempt for the expression. Under our system of government, counterargument and education are the weapons available to expose these matters, not abridgment of the rights of free speech and assembly." *Wood* v. *Georgia*, supra, 370 U.S. 389.

[23] The defendants disagree and cite to *In re Sawyer*, 360 U.S. 622, 636, 79 S. Ct. 1376, 3 L. Ed. 2d 1473 (1959), for the proposition that the parties' speech cannot be "more censurable" than that of nonparties during the pendency of a court case. We disagree. *In re Sawyer* concerns an attorney, not a party, and supports the opposite view when quoted in context: "We can conceive no ground whereby the pendency of litigation might be thought to make an attorney's out-of-court remarks more censurable, *other than that they might tend to obstruct the administration of justice. Remarks made during the course of a trial might tend to such obstruction where remarks made afterwards would not.* But this distinction is foreign to this case, because the charges and findings in no way turn on an allegation of obstruction of justice, or of an attempt to obstruct justice, in a pending case." (Emphasis added.) Id.

[24] It is important to note that, although Jones is a defendant and therefore has not been willingly brought into the litigation, that status does not diminish the need for a fair trial, does not grant him license to harass and intimidate opposing counsel, and does not lessen the potential impact of his statements on the trial. However, not all speech by Jones regarding the case is sanctionable—only harassing and threatening speech that presents a likely and imminent threat to the administration of justice. See, e.g., M. Swartz, Note, "Trial Participant Speech Restrictions: Gagging First Amendment Rights," 90 Colum. L. Rev. 1411, 1421–22 (1990) (noting special concerns for criminal and civil defendants). This fact, along with the nature of civil proceedings as a whole, supports our use of the most stringent standard to analyze Jones' speech. See *Chicago Council of Lawyers* v. *Bauer*, supra, 522 F.2d 257–58 (noting how fair trial concerns are lessened in civil litigation).

[25] It is important to note that a judge may still sanction for threatening or intimidating speech in the absence of actual interference with the administration of justice, yet we consider these direct threats as aggravating circumstances in this particular case.

[26] It is unclear whether these threats against the trial judge stemmed from the original broadcast or a subsequent broadcast by Jones discussing the sanctions orders.

[27] The trial court specifically considered this when it questioned defense counsel about how Jones' speech affects the "integrity of the process here and the functioning of the court and the judicial process . . . ."

[28] In fact, the defendants implicitly recognized this interference, as they argued to the trial court that Attorney Mattei should not participate in the case if he feels threatened, stating: "[I]f you've got a former federal prosecutor in here who's saying, as a result of this, he can't do his job, then maybe you should get him off the case because he's not prepared to serve his clients." The defendants renewed this argument in their brief to this court, arguing: "If [Mattei] feels sufficiently chilled or impaired, he can, of course, seek to withdraw as counsel."

The defendants also argue that Jones, in a subsequent broadcast, "made clear he did not intend to threaten [Mattei]." The trial court interpreted this later broadcast as a classic nonapology, stating: "[W]hen I watched the broadcast several times, I wasn't able to see an apology in there. . . . It doesn't sound like an apology."

[29] The plaintiffs also argue that Jones' speech qualifies as a true threat unprotected by the first amendment. The defendants disagree with this

assertion, arguing that the broadcast "was not unequivocal, unconditional, immediate and specific [so] as to convey a gravity of purpose and imminent prospect of execution." Additionally, the defendants argue that the trial court did not allow Jones the opportunity to present evidence to counter a true threat finding, distinguishing this case from *Haughwout* v. *Tordenti*, 332 Conn. 559, 211 A.3d 1 (2019). We initially note that, as the case currently stands, the record is not adequately developed to determine whether Jones' statements qualify as a true threat. But cf. id., 562 n.4 (trial court's decision was supported by facts from disciplinary proceeding and plaintiff's testimony). Because we have determined that Jones' speech constituted an imminent and likely threat to the administration of justice, we need not reach the issue of whether Jones' speech also qualifies under a different category of unprotected speech as a matter of law.

[30] The defendants purport to dispute these issues in their brief by stating, in a heading, that "[t]he court sanctioned [them] for violating the discovery process . . . despite the lack of sufficiently clear orders or actual violations." Despite mentioning this in the heading, there is no clear argument in the brief to support this argument. Instead, the defendants' discovery argument basically contests the merits and breadth of the discovery permitted by the trial court. As a result, we construe the first two prongs of *Millbrook Owners' Assn., Inc.* v. *Hamilton Standard*, supra, 257 Conn. 17–18, as undisputed. "We repeatedly have stated that [w]e are not required to review issues that have been improperly presented to this court through an inadequate brief. . . . Analysis, rather than mere abstract assertion, is required in order to avoid abandoning an issue by failure to brief the issue properly. . . . [F]or this court judiciously and efficiently to consider claims of error raised on appeal . . . the parties must clearly and fully set forth their arguments in their briefs. . . . The parties may not merely cite a legal principle without analyzing the relationship between the facts of the case and the law cited." (Citation omitted; internal quotation marks omitted.) *State* v. *Buhl*, 321 Conn. 688, 724, 138 A.3d 868 (2016).

[31] For example, even after the trial court ordered the defendants to produce the Google Analytics materials on June 10, 2019, the defendants continued to contest whether they should be ordered to produce the data.

[32] At a March 22, 2019 hearing, Attorney Pattis stated: "I was given those documents on or about March 6. I was also given some interrogatory responses on March 6. Those interrogatory responses were not satisfactory to my way of thinking."

[33] At the March 22, 2019 hearing, the court explained: "I think part of the problem is that your clients are maybe tying their own lawyers' hands by getting other lawyers involved so that nobody knows what anyone else is doing. That would be the most favorable light. . . . The least favorable light would be manipulation."

[34] At an April 3, 2019 hearing, the plaintiffs' counsel cited "delay after delay after delay by a party [who] . . . invoked the statute but [who] wasn't prepared to comply with its provisions, [which] is prejudicing my clients."

[35] The plaintiffs' counsel argued that the Google Analytics would show "[s]ales, pricing, web traffic, that is, hits on the website and hits on the Infowars store website." He further argued that "Infowars [LLC] and Free Speech Systems [LLC] [generate] millions and millions and millions of dollars of revenue each year. The content that they broadcast, including the content about Sandy Hook, they use to drive traffic to their website. That's why we're entitled to this stuff."

[36] Although the legislative history of the anti-SLAPP statute does not further illuminate the meaning of the phrase "good cause," as used in § 52-196a (d), we find the purpose of the statute instructive. Speaking in support of the bill later enacted as § 52-196a, then Representative William Tong explained that it was intended to address "situations in which people have spoken out on matters of public concern including the press and we've seen situations where people file litigation. There appears to be no basis to that litigation but it's designed to chill free speech and the expression of constitutional rights, and so this provides for a special motion to dismiss so that early in the process somebody who's speaking and exercised their constitutional rights can try to dismiss a frivolous or abusive claim that has no merit and short circuit a litigation where it might otherwise cost a great deal of money to continue to prosecute. We think it's an important measure . . . to promote free speech and reporting by our news organizations as well." 60 H.R. Proc., Pt. 16, 2017 Sess., pp. 6879–80; see also footnote 4 of this opinion.

[37] The defendants rely on *New Hartford* v. *Connecticut Resources Recovery*

Authority, supra, 291 Conn. 489, to support their claim of a due process violation. In that case, we held that the defendants were not afforded sufficient due process after a trial court found them in contempt. Id., 491. The present case, however, is distinguishable because, in *New Hartford*, the defendants indicated at the hearing that they were unprepared to address the violation of the gag order. Id., 494–95. In addition, "[t]he defendant was given less than one day to consider a motion for contempt," and "[t]he defendant's attorney stated that he had not read the full text of the posting, that he had not been able to speak to the persons responsible for the website posting or anyone else and that he would like to speak to them about why they had posted the article." Id., 501. In contrast, unlike the attorney in *New Hartford*, Attorney Pattis was present on the broadcast, witnessed Jones' allegedly sanctionable conduct, and made representations to the court on the basis of his observations during the broadcast. Additionally, although the plaintiffs had filed motions requesting a review of the broadcast the day before the hearing, the plaintiffs had pending motions for sanctions left unanswered for several months. Also, the defendants were well aware of the court's warnings that it might sanction them if discovery noncompliance continued. As a result, we are not persuaded that *New Hartford* controls the present case.

[38] The defendants did file a motion for a stay the day before the hearing so that Attorney Pattis could address a conflict of interest concern that had arisen. The trial court denied this motion. The defendants do not challenge this ruling on appeal.

APPENDIX B

Order of the Connecticut Supreme Court Denying Reconsideration, *Lafferty v. Jones*, SC20327 (September 15, 2020).

SUPREME COURT

STATE OF CONNECTICUT

SC 20327

ERICA LAFFERTY ET AL.

v.

ALEX EMRIC JONES ET AL.

SEPTEMBER 15, 2020

O R D E R

THE MOTION OF THE DEFENDANTS-APPELLANTS, FILED AUGUST 12, 2020, FOR RECONSIDERATION, HAVING BEEN PRESENTED TO THE COURT, IT IS HEREBY **O R D E R E D** DENIED.

BY THE COURT,

/S/
L. JEANNE DULLEA
ASSISTANT CLERK-APPELLATE

NOTICE SENT: SEPTEMBER 16, 2020
COUNSEL OF RECORD
HON. BARBARA N. BELLIS
CLERK, SUPERIOR COURT UWY-CV18-6046436-S

200054

APPENDIX C

Order of the Connecticut Supreme Court Denying Motion To Stay Pending A Petition For A Writ of Certiorari, *Lafferty v. Jones*, SC20327 (September 15, 2020).

SUPREME COURT

STATE OF CONNECTICUT

SC 20327

ERICA LAFFERTY ET AL.

v.

ALEX EMRIC JONES ET AL.

SEPTEMBER 15, 2020

O R D E R

THE MOTION OF THE DEFENDANTS-APPELLANTS, FILED JULY 28, 2020, FOR STAY PENDING DECISION BY UNITED STATES SUPREME COURT, HAVING BEEN PRESENTED TO THE COURT, IT IS HEREBY **O R D E R E D** DENIED.

BY THE COURT,

/S/
L. JEANNE DULLEA
ASSISTANT CLERK-APPELLATE

NOTICE SENT: SEPTEMBER 16, 2020
COUNSEL OF RECORD
HON. BARBARA N. BELLIS
CLERK, SUPERIOR COURT UWY-CV18-6046436-S

200036

APPENDIX D

Order of the Connecticut Supreme Court Denying Supplemental Motion To Stay Pending A Petition For A Writ of Certiorari, *Lafferty v. Jones*, SC20327 (September 15, 2020).

SUPREME COURT

STATE OF CONNECTICUT

SC 20327

ERICA LAFFERTY ET AL.

v.

ALEX EMRIC JONES ET AL.

SEPTEMBER 15, 2020

O R D E R

THE MOTION OF THE DEFENDANTS-APPELLANTS, FILED AUGUST 10, 2020, FOR SUPPLEMENTAL MOTION FOR STAY PENDING DECISION BY UNITED STATES SUPREME COURT, HAVING BEEN PRESENTED TO THE COURT, IT IS HEREBY **O R D E R E D** DENIED.

BY THE COURT,

/S/
L. JEANNE DULLEA
ASSISTANT CLERK-APPELLATE

NOTICE SENT: SEPTEMBER 16, 2020
COUNSEL OF RECORD
HON. BARBARA N. BELLIS
CLERK, SUPERIOR COURT UWY-CV18-6046436-S

200049

APPENDIX E

Transcript Containing the Decision of the Connecticut Superior Court To Impose Sanctions, *Lafferty v. Jones*, Dkt. No. UWY-CV-18-6046437-S; UWY-CV-18-6046438-S; UWY-CV-18-6046436-S (June 18, 2020).

NO: UWY-CV18-6046437 S	:	SUPERIOR COURT
SHERLACH, WILLIAM	:	JUDICIAL DISTRICT OF FAIRFIELD
v.	:	AT BRIDGEPORT, CONNECTICUT
JONES, ALEX, ET AL.	:	JUNE 18, 2019
NO: UWY-CV18-6046438 S	:	SUPERIOR COURT
LAFFERTY, ERICA, ET AL.	:	JUDICIAL DISTRICT OF FAIRFIELD
v.	:	AT BRIDGEPORT, CONNECTICUT
JONES, ALEX EMRIC, ET AL.	:	JUNE 18, 2019
NO: UWY-CV18-6046436 S	:	SUPERIOR COURT
SHERLACH, WILLIAM, ET AL.	:	JUDICIAL DISTRICT OF FAIRFIELD
v.	:	AT BRIDGEPORT, CONNECTICUT
JONES, ALEX EMRIC, ET AL.	:	JUNE 18, 2019

BEFORE THE HONORABLE BARBARA N. BELLIS, JUDGE

A P P E A R A N C E S :

Representing the Plaintiffs:
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ATTORNEY WILLIAM BLOSS
ATTORNEY JOSHUA KOSKOFF
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Recorded By:
Colleen Birney
Transcribed By:
Colleen Birney
Court Recording Monitor
1061 Main Street
Bridgeport, CT 06604

THE COURT: We're here on Lafferty v Jones. It's a Waterbury case, UWY-CV18-6046436, and the related matters. If Counsel could identify themselves for the record, please?

ATTY. MATTEI: Good afternoon, Your Honor; Chris Mattei, Bill Bloss, Josh Koskoff, and Matt Blumenthal on behalf of the plaintiffs.

ATTY. REILAND: Good afternoon, Your Honor; Attorney Zachary Reiland on behalf of the Jones defendants.

ATTY. BROWN: Good afternoon, Your Honor; Stephen Brown on behalf of the Midas defendant.

ATTY. JAKIELA: Good afternoon, Your Honor; Kristan Jakiela on behalf of Cory Sklanka.

THE COURT: All right. Just give me one moment, please.

So Attorney Pattis did stop by this morning on scheduling. We had no other discussions besides scheduling. He indicated he was before Judge Gould, but that, Counsel, you would be here in his stead and that he did not need to be here or wish necessarily to be here.

ATTY. REILAND: That's correct, Your Honor. Thank you.

THE COURT: Okay. Just wanted to clarify that.

All right. So I did -- I'll take up the matters that I've adjudicated and then we'll see where we go

from there.

So I did deny the motion for stay that the defendant filed. And I assume if at some point there's a motion to withdraw, that would be adjudicated in due course.

The motion for clarification that the defendant -- the Jones defendant filed -- let me just find the date on that. Counsel, do you know the date that was filed, the motion -- defendant -- the Jones defendant motion for clarification?

ATTY. REILAND: What date it was filed? It was filed on June 11th.

THE COURT: Thank you.

ATTY. REILAND: I believe.

ATTY. MATTEI: Your Honor, it's dated June 12th.

THE COURT: Perfect. Thank you. Yeah, I see it. It's filed under request. All right. That is denied as well. And I would simply say that the defendant should be guided by the language in the actual requests for interrogatory and production.

So I've read all the filings to date and I -- including the recent ones. And I don't -- I don't really care which way we proceed, what you want to take up first. I don't know if you've had any discussions, but I'm prepared to deal with them all today and rule on anything that's outstanding today.

I did want to ask first, though, with regard to

discovery if there has been additional discovery since we last met in person.

ATTY. REILAND: Your Honor, we haven't tendered anything to the plaintiffs. However, last night I did get some Google Analytics documents from Austin from Free Speech Systems. I have not had a chance to catalogue those and turn them over. That probably will be coming --

THE COURT: So the answer would be since we last met, there's not been any further production --

ATTY. REILAND: That's correct.

THE COURT: -- by the Alex Jones defendants, for --

ATTY. REILAND: It is.

THE COURT: -- example, the -- the cellphone information.

ATTY. REILAND: The cellphone has not been produced. No, Your Honor.

THE COURT: Okay. All right. Because I just would note that the deadline for producing at least the data from the Google Analytics I believe was Monday. So that deadline already passed. But --

ATTY. REILAND: I understand that, Your Honor.

THE COURT: -- in any event, did you have any discussions on how you want to proceed, which motion first?

ATTY. REILAND: We did not.

THE COURT: Okay. Because I think I'm prepared to rule on the discovery motions without argument in light of the fact that nothing's changed since you were last here. So I suppose then you want to take up your emergency motion?

ATTY. MATTEI: Your Honor, the -- the only other issue, unless you're prepared to rule on this as well, is any sanctions that may apply as a result of the noncompliance. If you already decided what you're going to do there, then we don't need to offer anything.

THE COURT: I'm going to rule on -- from the bench on all the motions at the end of all of them. So the one that I was -- the only -- you're really not entitled to argument on any of these, but I was going to afford you argument if you wished on the emergency motion that you filed.

ATTY. MATTEI: With respect to the discovery motions, Your Honor, in the Court's order I believe of June 10th --

THE COURT: Well, I'm not -- on the discovery motions, I'm good. I think I was more directed to your motion regarding the broadcast.

ATTY. MATTEI: Yes. And Attorney Bloss will be handling any issues relating to the broadcast.

THE COURT: All right. So the discovery I don't need any further argument on that. I did just want

to say one thing to both sides. So both of -- both sides filed a motion and objection with hyperlinks, I suppose, to Infowars shows that I didn't want to -- I don't think I could even access them from the court computer and I sure didn't want to try. So I was able to do it from home last night. But I don't know if those hyperlinks change and the materials change. But in any event, just for a good appellate record, I'm ordering both sides to retain copies of the actual broadcast or whatever you want to call it, the videos, make a copy, and retain it because I just want to make sure the hyperlink -- you know, it isn't taken down or destroyed or whatever. Just so we have a good appellate record, okay?

ATTY. MATTEI: And for the record, Your Honor, the plaintiffs have already downloaded and preserved both the June 14th and June 15th broadcasts.

THE COURT: That's what I was looking for. And Counsel, you might want to do the same thing --

ATTY. REILAND: Understand.

THE COURT: -- so that we don't have any issues.

ATTY. REILAND: We have. Thank you, Your Honor.

THE COURT: Okay. So Attorney Bloss will argue. Whenever you're ready.

ATTY. BLOSS: Yes, Your Honor. And I think to the latter point, we also have caused to be prepared a paper transcript of both of the shows, the relevant

sections, what we believe are the relevant sections of the shows. If you would like to have that marked for the record?

THE COURT: Well, I don't have a Clerk. Is that something that you can give me and then just have your office e-file?

ATTY. BLOSS: Yes, of course.

THE COURT: Okay.

ATTY. BLOSS: Sure.

THE COURT: And have you given a copy to Defense Counsel?

ATTY. BLOSS: I have extra copies, yes.

THE COURT: So this is just a transcript that your office prepared?

ATTY. BLOSS: Well, no, a Court -- a Court Reporter.

THE COURT: Court Reporter.

ATTY. BLOSS: Not our office.

THE COURT: Okay.

ATTY. BLOSS: And to be fair, Your Honor, I have not compared this to the original. I will do that as soon as I can. But we did -- this was able to be done late yesterday.

THE COURT: All right. Just as long as you have copies for each of the defendants and you give me a bench copy and then you just have your office, if you don't mind, e-file the copy since --

ATTY. BLOSS: May I approach?

THE COURT: You can pass by my imaginary Clerk and hand it to me. Thank you.

ATTY. BLOSS: So Your Honor, I think it would be helpful on this particular issue to start with a timeline because there seems to be -- just I think we need to be clear about what happened and what didn't happen.

On May 21st of this year, the Jones defendants did produce to our office a series of emails electronically, approximately 58,000 in number. They were in different groups. They were not catalogued in any particular way, but they were produced in the native form, if you will. I know that there were some discussions about making sure that these were not just in PDF but were actually in an electronic form so they could be sorted and reviewed expeditiously.

We retained, Your Honor, an electronic storage information expert, a consulting company, to help us catalogue and go through those materials. We did not immediately review them ourselves. We had our consultants starting to catalogue them and search them. On June 4th, Your Honor, we were informed by our consultants that there was a -- an image that the consultants believed was child pornography attached to one of the emails that the Jones defendants

produced. We obviously did not have custody of it at that time; the consultants did. We did what we were supposed to do under the law and we contacted the FBI.

The FBI immediately took within a few days, by June 7th, took control of all of the emails. We have not had access to them since then. And the FBI said that it would proceed accordingly. We did provide a hard drive; the FBI took custody of a hard drive with all the materials on June 7th.

On June 12th, we received word from the FBI that -- that they were not going to -- that they had determined, at least as to what we were being told, that there were approximately 12 emails that had images attached to them in one form or another, but that they had been sent from the outside to the -- one or more of the Jones defendants or related entities, and that as best the FBI could determine, they had not been opened by any of the Jones employees or defendants.

We then did what we were supposed to do and what we were allowed to do and we notified Defense Counsel, counsel for Mr. Jones, that -- what had happened. And I think it's important to note, Your Honor, that up until -- well, let me say one other event. On June 12th, there was a joint conference call between Defense Counsel, our office, and the

United States Attorney's Office just summarizing really what I've just summarized for you.

I think it's important to note, Your Honor, that our office did not make any public statement, private statement, on-the-record, off-the-record statement to anybody about the existence of these emails up until the time -- up until ever, frankly, until we made this filing yesterday. The --

THE COURT: Can you just give me one moment? Thank you. Go ahead.

ATTY. BLOSS: On -- and we thought and still firmly believe that we did what, first of all, federal law requires us to do under the circumstances, but second, what the rules of professional conduct require us to do.

We then were -- we then learned, Your Honor, on Friday, June 14th, that Mr. Jones and Mr. Pattis had done a web show making certain allegations against our office and against specifically one of the attorneys in our office, Mr. Mattei. And Your Honor has seen the video. I'm not going to argue the substance of the video here today. There was then a subsequent show on June 15th where there were other -- there was other discussion, if you will, of the -- of the emails.

THE COURT: So the first show was the 14th?

ATTY. BLOSS: Correct.

THE COURT: And the second show was the 15th.

ATTY. BLOSS: Correct. And I've actually been informed that Mr. Pattis was on the show again last night or yesterday at some point. I haven't seen that one yet and I don't know -- I don't have any -- I can't make any representations at all.

THE COURT: So the show that was the hyperlink in the plaintiffs' motion was the June 14th one and the show that was in the defendant's motion -- objection was the June 15th show.

ATTY. REILAND: That's correct. Yes.

THE COURT: Thank you.

ATTY. BLOSS: Yes, Your Honor. So I -- I -- and I think, Your Honor, we wanted to bring this to the Court's attention as quickly as possible because we think that it is important for the Court to exercise some control over the litigants in this case to make sure -- or a litigant specifically, to make sure that the threats stop. The conduct on June 14th was deeply disturbing to us. We have -- I can inform the Court that law enforcement is involved. We have since received threats from the outside that we are addressing appropriately. And the Court, in the papers that we filed on Monday, I gave the Court some authority where Courts have inherent power to sanction parties who engage in obstructive conduct or conduct that's threatening. And there's no way to

interpret what Mr. Jones said on Friday any way other than a threat.

It is our intention, Your Honor, to file a motion for sanctions. We will be seeking a sanction up to and including default based on Mr. Jones's conduct. We would propose to get that motion filed within a very short period of time, and we'd ask for a hearing on that motion as soon as possible.

THE COURT: Well, I am -- my clear understanding, especially when Case Flow contacted both sides, that this is the time that you're going to make your argument and you're going to tell me why sanctions should enter. And Defense will argue their position and tell me why sanctions should not enter.

But I did do my own research as well, and I know -- I'll rule on this today, but I know it's going to be after lunch for sure, because by the time you're done arguing, I have to give the Monitor her break. But I -- the case that I turned up was a Connecticut Appellate Court case that came out just a couple months ago, *Maurice v Chester Housing Associates*. And that dealt with bad faith litigation, misconduct that took place out of court. It was actually an email that was sent by a nonparty to the plaintiff's attorney. And that case, the person who sent the email was a -- not a named defendant, but a partner in the defendant partnership. So -- and the Court

upheld the Trial Court's entering of sanctions in that case. But that, I thought, was very illuminating and similar, although the conduct that's claimed there is not as egregious as the conduct that's claimed here.

ATTY. BLOSS: Well, and the conduct, Your Honor, speaks for itself. I don't need to argue what happened. It's -- Mr. Jones chose to do this on video and chose to broadcast it to however many people listen to him.

I think one of the things that is particularly disturbing, Your Honor, is that we've been here before with Mr. Jones. If you'll recall, Mr. Jones had to publically apologize after one of -- somebody who said that he was inspired by his conduct went into a pizza place and -- Planet Pizza in Washington, DC, and fired shots to allegedly investigate a child trafficking ring that Mr. Jones said, as I understand it, was operating out of the basement. He knows better. He should know better. And that now he says this about both attorneys in our office and really about the -- the -- the entire firm and our -- the litigation process really requires the most stringent sanction available to the Court, which is to enter a default. I just don't think there's really any alternative left.

Your Honor has been very patient in this case

with the discovery process. I understand this is something very different. But what was done here was wrong. And in the June 15th, I think it's interesting that Defense Counsel says that there was an apology in the June 15th show. There was not an apology in the June 15th show. There was a statement by Mr. Jones, I'm not saying that Mr. Mattei planted this email. That's exactly what he said. And he didn't say I'm wrong. Defense Counsel didn't say he didn't do it. Defense Counsel said I don't think Chris Mattei sent these emails. Well, no kidding.

The fact that -- that -- that first of all, a party would accuse a lawyer of planting these emails when he knew better, we disclosed it to the FBI. We didn't disclose it to the press. We did everything that was required to do, and the reaction from Mr. Jones was to try to punish, to try to -- to try to accuse of the -- one of our lawyers of the most serious kind of misconduct.

THE COURT: So you -- your firm found out from your consultants on June 4th.

ATTY. BLOSS: Correct.

THE COURT: All right. And I know we had a status conference on June 5th here, and it was never mentioned. So my first knowledge of it was the filing as well.

ATTY. BLOSS: Well, we -- we didn't mention it,

Your Honor, because we thought it's evidence of a federal crime. We thought and still believe that bringing to the attention of the FBI was the right thing to do and I don't think that anybody would dispute that, honestly. Mr. Pattis says in his filing yesterday, Your Honor, that the emails, quote, inadvertently, closed quote, produced to us. Well, we didn't make -- we made no -- we took no advantage from that whatsoever. We did not -- we did not release them, we didn't discuss it with you, we didn't discuss it with anybody because that's what -- that's what we are supposed to do. We did this right. And the reaction of the defendant to us doing this right was to accuse one of our lawyers of not only professional misconduct, but federal criminal misconduct, and then to make threats against him. It's enough, Your Honor. This has gone far enough.

THE COURT: All right. Anything further?

ATTY. BLOSS: No, Your Honor.

THE COURT: So Counsel, whenever you're ready. I was hoping that you would address, because I read, you know, the motion that you filed or that your office filed, that referred to an apology. And when I watched the broadcast several times, I wasn't able to see an apology in there.

ATTY. REILAND: Your Honor, I thought there was an apology at the beginning of that broadcast. And

at the very least, he said that -- Mr. Jones said that he understood that Mr. Mattei did not do this.

THE COURT: That's --

ATTY. REILAND: Quite simply, when Mr. Jones heard about --

THE COURT: Well, that might -- maybe be a retraction.

ATTY. REILAND: A retraction.

THE COURT: Although --

ATTY. REILAND: Perhaps it was misstated in the motion, Your Honor.

THE COURT: It doesn't sound like an apology.

ATTY. REILAND: It was certainly walked back, Your Honor. And that was the -- the primary reason of Attorney Pattis accompanying Mr. Jones on that show the next day was to do that.

Quite simply, I think Mr. Jones was enraged when he found out about this -- these images being sent to him via email.

THE COURT: Well, your position is that he was enraged. I mean, someone could view that and say that he was portraying rage. You know, I would classify it maybe as a rant or a tirade. But whether he was genuinely enraged, as you suggest, or whether he was just portraying that rage for his show, that's --

ATTY. REILAND: Well, I can only --

THE COURT: -- that's --

ATTY. REILAND: -- speak to, you know, my communications with Mr. Jones and with his --

THE COURT: Well, but then you need -- then you would want to put on evidence in that regard, because there's no evidence. The evidence before me are the broadcasts that you submitted. So you have -- this is unchartered territory, Counsel. You have -- and despite my research, I couldn't find a case that came close to a situation where a party who still hasn't fully and fairly complied, but a party produced child porn in their discovery documents. So that, I couldn't find a case, never heard of it. But this is really unprecedented, because now the party who produced documents that contain child porn then go on and broadcast their claims and accusations that the child porn was planted there by the lawyers on the other side. So you tell me, what should the Court do here?

ATTY. REILAND: Your Honor, we're asking the Court -- we understand that the plaintiffs are seeking some serious sanctions right now. We are -- we're asking the Court for -- to deny any sanctions, not impose sanctions at this time.

As I stated earlier, we do have -- I understand the deadline has passed, it was yesterday, for the metadata to be produced. I have received that. I

have it on USB stick, attempted to give it to Plaintiffs' Counsel. And I understand that they didn't want to take it. It hasn't been catalogued; there's no cover sheet with it. So that's in the works.

Your Honor, I just think that, you know, Mr. Jones did go on, attempted to walk back these statements. I understand the toothpaste is out of the tube at this point, so to speak. And --

THE COURT: Well, can I ask you, Counsel, I tried to estimate the length of time that the -- on the show that was in the motion how long the tirade or rant or whatever you want to characterize it went on where Attorney Mattei's picture was posted and, you know, pounded on and discussed. It seemed to me that, give or take, it was a solid 20 minutes of back and forth on just the issue of the child porn and being planted by either Attorney Mattei or --

ATTY. REILAND: I understand that.

THE COURT: -- somebody in his firm. So it wasn't just a passing reference or one single statement.

ATTY. REILAND: Not saying that it was, Your Honor.

THE COURT: And I am going to suggest that during the break that you take a look at that -- that case. It's -- I wish I had this -- it's such a --

oh, here it is. 188 Conn. App. 21. In that case, the Appellate Court upheld the sanctions of just attorney's fees that the Trial Court had entered and it centered upon an email where the general partner, who was not a party to the litigation but was a general party (sic) of the defendant, simply sent an email to the plaintiff's lawyer that he wanted her to sit on his -- I don't want to -- F'ing head. I mean, it spells it out there. So that was the whole, entire issue in that particular case, just that one short six words or so. This would seem to be well beyond that.

ATTY. REILAND: Understood. And if we could have a brief recess, I could take a look at that, I'd appreciate it, Your Honor.

THE COURT: Well, we can do that over the lunch hour. So I didn't mean to cut you off. I want you to have as much time as you want to make your argument.

ATTY. REILAND: Your Honor, and I just want to make clear, this was in our motion for stay as well that obviously the turning over of these -- these pictures was not intentional. We had at least a month or two being in the case that we produced these documents in PDF form to the plaintiffs, which they have been gone through, culled for privilege, culled for anything else, relevance. After that disclosure

was completed, the plaintiffs say that they wanted the metadata for this. We had a very short time to turn that over.

Our firm, quite simply, does not have the resources, Mr. Jones does not have the resources to farm this out to a sophisticated data firm like the plaintiffs have done here.

THE COURT: Well, let me just interrupt you there. When I did my job last night and watched the videos over and over again, I watched and listened to Mr. Jones talk about what was first going to be I think $100,000 reward and then it -- he upped it to a million-dollar reward to --

ATTY. REILAND: Your Honor, I can't speak to that. I think he has --

THE COURT: So I mean, it sound -- when you are --

ATTY. REILAND: -- I think on that next broadcast, he walked back that reward as well.

Quite simply, we did not intentionally turn over these documents. We absolutely respect the plaintiffs for doing what we did. We look forward to the FBI's investigation and bring whoever sent these emails to justice.

THE COURT: So do you -- is the Alex Jones defendants' position that Mr. Jones never threatened Attorney Mattei or that he walked back any threats?

ATTY. REILAND: Our position is, Your Honor, that what he said did not rise to a threat.

THE COURT: Okay.

ATTY. REILAND: There was no imminent danger there. He was --

THE COURT: All right. So let me ask you the next question.

ATTY. REILAND: -- he was referring to -- and I apologize, Your Honor.

THE COURT: That's all right.

ATTY. REILAND: He was, in the same breath, referring to Mr. Mattei but also offering a reward to find who did it. So quite frankly, we just don't think it was a threat.

THE COURT: Okay. Do you take the position that broadcasting for 20 minutes or so what he broadcast with Attorney Mattei's picture and pounding the picture and putting up the Wikipedia information and so on and so forth and stating what he stated was harassing, and then he walked it back the next day? Or is it your position that it wasn't harassing?

ATTY. REILAND: Your Honor, I don't think it was -- it was appropriate, but I don't know if it rises to an action -- and actionable practice, excuse me. So I don't think that it was harassment, threatening; it was certainly inappropriate.

THE COURT: Well, what was it then, Counsel?

Characterize it for me if you can.

ATTY. REILAND: It was inappropriate conduct, Your Honor, that was based off of his --

THE COURT: Inappropriate --

ATTY. REILAND: -- frustration of the situation, his anger over being called a pedophile. And I think most people would be very angry. Unfortunately, his outlet to express that is going on the air and doing that. It wasn't appropriate.

THE COURT: All right. So --

ATTY. REILAND: Unfortunately, Attorney Pattis wasn't able to kind of control the situation at the time. The next day, he attempted to clear the air by walking it back, Your Honor.

THE COURT: So tell me when you say inappropriate what you mean by inappropriate.

ATTY. REILAND: Means it should -- probably should not have been done.

THE COURT: And what are you referring to, though, when you say it shouldn't have been done?

ATTY. REILAND: Referring to Plaintiffs' Counsel at all.

THE COURT: And you made a mention and I didn't pick this up from the filings or from the broadcast, and it may be my mistake, but you made a mention, I believe, just now that Mr. Jones was upset or angry, I can't remember what word you used, that he was

called a pedophile. I didn't see that anywhere. Tell me where that is.

ATTY. REILAND: Well, certainly the impression that he was to be portrayed as a pedophile, that child -- or that somebody was attempting to frame him for being a pedophile, because that's clearly what this malware attack was. Somebody from the outside sending him emails with the hopes that he would open it and then he would be set up as viewing those images and possibly be framed for a crime.

THE COURT: But there's nothing that I missed that suggests that anyone involved in the case or not involved in the case actually called him a pedophile. I thought from the --

ATTY. REILAND: Certainly not. It was the impression that he got from malicious parties sending him these illegal images.

THE COURT: Okay. Anything further at this time?

ATTY. REILAND: Nothing, Your Honor.

THE COURT: So I think the way to proceed on this, if you don't mind, is we take the recess now. I think Counsel should take a look at that case. And then if he wants to have any further argument and then I can hear from the plaintiffs as well as to whether they want any further argument, and then I'll be prepared to rule.

ATTY. BLOSS: That's fine. Can I just follow up on a couple of quick things, Your Honor?

THE COURT: Is it something that you can do when we come back when you have your opportunity to reply?

ATTY. BLOSS: Certainly, Your Honor.

THE COURT: Okay. So why don't we do that and then we'll reconvene at 2:00?

(THE COURT RECESSED AND RETURNED WITH THE FOLLOWING)

THE COURT: Attorney Pattis, you've joined us.

ATTY. PATTIS: I heard there was a party I couldn't miss.

THE COURT: All right. So I think we left off, I was going to give the Defense an opportunity if they wanted to review the case I had mentioned and to finish their argument, and then I would give Attorney Bloss an opportunity.

ATTY. PATTIS: My understanding, Judge, I was on trial upstairs, and I got a report at the lunch break. And it suggested that the Court was going to consider sanctions immediately today, that the Court had denied our motion to stay, and encouraged us to review a case, which we have. And so I understand and accept your inherent authority over these proceedings.

I'm asking you not to impose a sanction of any sort at this point. I was present at the Infowars

taping and sitting next to Mr. Jones, and was, frankly, flabbergasted by the level of anger that he saw. And I understand you raised questions about whether that was anger or an act. If it was an act, it was convincing. And you have read the transcript, I presume. You have seen the video. You've seen that twice I was trying to counsel my client about Aristotle and his admonition on anger, that a wise man is angry the right way at the right time at the right person and by the right means.

Mr. Jones is a conspiracy theorist. He believes that there are people out to get him. And guess what, there are. He's been de-platformed from Facebook because of his speech, from PayPal because of his speech, he has difficulty with credit card purchase because of his speech, and he's been sued because of his speech as to Sandy Hill (sic). And we're in the shadow of Sandy Hill (sic) here, so he knows he's not popular in Connecticut, but he's entitled to speak.

Now the speech that's at issue here is particularly ugly speech that was uttered on a public airway on Friday night. I sat right there and he did not threaten Chris Mattei. He mentioned Mattei by name and it was uncomfortable and it was unpleasant to behold, and I will concede that. But there was no threat. I've litigated two threat cases all the way

up to the United States Supreme Court unsuccessfully seeking certiorari as to the Ed Taupier conviction. And as you -- which was sustained by our State Supreme Court. As you are aware, true threats are exceptions to the First Amendment, and there's some split in the Circuits now about whether they are discerned by means of a subjective or an objective standard.

An objective standard requires that the person perceiving the comment would perceive it as a threat. That Mr. Mattei did, I will accept at face value if that's what their pleadings say. But if you look at the language and you look at some of the reporting this morning, I -- I sincerely hope that Mr. Jones brings an action against the *New York Times*. He never threatened to put Mr. Mattei's head on a pike, and to suggest otherwise is a grotesque misreading of the transcript.

THE COURT: Would you agree or disagree that it was harassment?

ATTY. PATTIS: I don't think it was harassment. You can sue Alex Jones and accuse him of all sorts of things, put your name on the pleadings, and have those pleading -- hold press conferences, have pleadings mysteriously appear on CNN the day after they're filed, and Mr. Jones is supposed to do what, oh, we like sheep have gone astray. If they want

blood-knuckle litigation, they got it. But they're --

THE COURT: How would you characterize it?

ATTY. PATTIS: As an ugly outburst and an angry outburst.

THE COURT: How would you -- did you get a chance to read the *Maurice v Chester Housing Authority* (sic) case? How would you characterize that short, I think, six- or seven-word email?

ATTY. PATTIS: Not even close. Not even close. That email was sexually tinged to a person in a way that was designed to intimidate her at the core of her being, raising questions about her sexuality and things that this man may or may not have liked to do with her.

THE COURT: So you -- you find -- your position is that that short email was intimidating; this -- whatever you want to call this, 20-minute tirade --

ATTY. PATTIS: I'll call it a tirade.

THE COURT: -- rant, whatever you -- that was not intimidating?

ATTY. PATTIS: If it was, Mr. Mattei should be in a new line of work. This is a business -- and I said it on the broadcast. This is a business where when you take on a person, you take on the person and you take responsibility --

THE COURT: But why didn't --

ATTY. PATTIS: -- for the passions it involves.

THE COURT: Then why not plaintiff's counsel in the Maurice case, wouldn't the same thing apply to her? Why -- how -- she should be in a new line of work, but instead --

ATTY. PATTIS: Well, Judge, in all due respect --

THE COURT: -- the intimidating behavior --

ATTY. PATTIS: In all due respect, if I ever say to a woman you should sit on my face, and the Court doesn't see the distinction between that and what was uttered here, there's nothing I can do about the argument. That is just grotesquely different.

In this case, Mr. Jones has been held up to the nation as a figure of public ridicule and contempt. Is -- does he have to sit silently by? Does he not have an opportunity to respond in kind? Does he not? And you know, the First --

THE COURT: Well, does that give him --

ATTY. PATTIS: -- Amendment says -- the First Amendment has protected --

THE COURT: Attorney Pattis, does it give him -- does it give him the right to accuse the opposing counsel of planting child pornography? Of asking --

ATTY. PATTIS: He did not do so.

THE COURT: -- for the metadata -- of asking for the metadata so that he could -- so that the opposing

counsel could plant the child porn?

ATTY. PATTIS: He didn't say those words, and I defy you to find that in there. That is a suspicion that he has and I counseled him over and over again, you don't know that, I don't know that, I don't believe that about Attorney Mattei. I've litigated cases against him for 20 years.

THE COURT: Well, we're not talking about what you believe.

ATTY. PATTIS: No, no. But I was sitting right there and I saw it. I had the benefit of being an eyewitness, and I've read the transcript again over lunch. Somebody put that -- that pornography into Mr. Jones's email. It was not him. And we were told that by -- in a conference call with the Justice Department last week. Who? Who would have a motive to do so? A naïve litigant always demonizes their adversary. I tried to walk Jones back from that and say, look, Mr. Mattei's job is to take you apart, as it is my job to raise questions and take apart the people who've sued you. That's what we do.

And people talk about restorative justice, we have complex mediation programs because we know the emotions get raw. And experienced litigators are expected to roll with the punches, and sometimes those punches are awkward and sometimes those punches raise concerns. This was not a threat.

I have -- it's been intimated to me that there may or may not be a criminal prosecution being investigated as a result of that. My response to that is bring it on. This does not satisfy the *Brandenburg v Ohio* test. In order for an utterance to be a true threat, it has to do more than be chilling in its tone. It has to be an imminent threat of immediate violence. And in the context as a whole, how do you go from this video to Mr. Mattei running to court seeking sanctions? What is he, scared? I mean, he's a former federal prosecutor, come on.

From Mr. Jones's perspective, this is more theater. This is an opportunity -- from the day I've gotten involved in this case, it's been code red, one urgency after another by plaintiffs who waited until the statute of limitations had expired as to most of the claims, found a tenuous conspiracy theory to reach back and keep it alive, and now trying desperately to link some false utterance to a commercial activity so they can run the same game on the First Amendment that they ran on the firearms case in Bushmaster. Well, bring the criminal case on. Let's go.

It is not going to past First Amendment scrutiny, and we think sanctions would be inappropriate in this case.

I spoke to Mr. Jones at the lunch hour to alert him to the fact that the Court seemed inclined to grant sanctions of some sort, and he was flabbergasted by that. I mean, whatever you may personally think of Mr. Jones, he has a right to speak. When we had the days of the Penny Press in this country, people said far worse. They would -- they would encourage the tarring and feathering of other people, and we didn't lock them up for being passionate. Mr. Jones is a passionate speaker.

THE COURT: So he has the right of free speech, but -- and I understand you don't agree that anything that took place during that -- during the two broadcasts was in any way harassment or threatening or sought to intimidate, but you would agree that he does not have the right based on Connecticut law and I am sure law of other jurisdictions to threaten, harass, or intimidate the counsel on the other side.

ATTY. PATTIS: I don't think there's any question that he did not, and it is a precious --

THE COURT: I understand your position.

ATTY. PATTIS: -- reading of this transcript to suggest otherwise. It is too precious.

THE COURT: But in general, does a party have a right under the First Amendment to threaten, harass, or intimidate the lawyer on the other side? That's my question.

ATTY. PATTIS: As a matter of law, no. But what the facts in this case mean are by no means clear. How this Court can reach this -- and I mean, consider some of the cases, just throwing them at random. City of Claiborne Village, okay, a case where the NAACP was boycotting white stores. And they said to people outside, if any of you -- and excuse my language -- if any of you cross this picket line, I'm going to break your goddam neck. Somebody was injured. The speaker who was an NAAC (sic) organizer was tried and convicted. That conviction was overturned. Violent speech, our Court has held, tumultuous speech is protected unless it is associated with an imminent act of violence.

Another example --

THE COURT: But just -- but talk about the integrity of the process here and the functioning of the Court and the judicial process and the Court's obligation. Focus on that as opposed to criminal law.

ATTY. PATTIS: Well, you had asked about crimes and so I defended. Now I'll shift to the next turf that you give me an opportunity to -- you know, I mean, I will understand the case, and I forget the name. What was the name of the case you had us read at lunch?

THE COURT: *Maurice v Chester Housing Authority*

(sic). Just came out a couple months ago. That's --

ATTY. PATTIS: The Housing Authority case. That's all I'll remember. You know, it presents this Court with an opportunity, a door through which it could walk here. It's an Appellate Court decision and I don't know what its status is on certiorari. That was an unusual case because it was nonparty participant. But I would argue that in that case, he engaged in speech that was -- was a potential civil rights violation. I mean, he basically sexually harassed the litigant, wanted her to sit on his face, or words to that effect. That -- that is different.

It is different to take to a quintessential public forum and cry foul. And from Mr. Jones's perspective, look, this is -- this is how he looks at the world. They pressed, they pressed, they pressed for metadata. They get it, and lo and behold, they just happen to find a needle in a haystack, or as he put it in his broadcast, a needle in a haystack in a field of haystacks. How convenient was that?

Now, from my perspective, it wasn't that at all. The other side probably had the resources to hire a sophisticated data mining firm and it was found.

THE COURT: So I understand you take the position that nowhere in the transcript does Mr. Jones claim that Plaintiffs' Counsel asked for the metadata so that they could plant the child porn.

But assuming that that statement was somewhere in there, would that be sanctionable behavior on these -- - in this matter for a --

ATTY. PATTIS: I think it might be a defamatory comment, you know, suggesting that they engaged in odious conduct. But for the life of me, I don't see how that affects the administration of justice. Don't be played for a fool here, Judge. From the day I've gotten involved in this case, the Sandy Hook plaintiffs have done nothing but try to leverage a discovery problem into a default of one sort or another so that this Court or any Court can avoid addressing this case on the merits. That's because on the merits they'd fail. *Snyder v Phelps* talks about intentional emotional distress, not sustainable.

The only claim they have and the reason they pressed so hard on this ridiculous marketing data theory of theirs is they want to associate knowingly false comments with the sale of commercial products. That's what this case has come down to. Last night at 7:35, I sent an email over with a complicated group of Google Analytics, unknowing whether you had yet ruled on our motion for clarification.

We are anxious to litigate the merits of this case. But the Court shouldn't be used in the crisis-of-the-week club by the plaintiffs in an effort to

avoid deciding issues that are at the core of this republic. Mr. Jones is an easy scapegoat, especially in Connecticut where we all know people who suffered tragically as a result of Sandy Hook. But if it's Mr. Jones today, who is it going to be tomorrow? And what sort of speech are we going to prohibit because it makes us uncomfortable and we don't like it?

If Mr. Mattei truly believes that he can persuade a law enforcement official that to truly and with integrity think that there's a sustainable cause of action in a Criminal Court, let's have it. My client is prepared to address those allegations in any court any time. And before you answer sanctions, Judge, maybe you ought to have him come up here, sit on that witness stand, and tell you what was in his mind. This is an extreme remedy and an extreme proposal which from my mind is shocking and goes to the core of what makes this republic sustainable, the right to speak freely, to criticize the government, to criticize your critics, and to swing back when you're swung at.

You know, the Koskoff firm is brilliant on hiding behind litigation privilege. It's no mystery to me that on a Tuesday night a pleading gets filed and on Wednesday morning, it's CNN. And we can do nothing to strike back. Jones takes to an equal -- an equal counterweight, his own network, and speaks

back. And the consequence is going to be what? You can't fully and fairly litigate a First Amendment claim? Don't go there, Judge. I would be ashamed to call myself a Connecticut resident if that's what happened in this court.

THE COURT: Just give me one moment, please.

ATTY. PATTIS: I do have an expensive witness on the stand with the clock running upstairs, Judge.

THE COURT: I'm sorry. Do you --

ATTY. PATTIS: No. I mean, I'm here.

THE COURT: Okay.

So actually, I'm just looking on the transcript on page 30.

ATTY. PATTIS: I'm there.

THE COURT: And Alex Jones says: why do they want the metadata? I said they want to plant something on me. I told you that three weeks ago.

ATTY. PATTIS: They is an ambiguous term. And I'm not trying to be too cute for words. Somebody -- Mr. Jones believes that somebody is financing this litigation. It wasn't brought until after the statute expired as to most things because it was brought after Hillary Clinton lost the 2016 election. His -- his Infowars helped him mobilize a lot of anti-Hillary voters with rhetoric that you and I might find objectionable, but that was their right to do so.

He believes that this litigation is financed by third parties, and we actually proposed a discovery request in our despair a pleading or two ago asking for permission to ask that question. Who paid for the $100,000 data search that just happened to find this? These are questions we'll get answers to someday, maybe not here today. But I don't see how you go from there to threatening Mr. Mattei. I just don't.

THE COURT: Well, I'm just -- it's hard to get past the various comments by Mr. Jones about how coincidental -- there was some sarcasm there, of course -- that they asked for the metadata and they asked for this information and they just happened to find it.

ATTY. PATTIS: Put yourself in Mr. Jones' position. You pay hundreds of thousands of dollars -- not to me, unfortunately -- but you pay hundreds of thousands of dollars to lawyers. You're looking through 9.6 emails -- million emails. You fight about it in court for months. You turn over 60,000. Weeks pass, the other side asks for metadata. You give them the metadata, metadata you don't even know how to read and you can't afford to pay somebody to read. And within days of that, oh, we just happened to find a piece of child porn. Maybe there aren't any coincidences in the world. I don't think there

is any evidence to suggest that Koskoff, Koskoff & Bieder did it. I've known these lawyers forever. They used to be friends.

THE COURT: Again, it's not the issue.

ATTY. PATTIS: No, I understand that. But I've known these lawyers forever --

THE COURT: I don't think anybody --

ATTY. PATTIS: -- and they used to be friends prior to this case. I don't know what's become of that. But the fact of the matter is, Jones is entitled to his suspicions. He did not disrupt the administration of justice. And if you've got a former federal prosecutor in here who's saying as a result of this he can't do his job, then maybe you should get him off the case because he's not prepared to serve his clients. Rough cases yield rough emotions. Mr. Mattei can take it. He ran for statewide office. In fact, he's no private person; he's a public person. Even last night, Senator Murphy who rode Sandy Hook into the Senate, put an Alex Jones child porn bumper sticker on the car for his next campaign. This nonsense has to stop. And my client's entitled to push back.

THE COURT: Thank you.

ATTY. BLOSS: Well, Your Honor --

ATTY. PATTIS: Judge, may I be excused to attend to my other matter? Mr. --

THE COURT: You may. But I am, just so you know, I'm going to hear from Attorney Bloss, probably take a five-minute recess, and then we'll --

ATTY. PATTIS: I understand. I just have a witness that I have to attend to.

THE COURT: Okay. Thank you.

ATTY. BLOSS: I think the heart of the decision, Your Honor, would be if there was even a grain of sand worth of contrition in that statement. There wasn't. There was blame-shifting. There was a denial of what his client did while he was sitting there at a table. He was saying, effectively, it's our fault.

And I want to just go back to basic principles. And this is a fact. The only reason this came out, only reason, is because Mr. Jones --

THE COURT: Can I just excuse -- all right. I just want to make sure I -- I wanted to make sure co-counsel was there, and I just didn't see him.

ATTY. BLOSS: I'm sorry. Yes. Thank you.

THE COURT: Sorry about that.

ATTY. BLOSS: I want to be crystal clear about this. Counsel said that Mr. Jones had a right to respond to being called a pedophile. This wasn't going to come out except he chose for it to come out. June 12th, we told them we didn't do anything with it, we weren't going to do anything with it. It's

not relevant to this case. However it wound up there is irrelevant. He chose on June 14th with his lawyer sitting there to make this an issue. He chose to bring this --

THE COURT: Can I just ask the Defense? Is there any -- there's nothing that I've heard or read that suggests that the plaintiffs disclosed this either in the lawsuit or to the press or --

ATTY. REILAND: Not to my knowledge, Your Honor. But just to echo Attorney Pattis's sentiment, it seems like the pleadings in this case have a -- constantly get leaked out to the press. They're on the news the next day. So there's --

THE COURT: Is there any pleading --

ATTY. REILAND: -- no reason to think that that wasn't going to happen with this --

THE COURT: Show me the -- I just want to see how this information came out to the public since there was a claim that I believe you said he was upset because he was called a pedophile. Is there a pleading that the plaintiff filed?

ATTY. REILAND: Excuse me, Your Honor. I apologize. I think I said that he was rightfully upset because somebody was attempting to frame him for being a pedophile. He didn't blame the attorney -- the plaintiffs' attorneys here.

THE COURT: Okay. I thought you said that he

called him a pedophile. But there's no -- the plaintiffs here didn't file any pleadings or go to the press or do anything until after --

ATTY. REILAND: Not to my knowledge, Your Honor.

THE COURT: -- Alex Jones -- all right.

ATTY. REILAND: Not to my knowledge.

THE COURT: I just want to make sure we're on the same page. Go ahead.

ATTY. BLOSS: Let's take out the not to my knowledge. It didn't happen. The first disclosure of these emails was by Alex Jones with Mr. Pattis sitting next to him at a table in Austin, Texas, on their public show. Period. That's how this all came out. He's created this controversy. He didn't respond to something that we did. He chose to make this public. He chose to bring this out. And he's going to -- he's got the consequences of whether that was a good choice or not.

He's got the right to free speech, but he's also got a responsibility that if -- if his -- if his speech crosses the line, then he's got -- there are consequences for that. That's why we're here.

There is, Your Honor, a -- there are lots of important principles that govern the United States in the operation of a reasoned society. And one of them is open courts where people can have a controversy heard fairly. This isn't something -- we -- we

haven't threatened anybody. We haven't said that we're going to put somebody's head on a spike.

And let me just address one thing that Mr. Pattis said that there is a suspicion that this is being financed by somebody else. Irrelevant if it was; it's not. This is -- we are not getting a dollar from anybody anywhere. So that -- and that -- I'm sure that's not going to convince Mr. Jones because I guess he can believe what he wants to believe. But this is a -- this is a matter that we've decided to take on because we think it's the reasonable, right thing to do for these people that lost so much and continue to lose much.

So I want to -- I want to just follow up a little bit on the concept that Mr. Jones is the one who brought this out. If you listen to the tape, he says we're going to expose a major criminal issue. This was planned, Your Honor. This was a deliberate choice by Mr. Jones to bring this out.

We just heard that there was a -- that we have this $100,000 allegedly that we must have paid to have electronic -- the electronically-stored information reviewed. Well, let's look at page 5 of the transcript, Your Honor, from June 14th where Mr. Jones says: I'm not an IT person. I've had to spend time I didn't have trying to figure out what the hell is going on and brought it -- brought in outside

consultants and spent hundreds of thousands of dollars. I won't even tell you the number, a half a million dollars, trying to figure out -- to answer the discovery.

So this claim that he doesn't have any resources and that these emails were inadvertently produced to us because he doesn't have the ability to do the right thing and follow the rules, nonsense. He said on his show he spent a half a million dollars on IT.

So let's talk, Your Honor, about exactly what Mr. Jones said. And because I -- I think that you really didn't get an answer to this from Mr. Pattis, so let's spend a couple of minutes, if you can, talking about what he said. Let's go to page 17 of the July 14th transcript.

I know what they do when you expose them. They say you're a pedophile. We knew it was coming. And when the Obama-appointed US attorney demanded out of 9.6 million emails in the last seven years since Sandy Hook metadata, which meant tracking the emails and where they went, well, we fought it in court. The Judge ordered for us to release a large number of those emails. That's Chris Mattei that got that done. A very interesting individual with the firm of Koskoff and Koskoff, run by Senator Murphy and Senator Blumenthal, that say for America to survive, quote, I must be taken off the air.

Little later on, page 18: so we learned in just the last few days that when they wanted these hundreds of thousands of emails out of the 9.6 million that they had attachments to them that no one would know what they were.

Well, actually, that's not true that no one would know what they were. Any responsible ESI data firm would know exactly what they were. That's what we did.

But that's interesting. This is going back to the transcript. We checked with real IT people because we're not IT folks. We made some calls and they said, no, you wouldn't know what was in the attachments and you wouldn't know what they linked to because the FBI looked and they said we're the victim. It was hidden in Sandy Hook emails threatening us, there was child porn. So it's on record. We were sent child porn. We're not involved in child porn. But the fact is it's not a needle in a haystack; it's fields of haystacks. And they get these emails -- they being our firm -- get these emails a few weeks ago and they go right to the FBI and say we've got him with child porn. FBI says we never opened it. He didn't send it. And then they act like, oh, they're our friends, they're not going to do anything with this. Well, that's exactly what was going to happen.

THE COURT: All right.

ATTY. BLOSS: So the -- let's talk about the head on a pike line that Mr. Pattis mentioned.

Page 21: you're trying to set me up with child porn. I'm going to get your ass. One million dollars, one million dollars, you little gang members. One million dollars to put your head on a pike. One million dollars, bitch. I'm going to come back to that in a minute.

THE COURT: Well, I would prefer that you not read from the transcript. I've been through it --

ATTY. BLOSS: All right.

THE COURT: -- more than enough. So if you could just sort of summarize your arguments?

ATTY. BLOSS: Well, the only other one I would just mention, Your Honor, is if I can, at page 25. They literally went in there and found this hidden stuff. In other words, expressly saying that we got these 58,000 emails and knew where to go because this is something that we must have been involved in, that's just false. It's wrong. And to make that accusation, it's not an email or a voicemail that is -- that is -- that is left on some lawyer's cellphone. What happened here, he's got hundreds of affiliates. This went out to hundreds of stations, went out to anybody who can click on his website.

And the fact is that this is something that he

knows causes problems. It caused a problem with the pizza case, somebody got arrested for going to that facility. One of the people -- one of the parents in Sandy Hook was threatened by one of his listeners and -- and was arrested. So this is -- this is not a surprise.

Right now, Your Honor, there is a uniformed Bridgeport Police Officer standing in our lobby. He's going to be there indefinitely. That's what we feel that we need to do based on what has happened in this case up to this point.

Just a -- I'm going to touch a couple of other quick things. The -- Your Honor knows and you've seen what the standard is under the law. And one of the interests that is at issue here is the right to have a case fairly adjudicated without harassment, without threats. I think there was ultimately a concession that -- that the Court has power to sanction in the event of harassing or intimidating behavior. I just don't see how any reasonable reading of this -- these two transcripts can lead the Court to any other conclusion that this was harassment. It was a deliberate attempt to intimidate. And it was not something that's protected -- by the way, the standard is not the criminal First Amendment standard. This is a civil -- this is the power of the Court to control its own

litigation, the parties before it, and the processes before it. This exceeds any kind of sanctionable conduct that the Connecticut Courts have ever considered. And really exceeds sanctionable conduct in some of the federal cases that we've cited to Your Honor.

So I think unless Your Honor has any questions, I'll --

THE COURT: Thank you, Attorney Bloss. Did you want to respond briefly, Counsel, or are you all set?

ATTY. REILAND: Your Honor, we'll -- we'll stand on Attorney Pattis's argument. I would just say, I guess reasonable minds could disagree, because of all the sanctions and all the, hate to say, grandstanding that we're seeing here reading from the transcript, I'm not seeing any threats to Attorney Mattei here. You know, it's -- it's not great language. It's bad language in some points. But it's not an apparent threat. So thank you, Judge.

THE COURT: So I'll take a two-minute recess.

(THE COURT RECESSED AND RETURNED WITH THE FOLLOWING)

THE COURT: All right. So I'm going to start with the discovery issues.

Putting aside the fact that the documents the Jones defendants did produce contained child pornography, putting aside the fact that the Jones

defendants filed with the Court a purported affidavit from Alex Jones that was not in fact signed by Alex Jones, the discovery in this case has been marked with obfuscation and delay on the part of the defendants, who, despite several Court-ordered deadlines as recently as yesterday, they continue in their filings to object to having to, what they call affirmatively gather and produce documents which might help the plaintiffs make their case. Despite over approximately a dozen discovery status conferences and several Court-ordered discovery deadlines, the Jones defendants have still not fully and fairly complied with their discovery obligations.

By way of one example, on June 10th, counsel for the Jones defendants stated in their filing that Alex Jones' cellphone had only been searched for emails, not for text messages or other data. In their June 17 filing, defendants still try to argue with respect to the text messages that there is little to no personal nexus between the text messages and the litigation, and that the plaintiffs are simply prying into the Alex Jones defendants' personal affairs. But the discovery objections were ruled on by the Court months ago and the defendants still have not fully and fairly complied.

Also, as another example, the Google Analytics data was ordered to be produced. And this is a

Google Analytics account that had to be created and set up by and utilized, according to the testimony, by some of the Jones defendants. Only a 35-page report was produced. In their June 17 filing, the Jones defendants apparently say that they don't possess the data themselves and they should not have to get it from Google because Google holds Alex Jones in contempt. And anything that Google generated would be, and I quote, inherently unreliable, unquote. And again, the Jones defendants miss the mark. They were ordered to produce that data.

Our rules of practice require a party to produce materials and information, quote, within their knowledge, possession, or power; and it is clearly within the power of the Jones defendants to obtain the information from Google if, as they claim, they don't possess it themselves. So their objection is too late and their failure to fully and fairly comply is inexcusable.

So in short, we've held approximately a dozen discovery status conferences. The Court's entered discovery deadlines, extended discovery deadlines, and discovery deadlines have been disregarded by the Jones defendants, who continue to object to their discovery and failed to produce that which is within their knowledge, possession, or power to obtain. And again, among the documents that they did produce

contained images of child pornography.

I also note that the Jones defendants have been on notice from this Court both on the record and in writing in written orders that the Court would consider denying them their opportunity to pursue a special motion to dismiss if the continued noncompliance continued.

Now with respect to the plaintiffs' request for immediate review and the Jones defendants' objections thereto, as I've said, I've reviewed the -- both broadcasts several times. The law is clear in Connecticut and elsewhere, for that matter, that the Court has authority to address out-of-court bad-faith litigation misconduct where there is a claim that a party harassed or threatened or sought to intimidate counsel on the other side. And indeed, the Court has the obligation to ensure the integrity of the judicial process and functioning of the Court.

So if Mr. Jones truly believed that Attorney Mattei or anyone else in the Koskoff firm planted child pornography trying to frame him, the proper course of action would be to contact the authorities and/or to have your attorney file the appropriate motions in the existing case. Just by way as an example, the Jones defendants here could have filed a motion asking that the lawsuits be dismissed for that reason.

What is not appropriate, what is indefensible, unconscionable, despicable, and possibly criminal behavior is to accuse opposing counsel, through a broadcast, no less, of planting child pornography, which is a serious felony. And to continue with the accusations in a tirade or rant for approximately 20 minutes or so.

Now, because I want to make a good record for appeal, I'm going to refer to certain portions of the transcript of the website. And I would note that Mr. Jones refers to Attorney Mattei as a Democratic-appointed US attorney, holds up on the camera Attorney Mattei's Wikipedia page which indicates that he is a Democrat, and puts the camera on the website page, which looks like it's from the law firm.

Alex Jones states: what a nice group of Democrats. How surprising, what nice people. Chris Mattei, Chris Mattei. Let's zoom in on Chris Mattei. Oh, nice, little Chris Mattei. What a good American. What a good boy. You'll think you'll put me on.

Now, the transcript doesn't reflect this, but when I listened to the broadcast, I heard, I'm going to kill. Now, that's not in the transcript, but that is my read and understanding and what I heard in the broadcast.

He continues to say: anyways, I'm done. Total

war. You want it, you got it. I'm not into kids like your Democratic Party, you cocksuckers, so get ready.

And during this particular tirade, he slammed his hand on Attorney Mattei's picture, which was on the camera at that point.

He continues on shortly thereafter: the point is, I'm not putting up with these guys anymore, man, and their behavior because I'm not an idiot. They literally went right in there and found this hidden stuff. Oh, my god, oh, my god, and they're my friends. We want to protect you now, Alex. Oh, you're not going to get into trouble for what we found. F you, man, F you to hell. I pray God, not anybody else, God visit vengeance upon you in the name of Jesus Christ and all the saints. I pray for divine intervention against the powers of Satan.

I literally would never have sex with children. I don't like having sex with children. I would never have sex with children. I am not a Democrat. I am not a Liberal. I do not cut children's genitals off like the left does.

Further on, referring to the person who sent the child porn, he says: I wonder who the person of interest is. Continues to say: oh, no. Attorney Pattis says: look, are you showing Chris Mattei's photograph on here; and the record should reflect

that when Alex Jones said I wonder who the person of interest is, Attorney Mattei's photo was on the camera. Again, referring to who planted the child pornography. Then Alex Jones says: oh, no, that was an accidental cut. He's a nice Obama boy. He's a good -- then Attorney Pattis cuts him off. Attorney -- Alex Jones goes on to say: he's a white Jew-boy that thinks he owns America.

Later on in the broadcast, Alex Jones says, quote, the bounty is out, bitches. And you know your feds, they're going to know you did it. They're going to get your ass you little dirt bag. One million, bitch, it's out on your ass.

Shortly thereafter, he says: a million dollars is after them. So I bet you'll sleep real good tonight, little jerk, because your own buddies are going to turn you in and you're going to go to prison, you little white Jew-boy jerk-off son of a bitch. I mean, I can't handle them. They want more, they're going to get more. I am sick of these people, a bunch of chicken-craps that have taken this country over that want to attack real Americans.

And those are just portions of the transcript that the Court relied on. The Court has no doubt that Alex Jones was accusing Plaintiffs' Counsel of planting the child pornography.

Again, these are just a few examples where Jones

either directly harasses or intimidates Attorney Mattei, repeatedly accuses Plaintiffs' Counsel of requesting the metadata so they could plant the child pornography, continues to call him a bitch, a sweet little cupcake, a sack of filth, tells him to go to hell, and the rant or tirade continues with frequent declarations of war against Plaintiffs' Counsel.

I reject the Jones defendants' claim that Alex Jones was enraged. I disagree with Attorney Pattis's representation here. I find based upon a review of the broadcast clips that it was an intentional, calculated act of rage for his viewing audience. So -- and I note as Plaintiffs' Counsel pointed out, that Alex Jones was the one who publically brought the existence of the child pornography to light on his Infowars show.

But putting that aside, putting aside whether it was -- he was in a real rage or whether he was acting out rage, it doesn't really matter for the purposes of the discussion whether he was truly enraged or not, because the 20-minute deliberate tirade and harassment and intimidation against Attorney Mattei and his firm is unacceptable and sanctionable. And the Court will sanction here.

So for all these reasons, the Court is denying the Alex Jones defendants the opportunity to pursue their special motions to dismiss and will award

attorney's fees upon further hearing and the filing of affidavits regarding attorney's fees. I would note that the attorney's fees will be related only to the conduct relating to the child pornography issue and not for the discovery failures.

At this point, I decline to default the Alex Jones defendants, but I will -- I don't know how clearly I can say this. As this case progresses, and we will get today before you leave a trial date in the case now and a scheduling order. As the discovery in this case progresses, if there is continued obfuscation and delay and tactics like I've seen up to this point, I will not hesitate after a hearing and an opportunity to be heard to default the Alex Jones defendants if they from this point forward continue with their behavior with respect to discovery.

So I'm going to call other matters now. I'm going to ask that you -- that there not be any conversations in the courtroom because I do have other matters to call. I'm going to ask Counsel to work on a scheduling order, pick a trial date. I am going to need to see it before you leave. So if you could maybe do that in another room, and then I'll come back on the record for that.

(THE COURT PROCEEDED WITH OTHER MATTERS AND RETURNED WITH THE FOLLOWING)

THE COURT: Were you able to complete a scheduling order and pick a trial date?

ATTY. MATTEI: Yes, Your Honor, we have. The completed scheduling order here is signed by Counsel --

THE COURT: Can I take a --

ATTY. MATTEI: -- with a proposed trial date of November, 2020.

THE COURT: Okay. Can I take a look at it? Do you mind?

ATTY. MATTEI: Yes.

THE COURT: Thank you very much. What about summary judgment motions?

ATTY. MATTEI: Your Honor, you'll note that we left that blank because certain defendants in the case still have their Anti-SLAPP motion pending. And so we thought it best to leave that date open at least for now. Attorney Brown and Attorney Jakiela obviously both want to reserve their right, if necessary, to file a motion for summary judgment. But because they still have motions to dismiss pending, the timing of that was uncertain.

THE COURT: All right. And the Court Officer in Waterbury is on vacation this week anyway. So I'm not -- unlike Bridgeport where we can put 20 cases down for trial in the same day, I'm not sure that they'll be able to accommodate this exact trial date.

So I'll give this over to him. At some point, we're going to need summary judgment deadlines, though, because what I can't have is the summary judgments argued, you know, two weeks before the trial date. I definitely want the 120 days.

ATTY. MATTEI: Correct, Your Honor.

THE COURT: Okay. Anything else today?

ATTY. MATTEI: No. Thank you very much, Your Honor.

ATTY. REILAND: No, Your Honor.

THE COURT: Thank you, Counsel.

******

(END OF TRANSCRIPT)

NO: UWY-CV18-6046437 S	:	SUPERIOR COURT
SHERLACH, WILLIAM	:	JUDICIAL DISTRICT OF FAIRFIELD
v.	:	AT BRIDGEPORT, CONNECTICUT
JONES, ALEX, ET AL.	:	JUNE 18, 2019
NO: UWY-CV18-6046438 S	:	SUPERIOR COURT
LAFFERTY, ERICA, ET AL.	:	JUDICIAL DISTRICT OF FAIRFIELD
v.	:	AT BRIDGEPORT, CONNECTICUT
JONES, ALEX EMRIC, ET AL.	:	JUNE 18, 2019
NO: UWY-CV18-6046436 S	:	SUPERIOR COURT
SHERLACH, WILLIAM, ET AL.	:	JUDICIAL DISTRICT OF FAIRFIELD
v.	:	AT BRIDGEPORT, CONNECTICUT
JONES, ALEX EMRIC, ET AL.	:	JUNE 18, 2019

C E R T I F I C A T I O N

I hereby certify the foregoing pages are a true and correct transcription of the audio recording of the above-referenced case, heard in Superior Court, Judicial District of Fairfield, at Bridgeport, Connecticut, before the Honorable Barbara N. Bellis, Judge, on the 18th day of June, 2019.

Dated this 19th day of June, 2019, in Bridgeport, Connecticut.

_____
Colleen Birney
Court Recording Monitor

APPENDIX F

Respondents' Motion To Seek Review of Mr. Jones' Remarks, *Lafferty v. Jones*, Dkt. No. UWY-CV-18-6046437-S; UWY-CV-18-6046438-S; UWY-CV-18-6046436-S (June 17, 2020).

NO. X06-UWY-CV-18-6046436S	**:**	**SUPERIOR COURT**
ERICA LAFFERTY, ET AL.	**:**	**COMPLEX LITIGATION DOCKET**
V.	**:**	**AT WATERBURY**
ALEX EMRIC JONES, ET AL.	**:**	**JUNE 17, 2019**

NO. X-06- UWY-CV18-6046437-S	**:**	**SUPERIOR COURT**
WILLIAM SHERLACH	**:**	**COMPLEX LITIGATION DOCKET**
V.	**:**	**AT WATERBURY**
ALEX EMRIC JONES, ET AL.	**:**	**JUNE 17, 2019**

NO. X06-UWY-CV-18-6046438S	**:**	**SUPERIOR COURT**
WILLIAM SHERLACH, ET AL.	**:**	**COMPLEX LITIGATION DOCKET**
V.	**:**	**AT WATERBURY**
ALEX EMRIC JONES, ET AL.	**:**	**JUNE 17, 2019**

PLAINTIFFS' MOTION FOR REVIEW OF BROADCAST BY ALEX JONES THREATENING PLAINTIFFS' COUNSEL

On June 14, 2019 (this past Friday), defendant Alex Jones broadcast two segments of The Alex Jones Show identifying Attorney Chris Mattei by name and showing a picture of him, falsely claiming that Attorney Mattei tried to frame Jones by planting child pornography in discovery materials produced by Jones, distorting what actually occurred in the discovery process in this case, and threatening Attorney Mattei and the Koskoff firm. This Court has an obligation to protect the attorneys, parties, and the judicial process. *Sacher v. United States*, 343 U.S. 1, 14 (1952) (reaffirming the Court's obligation to "protect the processes of orderly trial,

which is the supreme object of the lawyer's calling"); *Potts v. Postal Trucking Co.*, 2018 WL 794550, at *2 (E.D.N.Y. Feb. 8, 2018) (collecting cases where courts exercised inherent powers to sanction lawyers or parties for threats). Here, threats against counsel have been made on air to a very large audience. The plaintiffs therefore request that the Court review the video in advance of tomorrow's hearing. Plaintiffs intend to move to seek specific relief on an expedited basis, but this is an issue that the Court should be fully aware of at the earliest possible moment.

We estimate review of these segments of the show will take approximately thirty minutes. The video can be found at this link: https://www.infowars.com/watch/?video=5d043508848c210017aafefc. The segment discussing the case begins at 2:12. At approximately 2:19 is the first mention of the child pornography issue. At 2:30, the discussion intensifies and shortly afterward Jones names Attorney Mattei. This all takes place with defense counsel present.

I. Background Concerning Metadata Production and Discovery of Child Pornography

These segments concern the fact that the Jones Defendants produced numerous images of illegal child pornography to the plaintiffs in their metadata production.[1]

As the Court will recall, the Jones Defendants failed to produce email metadata, a necessary part of these documents, in their original production. The plaintiffs requested that the Jones Defendants be ordered to do so. In the April 30 hearing, counsel for the Jones Defendants agreed to make that production. The Jones Defendants produced metadata on May 21. They

[1] In these segments, Jones also says that he is manipulating the Jones Defendants' Google Analytics data to generate reports to defend this case – even though he has withheld that same data for months (and is continuing to do so) and his proxies have claimed to have only the most rudimentary understanding of how to use the data.

produced a massive volume of documents, indicating that many were non-responsive, but they said that they did not have time to cull the non-responsive documents.

The plaintiffs' Electronically Stored Information (ESI) consultants began loading files into a document review database in an effort to make them reviewable by counsel as quickly as possible. During that process, the consultants identified an image that appeared to be child pornography. They immediately contacted counsel, who immediately contacted the FBI. The FBI directed counsel to give control of the entire document production to the FBI, which was done. The FBI advised counsel that its review located numerous additional illegal images, which had apparently been sent to Infowars email addresses. When the FBI indicated it had completed its review, plaintiffs' counsel advised Attorney Pattis of the matter and arranged a joint telephone call with the United States Attorney's Office.

It is worth noting that if the Jones Defendants had engaged in even minimal due diligence and actually reviewed the materials before production, they would have found the images themselves. Because the Jones Defendants did not do that, they transmitted images to the plaintiffs that if they were knowingly possessed is a serious federal crime. The Jones Defendants put plaintiffs' counsel and ESI consultants in the appalling position of discovering the first image. Plaintiffs' ESI consultants then acted exactly as they were compelled to under federal law once they discovered the contraband images; so did plaintiffs' counsel. But this appears not to have been good enough for Jones.

II. Content of Video/Tuesday Hearing

Rather than summarize the content of the video, we simply ask the Court to watch it. Here is one example of the video's content. At 2:34:08, Jones shouts:

> You think when you call up, "Oh we'll protect you. We found the child porn."[2] I like women with big giant tits and big asses. I don't like kids like you goddamn rapists. Eff-heads. In fact, delete this: You fucks are going to get it. You fucking child molesters. I'll fucking get you in the end. You fucks. No, we're done right there. You know what, I should have deleted it on radio. Probably still went out. I don't care. You're trying to set me up with child porn, I'll get your ass. One million dollars, you little gang members. One million dollars to put your head on a pike. One million dollars, bitch.[3] I'm going to get your ass, you understand me now? You're not going to ever defeat Texas, you sacks of shit, so you get ready for that.

At 2:37:20, Jones names Attorney Mattei, pounds on a picture of his face, and threatens him:

> And then now magically they want metadata out of hundreds of thousands of emails they got, and they know just where to go. What a nice group of Democrats. How surprising. What nice people. Chris Mattei. Chris Mattei. Let's zoom in on Chris Mattei. Oh, nice little—[pounds picture of Attorney Mattei's face with fist]—Chris Mattei. What a good American. What a good boy. You think you'll put on me, what—[under his breath] I'm gonna kill . . . [growls]. Anyway, I'm done! Total war! You want it, you got it! I'm not into kids like your Democratic party, you cocksuckers! So get ready!

At the Tuesday hearing, the plaintiffs will request an expedited briefing schedule concerning what orders must issue in connection with Mr. Jones' on-air statements and Attorney Pattis' participation in this broadcast. In addition, the plaintiffs may seek interim relief, to span the time during which the briefs are being filed.

[2] This statement apparently refers to (and distorts) the call that Attorney Mattei made to Attorney Pattis to inform Attorney Pattis that child pornography had been discovered in the Jones Defendants' production.

[3] At various points throughout the segment, Jones refers to Attorney Mattei as "bitch." He also refers to Attorney Mattei as "pimp," "white-shoe boy," and "white-shoe boy jerkoff."

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By **/s/302902**

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CERTIFICATION

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/s/302902
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APPENDIX G

Certified Transcript of Excerpt From The Alex Jones Show (June 14, 2020).

ALEX JONES and NORM PATTIS

INFOWARS.COM

June 14, 2019

Excerpt from 2:13 to 2:49

(Transcription from Electronic Recording)

Transcription Services of
FALZARANO COURT REPORTERS, LLC
4 Somerset Lane
Simsbury, CT 06070
860.651.0258
www.falzaranocourtreporters.com

(Video excerpt begins at 2:13 p.m.)

ALEX JONES: Fotis Dulos, that's a Greek name. They say this lawyer is a vicious piece of scum. Connecticut lawyer getting hate mail for defending the father of five whose wife was found dead. Whether he's guilty or not he deserves a defense. But I'm here to tell you I deserve a defense of the First Amendment, but I'll go further on Sandy Hook.

We have the Google Analytics that they requested that we never looked at. Obviously they know stuff we don't know like if you ever had Google ads, like Google's like surveilling you, and it's 0.2-something percent out of billions of views we basically never talked about Sandy Hook. And if I believe Sandy Hook happened or didn't happen, it's my right to say it as an American.

But I got tricked two years ago with -- three years ago -- Hillary saying, you know, Jones says harass the families, Jones says it didn't happen. Couple years before I decided I thought Sandy Hook had happened. I wasn't the guy that first questioned Sandy Hook but I'd seen so many staged events, I mean I think the Iranians probably attached

our -- these ships. And my listeners are pissed at me right now. And I've had top geopolitical analysts, naval fodder bombers on, analysts, Navy Seals, they're saying different things. We've had big debates. You could edit the last two days' shows together and have me say that Iran did it or the U.S. did it or the Saudi Arabians did it because we're having real intellectual discussions about what happened.

And my lawyer is one of the top defense lawyers in the county. Nobody debates that. He does murder, he does First Amendment, he does it all.

When I first hired him a few months ago, when Bob Barnes hired him, our general counsel, he said, listen, even if you said this you have a right and he would come down here, I'd say you need to watch the videos that's out of context. I would never say something if I don't know, I would play devil's advocate down each avenue. Like it total happened, he was on Prozac, videogame head, and then next I'd say or I can see they staged Gulf of Tonkin and they staged all this, I could see how it's a totally staged managed event.

He's now had time and to great expense to us to go through it all and he came to me like on

Monday, he said my God, it's true, it's a hoax. And he said -- not Sandy Hook, but what they said about me, he said, well, what's the real plan. And I said it's to get our data in discovery and misrepresent what it is and shut us down.

So I'm going to show you Google Analytics today, I'm going to show you on screed all this. You're listeners, you know that we never talked about Sandy Hook in the first two, three years it happened but a couple times, and then since they attacked me I've covered it more.

I mean Megan Kelly came here and said it was about another subject, about my divorce. And then it was all about Sandy Hook and I said I think Sandy Hook happened and, you know, I've always questioned both sides. I think everybody has a right but I'm sorry for families that got hurt. She edited it together and we have the proof, it's going to come out in court if it gets there, that I said all that again and they sued me on that to get around Statute of Limitations.

Well, now, ladies and gentlemen, I don't think the judge in this case is a bad person but they're under political pressure. And I get it, I'm not an IT person. I've had to spend time I didn't

have trying to figure out what the hell is going on and brought in outside consultants and spent hundreds of thousands of dollars, and I won't even tell you the number but half a million dollars trying to figure out to answer the discovery. Because they go we know you've got marketing, you got rich off Sandy Hook. So we finally took a look at Google Analytics and it's like 0.2 percent. And then most of that turns out Bob Barnes has already done the analysis. I couldn't believe it. I don't know who that guy works with, man. He won't tell me but he knew the exact numbers we got off of Google Analytics before we ever had them. 98 percent of our statements said Sandy Hook happened.

Now, if we want to say it didn't happen that's our right as Americans. But 98 percent of the 0, .02, whatever percent, I'm going to show you this, that's not my numbers, it's Google Analytics. We never even talked about it but they're making it who I am.

You've all been listening for the last two days. I'm like I don't know who blew up the ship. Ron Paul says the U.S. did it. Rand Paul says he doesn't know. Trump says it's the Iranians. Let's have a Navy Seal on. Let's have a famous Black Ops

operator on. Let's see what they say.

You could take any one of those interviews and say Jones says the Iranians did it. Jones says the U.S. did it. But does it matter? We're Americans. Our forebearers fought and died that we had a right to question things. But I've been told and it's been admitted, even Supreme Court Justice Clarence Thomas admits, the *New York Times* Op Ed, he wants to get of press protections, the First Amendment. And they admit to me -- it's in the news that they are using me as the way to end it. That's dirty.

So I'm going to be fine in all of this because I didn't do what they said, but they're going to use it to demonize free speech and that's what's dangerous.

So the next two segments, then Nick Bagitz (phonetic) will take over in the last segment, he understands preemption.

We had Norm Pattis, an esteemed constitutional First Amendment and civil rights lawyer, roll thought this. But I want to be very clear. I am proud of questioning Sandy Hook. I was not the progenitor or the daddy of it. The public questioned it. So it was the tail wagging the dog.

And I questioned it and then I looked into some of the anomalies and found out that what people said wasn't true. I found that that some of those anomalies that people talked about were not accurate. And then I was told by the media like four years ago, apologize. And I said, yeah, no, I think it happened now. I'm sorry I got to question things like babies in incubators against the Iraq War or WMDs in Iraq or the Smollet case, any of this. I said yeah, and my God I had learned why Limbaugh said never apologize. Because I never apologized because I always believed what I was saying. But I thought, oh, you just want an apology, your feelings are hurt, I'm going to apologize.

And then the Democratic party operatives that handle and manage all of those poor families and use their grief to inflict wounds on Connecticut every day go, oh, my God, we've got his ass now. He says it's all fake, it's a lie. We've got a *Homeland* show where he's the villain. I never said any of that.

So now the gloves are off and now we're going to get down to brass tacks. So I've learned a lot through this process but now we've discovered a major criminal felony attempt to set up an operation

and put us in prison. The FBI admits we're the victim. We're going to break it all on the other side.

(Break.)

ALEX JONES: Ladies and gentleman, I'm Alex Jones, your host. We're battling for America there's no doubt.

Norm Pattis is one of the most respected criminal and civil rights, First Amendment lawyers not just on the East Coast but in the country. And of course you see his name everywhere because, you know, he's involved in all these cases.

In the old days they didn't attack the defense attorney because they defended somebody. They said, oh, that's what defense attorneys do. You have a right of representation.

Well, now I've got articles right here calling him the scumbag of the earth. So we should probably just get this out in the open right now about the big case you're handling right now in Connecticut and just a minute or two on that. But like you said during the break you're almost more demonized for representing me than somebody they're accusing of killing his wife.

NORM PATTIS: You are not popular in

Connecticut. People lost friends and family at Sandy Hook and every time it said that you deny it people feel as though you've stabbed them in the chest.

With respect to Ms. Dulos, she's a lovely -- apparently was if she's dead -- in fact a lovely mother. I want to correct one thing you said on behalf of Mr. Dulos. There is circumstantial evidence that she's dead but there is no body yet. Police still look and she may well be alive. If she is dead there is no evidence that my client killed her. None.

ALEX JONES: No, you're right. They're not saying she's dead in fact. I'm not the lawyer here. I'm just getting out here that you were telling me that lawyers you've known 30 years won't talk to you representing me.

NORM PATTIS: Yeah. It's amazing. The courthouse that served Sandy Hook is Danbury. I was there the other day and I guy I've known and worked the cases with wouldn't talk to me. And I'm thinking what I did I do to piss him off. And I called a friend of mine and he said he's upset that you're representing Alex Jones. People don't like him, people -- it's surprising. You know, for the life of me I don't understand why.

ALEX JONES: Well, my frustration is most people who are listeners are supportive, literally 50 out of 1. But they'll walk over in front of my family and say you're a Russian agent or stop saying nobody died at Sandy Hook. And I'm like, now I'm like literally I've got Google Analytics said 0.2 percent ever talked about it. The media and Hillary made it like I'm Mr. Sandy Hook. My listeners hear it, they run off a cliff.

I told this story yesterday, they're talking about analytics, I don't look at analytics, but Joe Rogan but out 30-something clips when I was on with him in February.

NORM PATTIS: Wow.

ALEX JONES: And the top clip at 14 million views on YouTube, not counting other platforms. It has over a hundred million views right now. Joe, I talked to Joe a few weeks ago, it's bitter than Elon Musk, it's the biggest thing he's every done. 14 million for the interview. The average video of 30 videos is 3 million views.

NORM PATTIS: Wow.

ALEX JONES: Guess what the lowest video is? And look at that, that's 14 million right there, you see that? 14 million. That's the top clip. 14

mill.

Now, and he was famous for dialing it down and not pay you the advertising. The word is it's like probably 60 mill on there. I've had films on Google video before they took it down with a hundred mill.

NORM PATTIS: Wow.

ALEX JONES: Okay. So I'm the kind daddy, okay? And I'm here to -- and I'm not bragging, I'm here to tell the little pimps, the Senator Murphys and the prosecutor, the Obama appointed prosecutor that's doing all this, bitch, I don't need to talk about poor dead kids to have listeners. I've got news stacked to the rafters. My listeners questioned 9/11. I covered it. My listeners questioned this latest gulf attack, which I think was probably Iran. My listeners are pissed. My listeners questioned Sandy Hook and I looked at both sides. So stop saying I'm making a living off these poor children when I've been saying for years I thought they died.

NORM PATTIS: Well, let me tell you, I've only been involved in your case for about three months and I've grown weary listening to the claim that someone there is a secret cabal of people meeting together deciding how to offend people and

then profiting off of it, driving the decision on what to cover here. There is no evidence.

ALEX JONES: Oh, my listeners are pissed.

NORM PATTIS: There is no --

ALEX JONES: My listeners are pissed that I'm not saying these attacks on ships were staged by our government. I think it was probably Iran.

NORM PATTIS: But my point is --

ALEX JONES: The point is I've got a responsibility to say what I think.

NORM PATTIS: You have a right to say what you think and your readers can -- or your listeners can either listen or not. You have many people who listen. And what your critics don't understand is you're not making people listen; you're not putting ideas in people's heads. Since I've begun to represent you I've gotten emails from angry listeners of yours saying why are you toning him down on Sandy Hook? I'm not toning you down. If I've learned one thing representing you in the last three months, Alex Jones does was Alex Jones wants to do. I'm not aware of some secret genie in the bottle pulling your strings saying move left, move right.

There is no conspiracy at Infowars that is seeking to profit off of the woe and misery and fear

of others. This is a content driven enterprise. You do sell products that I've seen advertised, but the relationship between the content, the editorial content and the marketing of products, if there is a marketing effort that I've yet been unable to discern, it's nonexistent. And I don't -- you have spent a lot of money on me and I'm sorry. You've flown me down here at your expense and put up for --

ALEX JONES: Oh, you been nothing --

NORM PATTIS: No but listen to me. But listen to me. It is a fool's errand. We continue to go back to court in Connecticut on a weekly basis to sing for your supper and, you know, they say produce marketing reports; there aren't any. Produce sales analytics; there aren't any. So now we're in a dispute about --

ALEX JONES: They beg me to have marketing meetings.

NORM PATTIS: Right.

ALEX JONES: They beg me to plug; I won't do it.

NORM PATTIS: Well, I wish that -- this is not an invitation to Judge Bellas, although if she's listening she may want to accept it. If she wants to come down I'd expect you'd host her. I have probably

--

ALEX JONES: We've debated having the other side in.

NORM PATTIS: I think which is considerate.

ALEX JONES: What we'll cover next segment, the emails and the big criminal action.

NORM PATTIS: Oh, yeah.

ALEX JONES: And the big announcement is coming up next segment. But it's just -- do you think the liberals in Connecticut that are doing this really believe the *Homeland* version of me? Because I know they know I don't have an email at Infowars. I got rid of it 10 years ago but they keep saying I'm covering that up. So they know this isn't true.

NORM PATTIS: The funny thing is you're -- I wish you'd be rebranded. You're not Alex Jones, conspiracy theorist. I'm not sure what the right brand is, but who are the real conspiracy theorists. People seem to think back and think that you're an evil genius that has it all planned and you've got a med at every corner and you're going to profit off of their fears.

I love you. I've met a lot of great people that work here and I've enjoyed coming down here. But this is not IBM. There is not a corporate

handbook telling people when to move left and move right. You sort of represent a cyclone with a pulse and when you blow through here I watch the bodies up against the wall trying to figure out how to peel themselves off. It works. Your viewers trust you because you're honest, you're real, you say what on their mind.

Now, the biggest eye-opener to me in this case has been watching videos that he plaintiffs rely on in the Sandy Hook case. I don't like Mr. Halbig. He's sent me any number of emails before I met you. I think the guy is a crackpot. So what do I do when I see that name, Halbig? I tune it out.

There was a point where you listened to him and to defend you I've been required to watch some of those videos and it was a jaw-dropping experience because he raises good points. Now, he may overestimate --

ALEX JONES: Oh, he's been on like National TV as the -- like *Good Morning America* as the top expert. He said it didn't happen. We went off him. I think he really means what he's saying. The point is he doesn't work for us; we don't direct him in this whole conspiracy.

NORM PATTIS: But he take -- let me tell

you a story that I've not yet heard on your network. I have good friends who are big-time lawyers in the Pine Ridge Indian Reservation, Sioux, and they don't believe the 9/11 narrative. And so one of the them got me on the phone one day and said, look at your computer. And I saw an aircraft that was crashed into the Pentagon. That's not how it happened. Look, there's no tail on the airplane but there's no damage to the place where the tail should have been. This was staged.

Now, something told me that he had about 6 screws loose on a 5-screw devise. But I looked at the photo and as a lawyer I thought, you know, if you stood in front of a jury and argued that piece you'd get it. But I couldn't follow on it.

ALEX JONES: Exactly. He had the right to say it.

NORM PATTIS: That's exactly right.

ALEX JONES: And that's what I'm saying is. We've been -- let me tell you, my listeners, because I think Iran was probably behind these latest attacks, my listeners were all mad at me for saying --

NORM PATTIS: Well, who did they think it was?

ALEX JONES: They think the U.S. Government. They think Trump did it.

NORM PATTIS: And that's the point. People don't -- people are so distrustful of the Government they're desperate of answers.

ALEX JONES: And they're trying to make that question illegal. I have been a loyal son of the Republic and my family for more than 14 generations it has been, and I know what they do when you expose them. They say you're a pedophile. We knew it was coming. And when the Obama appointed U.S. Attorney demanded out of 9.6 emails, 9.6 million emails in the last 7 years since Sandy Hook, metadata, which meant tracking the emails and where they went, well, we fought it in court and the judge ordered for us to release a large number of those emails. That's Chris Mattei that got that done. A very interesting individual at the firm of Koskoff & Koskoff run by Senator Murphy and Senator Blumenthal that say for America to survive, quote, "I must be taken off the air." So they're very naked about what they stand for.

So, you know, I had them try to set me up with the Russians and I reported it to the FBI and that kind of freaked them out a lot. And that's all

on record. It's been covered in the national news. So that didn't work too well.

And so we learned in just the last few days that when they wanted these hundreds of thousands of emails out of the 9.6 million that they had attachments to them that no one would know what they were. We hadn't opened this. The FBIs came out and said I'm the victim in a statement that's come out officially. The U.S. Attorney's Office in Connecticut.

But what's interesting is we checked with real IT people because we're not IT folks. We made some calls and they said, no, you wouldn't know what was in attachments and you wouldn't know what they link to because the FBI looked at it, they said we're the victim. It was hidden in Sandy Hook emails threatening us, those child porn. So it's on record we were sent child porn. We're not involved with child porn, but the fact is it's not a needle in a haystack, it's fields of haystacks. And they get these emails a few weeks ago and they go right to the FBI and say we've got him with child porn. The FBI says he never opened it and he didn't send it. And then they act like, oh, they're our friends, they're not going to do anything with this. Go to hell. I

wasn't born yesterday. I was born in the dark but it wasn't last night.

So whatever is going on I'm offering a $100,000 reward. Not 10,000. A $100,000 reward for the arrest and prosecution. And I've had $115,000 bonuses in contests before, so I'll pay $100,000. We're going to release the metadata in the next few days on Infowars.com for the email address, the company, and the folks at the company are going to track it back and they're going to find out. And we're going to pay the $100,000 and you're going to go to prison.

By the way, more than 20 people that have threatened us and my crew have gone to prison. When people threatened to kill George Bush or threatened to kill Obama we reported you. You went to prison. And law enforcement knows we are law abiding. We're not offensively committing crimes.

So $100,000 reward and we'll release the metadata by Monday of who sent this and when they're arrested you get $10,000. When they're convicted you get $90,000.

Now, I wonder who during discovery would send emails out of millions and then know what to search and look at? I don't know. I just think

people are smart enough to know where to look at the ISPs. $100,000. Oh, did I mention on conviction another 100,000? 200,000 -- no, no, wait. One million dollars. One million -- I can't help it, I've always done what I say I'll do. I don't have a lot of money but I'll sell my house. One million dollars on conviction for who sent the child porn. One million dollars. We're going to publish all the metadata. We're going to turn you loose; the ISPs, the law enforcement. You know who did it. One million dollars. So now it's not 10,000 for a arrests, 100,000 for arrest. It's one million for conviction. One million dollars.

You think when you call up, oh, we'll protect you, we find the child porn. I like women with big giant tits and big asses. I don't like kids like you goddamn rapist f-heads. In fact, like this, you fucks are gonna get it you fucking child molesters. I'll fucking get you in the end you fucks.

Now, we're done right there. I know I should delate it in radio, probably still went out, I don't care. You're trying to set me up with child porn, I'm going to get your ass. One million dollars. One million dollars you little gang member.

One million dollars to put your head on a pike. One million dollars, bitch. I'm going to get yo' ass. You understand me now? You're not ever gonna defeat Texas you sacks of shit, so you get ready for that.

Now, I don't usually use French but I'm pissed right now.

Norm Pattis, you take over this segment, the next -- I apologize, my use of French here, but I'm really pissed right now.

NORM PATTIS: Yeah, I get that.

ALEX JONES: And I'm not putting up with this goddamn bullshit anymore.

NORM PATTIS: So you should have talked to me be about the reward structure because --

ALEX JONES: No, I don't -- it's one million.

NORM PATTIS: But listen to me. I'm your lawyer and it would behoove you to listen from time to time. You don't ever want to create an interest in the outcome and a potential witness.

ALEX JONES: Ha, ha, ha.

NORM PATTIS: No, no, I'm here --

ALEX JONES: I'm gonna -- why does the law enforcement say there's a -- why does law enforcement say $5,000 dead or alive? One million. Because we

all know who did it.

NORM PATTIS: So let's talk about what happened here. I was --

ALEX JONES: You think I won't pay one million?

NORM PATTIS: I didn't say that. I just don't want you to create an interest in the outcome of a person who testifies because they now have a -- there is a contingent interest in telling the truth.

ALEX JONES: Well, then why does law enforcement give bounties?

NORM PATTIS: That's different than having contingent interest in the testimony.

ALEX JONES: No, no, no, no, no. We're going to get --

NORM PATTIS: I want to focus on the issues that --

ALEX JONES: They sent me child porn.

NORM PATTIS: I want to focus on the issue that got you angry because that's a great issue, okay? And Aristotle once said that a wise man gets angry in the right way, at the right time, in the right reason. You're so angry right now you're just a touch unwise, but I'm still behind you 100 percent.

You should be angry because here is what

happened.

ALEX JONES: Norm, every time I'm on the attack I win.

NORM PATTIS: Listen to me. Listen to me. Listen to me. You should be angry. I'm behind you 100 percent. Here is what I learned. I got a call the other day saying that information we were court ordered to provide, metadata, had been run by a California data processing firm for your adversaries in the Sandy Hook suit. They found an email that they shouldn't, quote, "have." They turned it over to the FBI. The FBI went through the metadata and found 12 emails that contained pdfs or images imbedded in emails of child porn. Some of those emails were directed to you and they were very hostile and I'm not going to use the language that were used in those emails. 12 images of child pornography if knowingly possessed by you, a member of your staff or me as your lawyer could land anyone or all of us in prison for up to five years.

ALEX JONES: Yeah, but they sent it.

NORM PATTIS: When I heard this I fell over and I've not stopped being angry since. I'm not as angry as you but I'm angry.

The point is that somebody directed child

pornography into your email accounts hoping that you would open it so that when you opened it there would be direct evidence that you had viewed knowingly and possessed child port.

ALEX JONES: And now imagine they want metadata out of hundreds of thousands of emails that I got and they know right where to go. What a nice group of Democrats. How surprising. What nice people, Chris Mattei. Chris Mattei, let's zoom in on Chris Mattei. On nice little Chris (pounding fist) Mattei. What a good American. What a good boy. You think you'll put on me what (growling).

Anyways, I'm done. Total war. You want it, you got it. I'm not into kids like your Democratic party, you cocksuckers. So get ready.

Anyways, you're my defense lawyer.

NORM PATTIS: Yeah, I am (chuckling).

ALEX JONES: I'm not putting up with these guys anymore, man, and their behavior because I'm not an idiot. They literally went right in there and found this hidden stuff, oh, my God, oh, my -- and they're my friends. Oh, we want to protect you now, Alex. Oh, oh, oh, you're not going to get in trouble for what we found. F-U, man. F-U to hell. I pray God, not anybody else, God visit vengeance upon you.

In the name of Jesus Christ and all the saints I pray for divine intervention against the powers of Satan. I literally would never have sex with children. I don't like having sex with children. I would never have sex with children. I am not a Democrat. I am not a liberal. I do not cut children's genitals off like the left does.

All right, Norm. I apologize to our affiliates. We delayed most of it out but I've been fire breathing today because I've talked to IT people and they say you got 9.6 million emails, you've got hundreds of thousand sent to the court. These are hidden links that they knew right what to go to, and these people were appointed by Obama and it's just like -- God, I'm so sick of them. I am so sick of their filth and living off the dead kids of Sandy Hook, and I've got all the statistics that I covered it like 0.2 percent. Even with all the coverage now they make it who I am, they live off these dead kids and they say I did it because they watched *Homeland* and they believe their own filthy lies. And then they find, out of grains of sand at the beach they find the magic child pornography. How obvious is that we've got a problem in this country and it's out of control.

So we have 9 minutes left. I appreciate you being a nice person. And we'll go over some of the metrics and some of the things I talked about.

NORM PATTIS: If I had one gift I could give you it would be to put Sandy Hook in the rearview mirror forever. I hate to see people put a burr under your saddle. I fear --

ALEX JONES: It's not Sandy Hook --

NORM PATTIS: No, no, no, no, stop. Stop. You're going to listen to me. You brought me down here. There were 9.6 million emails that were searched. We turned over about 57,000 of them. In 12 of them there were imbedded images of child pornography. As it turns out those emails were never opened; the images were never opened. There's no evidence that anybody here or anybody affiliated with you or you ever searched them. So clearly they were placed in there as malware, as evil intended internet communications.

I have spoken to federal prosecutors. They regard you as a victim. They do not regard you as in any way a suspect. No one is going to search your computers or try to build a case against you. The news takeaway here --

ALEX JONES: I want them to. I want them

to track it back to --

NORM PATTIS: No, you're not hearing me.

ALEX JONES: -- you know who.

NORM PATTIS: You are not a suspect; you are not a target; you are not a person of interest. You are a victim and that's the story here.

ALEX JONES: I wonder who the person of interest is.

NORM PATTIS: Look. You're showing Chris Mattei's photograph on the air.

ALEX JONES: Oh, no, that was an accidental cut. He's a nice Obama boy. He's a good --

NORM PATTIS: Chris Mattei is your adversary in this litigation just as I am the adversary of the people of -- that have sued you, and it is my responsibility to take their case apart if I can. And he will attack you.

ALEX JONES: He's a white shoe boy that thinks he owns America.

NORM PATTIS: I'm not going to engage in a personal attack on Chris Mattei. I want to find out who sent the emails to you and when I find that person then I will go to war.

ALEX JONES: I just wonder --

NORM PATTIS: Alex. Alex. Alex.

ALEX JONES: I've talked to IT. You understand hidden links in an email no one looked at, to find that is like finding a needle in 5,000 haystacks.

NORM PATTIS: I agree. They used -- Koskoff, Koskoff & Bieder contracted out --

ALEX JONES: It means there's no limit to what they're going to do.

NORM PATTIS: They contracted out to a sophisticated data mining form. They spent probably $100,000 to go through your emails looking for whatever they could find and they did find this. You believe that that was placed there and they knew where to look and how to find it.

I'm not -- I don't have evidence of that yet. I represent -- listen to me, the young man, listen to me. I represent people that are accused --

ALEX JONES: They want a war; they're about to get one. That's all I'm just telling right now. I ain't screwing no kids. I'm not like -- I'm not a Democrat, man.

NORM PATTIS: Hit the pause button. I represent people accused of possessing child porn all the time. Some of them are set up. You have been set up. Let's find the identity of the person who

set you up and not leap to conclusions about who it might be. If it was the other side, the other lawyers, I would be shocked. If it was some other person, a political operative, I would not be shocked. We will publish the metadata, you've got samples of it.

ALEX JONES: Yeah, (unintelligible).

NORM PATTIS: We're in the process right now of working with the U.S. Attorney's Office to get the actual communications. When I get those I will give them to you, you publicize them and let your viewers and listeners look.

ALEX JONES: I've already been accused of being a damn Russian, now I'm a frickin' pedo, man?

NORM PATTIS: Be bigger --

ALEX JONES: Like what the hell, dude. I'm sick of you Democrats. You're like the scum of the planet.

NORM PATTIS: Be bigger than the people who accuse you. There are people out there who want you because they're looking for a voice. They don't understand what's going on in this country. When you lose focus and lose that because of anger they lose an anchor. They're looking to you for answers, not anger. Be angry, but as Aristotle once said be angry

at the right person, at the right time, at the right way to the right degree.

ALEX JONES: I told you when they did this, I said we'd never cover it, you saw are books --

NORM PATTIS: No, you did. That's true.

ALEX JONES: -- we didn't cover any of -- we covered like 10 times or something, and I showed you what we had, the numbers, we never covered it. I'm like, I don't know why they want this.

NORM PATTIS: You're dead right.

ALEX JONES: Why do they want the metadata. I said they want to plant something on me.

NORM PATTIS: So --

ALEX JONES: I told you that three weeks ago and now, now they're like --

NORM PATTIS: Okay, look. You are dead right. When I came down here, you know, I didn't know who you were then -- I knew who you were, I could place you on the political landscape. I hadn't watched your show. I've made a study of you in the last three or four months and you've won me over because I think you're an honest and angry American. But sometimes you're not angry at the right things and sometimes you get angry too quickly at the wrong things.

ALEX JONES: Well, you try --

NORM PATTIS: But let --

ALEX JONES: You try people try to plant child porn on your computer, man. I mean --

NORM PATTIS: Let's find out who did it and then take them down but not leap to --

ALEX JONES: That's why I said one million. I'm not BS-ing. One million dollars when they are convicted. The bounty is out, bitches, and you know you feds, they're going to know you did it. They're going to get your ass you little dirtbag. One million, bitch. It's out on yo' ass.

NORM PATTIS: Well, if they're the grass I will be your lawnmower but let's make sure we're mowing the right lawn, okay? You have every reason to be angry.

ALEX JONES: One million. I pay all debts. One million is on the street for who sent me -- and you're going to -- we're going to get the emails, we're going to public them next week, and we're going to make a whole thing. We're not going to show the child porn but we're going to put the emails out and we're going to show you where they came from and what. One million on the street.

NORM PATTIS: And where I come from what's

truly terrifying is this is the bottom feeding part of the effort to take you down, as you've been de-platformed, you've been censored --

ALEX JONES: Okay. Well, now a million dollars is after them.

NORM PATTIS: All right.

ALEX JONES: So I bet you'll sleep real good tonight you little jerk, because your own buddies are going to turn you in and you're going to go to prison you like white shoe boy jerkoff. You son of a bitch. Fuck. I mean I can't handle them. They want war, they're gonna get war (pounding desk). I'm sick of these people, a bunch of chicken craps, they've taken this country over. They want to attack real Americans.

NORM PATTIS: Well, be the real American and the real American attacks the right target.

ALEX JONES: I'm going to.

NORM PATTIS: Let's find that target and attack.

ALEX JONES: Oh, my God --

NORM PATTIS: Oh, come on now.

ALEX JONES: I've talked to people. There's no way out of millions of emails that didn't even say child porn. They horned in on it. God

almighty.

NORM PATTIS: You're assuming they horned in on it. We don't know what the analytical facts --

ALEX JONES: And whoever did it told them to do it. We're gonna get them. One million. One million dollars is on the street against you. You didn't destroy America on time, bitch. I am pissed, man. I would give everything I have to stop living in this world with these people.

Norm, let's be nice here. Let's go into the documents. Oh, look, Norm, we have Google Analytics they asked for. How much did we cover Sandy Hook. Let's roll some of that. This is from Google. 0.28 percent. With all the coverage they've done that's how much Google says we covered it. Boy, how does that fit in their model that I live off the dead kids that these vampires feed off of? Not me.

NORM PATTIS: You will win the lawsuit in Sandy Hook. As a matter of law it was protected speech and no defamatory and it was --

ALEX JONES: And they know that. So there's going to be child porn put on my servers.

NORM PATTIS: That may well be the plan that some as yet identified person engaged in. We have to identify that person. It's easy to make an

accusation; hard to prove it.

ALEX JONES: Oh, I make an accusation. I'm sure that U.S. Attorneys appointed by Obama are sweet little cupcakes.

NORM PATTIS: No, come on, Alex.

ALEX JONES: I would never accuse them of something.

NORM PATTIS: I didn't come on your show to be made out to look like a naïve fool. I'm as tough as any lawyer you'll ever meet.

ALEX JONES: I'm not saying you're naïve. No, I'm sure -- you don't think errand boy did this. I'm actually not saying that. This is a setup and the way it's like, oh, Alex, we have this but we're not going to tell anybody. We're not going to tell anybody, dude.

I've never screwed a kid; I don't want to screw a kid. Don't you ever project onto me, don't you ever do it, you lowlifes. And so if they want war, you know, it's not a threat, it's just like an AC/DC song, if you want blood, you got it. Blood on the streets, man. I mean I am not going to sit here in my life and have these dirtbags say that I done these things I haven't done, and then know where to go and weasel in and find this perfect thing. It's

ridiculous how obvious it is. Did you think I'd roll over and spray crap out my ass and show my belly and piss on myself to bow down to you? You just summoned war. So get ready.

And I'm just asking the Pentagon and the patriots that are left and 4 chan and 8 chan (phonetic) and anonymous, anybody that's a patriot, I am under attack and if they bring me down they'll bring you down. I just have faith in you. I'm under attack and I summon the mean war. I summon all of it against the enemy. I will never sell out to these people.

Anyways, what to make some closing comments?

NORM PATTIS: Hi, mom.

No, look, Alex, I can't respond to the rage. I get it.

ALEX JONES: Yeah, how would you like this?

NORM PATTIS: I would not --

ALEX JONES: How would you like an Obama appointed U.S. Attorney, man, that literally found a needle in a field of haystacks and tried to go to the feds and get me indicted. I am -- it's war, dude. Killing me would be better. Turning me into a child molester, into your liberal God I'll never be a sack

of filth like you.

And now I ask my listeners and everyone, you claimed I sent people. I never sent anybody. And I want legal and lawful action. But I pray to God that America awakens. Will Texas be defeated? You will now decide. This is war.

(End of video excerpt: 2:49 p.m.)

CERTIFICATE

I hereby certify that the foregoing 36 pages are a complete and accurate transcription to the best of my ability of the electronic recording of the Alex Jones Infowars.com broadcast on June 14, 2019.

Suzanne Benoit, Transcriber Date: 6/18/19

APPENDIX H

Opening Merits Brief For The Applicants Before The Connecticut Supreme Court In *Lafferty v. Jones*, SC20327 (June 29, 2020).

STATE OF CONNECTICUT
SUPREME COURT

S.C. 20327

LAFFERTY, ERICA, ET AL.,
Plaintiffs-Appellees,
v.
JONES, ALEX EMERIC, AT AL.
Defendants-Appellants.

JUDICIAL DISTRICT OF WATERBURY
at WATERBURY
COMPLEX LITIGATION DOCKET
(Hon. Barbara Bellis)

JONES DEFENDANTS-APPELLANTS' BRIEF

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STATEMENT OF ISSUES

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II. Whether, in the event this Court concludes Mr. Jones's speech was sanctionable, the court erred in imposing sanctions by depriving the Jones defendants with adequate notice and a meaningful opportunity to be heard before imposing sanctions?

III. Whether the so-called expedited discovery process has been abused as a litigation tool and the Jones defendants' motion to dismiss should be heard without further delay?

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NATURE OF THE PROCEEDINGS

This is an interlocutory public interest appeal arising under Connecticut General Statutes Section 52-265a, said application for the right to take such an appeal having been granted by Robinson, C.J. It arises in the context of civil litigation involving three consolidated civil actions brought by surviving family members of victims of the mass shooting in Sandy Hook, Connecticut, in December 2012.[1] The various plaintiffs contend that Alex Jones and a series of related defendants engaged in tortious conduct because of public comments the defendants made, or permitted to be made, in print and on radio, television and Internet broadcasts.[2] The defendants moved to dismiss the actions, seeking to avail themselves of Connecticut's new anti-SLAPP statute, Connecticut General Statutes Section 52-196a, which gives defendants engaged in protected first amendment activities such as speech the right to bring a special motion to dismiss and thereby avoid the expense and travail of endless litigation. The plaintiffs persuaded the trial court to grant them certain "limited" and "expedited" discovery rights. The defendants sought to appeal the trial court's discovery order, fearing that its scope would deprive the defendants of the benefit of the

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[1] Those actions are Lafferty, et al. v. Jones, et al., CV18-6046436-S, filed on May 23, 2018; Sherlach v. Jones, et al., CV18-6046437-S, filed July 6, 2018; and, Sherlach v. Jones, et al., CV18- 6046438-s, filed December 5, 2018. All were filed by the same firm; the factual allegations of each are virtually identical.

[2] This appeal is brought on behalf of the "Jones Defendants": Alex Jones; Infowars, LLC; Infowars Health, LLC; Prison Planet TC, LLC; and, Free Speech Systems, LLC. Several other defendants, represented by separate counsel, also have motions to dismiss pending. Those motions have not been acted on by the trial court.

anti-SLAPP statute. The Chief Justice denied the defendants the right to take such an appeal.

Thereafter, the case proceeded to discovery that proved interminable. During the course of that discovery, child pornography was found embedded in several of the tens of thousands of emails the Jones defendants turned over in discovery. There is no indication that anyone connected with the Jones defendants was even aware that the child pornography was embedded in the emails. When Mr. Jones angrily shared his suspicion on a public broadcast of his television/radio show that the items had been planted in the emails by his adversaries, counsel for the plaintiffs asked the trial court for relief, purporting to feel threatened. Judge Bellis held an impromptu hearing and issued an oral ruling denying the Jones defendants the right to have their motion to dismiss heard. This appeal seeks reversal of that ruling.

At the center of this appeal is the trial court's handling of a request for sanctions filed by the plaintiffs on Monday, June 17, 2019. In their motion, the plaintiffs requested an expedited briefing schedule to address their claim that Mr. Jones had threatened plantiffs' counsel Christopher Mattei in a nationally broadcast telecast on June 14, 2019. The trial court held a hearing on the motion for sanctions on June 18, 2019. The plaintiffs requested a default judgment at the hearing; the trial court did not grant the request, but, despite lack of notice or a meaningful opportunity to be heard, gave the plaintiffs what they had long sought: a decision denying the Jones defendants their right to be heard on an anti-SLAPP motion to dismiss.

On appeal, the Jones defendants raise three claims:

First, that the statements made by Jones did not constitute a true threat or other sanctionable conduct within the meaning of the first amendment. In addition, despite the trial court's inherent supervisory authority over litigants in matters before it, the court erred in sanctioning the Jones defendants for what was little more than vituperative expressive speech.

Second, the Jones defendants contend that if the trial court did not err in concluding that Mr. Jones' speech warranted sanctions, it erred in the manner in which it imposed sanctions by acting abruptly, without either notice or a meaningful opportunity to be heard by the Jones defendants.

Finally, the Jones defendants seek an order that the trial court be required to adjudicate the merits of the defendants' motion to dismiss. "Limited expedited" discovery in this case has become little more than a game of "gotcha" played by the plaintiffs to avoid a hearing on the merits of very tenuous claims. The plaintiffs' antipathy toward Mr. Jones is obvious, but after reviewing nearly 10 million emails, turning over tens of thousands of emails, and having engaged in costly discovery compliance, the defendants are no closer to satisfying the plaintiffs than they were at the start. Plaintiffs' counsel has become expert at claiming crisis, demanding virtually weekly status conferences to discuss an endless series of demands. The trial court has adopted this crisis narrative: The result is an emasculation of the anti-SLAPP statute, and, by extension, a burden on the right to speak freely about matters of public concern.

The shootings at Sandy Hook were tragic in their consequences and constitute a chapter in the ongoing national debate about regulation of firearms in the United States. But the pathos in which the victims' families are draped gives them no special pulpit from which to censor speech, or, as here, to even attempt to do so by means of litigation falling perilously close to the line of being frivolous.

STATEMENT OF FACTS

The various complaints in this case raise five theories of liability: first, that the Jones defendants engaged in a civil conspiracy to hold the plaintiffs in a false light, in breach of their privacy; second, that the Jones defendants engaged in a civil conspiracy to defame the plaintiffs; third and fourth, that the Jones defendants engaged in a civil conspiracy to commit negligent and intentional emotional distress against the plaintiffs; and, fifth, that the Jones defendants engaged in a violation of the Connecticut Unfair Trade Practices Act. In support of these claims, the plaintiffs recite a variety of utterances made on television, in print, and on radio by the Jones defendants and others from January 27, 2013 to June 26, 2017. In sum, the plaintiffs complain that the Jones defendants engaged in, and encouraged others to, deny a truth the plaintiffs know all too well: children and educators were murdered at Sandy Hook. The Jones defendants dared question this publicly, at times questioning whether the event was staged, whether people actually died, whether the law enforcement investigation of the event was thorough, or even competent, and what political use was being made of the surviving family members of victims by folks with agendas broader than mourning the untimely deaths of those killed. The Jones

defendants speech was not unique to Sandy Hook, but is of a genre known as "Truthers," folks so disaffected by distrust of government and the main stream media, that events many regard as simply true -- 9/11, Sandy Hook, the moon landing – are called into question, and even denied. The plaintiffs further contend that the Jones defendants somehow encouraged and/or enticed third parties to harass the plaintiffs.

Mr. Jones operates and, is the primary broadcast personality supporting, an entity known as Infowars. By means of radio, television and the Internet, Infowars broadcasts the opinions and observations of Mr. Jones and his guests to millions of listeners and viewers around the world. Mr. Jones also sells health-related products and other items through related entities, frequently advertising for the items on his Infowars broadcasts. His activities are loosely organized and operated out of the structure provided by the corporate entities associated with him and named as defendants in these suits.

Through prior counsel, the Jones defendants filed a special motion to dismiss the complaints. The plaintiffs sought the right to conduct limited discovery, which was granted. Discovery ground to a halt amid a change in counsel for the Jones defendants. After a series of status conferences, the court concluded substantial compliance had been tendered. The plaintiffs asked for more. Not content with having been given nearly 60,000 emails out of a batch of approximately 9.3 million emails searched, they demanded the "metadata" for each of the emails produced. The court ordered the metadata to be turned over, again on an expedited basis. It was.

In early June, plaintiffs' counsel reported that a vendor it used to search the metadata detected child pornography embedded in certain emails. The items were apparently images contained in emails bearing innocuous titles. The material was turned over to federal authorities, and those authorities concluded that neither the Jones defendants, counsel for the Jones defendants, nor plaintiffs' counsel had knowledge of the apparent child pornography. Counsel for the Jones defendants was notified. Mr. Jones was made aware of the controversial emails during the week of June 10, 2019.

On June 14, 2019, Mr. Jones addressed the issues of the child pornography embedded in the emails in a national broadcast, offering a $1 million reward for information leading to the arrest and conviction of the person responsible for sending the material to Infowars and/or Mr. Jones. It was Mr. Jones' belief that the emails were sent to entrap him. During that rant, Mr. Jones made clear that he suspected counsel for the plaintiffs, Attorney Christopher Mattei, may have had a role in "planting" the child pornography in the electronic discovery.

The plaintiffs wasted no time in renewing their request for sanctions. For several months, the plaintiffs had sought sanctions for purported discovery noncompliance. In a filing on Monday, June 17, 2019, the plaintiffs requested an expedited briefing schedule to address what they perceived to be threats. At a regularly scheduled status conference on June 18, 2019, the Court sua sponte dispensed with any briefing whatsoever, and, after brief argument, imposed

sanctions in the form of a decision that it would not hear the Jones defendants' special motion to dismiss.

The Jones defendants thereafter sought permission to take a public interest appeal, which was granted. This brief was perfected in accordance with the order granting permission to take a public interest appeal.

ARGUMENT

I. The Trial Court Erred In Concluding That Mr. Jones' Speech Posed A Threat To Counsel, Or That Mr. Jones Engaged In Other Sanctionable Conduct Because Mr. Jones Had Every Right Under The First Amendment To Air His Suspicions About Counsel, And Mr. Jones Had The Right To Do So In A Public Manner.

Standard of Review: The appellants contend that the first amendment issue is subject to de novo review as they contend that as a matter of law and fact the court erred in imposing a sanction on first amendment grounds. *State v. Kallberg*, 326 Conn. 1, 12 (2017).

In her oral ruling of June 18, 2019, the trial court (Bellis, J.) referred to Mr. Jones' comments as "indefensible, unconscionable, despicable, and possibly criminal." (App., A37) The ruling is bereft of any analysis of the first amendment; its suggestion of possible criminal conduct is naïve. Mr. Jones committed no crime; he engaged in no true threat and he did not incite anyone to imminent violence. A calm and deliberate judicial proceeding, with briefing, and perhaps, evidence, could have sorted all of this out. Instead, the trial court rushed to judgment.

Indeed, it would be shocking if Mr. Mattei, a former federal prosecutor and candidate for statewide office, genuinely felt threatened or otherwise discomfited

by Mr. Jones' tirade. Seasoned litigators are expected to develop thick skins and to absorb the hostility of those they expose to financial ruin. Hostility goes with the turf; tender souls have no business arguing cases in the well of the court.

A. The Trial Court's Inherent Supervisory Authority Over The Conduct Of Litigants Appearing Before It Does Not Trump The First Amendment Right To Speak Freely

Judge Bellis gave counsel for the defendants the lunch hour to review a case she regarded as conferring authority to grant sanctions for Mr. Jones comments, *Maurice v. Chester Housing Associates Partnership, LLP*, 188 Conn. App. 21 (2019), cert. denied, 331 Conn. 21 (2019). Maurice was not challenged on first amendment grounds.

In *Maurice*, a slip and fall case, the Appellate Court upheld the imposition of sanctions in the form of attorney's fees for out-of-court comments by a non-party to litigating counsel. The court held the comments were bad faith conduct intended to intimidate counsel and deter her from performing her duties as a zealous advocate. The offending declarant was not an actual party to the litigation, but was, in effect, a real party in interest.

One comment consisted of an email sent directly to counsel, which resulted in the police contacting the sender and warning him against further similar communication. The email was a bizarre and flirtatious invitation to meet. Maurice, fn. 1. The second comment was a loud verbal comment of a sexually harassing nature involving counsel's "sitting" on the head of the declarant. In both instances, the comments were either directed at the attorney, or said in such a manner as to make it unambiguously clear that the comments were directed

toward her. The first comment was sent privately; the second, though uttered in a public place, was loud enough to find its target. Neither comment was broadcast to the world at large; neither comment could have had any other target that the recipient who sought sanctions.

Maurice left unaddressed what do in a case in which a broadcaster/litigant airs well-founded suspicions about the litigation conduct of opposing counsel. In this case, Mr. Jones had good grounds to be outraged upon learning that someone had tried to entrap him in a federal offense. He had a right to air his outrage, to offer a reward, and to note with scorn the coincidence that the same lawyer who fought to force him to disclose tens of thousands of emails was now claiming to have been but an unwitting conduit for the transmission of child pornography. No rule of law requires what the trial court suggests: that suspicions about criminal conduct either result in a criminal complaint or a referral to the court for sanctions. If Mr. Jones possessed evidence sufficient to pursue either course, one presumes he would have done so. But the absence of such evidence does not preclude him from airing his grievances, or from offering a reward so that he can acquire and develop such evidence.

If Mr. Mattei fees sufficiently chilled or impaired, he can, of course, seek to withdraw as counsel. He owes his client an unfettered duty of zealous advocacy. If Mr. Mattei feels Mr. Jones threatened him, or otherwise caused him distress, Mr. Mattei can take action himself – either civilly or by way of criminal complaint. Suggesting that Mr. Jones should be sanctioned, and Mr. Mattei's client rewarded, creates a perverse incentive to engage in "crisis lawyering."

B. Mr. Jones Aired Suspicions About Mr. Mattei, And Offered A Reward For The Identity Of The Person, Or Persons, Who Sought To Entrap Him. Mr. Jones Had Every Right To Do Both.

The trial court's decision to sanction the Jones defendants relied upon a selective reading/viewing of comments made by Mr. Jones in which he appeared to leave open the possibility that opposing counsel, in particular, former candidate for state Attorney General, and former Assistant United States Attorney Christopher Mattei, had played a role in attempting to entrap Mr. Jones by placement of child pornography in his emails. The court concluded that "if Mr. Jones truly believed that Attorney Mattei or anyone else in the Koskoff firm planted child pornography trying to frame him, the proper course of action would be to contact the authorities and/or have your attorney file the appropriate motions in the existing case." (App., A36-37) The trial court ignored Mr. Jones first amendment right to speak freely about his belief that he was a victim of concerted injustice.

In reaching this conclusion, the trial court read selectively from a transcript of the televised statement, essentially adopting the interpretation afforded by the plaintiffs. Judge Bellis also "found" facts she conceded were not in the transcript, to wit, a threat to kill. (App., A38) Judge Bellis then rejected the argument that Mr. Jones had engaged in a vituperative, hyperbolic and angry rant, accusing him of calculated and deliberate menace. (App., A40) In reaching these

conclusions, the court ignored every statement Mr. Jones actually made that cast his diatribe as something other than a threat against Mr. Mattei.[3]

Mr. Jones began his discussion of the emails as follows: "So I've learned a lot through this process but now we've discovered a major criminal felony attempt to set up an operation and put us in prison." (App., A55-A56) To be clear, Mr. Jones believes that there is a concerted effort to drive him and Infowars off the air. He believes that plaintiffs' counsel is part of that effort, and this litigation is one front in an offensive designed and intended to silence him. When commenting on the litigation to compel turning over metadata and emails, Mr. Jones said: "That's Chris Mattei that got that done. A very interesting individual at the firm of Koskoff & Koskoff run by Senator Murphy and Senator Blumenthal that say for America to survive, quote, `I must be taken off the air.' So they're very naked about what they stand for." (App., A64-A65)[4]

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[3] The court ignored the broadcast of Saturday, June 15, 2019, in which Mr. Jones made clear he did not intend to threaten Mr. Mattei.. A hyperlink to the broad cast is: https://www.infowars.com/watch/?video=5d056cc632a7400012c8f1f6 (last viewed July 19, 2019). The transcript was available to the court, as plaintiffs provided an unsigned copy to the court. (App., A85 et seq.).

[4] Attorney Mattei has an unusual fascination with Mr. Jones, appearing to view routine developments in the case as occasions to use social media for communications that have the look and feel of campaign announcements. In a January 13, 2019, Facebook posting, Mr. Mattei writes: "Wanted to update you on an important case I and my colleagues have been pursuing against Alex Jones and Infowars. On Friday, we won a significant ruling that requires Jones and Infowars to give us internal financial and marketing documents.... As I told the New York Times..." https://www.facebook.com/ChrisMatteiCT/posts/wanted-to-update-you-on-an-important-case-i-and-my-colleagues-have-been-pursuing/2314053781940074/ (last viewed July 19, 2019).

On February 14, 2019, Attorney Mattei returned to Facebook with another breathless announcement of the quotidian: "The families of Sandy Hook have waited a long time for justice. One step closer today. This ruling authorizes us to put Alex Jones under oath and make him answer for his conduct."

Mr. Jones then goes on to explain an effort in which "they" had tried to set him up "with the Russians and I reported it to the FBI"… And that's all on record. It's been reported in the national news."[5]

Mr. Jones did note the timing of the child porn investigation. "[The child pornography was hidden "in Sandy Hook emails threatening us, there was child porn. So, it's on record we were sent child porn. We're not involved with child porn. But the fact is it's not a needle in a haystack, it's fields of haystacks. And they get these emails a few weeks ago and the go right to the FBI and say, 'We've got him with child porn.' The FBI says, 'He never opened it. He didn't sent it.' And then they act like, on, they're our friends. They're not going to do anything with this. Go to hell…. So whatever is going on I'm, offering a $100,000 reward…. [we are] going to track it back and … find out." (App., A65-A66)

"By the way," Mr. Jones continues, "more than 20 people that have threatened us and my crew have gone to prison. When people threatened to kill George Bush or threatened to kill Obama we reported you. You went to prison." (App., A66-A67)

"Now, I wonder who during discovery would send emails out of millions and then know what to search and look at. I don't know. I just think people are

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https://www.facebook.com/ChrisMatteiCT/posts/update-the-families-of-sandy-hook-have-waited-a-long-time-for-justice-one-step-c/2365585356786916/ (last viewed July 19, 2019).

It is hardly remarkable that Mr. Jones regards this social justice warrior through jaundiced eyes. Theirs is a case of requited antipathy.

[5] Mr. Jones was approached by alleged representatives of the Russian Internet Group and offered financial support. Through counsel, he promptly reported the contact to the Federal Bureau of Investigation.

smart enough to know where to look at the ISPs.... We're going to publish all the metadata. We're going to turn you loose, the ISPs, the law enforcement. You know who did it." (App., A67) "I don't like kids you goddamn rapist, f-heads. In fact, you fucks are gonna get it, you fucking child molesters. I'll fucking get you in the end you fucks.... You're trying to set me up with child porn. I'm going to get your ass. One million dollars. One million dollars you little gang members. One million dollars to put your head on a pike. (App., A68)

Clearly, Mr. Jones suspected Attorney Mattei was involved, although his use of plural pronouns makes clear that he believes others were involved.

"And then now, imagine they want metadata out of hundreds of thousands of emails then I got and they know right where to go. What a nice group of Democrats. How surprising. What nice people, Chris Mattei. Chris Mattei. Let's zoom in on Chris Mattei. On nice little Chris Mattei. What a good American. What a good boy...." (App., A71) "They literally went right in there and found this hidden stuff. Oh, my God. Oh, my God. And they're my friends. Oh, we want to protect you now, Alex. Oh, you're not going to get in trouble for what we found. F-U, man. F-U to hell. I pray God, not anybody else, God visit vengeance upon you in the name of Jesus Christ and all the saints I pray divine intervention against the powers of Satan." (App., A72)

After an on air colloquy with counsel, the undersigned, about the need to identify the person or person who was responsible for sending the embedded

child porn[6], Mr. Jones continued: "I don't even think errand boy did this. I'm not actually saying that. This is a setup. The whole way it's like, oh, Alex, we have this but we're not going to tell anybody." (App., A81)[7]

C. Mr. Jones Comments Do Not Portend Imminent Violence, And Are, Therefore, Neither Incitement, True Threats, Nor Fighting Words

1. The Law Of Incitement, Fighting Words And True Threats Requires An Imminent Threat Of Violence To Warrant Forfeiture Of First Amendment Protection

The right to speak freely is not encumbered by norms of civility. The limits on freedom of speech are narrowly circumscribed: fighting words, incitements to violence, and true threats are prohibited. All require a finding of imminent threat of violence. There was no such threat here. The trial court's suggestion that Mr. Jones' speech was potentially criminal is simply contrary to well-established law.

Those cases dealing with incitement to violence demonstrate that an utterance must be tethered to an immediate and direct threat of violence to violate the law.

Thus, In *Brandenburg v. Ohio*, 395 U.S. 444, 447 (1969), the United States Supreme Court held that mere advocacy of lawless activity is protected

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[6] The undersigned appeared on air with Mr. Jones in the broadcast on June 14. A subsequent broadcast on Saturday, June 15, 2019, made clear that Mr. Jones was not issuing a direct threat against Mr. Mattei.

[7] Among the troublesome factors presented by this record is that the plaintiff's presented an unsigned transcript to the trial court of these remarks. (App, A84, A115) The signed transcripts obtained after the hearing by the defendants differs materially at time, especially as these comments. The signed transcript, prepared by a certified court reporter, reads: "No, I'm sure – you don't think errand boy did this. I'm actually not saying that." (App., A155)

The Jones defendants filed a motion to correct other errors in the transcript submitted by the plaintiffs. (App, A117)

speech: such speech is protected "except where such advocacy is directed to inciting or producing imminent lawless action and is likely to produce such action." Thus mere discussion of returning "the Nigger to Africa and the Jew to Israel" is protected speech.

Noto v. United States, 367 U.S. 290 (1961), sheds further light on the imminence requirement. In *Noto*, a member of the Communist Party, was prosecuted for saying that "[s]ometime I will see the time we can stand a person like this S.O.B. against the wall ... and shoot him." *Id.*, 296. The Court observed this "offhand remark[] that certain individuals hostile to the Party would one day be shot cannot demonstrate more than the venomous or spiteful attitude of the Party toward its enemies, and might be expected from the Party if it should succeed to power." Id., 298. This speech was protected, the Court held. "It is present advocacy, and not an intent to advocate in the future or a conspiracy to advocate in the future once the groundwork has been laid," which constitutes prohibited criminal speech. Id., p. 298.

"[M]ere advocacy of the use of force of force or violence does not remove speech from the protection of the first amendment," the Supreme Court held in *NAACP v. Claiborne Hardware Co.,* 458 U.S. 886, 927 (1982), a case in which an NAACP organizer told a group of African-Americans attending a rally in support of a boycott of white-owned businesses: "If we catch any of you going in any of those racist stores, we're gonna break your damn neck." Id., p. 902. Recognizing that the passionate nature of the speech might have created apprehension in some, the Court went on to say: "In the passionate atmosphere

in which the speeches were delivered, they might have been understood as inviting an unlawful form of discipline or, at least, intending to create a fear of violence whether or not improper discipline was specifically intended.... The emotionally charged rhetoric ... did not transcend the bounds of protected speech." Id., pp. 927-928.

Again, an exhortation to a group of protestors forcibly removed from the street during a Vietnam War protest was held to be protected speech in *Hess v. Indiana,* 414 U.S. 105 (1973). When a protest leader told the crowd "we'll take the fucking street later (or again)" the Court held the utterance was "at worst,... nothing more than advocacy of illegal action at some indefinite future time." Id., p. 108. And when a draft resister told others that "[i]f they ever make me carry a rifle the first man I want to get in my sights is L.B.J.," the Court vacated the judgment of conviction, concluding that such speech was protected. *Watts v. United States*, 394 U.S. 705 (1969). Such speech, the Court reasoned "political hyperbole," not an imminent threat. Id., p. 708.

The fighting words cases also make clear that more than mere discomfiting speech is required to shed first amendment protection. Connecticut has paid special attention to the holding of *Chaplinsky v. New Hampshire*, 315 U.S. 568 (1942) in two recent cases: *State v. Parnoff*, 329 Conn. 386 (2018) and *State v. Baccala*, 236 Conn. 232 (2017), cert. denied, 138 S.Ct. 510 (2017). As this Court noted in *Parnoff*, words, even ugly and uncivil words, that lack a "serious expression of intent to cause harm" do not constitute fighting words. *Parnoff*, p. 398. Mere speech, "unaccompanied by any effectuating conduct" is

unlikely to provoke an "imminent and violent" reaction. The Court held protected speech an utterance made by a private property owner to two public utility employees inspecting an easement to the effect "if you go into my shed, I'm going to go into my house, get my gun and fucking kill you." Id, p. 291. As the Appellate Court noted in *Baccala*, context is everything:" there are no per se fighting words." *Baccala*, p. 238.

The law with respect to true threats is a closer call, but it, too, breaks in favor of the Jones defendants. The "true threat" doctrine was given shape in *Virginia v. Black*, 538 U.S. 343 (2003)(plurality):

> 'True threats' encompass those statements where the speaker means to communicate a serious expression of an intent to commit an act of unlawful violence to a particular individual or group of individuals.... The speaker need not actually intend to carry out the threat. Rather, a prohibition on true threats 'protects individuals from the fear of violence' and from the disruption that fear engenders,' in addition to protecting people 'from the possibility that the threatened violence will occur.' Intimidation in the constitutionally proscribable sense of the word is a type of true threat, where a speaker directs a threat to a person or group of persons with the intent of placing the victim in fear of bodily harm or death.

Id. 360-59. (Internal cites omitted); *see also Watts v. United States*, 394 U.S. 705, 708 (1969)(political hyperbole is not a true threat); *R.A.V. v. City of St. Paul*, 505 U.S. 377, 388 (1992).

Black turned on a Virginia cross-burning statute: the statute outlawed cross burning with the intent to intimidate and stated that the burning of a cross was *prima facie* evidence of an intent to intimidate. *Id*. 348. It relied on two fact patterns, consolidated into one appeal: in the first, a leader of the Klu Klux Klan burned a cross at a Klan rally; in the second, a man burned a cross in his black neighbors' yard in retaliation for those neighbors' complaining about his use of

his back yard as a firing range. The Supreme Court held that there was no doubt that a state could lawfully proscribe cross burning *with the intent to intimidate a person*—hence burning a cross in a black neighbor's yard was illegal. *Id.* 362-63 (majority)(emphasis added). However, a plurality of the Court held that the *prima facie* evidence provision of the statute was unconstitutional because cross burning in the context of a political rally could constitute protected expression. *Id.* 363-68. The question of intent was critical to the *Black* Court's analysis.

Connecticut's most recent consideration of the true threat doctrine was *State v. Taupier*, 330 Conn. 149 (2018); cert. denied, 586 U.S. ___ 2019.[8] *Taupier* held that a true threat would be evaluated under what approaches an objectively reasonable person standard. Although the *Taupier* Court adopted this standard, and parted company with those courts concluding that *Black* requires a subjective intent to threaten, the *Taupier* Court significantly found fault with the trial court's too broad application of *State v. Krijger*, 313 Conn. 434 (2014), a case holding that the context within which an utterance was made can and does shed light on the comment's meaning. *Krijger* held that:

> Prosecution under a statute prohibiting threatening statements is constitutionally permissible 'as long as the threat on its face and in the circumstances in which it is made is so unequivocal, unconditional,

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[8] Mr. Taupier has returned to this Appellate Court in another first amendment case involving comments he posted on social media. That case awaits argument. AC 42115, *State of Connecticut v. Edward Taupier*.

As the final edits were being done to this brief, this Court released a new true threats decision, *Haughwout v. Tordenti, et al.*, https://www.jud.ct.gov/external/supapp/Cases/AROcr/CR332/332CR33.pdf. The undersigned took the notice that no extensions would be granted for the filing of this brief seriously, and may, upon review of Haughwot, request permission for a five-page supplemental brief.

immediate and specific as to the person threatened, as to convey a gravity of purpose and imminent prospect of execution.'

Krijger, supra, 313 Conn. at 450 quoting *United States v. Malik*, 16 F.3d 45, 51 (2d. Cir.) cert. denied, 513 U.S. 968, 115 S.Ct. 435, 130 L.Ed.2d 347 (1994). The *Taupier* Court limited the reach of permissible inquiry temporally to events shortly before and after a comment was made. The focus was conduct that evinced a "gravity of purpose and imminent prospect of execution."

This, in *Taupier*, the defendant's highly detailed rendering of how easy it would be to shoot to kill a judge who was presiding over his family case was sufficient to persuade the Court that his utterance was a true threat. Significantly, Mr. Taupier described the judge's home, the distance between her home and "cover" in a cemetery from which a .308 caliber rile shot could be fired, and details about the trajectory of a lethal shot fired, as the bullet passed through the judge's double pane window. Taupier, fn.7,p.157. . This speech was sufficient to persuade this Court that the speech was more than mere hyperbolic venting, at least when viewed from the standard of an objectively reasonable person in the judge's position.[9]

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[9] Connecticut sided, in *Taupier*, with those courts reading an "objective" standard on the question of how to interpret through threats. There remains a circuit split among appellate authority on whether this, rather than a subjective standard, is appropriate.

The Second Circuit observed that the federal appellate courts are divided on this issue in *United States v. Turner*, 720 F.3d 411, 420 n.4 (2013)(noting divide but that the relevant statute in that case imposed a subjective intent element, the issue was not briefed, and subjective intent was clear from evidence). The Ninth Circuit, after analyzing the *Black* plurality and concurrences, concluded "eight Justices agreed that intent to intimidate is necessary and that the government must prove it in order to secure a conviction." *United States v. Cassel*, 408 F.3d 622, 632 (9th Cir. 2005). It was "therefore

2. Mr. Jones Speech Did Not Cross The Line Distinguishing Protected From Prohibited Speech

There is no question that Mr. Jones' speech was uncivil and profane. Neither is there any question the speech did not cross the line distinguishing prohibited from proscribed utterances.

The words lack the immediacy required to constitute fighting words. As *Parnoff* makes clear, mere words, "unaccompanied by any effectuating conduct" are unlikely to provoke an "imminent and violent" reaction. The fighting words doctrine is inapt in this case as the doctrine's limitation on speech is intended to prevent violent reaction against the speaker. Mr Jones did far less than what Mr. Parnoff did: he did not issue a contingent threat directly to his listeners, *Parnoff* at 291. Mr. Jones aired suspicions, declared war on the airwaves while offering a reward, all from a remote and safe distance from the listener. In this case, if Mr. Mattei felt sufficiently provoked, his attack on the television set through which he

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bound to conclude that speech may be deemed unprotected by the First Amendment as a 'true threat' only upon proof that the speaker subjectively intended the speech as a threat." *Id.* 633. The Sixth Circuit claimed that *Cassel* "read too much into *Black*." *United States v. Jeffries*, 692 F.3d 473, 479 (6th Cir. 2012). The Fourth Circuit agreed with this approach in *United State v. White*, 670 F.3d 498, 508-09 (4th Cir. 2009).

Sister state precedent is sparse and unremarkable. A Washington Court of Appeals recently reversed a stalking conviction based on off-colored Tweets on the grounds that the Tweets did not even meet the negligence standard: though that defendant raised the specific intent issue, the court did not reach it. *State v. Kohonen*, 192 Wn.App. 567, 583 n.9 (2016). The Colorado Court of Appeals, Fifth Division rejected the contention that, following *Black*, the First Amendment required a subjective intent requirement. *State v. Stanley*, 170 P.3d 782, 789 (2007).

viewed the comments would not be the sort of harm the fighting words doctrine is intended to prevent. *Parnoff/Chaplinsky* shed light only illustrating that speech itself is generally protected. As this Court noted in *Baccala,* there are no per se fighting words.

At most, the speech does nothing more than advocate violence at some future date; more appropriately, the "head on a pike" comment is mere hyperbole. The speech more closely resembles the comments permitted in *Noto,* demonstrating no "more than the venomous or spiteful attitude" of Mr. Jones toward his enemies, and what "might be expected from" Mr. Jones if he were to learn the identity of the person who implanted pornography in his emails. *Noto*, 298. Mr. Jones, it hardly needs to be said, has enemies. He fulminates against the "deep state" on his broadcasts, and portrays himself to be a "loyal son of the republic." He's a true believer in a version of the American saga that places him on the side of truth and virtue, and his enemies on the side of corruption, if not worse. His comments about a future day of reckoning are no more constitutionally offensive than the Communist Party's call for future class war; his threat to place the head of the person who sent him child pornography on a pike is no more offensive that the draft dodger's promise to shoot the president of the United States. These are not incitements to imminent lawless activity. Mr. Jones speech, and his suspicions, fall in a long and valued tradition of highly charged political speech.

The speech was not a true threat in that it was not unequivocal, unconditional, immediate and specific as to convey a gravity of purpose and

imminent prospect of execution. Mr. Jones distanced himself from unequivocal and unconditional threats of violence – he suspects Mr. Mattei was involved, but will await the sort of proof a million dollar reward can generate before acting. Mr. Jones did not offer a bounty for the head of Mr. Mattei; that arguably would have been a threat. Mr. Jones sarcastically and scornfully noted the coincidental timing of the efforts to obtain electronic discovery, the success at obtaining it, and the onset of a federal investigation of possession of child pornography. Mr. Jones appeared to be deaf to the importuning of counsel to take things slowly, and to let the investigation lead where it will. Yet for all that, Mr. Jones never did what Mr. Taupier did – articulate a particular manner and means of doing violence to a specific target. Mr. Jones engaged in a generalized rant, the sort that experienced litigators learn to take in stride. Ms. Taupier, by contrast, articulated a fantasy specific enough to terrorize the target regardless of his intent. There is a world of difference between the two utterances.

D. Mr. Jones Had Every Right To Turn To A Quintessential Public Forum To Raise His Suspicions And To Offer A Reward

To date, the trial court has issued no orders regarding pretrial publicity or comments. It is an open question of law whether the court can issue a valid order restricting the right of a media company that is a defendant in a civil case to comment on judicial proceedings. In *Nebraska Press Association v. Stuart*, 427 U.S. 539 (1976), the Supreme Court noted a strong presumption against prior restraints in the service of assuring a criminal defendant the right to a fair trial. As Erwin Chemerinsky notes his recent textbook on the first amendment: "The Supreme Court has never addressed the question of when it is permissible for

courts to impose gag orders on attorneys and other trial participants." Chemerinksy, Erwin, *The First Amendment*, p. 78 (Wolters Kluwer, 2019).

Given the lack of any order, and the lack of any clearly established law on this topic, there is no barrier to a litigant, especially a litigant who is a broadcaster, speaking freely about pending litigation. Mr. Jones' decision to air his grievances over the airwaves and online is hardly remarkable. These media constitute the new pubic square. *Packingham v. North Carolina*, 137 U.S. 1735, 1735-36 (2017); *State v. Buhl*, 321 Conn. 688, 700-702 (2016).

II. In The Event This Court Concludes Mr. Jones' Speech Was Sanctionable, The Trial Court Erred In Imposing Sanctions By Depriving The Jones Defendants Adequate Notice And A Meaningful Opportunity To Be Heard Before Imposing Sanctions.

Standard of Review: The appellants contend that the fourteenth amendment issue is subject to de novo review as they contend that as a matter of law and fact the court erred in imposing sanction on due process grounds. *State v. Kallberg*, 326 Conn. 1, 12 (2017).

A hallmark of due process is adequate notice, and a meaningful opportunity to be heard before a court takes adverse action. "An elementary and fundamental requirement of due process in any proceeding which is to be accorded finality is notice reasonably calculated, under all the circumstances, to apprise interested parties of the pendency of the action and to afford them an opportunity to present their objections." *Mullane v Central Hanover Bank & Trust Co.*, 339 U.S. 306, 314 (1950). "[S]ome form of hearing is required before an individual is finally deprived of a property [or liberty] interest." *Matthews v. Eldridge*, 424 U.S. 319, 333 (1976). This right is a "basic aspect of the duty of

government to follow a fair process of decision making when it acts to deprive a person of his possessions. The purpose of this requirement is not only to ensure abstract fair play to the individual. Its purpose, more particularly, is to protect his use and possession of property from arbitrary encroachment...." *Fuentes v. Shevin*, 407 U.S. 67, 80-81 (1972). Notice of hearing and the opportunity to be heard "must be granted at a meaningful time and in a meaningful manner." *Armstrong v. Manzo*, 380 U.S. 545, 552 (1965).

In this case, the plaintiffs filed a motion on Monday June 17, 2019. In their motion, the plaintiffs sought an expedited briefing schedule. (App., A30) The parties then appeared in court for a regularly scheduled status conference on the morning of June 18, 2019. The trial court moved immediately into a hearing on the merits of the June 17, 2019 motion, dispensing with briefing altogether, and went on to consideration of sanctions, even a potential default against the Jones defendants. Such notice as was afforded the Jones defendants consisted of an opportunity, over the lunch break, to review a new Appellate Court decision on which the trial court appeared poised to rely, *Maurice v. Chester Housing Associates Partnership, LLP*, 188 Conn. App. 21 (2019), cert. denied, 331 Conn. 21 (2019).

No exigency excuses the trial court's summary process in this matter. Indeed, the trial court's handling of this matter makes the infirm process in *Disciplinary Counsel v. Williams*, 166 Conn. App. 557, 142 A3d 391 (2016) look like a model of deliberative restraint.

In *Williams*, counsel in a criminal case ran afoul of court rulings twice. During cross examination of a key state's witness, counsel violated a pre-trial ruling, exceeding the scope of permissible cross-examination by delving into a prejudicial matter without seeking court approval outside the presence of a jury.[10] The trial court admonished defense counsel, and placed him on notice of potential discipline at some later date. During closing argument, defense counsel again crossed a line, arguing in defiance of the court's earlier ruling about a related federal proceeding. No disciplinary action was taken at the time of evidence or closings. However, after Mr. Reyes was found guilty, and immediately after Mr. Reyes's sentencing, the trial court, Blue, J., moved immediately to a disciplinary hearing, briefly suspending counsel's license to practice law. Trial counsel attempted to defend against the contempt charges by claiming either innocent mistake or no violation at all.

The Appellate Court acknowledged the inherent supervisory authority of the trial court over attorney discipline, even recognizing that such process may be summary in nature. However, the inherent power to impose sanctions must satisfy the requirements of due process.

> "Suspension [of an attorney] may be summary, and is an inherent power of the ... court.... As long as there is no denial of due process ... [a court] may, for good cause, discipline attorneys who practice before it by

[10] The case involved two arsons in New Haven. The key state's witnesses were a father and son who were co-conspirators with the defendant, Angelo Reyes. The two men had previously testified against Mr. Reyes in a federal trial that resulted in an acquittal. The trial court imposed limits on what the state jury could learn of the federal trial, and counsel agreed before seeking to elicit such information, he would seek court permission outside the presence of the jury. Counsel for the defendant violated that ruling in his cross-examination of one of the cooperating co-conspirators.

> suspending them from practice ... for a reasonable and stated period." (Citation omitted.) *In the Matter of Presnick,* 19 Conn.App. 340, 351, 563 A.2d 299, cert. denied, 213 Conn. 801, 567 A.2d 833 (1989).
>
> To satisfy the requirements of due process, attorneys subject to disciplinary action must receive notice of the charges against them.... [T]he notice afforded to an attorney subject to a disciplinary hearing may be oral or written, as long as it adequately informs the attorney of the charges against him or her *and allows him or her to prepare to address such charges.* Similarly, an attorney subject to disciplinary proceedings must be given reasonable notice of the charges against him or her before the proceedings commence...." (Citations omitted; emphasis altered; internal quotation marks omitted.) *Burton v. Mottolese,* 267 Conn. 1, 20-21, 835 A.2d 998 (2003), cert. denied, 541 U.S. 1073, 124 S.Ct. 2422, 158 L.Ed.2d 983 (2004). In addition, "ordinarily due process would require that a hearing be held before sanctions can be imposed...." *In the Matter of Presnick,* supra, 19 Conn. App. at 351, 563 A.2d 299; see *Briggs v. McWeeny,* 260 Conn. 296, 318, 796 A.2d 516 (2002).

Williams, p. 399.

Certainly, notice to an attorney of a potential legal grievance differs from notice to a non-attorney litigant. Lawyers are presumed to have at least an inchoate understanding of legal principles; summary process may be warranted for an obvious and flagrant violation of professional norms. But in cases in which there is room for argument, and, if necessary, evidence, summary process does not afford due process.

The Jones defendants are not attorneys. They are prepared to defend against, as they have done in this brief, the merits of the claims asserted. The trial court's decision to engage in summary process deprived them of more than nominal notice of the charges against them; the decision deprived them of any meaningful opportunity to prepare. Counsel appearing at the hearing was given a case to review, and then a short period of time to respond – orally. Although counsel made an effort to alert the court to the first amendment cases applicable

to this dispute, counsel was not given any meaningful opportunity to prepare. The result was a denial of due process, and the entry of a crippling sanction.

Without abandoning their claims that the sanctions were a violation of the first amendment's right to speak freely, the Jones defendants seek reversal of the trial court's order on grounds that they were denied due process of law.

III. The So-Called Expedited Discovery Process Has Been Abused As A Litigation Tool And The Jones Defendants' Motion To Dismiss Should Be Heard Without Further Delay.

A. The Nature Of The Claim

Following the filing of the Jones defendants' Special Motion to Dismiss (Dkt. 113)[11] on November 21, 2018, the court (Bellis, J.) -- as is required by C.G.S.§52-196a-- entered an order (Dkt. 113.1) (App., A3) staying discovery on November 23, 2018. Thereafter, on December 10, 2018, the plaintiffs filed a motion for limited discovery (Dkt 123)(App., A4), the Jones defendants objected on December 14, (Dkt. 126) (App., A4), and the court entered an order (Dkt. 123.1, 126.1)(App., A4), on December 17 in which it found "good cause for limited discovery in this matter", granting the plaintiffs' motion over the defendants' objection without any further articulation of the "good cause" it found or the scope of the "limited discovery" it was ordering. And then it was off to the races: between the filing of the Special Motion to Dismiss and the filing of the present application for certification to appeal, there were no less than ninety

[11] There are three cases at issue here. All were consolidated by the trial court. (App., A3, Docket Entry 117; A14, Docket Entry 122; A122, Docket Entry 104. References to the docket entries in the body of this brief track only the lead case, the *Lafferty* matter.

discovery-related docket entries[12], all ostensibly related to the "specific and limited discovery" granted by the court.

To be clear, such races should never have been permitted. When discovery is allowed under §52-196a, it is allowed as an *exception* to the statutory rule that discovery is to be stayed pending a decision on the special motion to dismiss, and-- when allowed-- it must be specific and limited[13]. But without any clarity from the court as to how the specific and limited discovery should proceed, the plaintiffs exploited the untended frontiers of the judge's order until the specific and limited discovery ordered by the court was indistinguishable from the broad contours of general discovery in all civil cases, in all but one crucial respect: rather than the typical 60 days allowed to respond to discovery

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[12] Given the page limit of this brief and the voluminous record, this section will attempt to summarize the course of discovery and highlight salient points, while the entire docket sheet is available for reference in the appendix.

[13] During debate on the anti-SLAPP statute, Rep. William Tong characterized it *in pari materia* to the "twenty-nine other states [that] have adopted similar legislation very similar to the construct we have here." Statement of Rep. William Tong, Connecticut House Transcript (Jun 5. 2017). California courts interpreting their anti-SLAPP statute have refrained from ordering discovery that is "unnecessary, expensive, and burdensome" when it is apparent from the SLAPP motion that "there are significant issues as to falsity or publication-- issues which the plaintiff should be able to establish without discovery..." *The Garment Workers Center v. Superior Court,* 117 Cal. App.4th 1156, 1162 (2004). To do otherwise, and permit "discovery on the issue of actual malice before first determining, after briefing and argument, whether the plaintiffs had a reasonable probability of establishing the other elements of their libel cause of action [is an] abuse of discretion." Id at 1159. Moreover, such an approach would thwart the purpose of anti-SLAPP legislation: to "end these types of lawsuits (SLAPP) which affect the media most in their exercise of first amendment rights to free speech and not have to fight constant frivolous and often expensive litigation." 2017 Legis. Bill Hist. CT S.B. 981 (March 31, 2017). Given the compelling California framework and the legislative intent to adopt a statute similar to those already in existence, as well as the significant issues as to falsity and publication present in this case, this Court should adopt a similar approach.

requests, the court *halved that timeline to thirty days*. It was a result never intended by C.G.S. §52-196a-- borne of the trial court's conflation of the statute's "specific limited discovery" and "expedited hearing" provisions-- and it was a recipe for disaster.

Predictably, trouble soon raised its head. On December 27, 2018, the defendants objected (Dkt. 135)(App., A5), to the breath-taking scope of the plaintiffs' discovery requests, and -- following an order to engage in further discussions subsequent to a hearing on January 3, 2019 -- the court apparently denied those objections on January 10 (148)(app., A5) , in the process confusing both the defendants and the plaintiffs, who sought clarification (Dkt. 149, 151)(App., A5). Consistent with the pattern that had been established, the court left this confusion unaddressed and the plaintiffs proceeded with abandon, confident that they had the court's blessing and endorsement of their approach. On January 17, 2019, the Defendants filed their first application for certification to take a public interest appeal on the question of the scope of discovery under C.G.S. §52-196a (Dkt. 153)(App. A5), but their application was denied on January 30, 2019.

Thereafter, every single request filed by the plaintiffs was granted. This included: the plaintiffs' memorandum in support of the scope of depositions (Dkt. 168-174, 176)(App., A6); the plaintiffs' motions for order regarding additional discovery compliance (227, 234, 234.1, 235, 236 238.1, 255, 255.1, 259, 262, 262.1, 263, 264, 265, 265.1)(App., A8-A9) ; and, ultimately, the plaintiffs' repeated motions for sanctions in which the holy grail they sought was the court's

denial of the defendants' right to a hearing on the merits of their special motion to dismiss. (206, 213, 215, 265, 265.1, 267, 267.1)(App., A7-A10) Yet the defendants' motions and objections-- in those few instances when they were granted-- were only granted "with edits per the plaintiffs" or some other judicial caveat. (Dkt. 177, 178, 181, 183-185.1, 186; 192, 192.1, 196, 196.1; 210, 223, 223.1, 238.1, 257, 257.1, 258, 258.1)(App., A6-A9). And, with few exceptions, the defendants' motions were denied, even when they merely sought clarification. (Dkt. 203, 203.1, 204, 204.1, 238, 238.1, 239, 258, 258.1, 260, 260.1, 266, 267, 267.1)(App., A7-A10).

Ultimately, the defendants were left with no other recourse than to request extensions of time to attempt to comply with the court's orders given the impossibly truncated schedule the court imposed. Initially, the defendants attempted to provide substantial compliance in a single blow; but when the plaintiffs and the court balked at those efforts, the defendants endeavored to provide discovery on a rolling basis. In the course of their attempts to comply with the plaintiffs' discovery requests, the defendants' performed key-word searches of 9.3 million emails, searches that typically took twenty-four hours each and turned over to the plaintiffs approximately 57,000 emails.

When those efforts proved unsatisfactory, the defendants engaged in a piecemeal effort to satisfy the picayune compliance complaints raised by the plaintiffs, such as their bluff regarding native format metadata production. In that instance, nearly a month after receiving the tens of thousands of responsive emails, the plaintiffs raised complaints about the format of the production,

complaining that it was not in native format and citing to an oral request they made at a hearing which prior counsel had not objected to-- an unorthodox discovery request not contemplated by the Practice Book. Nor was the request at all as clear as the plaintiffs portrayed it:

> Attorney Mattei: We've made a request to defense counsel that materials be produced in their native format, along with some other related requests. *They have indicated that they are going to see what they can do. That may be the subject of a formal motion at some point...*"
> The Court: Okay, so nothing that been filed by the plaintiffs that is ready to be adjudicated besides just saying what is coming down the pike.

(Emphasis added). 2/14/19 Hearing Transcript at 4, (App.A-235d). Nonetheless, the court proceeded as though the native format request had been ordered. Finally, when multiple depositions and even the most granular responses to the plaintiffs' requests were deemed unsatisfactory --suggesting that nothing would ever satisfy the plaintiffs, short of the default they coveted-- the defendants sought, and were granted, the review of this Court.

B. The Standard of Review

Trial courts enjoy broad discretion in applying sanctions for failure to comply with discovery orders, and appellate courts engage in a three-part analysis when reviewing claims involving violations of discovery orders.

> The decision to impose sanctions at all is certainly a matter within the court's discretion. The question, however, is when is a court justified in imposing sanctions for violations of discovery orders. In order for a court's order of sanctions for violation of a discovery order to withstand scrutiny, three requirements must be met, which, on appeal, are subjected to different standards of review. First, the order must be sufficiently clear to allow for compliance. Second, the record must establish a violation of discovery rules. Finally, the sanction imposed must be proportional to the violation.

Message Ctr. Mgmt. v. Shell Oil Prods. Co., 85 Conn. App. 401 (2004).

The sufficient clarity prong of the analysis is reviewed de novo. *Millbrook Owners Assn., Inc. v. Hamilton Standard,* 257 Conn.1, 17-18, 776 A.2d 1115 (2001). To determine whether the order was actually violated, a reviewing court examines the record and transcripts of relevant proceedings under a clearly erroneous standard. Id., 17-18. And the third prong, requiring a determination of whether the sanction imposed was proportional to the discovery violation, is reviewed for an abuse of discretion. Id. at 18.

C. The Court Sanctioned The Defendants For Violating The Discovery Process Here, And Indulged The Plaintiffs In Their Vain Search For A Default, Despite The Lack Of Sufficiently Clear Orders Or Actual Violations.

Here, the only clarity offered by the court was as to the fact that discovery had been granted. Though the court made a finding of "good cause", it failed to ever articulate what exactly constituted "good cause". More confounding and problematic is the court's failure in any way to delineate the contours of the "specific and limited discovery relevant to the special motion to dismiss" it granted. The plaintiffs made a conclusory argument that the breathtakingly broad scope of discovery they requested and were granted was necessitated by the "kitchen sink" motion filed by the defendants; the pleadings, however, do not support the plaintiffs' argument. Moreover, the court's orders were regularly so unclear as to generate requests for clarification from *both* parties, and nothing in the orders justifies or clarifies the truncated timeline of thirty days.

It is by no means apparent why the plaintiffs require the discovery they seek for a trial court to rule on the defendants' motion to dismiss. The strategy of seeking comprehensive and seemingly limitless discovery in this preliminary stage is plain enough to anyone familiar with the fairytale "The Boy Who Cried Wolf" : create enough traps and, with luck, perseverance and a court sympathetic to cries of crisis, the defendants may stumble, and fall, permitting a meritless case to advance – the very thing that happened here.

But consider, for a moment, the merits of the claims as they are pleaded. In four of the five counts – negligent and intentional infliction of emotional distress, breach of privacy and defamation, the plaintiffs plead broadly, seeking to evoke civil conspiracy doctrines in an effort to raise the specter of guilt by association: Invite a guest to talk about his or her controversial views on your talk show, and you suddenly become liable. If allowed to stand, this doctrine would cripple public debate about matters of public concern on the airwaves and in newspapers. The plaintiffs can huff and puff to their hearts' content about the "lies" told about Sandy Hook. The fact remains, that as recently as July 15, 2019, commentators have noted that the investigation of the Sandy Hook shootings was slipshod and anomaly ridden. "Who Remembers the Sandy Hook School Shootings?", Paul Craig Roberts, www.unz.com/proberts/who-remembers-the-sandy-hook-school-shootingss/ (viewed on July 15, 2019).

Our law is clear: Speech, even hurtful speech, is protected. *Snyder v. Phelps*, 562 U.S. 443 (2011), protecting hateful speech uttered at the funeral of a slain serviceman said it best. "Speech is powerful. It can stir people to action,

move them to tears of both joy and sorrow, and – as it did here – inflict great pain.... [W]e cannot react to that pain by punishing the speaker. As a Nation we have chosen a different course – to protect even hurtful speech on public issues to ensure that we do not stifle debate." Id., p.461. No discovery is necessary to determine whether the speech uttered by the defendants hurt the feelings of the plaintiffs – they have pleaded as much.

Similarly, as to the defamation claim, discovery at this preliminary stage is wasteful. The plaintiffs contend that the defendants uttered untruths. The publication of those statements is a matter of record. No fishing expedition is necessary to reveal them. The plaintiffs have suffered grievous losses to be sure, but their pathos entitles them to no special solicitude. Like it or not, there is a broad range of debate in the United States about the meaning of all manner of events, ranging from who was responsible for the 9/11 attacks, to whether mass shootings are the product of crisis acting, to whether astronauts actually set foot on the moon. The debates are offensive to many, perhaps a majority of Americans. But neither pity nor the first amendment justify silencing speech, even bizarre speech.

No discovery is necessary to limn the issues in the negligent and intentional infliction counts, the privacy count, and the defamation claims. The plaintiffs studied the available record for more than five years before they filed their complaint. Presumably, it is the product of thorough and honest effort. It is time for the plaintiffs to defend the claims they have raised. Requiring the defendants to disgorge their finances and internal workings serves no purpose

other than to divert the defendants from speaking out as they see fit, and as their viewers expect.

The claim arising under the Connecticut Unfair Trade Practices Act (CUTPA) is a novel experiment in the law that the defendants should not be compelled to underwrite. At root, the plaintiffs contend that the Jones defendants knowingly market falsehoods to attract viewers. The plaintiffs contend that at the root of the Jones defendants' business plan is a desire to convert viewers into customers of products for sale. Thus, a person filled with dread about a world in which crisis actors fake mass shootings might be inspired to purchase survival products. Even if some version of this theory is true, it is a misapplication of CUTPA and remains offensive to first amendment jurisprudence. There is no political orthodoxy test as a condition precedent to entry into the marketplace for goods and services. CUTPA does not enshrine such a test. The act prohibits misrepresentations about particular products, leaving the marketplace of ideas about issues of public concern untethered to any requirements of the sort of civic high-mindedness the plaintiffs suggest should be the price of commerce.

The plaintiffs simply do not need discovery to test this novel application of CUTPA. They should be required to defend it now.

CONCLUSION

The Jones defendants seek a reversal of the trial court order entering sanctions on the grounds that the trial court erred substantively by imposing sanctions and an order directing that the the plaintiffs be ordered to respond to the special motion to dismiss without further delay.

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CERTIFICATION

This is to certify and a copy of the foregoing has been emailed and/or mailed, this 29th day of July, 2019 to:

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CERTIFICATION OF SERVICE AND COMPLIANCE

The undersigned herby certifies that, in compliance with all provisions of P.B. §67-2, that:

(1) the electronically submitted copy of this brief has been delivered electronically to the last known email address of each counsel of record for whom an email address has been provided;

(2) the electronically submitted brief and appendix and the filed paper brief and appendix has been redacted or does not contain the names or other personal identifying information that is prohibited from disclosure by rule, statute, court order, or case law;

(3) a copy of the brief has been sent to each counsel of record and any trial judge who rendered a decision that is the subject matter of this appeal, in compliance with P.B. §62-7;

(4) the brief being filed with the appellate clerk is a true copy of the brief that was submitted electronically; and

(5) the brief complies with all provisions of this rule.

/s/Norman A. Pattis/s/
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APPENDIX I

Opening Merits Brief For The Respondents Before The Connecticut Supreme Court In *Lafferty v. Jones*, SC20327 (August 19, 2020).

SUPREME COURT
OF THE
STATE OF CONNECTICUT

S.C. 20327

ERICA LAFFERTY, ET AL.
Plaintiffs-Appellees
V.
ALEX EMRIC JONES, ET AL.
Defendants-Appellants

BRIEF OF PLAINTIFFS-APPELLEES

TO BE ARGUED BY:

JOSHUA D. KOSKOFF

OR

ALINOR C. STERLING

FOR THE PLAINTIFFS-APPELLEES:
ERICA LAFFERTY; DAVID WHEELER; FRANCINE WHEELER; JACQUELINE BARDEN; MARK BARDEN; NICOLE HOCKLEY; IAN HOCKLEY, JENNIFER HENSEL; JEREMY RICHMAN; DONNA SOTO; CARLEE SOTO-PARISI; CARLOS M. SOTO; JILLIAN SOTO; WILLIAM ALDENBERG; WILLIAM SHERLACH and ROBERT PARKER

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Our trial courts have the inherent authority to impose sanctions against an attorney and his client for a course of claimed dilatory, bad faith and harassing litigation conduct, even in the absence of a specific rule or order of the court that is claimed to have been violated.[1]

A prohibition on true threats protect[s] individuals from the fear of violence and from the disruption that fear engenders, in addition to protecting people from the possibility that the threatened violence will occur.[2]

This appeal arises from a measured sanction fairly imposed on a recalcitrant litigant. In response to court-ordered discovery necessitated by his statutory Special Motion to Dismiss, Alex Jones delayed, obfuscated and lied.[3] The trial court repeatedly warned Jones that failure to follow discovery orders would result in preclusion of his Special Motion. Jones ignored these warnings. After six months; twenty hearings; one strategic change of counsel; two claims of conflict of interest; one false affidavit; four depositions to ascertain whether Jones was withholding responsive information (he was); at least five specific warnings that his discovery abuses were jeopardizing the Special Motion; six more warnings that his conduct looked like manipulation or a lack of good faith; the production of thousands of documents defense counsel chose not to review, including twelve child pornography images; obfuscation by Jones; delay by Jones; noncompliance by Jones; and a broadcast by Jones on his show naming plaintiff's counsel Chris Mattei, falsely accusing

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[1] *Millbrook Owners Ass'n v. Hamilton Standard*, 257 Conn. 1, 9-10 (2001) (internal quotation marks omitted).

[2] *Haughwout v. Tordenti*, 332 Conn. 559, 570 (2019) (internal quotation marks omitted).

[3] The Jones Defendants are Alex Jones; Infowars, LLC; Free Speech Systems, LLC; Infowars Health LLC; and Prison Planet TV LLC. Alex Jones is in complete control of each entity. *See, e.g.* A1275, 3/29 Interrog Resp. at 1 ("Alex Jones, ha[s] ownership and/or control of" each of of these entities). For easy reading and because it is factually accurate, this brief refers to the Jones Defendants as Jones.

him of planting the child pornography, and threatening him; the trial court did what it had warned it would do. It precluded the Special Motion. That limited sanction advances the case toward a hearing on the merits, leaving intact all of Jones' substantive defenses. It was the trial court's duty to manage its docket and maintain the integrity of the proceedings in this case, and it fulfilled that duty both throughout the proceedings below and in the sanction it imposed. Its order cannot be an abuse of discretion.

On his show, Jones accused the Sandy Hook families of being "crisis actors." In his brief to this Court, he accuses plaintiffs' counsel of "crisis lawyering" and the trial court of "adopt[ing] this crisis narrative." Def. Br. at 3, 9. There is a record, consisting of filings, transcripts, orders, and exhibits, to test those claims, (just as there will one day be a full record to test Jones' claims that the Sandy Hook families are "crisis actors"). The transcripts of twenty hearings, only some of which Jones has provided to the Court, document that the trial court gave Jones chance after chance after chance to comply with discovery, and he responded with "obfuscation and delay." A34, MOD at 1. Likewise, the June 14 broadcast by Jones – which Jones also chose not to make part of the record, but which plaintiffs did – documents the on-air targeting of Attorney Mattei. The profanities, insults, lies, threats and harassment directed at Attorney Mattei were meant to activate Jones' audience: the trial court found "it was an intentional, calculated act of rage for his viewing audience." A40, MOD at 7 (emphasis supplied). After the trial judge ruled, that same audience threatened her, another fact Jones omits. Jones' broadcast exposed Attorney Mattei, the Koskoff firm, and all of its employees to the "fear of violence" and "the disruption that fear engenders," not to mention the real "possibility that the threatened violence will occur." *Haughwout*, 332 Conn. at 571. Needless to say, the Court must affirm.

I. COUNTERSTATEMENT OF FACTS

A. The Complaint

This action stems from Jones' broadcasts concerning the shooting at Sandy Hook Elementary School in Newtown on December 14, 2012 that killed twenty first-grade children and six educators and wounded two others. A1951, Compl. ¶¶ 1, 3. Overwhelming and indisputable evidence shows exactly what happened at Sandy Hook Elementary School on December 14, 2012: twenty-six children and educators were shot by a lone youth armed with an AR-15. *Id.* ¶ 6.

The plaintiffs' 39-page, 394-paragraph Complaint alleges a course of conduct sounding in false light, negligent and intentional infliction of emotion distress, violations of the Connecticut Unfair Trade Practices Act (CUTPA), and defamation. For more than five years, Jones' e-commerce business broadcasted lies about Sandy Hook, including lies about families who lost loved ones at Sandy Hook and first responders. Jones and his Infowars "contributors" told an audience of millions that the Sandy Hook shooting was "a synthetic completely fake with actors," a "hologram," an "illusion" and "the fakest thing since the three-dollar bill," "staged" in order to take away the audience's guns, and that the Sandy Hook families were "paid ... totally disingenuous" "crisis actors" who faked their loved ones' deaths. Jones urged the audience to "investigate."[4] Jones' brand of lies and conspiracy theories uses statements like these to draw web traffic to Infowars.com, where Jones urges

[4] The citations to these quotations, in the order they appear, are: A1969, Compl. ¶ 185; A1972, ¶ 223; A1965, ¶¶ 140-41; A1963, A1977, ¶¶ 117, 273; A1965, A1966, A1972, ¶¶ 138, 149, 223; A1980, ¶ 295; A1963, A1964, A1969, A1970, ¶¶ 112, 120-21, 185, 197; A1963, A1977, ¶¶ 117, 273.

viewers to buy Infowars products, like Infowars Life SuperBlue Non-fluoride Toothpaste and Infowars Brain Force Plus Neural Activator. *See* A1960-A1961, Compl. ¶¶ 90-99.

B. Jones' Anti-SLAPP Motion and the Consequent Authorization of Expedited, Limited Discovery

In response to the Complaint, Jones removed to federal court based on a theory of fraudulent joinder. When that gambit failed, he filed a Special Motion to Dismiss pursuant to Conn. Gen. Stat. § 52-196a. A224, DN 113 (Motion); A496, DN 114 (Memo. ISO). The Special Motion challenged plaintiffs' ability to prove actual malice; that Jones' statements were not opinion or fair comment; elements of the false light, negligent and intentional infliction of emotional distress, defamation, and CUTPA claims; the civil conspiracy claims; that other defendants were Jones' agents, employees, or joint venturers; and damages. If Jones had wanted to avoid pre-motion discovery, he could have limited the scope of his Special Motion by raising only questions of law or raising only limited factual issues. He chose instead to require plaintiffs to make an evidentiary showing of probable cause on malice, opinion, fair comment, conspiracy, agency, and limitations tolling doctrines. Of course plaintiffs sought limited discovery of the information in Jones' control relevant to those issues. A227, DN 123.

The trial court found good cause to allow such discovery. A401, DN 123.10.[5]

C. Twenty Discovery Hearings in Six Months Led Up to the Sanction

The sanction entered due substantially to Jones' "obfuscation and delay" in discovery. A34, MOD at 1. The record documents the following discovery proceedings:

Hearing #1 (Dec. 17): The court found good cause to allow plaintiffs some discovery. PA34, 12/17 at 43.

Hearings #2-5 (Jan. 3, 10, 23, 31): The court began ruling on Jones' discovery objections. Jones continued to object to providing discovery at all. The court pointed out that his objections to all discovery were poorly conceived: "I'm telling you that there is some discovery that is appropriate and you're not acknowledging that by the same objection over and over again." PA78, 1/3 at 41. Jones' counsel proposed a Feb. 23 compliance date, which was adopted as a court order. PA128-PA129, PA131, 1/23 at 6-7, 12.

Hearings #6-7 (Feb. 14, 21): Jones' counsel requested that the court impose a protective order before the production deadline. A235i-A235q, 2/14 at 8-16. After expedited briefing, and overruling plaintiffs' objection, the court entered the order on Feb. 21. A1784-1796, DN185; DN 185.10.

Extension Motion #1 (Feb. 22): Jones moved for a ten-day extension of the production deadline. A1798, DN 186 at 1. He represented that he would "significantly be

[5] Its ruling on this issue was consistent with rulings in the cases by other Sandy Hook families pending in the Texas state courts. In each of these cases, Jones' anti-SLAPP motion was denied, and in the one case where discovery was sought, it was granted. These cases are: *Heslin v. Jones et al.*, D-1-GN-18-001835, Anti-SLAPP motion denied; *Pozner & De La Rosa v. Jones et al.*, D-1-GN-18-001842, Anti-SLAPP motion denied; and *Lewis v. Jones, et al*., D-1-GN-18-006623, discovery allowed, Anti-SLAPP motion denied. Interlocutory appeals are pending as to each of these rulings. *See also* A789-A910*,* DN 130, Exs. A-E (relevant filings and rulings from the Texas cases).

able to produce documents by [Feb. 25]." *Id.* Jones did not claim this motion for ruling, and it was not adjudicated. The Feb. 23 deadline passed without production.

Extension Motion #2 (Mar. 6): New counsel (Norman Pattis) appeared for Jones and moved for another extension. Pattis represented that Jones had retained him as local counsel because of a dissatisfaction with his current counsel. A1812-A1813, DN 196, ¶¶ 1-13. He said he needed until March 20, because "[t]he undersigned does not yet have the file…." A1813, *id.* ¶ 10. Plaintiffs opposed the extension, because the delay of production would delay hearing on the Special Motion.[6]

Hearing #8 (Mar. 7): Hearing regarding non-compliance. Although Jones had ignored a court-ordered deadline and his own representation that he would substantially produce on Feb. 25, the court granted the extension to March 20, and warned Jones that noncompliance would result in a sanction: "I urge the defendants to honor this Court-ordered deadline because the defendants are the ones that want their motion to dismiss adjudicated, but if they're going to continue to ignore court deadlines they're going to lose the ability, quite frankly, to pursue their motion to dismiss." PA162, 3/7 at 6 (emphasis added); *see also* A1816, DN 196.10 (order warning that if "the defendants again fail to comply with the court ordered deadline, the court will, after a hearing, entertain sanctions including possible preclusion of the defendants' special motion to dismiss").

Hearing # 9 (Mar. 13): Hearing regarding change of counsel. Attorney Pattis assumed full responsibility for the file. Pattis represented that he had conveyed to his client

[6] Jones asserts that plaintiffs delayed hearing on the Special Motion. The opposite is true. Plaintiffs moved forward with discovery as rapidly as possible, accommodated expedited briefing on Jones' Motion for Protective Order, and flew to Texas on three weeks' notice to take compliance depositions. It is Jones whose "delay and obfuscation" have prevented the parties from proceeding with the Special Motion.

that the Special Motion was in jeopardy due to noncompliance. PA175-PA176, 3/13 at 7-8.

Extension Motion #3 (Mar. 18): Two days before the March 20 deadline, Jones sought another extension. The reason was that he had not yet provided production to Pattis: "As of this date, the undersigned has received neither [sic] the documents." A1861, DN 203 at 2. The trial court denied the extension. A1864, DN 203.10. Plaintiffs moved to preclude the Special Motion. A1624, DN 206. Jones made no production on March 20.

Extension Motion #4 (Mar. 21). The day after the March 20 deadline ran, Jones filed a new extension motion. A1818, DN 210. This motion represented that Jones had been "under the impression that full compliance had been tendered." A1820, *id.* ¶ 1.

Hearing # 10 (Mar. 22): Hearing regarding noncompliance. Attorney Pattis claimed his client had believed that compliance in Connecticut was complete, because a non-appearing California lawyer had told him that it was. PA185-PA186, 3/22 at 5-6. (Pattis filed an affidavit in support of these claims, which the trial court later discovered was false. *See* pp. 8-9 of this Brief concerning Hearings #14-15.) The court questioned Jones' good faith:

> Here's the thing, Attorney Pattis: I was told, not by you, but by the defendant Jones through his first counsel that there was going to be significant compliance even though they needed an extension. I'm struggling to find any good faith. You're new to the game and I accept what you tell me, truly I do, but [I am having trouble finding] any good faith on the part of the defendant.

PA194, 3/22 at 14. It noted, "I've said many times now that [the] special motion to dismiss is in jeopardy." PA216, *id.* at 36 (emphasis added); *see also* PA218, *id.* at 38. It withheld ruling on the extension motion but did not sanction.

Hearing #11 (Mar. 26): Hearing regarding noncompliance. Using the time he had won, Jones produced thousands of emails in .pdf format. Key categories of responsive documents were still missing: he produced no text messages, few

internal corporate emails, no emails written by Alex Jones, and no marketing materials. No interrogatory responses were produced. The court found the production insufficient: "[F]ollowing the argument last week, I expected today, frankly, some submission…. so this far into the case we don't have a single interrogatory or production request under oath." PA253-PA254, 3/26 at 28-29. Again, the court gave Jones more time and did not sanction.

Hearings #12-13 (Apr. 2, 3): Hearing on noncompliance, continued to the next day. On April 3, Attorney Pattis asserted that he had a "non-candor-related conflict" and needed "time to sort through the conflict[.]" PA263, 4/3 at 2. The court stated it had intended to "preclude … the special motion to dismiss[.]" PA267, *id*. at 6. Accepting Pattis' claim of conflict, however, it withheld the sanction.

Hearing # 14 (Apr. 10): Hearing regarding noncompliance. Jones used the additional time provided by the claimed conflict to produce some discovery materials. Still, no texts, few emails by Jones himself, and almost no marketing compliance were produced. The court consequently advised plaintiffs that they could move to take compliance depositions. PA291, 4/10 at 26.

During this hearing, plaintiffs' counsel raised a question concerning the Alex Jones affidavit, which had been filed during the March 22 hearing. Pattis revealed that the affidavit was not signed by Jones, although Pattis had told the court it was Jones' affidavit. PA294, PA296, 4/10 at 29, 31. The court expressed shock: "I've never heard of that in my life…. I'm at a loss for words." PA295-PA296, *id.* at 30-31.

Hearing # 15 (Apr. 22): Hearing concerning false affidavit. The court found that Pattis had "filed the affidavit that indicated it was signed by Alex Jones under

oath," and "had taken the signature" and "the signature was not that of Mr. Jones…." PA304, 4/22 at 4. "[O]n the record Attorney Pattis referred to the document as an affidavit from Jones…. [I]n the Court's opinion, the affidavit … is invalid and is a false affidavit." PA304-PA305, *id.* at 4-5. In short, Pattis had notarized Alex Jones' falsified signature and, knowing this, represented during the March 22 hearing that this was Jones' affidavit. The court referred Pattis to the Statewide Grievance Committee.

Hearings #16-19 (Apr. 30, May 7, 22, June 5): Hearings regarding whether full and fair compliance had been made. Because of Jones' failure to produce marketing compliance, the court granted plaintiffs permission to take four one-hour depositions of Jones' employees to explore that issue. PA321, 4/30 at 17. On May 15-16, plaintiffs took the depositions in Austin, Texas. The depositions revealed that Jones had simply withheld responsive marketing materials in his possession, custody and control. *E.g.*, A1453-A1521, DN 255, Exs. D-G. At the June 5 hearing, the court focused on one of the web analytics services used by Jones, Google Analytics. After reviewing supplemental briefing, it ordered that Jones had until June 17 to produce the Google Analytics compliance and warned that it would consider sanctions if he did not comply. A1522, DN 255.10.

June 14 Broadcast by Jones Attacking Attorney Chris Mattei (Part I.D. below).

Hearing #20 (June 18): Sanctions hearing and order (Part I.E. below).

D. Jones' Broadcast Attack on Koskoff Attorney Chris Mattei

The order appealed also addresses a June 14 broadcast by Jones accusing plaintiffs' counsel of planting child pornography on him through the discovery process.

In a production that was supposed to provide metadata for already-produced,

responsive emails, Jones produced thousands of additional documents that defense counsel did not review before producing.[7] Plaintiffs' electronic discovery consultants found an image that appeared to be child pornography in this production. Plaintiffs' counsel immediately notified the FBI. At the FBI's direction, counsel handed over the entire production to the FBI. The FBI found 11 more images of child pornography. For the duration of the FBI search, plaintiffs' counsel told no one what they had found. A1615-A1616, DN 264, at 2-3. When the FBI gave permission, plaintiffs' counsel notified Attorney Pattis and participated in a conference call with him and the U.S. Attorney's Office on June 12. In that call, the government indicated that it appeared the images were emailed to Jones, originating outside his office. After that call, plaintiffs' counsel still told no one else – not the media, not the trial court, not even their clients.

The issue of the child pornography would not have become public if Jones himself had not chosen to broadcast about it. But he chose to. The court found, "Jones was the one who publically brought the existence of the child pornography to light on his Infowars show." A40, 6/18 MOD at 7. Armed with print-outs of Attorney Mattei's bio, Jones accused Attorney Mattei of planting and then recovering the child pornography images in order to frame him, offered a $1 million bounty for conviction, threatened Mattei and pounded on a

[7] In his first productions of emails, Jones converted the emails he produced to PDF format, stripping out the metadata. (Email metadata includes essential information such as when the content of an email was sent and to whom, and what was attached.) Jones' counsel agreed to remedy this. PA318-PA319, 4/30 at 14-15. When Jones re-produced the emails in "native," their original, metadata-containing format, he also produced thousands of additional, unreviewed documents. These additional documents were produced because Jones' counsel chose not to do the work to separate them from the responsive native emails, another discovery abuse. A1615-A1616, DN 264, at 2-3.

picture of his face. Attorney Pattis was with Jones and on-screen during the broadcast.

On Monday June 17, plaintiffs moved the trial court to review the video broadcast so that it could be addressed at the discovery compliance hearing already scheduled for Tuesday, June 18. A1614, DN 264; A1620, DN 265. The court gave notice that it would address the broadcast issue at the Tuesday hearing and ordered counsel to "be prepared to address the matter[.]" A1622, DN 265.10.

E. The Sanctions Hearing

The hearing began the morning of Tuesday, June 18. The trial court first addressed the ongoing compliance issues, which were the original reason why the hearing had been scheduled. Jones' counsel reported that Jones had not complied with the June 17 deadline for producing the Google Analytics data: "we haven't tendered anything to the plaintiffs." A162, 6/18 at 3. The court advised counsel that it had viewed the June 14 and 15 broadcasts via hyperlink, A164, *id.* at 5, and took argument concerning the broadcasts.[8]

The court's first ruling addressed discovery abuse:

> Putting aside the fact that the documents the Jones defendants did produce contained child pornography, putting aside the fact that the Jones defendants filed with the Court a purported affidavit from Alex Jones that was not in fact signed by Alex Jones, the discovery in this case has been marked with obfuscation and delay on the part of the defendants, who, despite several Court-ordered deadlines[,] as recently as yesterday, … continue in their filings to object to having to, what they call affirmatively gather and produce documents which might help the plaintiffs make their case. Despite over approximately a dozen discovery status conferences and several Court-ordered discovery deadlines, the Jones defendants have still not fully

[8] Content accessible via hyperlink can be changed by the host site at will. The trial court therefore requested that counsel ensure that the videos it viewed were made part of the court file. A164, 6/18 at 5. It was Jones' obligation as appellant to make the record for appeal, but Jones took no action to make the June 14 broadcast part of the court file, presumably because he would rather not have the members of the Court see it. Plaintiffs moved to rectify and had the video broadcasts entered as exhibits on USB drives in the trial court. PA428, Pl. Mot. to Rectify; PA441, DN278.10.

and fairly complied with their discovery obligations.

A34, MOD at 1. Jones had "been on notice from this Court both on the record and in writing … that the Court would consider denying them their opportunity to pursue a special motion to dismiss if the … noncompliance continued." A36, *id.* at 3.

Turning to Jones' broadcast, the court gave some examples of what Jones had said and done. The court noted that Jones had put Attorney Mattei's Wikipedia page on camera and said: "Chris Mattei, Chris Mattei. Let's zoom in on Chris Mattei. Oh, nice, little Chris Mattei. What a good American. What a good boy. You'll think you'll put me on." A37, MOD at 4. It found that Jones had used the word "kill:" "Now, the transcript doesn't reflect this, but when I listened to the broadcast, I heard, I'm going to kill. Now, that's not in the transcript, but that is my read and understanding and what I heard in the broadcast." A38, *id.* at 5. The court found that Jones continued, "I'm done. Total war. You want it, you got it. I'm not into kids like your Democratic Party, you cocksuckers, so get ready. And during this particular tirade, he slammed his hand on Attorney Mattei's picture, which was on the camera at that point." *Id*. It noted as well that Jones said, "I wonder who the person of interest is" while showing Mattei's photo on camera. A39, *id.* at 6. The court ruled that "Alex Jones was accusing Plaintiffs' Counsel of planting the child pornography." A40, *id.* at 7. It also found that these are "just a few examples" where Jones "directly harasses or intimidates" Mattei. *Id.* Finally, it found that Jones' broadcast was "an intentional, calculated act of rage for his viewing audience." *Id.*

Having delineated both the discovery misconduct and the direct harassment and intimidation of counsel in the broadcast, the court announced that it would impose sanctions. "[F]or all these reasons," it held that Jones' Special Motion was precluded and

allowed plaintiffs to seek counsel fees solely relating "to the child pornography," not the "discovery failures." A41, *id.* at 8. It refused to default Jones, but it warned: "As the discovery … progresses, if there is continued obfuscation and delay and tactics like I've seen up to this point," that it would not hesitate to default Jones. *Id*.

This appeal followed.

II. THE TRIAL COURT DID NOT ABUSE ITS DISCRETION IN SANCTIONING THE JONES DEFENDANTS FOR DISCOVERY ABUSE

Jones' repeated discovery abuses and his harassing and threatening broadcast led to a measured order designed to move the case toward a hearing on the merits. The trial court opened its ruling by discussing Jones' discovery abuse, noted how many times he had been warned that discovery abuse would lead to the preclusion of his Special Motion, and entered that very sanction against Jones. On appeal, Jones ignores these bases for the sanction. He fails to refute the trial court's findings that he did not "fully and fairly compl[y]," resisted discovery of his cell phone, failed to produce Google Analytics data by the court-ordered deadline, "disregarded" discovery deadlines, "continue[d] to object to … discovery and failed to produce that which [wa]s within [his] knowledge, possession, or power to obtain," produced child pornography, and engaged in "obfuscation and delay… tactics." A34-A36, A41, MOD at 1-3, 8.

These findings support the sanctions ruling; they cannot be ignored. Regardless of whether the broadcast is sanctionable (it absolutely is), the trial court did not abuse its discretion in sanctioning Jones for discovery abuse.

Standard of Review: Abuse of discretion. "[G]reat weight is due to the action of the trial court and every reasonable presumption should be given in favor of its correctness.... Never will the case on appeal look as it does to a [trial court] ... faced with

the need to impose reasonable bounds and order on discovery." *Millbrook Owners Ass'n*, 257 Conn. at 15-16.

A. Discovery Sanction Law

A trial court has inherent power to sanction. *Evans v. Gen. Motors Corp.*, 277 Conn. 496, 522-24 (2006); *Millbrook Owners Ass'n v. Hamilton Standard*, 257 Conn. 1, 14 (2001). The decision "to enter sanctions ... and, if so, what sanction or sanctions to impose, is a matter within the sound discretion of the trial court...." *Evans*, 277 Conn. at 523. A trial court may sanction both violations of its orders and based on its inherent authority when a party has engaged in "dilatory, bad faith and harassing litigation conduct[.]" *Millbrook Owners Ass'n,* 257 Conn. at 9-10.

B. Jones' Obfuscation, Delay, and Failure to Comply with Discovery Obligations

The court sanctioned because of "obfuscation and delay" by Jones despite many chances to fairly comply. A34, MOD at 1. While Jones excuses and justifies his discovery abuses in his third argument on appeal, he does not dispute the discovery abuse findings that led to the sanction against him. He cannot; their foundation in the record is rock solid.

Section 52-196a calls for an "expedited hearing." PA443, § 52-196a(e). The trial court made an extraordinary effort to achieve that while also allowing fair but restricted discovery. It controlled the substance of the discovery requests, scheduling, and compliance. Jones met this effort with obfuscation, delay, and noncompliance. As the discovery history detailed at pages 5-9 shows, the court gave him chance after chance after chance to comply. At the same time, it warned Jones specifically on at least five occasions that the Special Motion was in jeopardy, PA162, 3/7 at 6; A1816, DN 196.10; PA 216, 3/22 at 36; PA 218, *id.* at 38; PA267, 4/3 at 6; and six times that his conduct looked

like manipulation or a lack of good faith, PA190, 3/22 at 10; PA194, *id.* at 14, PA212-PA 213, *id.* at 32-33; PA287-PA288; 4/10 at 22-23; PA347, 6/5 at 13; PA378, *id.* at 44.

That Jones disagreed with the discovery orders was no excuse for not complying. "[A]n order of the court must be obeyed until it has been modified or successfully challenged." *Sablosky v. Sablosky*, 258 Conn. 713, 719 (2001). Precluding the Special Motion was a mild response. Such willful noncompliance could easily result in a complete default. *Cf. Pavlinko v. Yale-New Haven Hosp.*, 192 Conn. 138, 146 (1984) (no abuse of discretion in dismissing medical negligence action when plaintiff refused to answer relevant questions in discovery).

The trial court cited Jones' resistance to searching his cell phone as an example of Jones' misconduct. A34, MOD at 1. It found:

> By way of one example, on June 10th, counsel for the Jones defendants stated in their filing that Alex Jones' cellphone had only been searched for emails, not for text messages or other data. In their June 17 filing, defendants still try to argue with respect to the text messages that there is little to no personal nexus between the text messages and the litigation, and that the plaintiffs are simply prying into the Alex Jones defendants' personal affairs. But the discovery objections were ruled on by the court months ago and the defendants still have not fully and fairly complied.

A34-A35, *id.* at 1-2.[9]

[9] Production of texts and emails written by Alex Jones is critically important. Alex Jones has sole control of all the defendant entities, "directs marketing & general plans," is "ultimately in charge of everything," "the majority" of his 70 employees report directly to him, and he is the primary decisionmaker concerning the content of Infowars' Sandy Hook broadcasts. A1439-A1440, DN 255, Ex. B (Jones Interrog. Responses 1 & 2); A1455, *id.*, Ex. D (Dr. Jones Dep. at 15); A1510, A1511-A1513, *id.*, Ex. G (Dew Dep. at 8, 15-17). Evidence concerning his state of mind is highly relevant to show malice; his communications with other defendants are highly relevant to show civil conspiracy and agency, to give just a few examples of why production of his texts and emails matters. Jones produced few responsive emails, which he writes from a personal email account, and no texts.

If anything, the court's findings understate Jones' misconduct. Compliance was originally due February 23, by court order. Plaintiffs' counsel pointed out in late March that Jones had not produced his texts. PA246, 3/26 at 21. Compliance was already due, but Jones' counsel did not know that no texts had been produced or why. PA247-PA248, *id.* at 22-23. At an April 10 hearing, Jones' counsel represented that Jones had complied, PA280-281, 4/10 at 15-16, but still produced no texts. A Jones employee submitted an affidavit saying Jones' father had searched Alex Jones' "devices," A1444, DN 255, Ex. C (Zimmermann Aff. ¶ 5). When Jones' father was deposed, he said he had not searched Jones' phone. A1466, *id.*, Ex. D (Dr. Jones Dep. at 55). Three weeks after that admission was made in deposition, Jones' counsel could not confirm, when asked by the court, that Jones' cell phone had been searched. PA374-PA377, 6/5 at 40-43. In briefs filed after that hearing, Jones argued that he should not have to provide texts and represented that he frequently destroys his cell phones (apparently in violation of the duty to preserve discoverable materials) and so texts are unlikely to exist. A1911, DN 258 at 4; A1941-A1942, DN 266 at 18-19. It is inconceivable that the trial court abused its discretion by characterizing this course of conduct as "obfuscation."

The trial court noted as a second example of Jones' delay, obfuscation and noncompliance that "the Google Analytics data was ordered to be produced," and it was not. A35, MOD at 2. In compliance depositions, Jones' Information Technology Director had admitted that he has a "log-in" access to "our Google Analytics account," which he uses "[t]o look at site traffic." A1533-A1534, DN 259, at 10-11 (quoting Zimmerman Dep. 19). The trial court found, "it is clearly within the power of the Jones defendants to obtain

the information from Google if, as they claim, they don't possess it themselves." A35, MOD at 2. "[T]heir failure to fully and fairly comply is inexcusable." *Id.*

The trial court gave Jones an explicit warning that his Google Analytics compliance to date was "simply not full and fair compliance," a deadline to comply fairly (June 17), and a warning that if he did not comply, it would consider sanctions. A1522, DN 255.10 (June 10 order). It opened the June 18 hearing by asking whether Jones had met the June 17 deadline, and Jones' counsel stated he had not. A161-A162, 6/18 at 2-3. The record could not be clearer; there is no abuse of discretion here.[10]

C. The Sanction Is Measured

Preclusion of Jones' Anti-SLAPP Motion is a tailored and necessary remedy for Jones' deliberate, bad faith discovery abuses. At the same time, Jones retains the right to defend the case fully. He can move to strike, testing the plaintiffs' claims as a matter of law; file for summary judgment; and try his case on the merits. He retains all of his First Amendment defenses. The only advantage he has lost is the limitation of discovery – and that is precisely the advantage he has been abusing.

D. Jones' Arguments about Discovery Misstate the Record and Were Not Raised Below

In his third argument, Jones claims that "The So-Called Expedited Discovery

[10] The trial court does not mention it in its order, but Jones' brazen disregard for the court's authority goes further. In his June 14 broadcast, he discussed the Google Analytics and displayed what he claimed were Google Analytics data sought by plaintiffs in discovery. PA390, PA393, PA398, PA414, PA421-PA422, 6/14 Broadcast Tr. at 2, 5, 10, 26, 33-34; Ex. A, 6/14 Video at 2:14:04-2:14:25, 2:17:21-2:18:01, 2:22:48-2:23:04, 2:39:12-2:39:27, 2:46:13-2:46:52. Three days later, in a court filing, he took the position that these same analytics "are not within the defendants' possession, custody, or control." A1925-A1926, DN 266, at 2-3. If Jones was candid with the court, then his statements in the June 14 broadcast are lies. If he was candid in the broadcast, he was lying to the court.

Process Has Been Abused as a Litigation Tool and The Jones Defendants' Motion To Dismiss Should Be Heard Without Further Delay." Def. Br. at 27. Jones' claim is that little or no discovery should have been granted, *id.* at 32-35*,* and the court's discovery rulings were "confusing" and unfair, *id.* at 27-31. As noted above, Jones does not challenge the trial court's findings of obfuscation and delay. What he challenges is the trial court's finding of good cause to grant discovery and the scope of discovery. *Id.* at 32.

Again, Jones' belief that the trial court's discovery orders were wrong is no excuse whatsoever for failing to comply. A valid court order "must be obeyed…." *Sablosky*, 258 Conn. at 719. Obfuscation and delay in response to a valid order is bad faith, sanctionable conduct. *Millbrook Owners Ass'n*, 257 Conn. at 16 (dismissal of an action is not "an abuse of discretion where a party shows a deliberate, contumacious or unwarranted disregard for the court's authority").

Already sanctioned for obfuscation in discovery by the trial court, Jones continues to mislead on appeal. He badly misrepresents the trial record in his argument about the discovery history of the case. Here are some examples:

- Jones complains that "the court halved [the ordinary 60 day compliance time] to thirty days." Def. Br. at 29. His counsel did not object to a thirty-day compliance deadline. In fact, Jones' counsel proposed a roughly 30 day compliance period. PA128-PA129, PA131, 1/23 at 6-7, 12.

- Jones claims that "the court left … confusion [about the meaning of its January 10 discovery order] unaddressed…." Def. Br. at 29. The court clarified its order in the January 23 hearing, and Jones' counsel expressed a clear understanding of the court's meaning at that time. PA124-PA125, 1/23 at 2-3.

- Jones claims that after January 30, "every single request filed by the plaintiffs was granted." Def. Br. at 29. That is irrelevant, but also wildly inaccurate. The court extended discovery deadlines, overruling plaintiffs'

repeated objections. *E.g.*, PA324, 5/7 at 1 (court stating it had extended deadlines for Jones to comply). It granted Jones' Motion for Protective Order over plaintiffs' objection. A1796, DN185.10. It denied plaintiffs' Motion to Sanction Jones for his part in filing the false affidavit. And plaintiffs' requests that were granted were restricted – for example, plaintiffs sought two-hour compliance depositions; the court gave them one. PA315-PA316, PA321, 4/30 at 11-12, 17.

- Jones complains that he was unfairly required to provide metadata associated with emails he produced, Def. Br. at 30-31. His counsel agreed in open court to produce the metadata. In the hearing addressing plaintiffs' motion to compel production of the metadata, Jones' counsel stated that producing it was "not necessarily a problem," and the real issue was how long producing it would take. PA 318-PA319, 4/30 at 14-15.

Finally, the limited discovery allowed in this case is authorized by § 52-196a(d). Our legislature envisioned that § 52-196a would enable the quick dismissal of frivolous cases involving easily-proved First Amendment defenses. When truth is a defense, for example, little or no discovery is required of the defendant.[11] But § 52-196a also allows the movant to make more factually complex and discovery-intense challenges, which is what Jones chose to do. In that circumstance, the statute authorizes limited discovery on the issues "relevant" to the Special Motion. PA443, § 52-196a(d). This is a discretionary, "good cause" determination. *Id*.

Jones calls this case "tenuous" and "frivolous," Def. Brief at 3-4, as if his view should simply relieve him of any obligation to provide Anti-SLAPP discovery. Again, the record tells another story. The detailed allegations of the Complaint; that Jones' Special Motion would have required plaintiffs to show probable cause of malice,

[11] *See* PA451, 60 H.R. Proc., Pt. 16, 2017 sess. at 6894 (giving truth as a defense as an example of an appropriate basis for a Special Motion) (Remarks of Rep. Tong); PA451-PA452, *id.* at 6894-95 (relying on truth as a helpful example of a defense to be asserted under the statute) (Remarks of Rep. Dubitsky); PA455-PA456, *id.* at 6924-25 (statute is not intended to protect "fake news," "[i]f the facts are true, if the news is real, it ought to be reported") (Remarks of Rep. Tong).

many of the elements of each claim asserted, agency, civil conspiracy, and tolling doctrines; that Jones cannot assert truth as a defense; and the denial of Anti-SLAPP motions in similar cases in Texas all support the trial court's finding of good cause. And this discussion is all, ultimately, beside the point. Jones' disagreement with the finding of good cause, and with the discovery orders subsequently issued, is no justification for his failure to comply. *See Sablosky*, 258 Conn. at 719.

Jones concludes that plaintiffs "should be required to defend" their claims "now." Def. Br. at 35. He did not ask for such relief in the trial court. He has never once made a motion to expedite discovery or advance the Anti-SLAPP hearing date. The claim is waived for appellate purposes, because there is no ruling to be reviewed – but that fatal problem is procedural, and the even more serious problem with his argument is substantive. He is not in a position to throw stones. It is Jones' refusal to fairly answer court-ordered discovery – not the trial court's supposed lack of clarity or the plaintiffs' supposed "crisis lawyering" – that delayed progress here.

E. Because He Fails to Refute the Trial Court's Findings of Discovery Abuse, Jones Fails to Establish that the Ruling Below Is Infirm

The trial court's findings of Jones' discovery abuse are a substantial basis for the sanctions ruling. Preclusion of the Special Motion is, after all, precisely the sanction that the trial court warned Jones it would enter <u>for discovery abuse</u>. The discovery abuse findings also form part of the context for the June 14 broadcast. Ignoring this context, Jones casts the court's decision as an unholy assault on the First Amendment. His argument is profoundly artificial. The ruling below cannot be decoupled from his discovery abuse, which warranted and received sanction.

III. THE TRIAL COURT DID NOT ABUSE ITS DISCRETION IN CONSIDERING THE JUNE 14 BROADCAST IN ITS SANCTIONS RULING

A trial court has the power to sanction bad faith conduct and the duty to maintain the integrity of the proceedings before it. It can and should restrict parties' speech concerning discovery materials by protective order, sanction abuse of process, impose penalties for perjury, and protect witnesses, parties and counsel from harassment. The trial court entered a measured sanction based substantially on repeated discovery abuse and also in response to on-air lies, profanity, threats and harassment by a party in this case specifically targeting opposing counsel, all said with that party's counsel in this case sitting by his side. The ruling below does not offend the First Amendment, and Jones' June 14 attack on Attorney Mattei was not protected speech.

Standard of Review: The Court reviews a sanctions order for abuse of discretion. To the extent that First Amendment concerns are raised, the Court reviews "de novo the trier of fact's ultimate determination that the statements at issue [were not protected by the first amendment]", and "accept[s] all subsidiary credibility determinations and findings that are not clearly erroneous…." *Gleason v. Smolinski*, 319 Conn. 394, 408 (2015).

A. The Trial Court's Exercise of its Inherent Authority to Protect the Integrity of the Proceedings in this Case Does Not Offend the First Amendment

The court below reviewed and responded to the June 14 broadcast to "ensure the integrity of the judicial process and functioning of the Court." A36, MOD at 3. It relied on its power to "address out-of-court bad-faith litigation misconduct where there is a claim that a party harassed or threatened or sought to intimidate counsel on the other side." *Id.* This authority is well established. When a party "has acted in bad faith, vexatiously, wantonly or for oppressive reasons[,]" the court may sanction. *Maris v. McGrath*, 269 Conn. 834, 844-

45 (2004). The power applies "both to the party and his counsel." *Id.* It applies to in-court and out-of-court conduct. *Maurice v. Chester Hous. Associates Ltd. P'ship*, 188 Conn. App. 21, 29-30 (2019); *Chambers v. NASCO, Inc.*, 501 U.S. 32, 44 (1991) ("[t]his power reaches both conduct before the court and that beyond the court's confines").

"It is without question that courts may sanction parties and their attorneys who engage in harassment of their opponents. The First Amendment does not shield improper tactics used by litigants to advance their interests, even if those tactics involve communication of a message." *B. Willis, C.P.A., Inc. v. Goodpaster*, 183 F.3d 1231, 1234 (10th Cir. 1999) (citation omitted); *Maurice*, 188 Conn. App. at 23-24, 28-35 (affirming sanction entered against party's principal for sending a harassing email to counsel and proposing counsel "sit on his fucking head" as counsel walked into the courtroom). Courts sanction such conduct regularly. *E.g. Nelson v. Eaves*, 140 F. Supp. 2d 319, 322-23 (S.D.N.Y. 2001) (sanctioning *pro se* plaintiff who wrote "abusive, demeaning, and threatening letters" to opposing counsel because they revealed the plaintiff's malice and intent to harass); *Cameron v. Lambert,* 2008 WL 4823596 at *4 (S.D.N.Y. Nov. 7, 2008) (*pro se* plaintiff behaved so inappropriately during a deposition that the court dismissed his case); *Sunegova v. Vill. of Rye Brook*, 2011 WL 6602831, at *7-8 (S.D.N.Y. Apr. 28, 2011), *report and recommendation adopted in part*, 2011 WL 6640424 (S.D.N.Y. Dec. 22, 2011) (sanctioning *pro se* plaintiff for disparaging counsel and the court, using inappropriate language and making threats); *Kalwasinski v. Ryan,* 2007 WL 2743434 (W.D.N.Y. Sept.17, 2007) (incarcerated plaintiff's case dismissed because he sent a letter in which he threatened that he had associates who were planning to murder the defendants); *Harry v. Lagomarsine*, 2019 WL 1177718, at *1-2 (E.D.N.Y. Mar. 13, 2019)

(dismissing case because *pro se* plaintiff left threatening voicemails for opposing counsel including "abusive statements in a highly threatening tone"); *Fid. Nat. Title Ins. Co. of New York v. Intercounty Nat. Title Ins. Co.*, 2002 WL 1433717, at *12 (N.D. Ill. July 2, 2002) (harassing letter that threatened counsel with physical harm constituted bad faith sanctionable conduct).[12]

The order appealed moves this case forward without depriving Jones of any substantive defenses. It is not even a default. By contrast, the cases Jones cites to support his contention that the First Amendment is violated involve criminal convictions or civil injunctions, sanctions much more severe than the order at issue here. None of these cases, moreover, involve harassment of counsel by a party. *Cf. Virginia v. Black*, 538 U.S. 343 (2003) (criminal convictions for attempted cross burning with intent to intimidate and conspiracy to commit a felony); *Hess v. Indiana*, 414 U.S. 105 (1973) (criminal conviction for disorderly conduct); *Brandenberg v. Ohio*, 395 U.S. 444, 447 (1969) (criminal conviction under Ohio Criminal Syndicalism statute); *Watts v. United States*, 394 U.S. 705 (1969) (criminal conviction for threatening the life of the President of the United States); *Noto v. United States*, 367 U.S. 290 (1961) (criminal conviction under Smith Act for membership in group advocating government overthrow); *Chaplinsky v. New Hampshire*, 315 U.S. 568

[12] These same powers protect witnesses. Like harassment of counsel and parties, intimidating witnesses "strikes at the heart of the judicial system." *Young v. Office of U.S. Senate Sergeant at Arms*, 217 F.R.D. 61, 71 (D.D.C. 2003). "Threats against witnesses are intolerable." *United States v. Goodwin*, 625 F.2d 693, 703 (5th Cir. 1980). "The First Amendment does not guarantee a right to make intimidating threats against government witnesses." *United States v. Shoulberg*, 895 F.2d 882, 886 (2d Cir. 1990). "Government cannot be effective if it cannot punish people who intimidate witnesses or informants by threatening to hurt them or damage their property…." *United States v. Velasquez*, 772 F.2d 1348, 1357 (7th Cir. 1985) (upholding statute criminalizing threats against government witnesses).

(1942) (criminal conviction under New Hampshire statute that prohibited directing offensive words to another person lawfully in a public place); *State v. Taupier*, 330 Conn. 149 (2018) (criminal convictions for threatening, breach of peace, and disorderly conduct); *State v. Parnoff*, 329 Conn. 386 (2018) (criminal conviction for disorderly conduct); *State v. Baccala*, 326 Conn. 232 (2017) (criminal conviction for breach of peace); *cf. N.A.A.C.P. v. Claiborne Hardware Co.*, 458 U.S. 886, 927 (1982) (civil judgment in excess of $1 million and permanent injunction prohibiting store watchers outside certain businesses from persuading others to boycott).

At the June 18 hearing, Jones' counsel agreed that a party does not have a First Amendment right "to threaten, harass, or intimidate" the lawyer on the other side. A189-A190, 6/18 at 30-31. His claim was not that there is a First Amendment right to harass counsel; it was that Jones had not done so. According to Jones' counsel, Jones had merely "cri[ed] foul." A191, *id.* at 32. The trial court rejected Jones' version of the facts, finding that Jones' broadcast was a deliberate, harassing attack on Attorney Mattei. *See* Part III.B. below. It was made by a party to this case, with his counsel in this case sitting by his side, harassing, intimidating and threatening the opposing lawyers.[13] Both due to the nature of the threats, intimidation and harassment contained in the broadcast and because these threats, intimidation and harassment undermine the integrity of the case, the First Amendment is not implicated.

[13] Jones now criticizes the ruling as "bereft of any analysis of the first amendment[.]" Def. Br. at 7. But his position below was that the broadcast did not rise to the level of threatening, harassment or intimidation as a factual matter, and in response, the trial court made a careful review of the evidence. *Cf. McNamara v. City of New Britain*, 137 Conn. 616, 618 (1951) (A party "cannot try his case on one theory and appeal on another.").

B. In the June 14 Broadcast, Jones Specifically and Maliciously Targeted, Harassed and Threatened Attorney Mattei

The twenty-minute, deliberate targeting of Attorney Mattei by Jones on Jones' show was not just profane, lewd, insulting, and libelous, it was harassing, intimidating, and threatening. Jones attacked Attorney Mattei by name and by showing his picture. The trial court specifically found that Jones "directly harasses or intimidates Attorney Mattei…." A40, MOD at 7, which is either unreviewable as a credibility determination or reviewable only for clear error as a finding of fact. *See Gleason*, 319 Conn. at 408. It quoted some of the obscenities directed to Attorney Mattei: "a bitch, a sweet little cupcake, a sack of filth, tells him to go to hell…" A40, MOD at 7. Insults directed at plaintiffs' counsel are repeated through the broadcast – "little pimp[]," "bitch," "Go to hell." PA399, PA407, 6/14 Broadcast Tr. at 11, 19; Ex. A, 6/14 Video at 2:23:54-2:24:04; 2:31:12-2:32:12; *see also* Def. Br. at 20 (admitting Jones' speech was "uncivil and profane"). Jones' profanities matter not just because they are profanities, but because they underscore the violence of his attack and because he deliberately broadcast them to his followers.

"Abstract" and "hyperbolic" "political" statements made by litigants may deserve First Amendment protection, but specific, intimidating and/or threatening conduct does not. *See United States v. Shoulberg*, 895 F.2d at 886 (rejecting argument that inmate's letter was hyperbolic and deserving of First Amendment protection when letter implied that inmate would use violence to prevent witness' cooperation); *Graves v. Standard Ins. Co.*, 2015 WL 13714166 at *8 (W.D. Ky. May 22, 2015) (sanctioning counsel who "raised the prospect of a frivolous claim of practicing medicine without a license with the subjective intent to force the disclosed expert witness for an adverse party to withdraw an unfavorable opinion").

At the hearing, Jones' counsel argued that Jones was "rightfully upset because somebody was attempting to frame him for being a pedophile. He didn't blame… the plaintiffs' attorneys here." A198, 6/18 at 39 (emphasis supplied). The trial court plainly gave careful consideration to his factual argument and rejected it. It found that Jones "directly harasse[d] or intimidate[d] Attorney Mattei…." A40, MOD at 7. It also found that Jones was accusing Attorney Mattei of framing him with child pornography: "The Court has no doubt that Alex Jones was accusing Plaintiffs' Counsel of planting the child pornography." *Id*. And again, the record basis for this finding is unassailable. For example, the trial court describes this part of the broadcast:

> [R]eferring to the person who sent the child porn, he says: I wonder who the person of interest is. Continues to say: oh, no. Attorney Pattis says: look, are you showing Chris Mattei's photograph on here; and the record should reflect that when Alex Jones said I wonder who the person of interest is, Attorney Mattei's photo was on the camera. Again, referring to who planted the child pornography. Then Alex Jones says: oh, no, that was an accidental cut. He's a nice Obama boy.

A39, *id.* at 6; *see also* Ex. A, 6/14 Video at 2:41:03-2:41:14.

The trial court found that this was an "intentional, calculated act of rage for his viewing audience." A40, MOD at 7. "Jones was the one who publically brought the existence of the child pornography to light on his Infowars show." *Id.* The record supports these findings as well. The trial court references this section of the broadcast, which both voices the accusation that plaintiffs' counsel framed Jones and threatens counsel:

> [T]he point is, I'm not putting up with these guys anymore, man, and their behavior because I'm not an idiot. They literally went right in there and found this hidden stuff. Oh, my god, oh, my god, and they're my friends. We want to protect you now, Alex. Oh, you're not going to get into trouble for what we found. F you, man, F you to hell. I pray God, not anybody else, God visit vengeance upon you in the name of Jesus Christ and all the saints. I pray for divine intervention against the powers of Satan.

A38, MOD at 5; *see also* PA413, 6/14 Broadcast Tr. at 25; Ex. A, Video at 2:38:10-2:38:44. Before this segment, Jones had said: "Why does law enforcement say $5,000, dead or alive? One million. 'Cause we all know who did it." PA410, 6/14 Broadcast Tr. at 22 (emphasis supplied); Ex. A, Video at 2:35:27-2:35:37. And:

> And then now, imagine, they want metadata out of hundreds of thousands of emails they got, and they know right where to go. What a nice group of Democrats. How surprising. What nice people. Chris Mattei, Chris Mattei. Let's zoom in on Chris Mattei [shows Wikipedia picture, zooms in punches picture, shows Koskoff website picture]. Oh, nice little Chris Mattei. What a good American. What a good boy. You think you'll put on me – [growls, mutters "I'm gonna ki…"[14]] anyways, I'm done. Total war. You want it. You got it. I'm not into kids like your Democratic party, you cock-suckers. So get ready.

PA412, 6/14 Broadcast Tr. at 24; Ex. A, Video at 2:37:22-2:38:06. And: "[Y]ou goddamn rapists, f-heads…. [Y]ou fucks are going to get it, you fucking child molesters. I'll fucking get you in the end, you fucks." PA409, 6/14 Broadcast Tr. at 21; Ex. A, Video at 2:34:08-2:34:29. "One million dollars to put your head on a pike." PA409, 6/14 Broadcast Tr. at 21; Ex. A Video at 2:34:35-2:35:00.

In short, Jones' assault on the Superior Court's factual findings, Def. Br. at 10-14, is without merit. It ignores both the evidence and the standard of review. The evidence is not just the moments when Jones tried to downplay his threats.[15] It is the entire roughly twenty minutes of the broadcast that builds the attack on Attorney Mattei, including that Jones

[14] This statement, "I'm gonna ki –" does not appear in the transcripts prepared by either side, as the trial court noted. Nonetheless, Jones said it – as the trial court also noted. It is audible in the video broadcast, which the trial court listened to and plaintiffs made part of the record for appeal. *See* Ex. A, Video at 2:37:56-2:37:57.

[15] "[V]eiled statements may be true threats." *Haughwout,* 332 Conn. at 575. "A conditional threat ... is nonetheless a threat[.]" *United States v. Malik*, 16 F.3d 45, 49 (2d Cir. 1994).

came prepared with Attorney Mattei's picture and biography, that he was accompanied by his counsel in this case, all of what Jones said, how he said it, that the camera zooms in on Mattei's picture and that the camera shows Jones hitting that picture more than once. *E.g*., Ex. A, 6/14 Video at 2:37:36-2:37:51; 2:38:17-2:38:21; 2:40:14-:2:40:24; 2:41:06-2:41:10; 2:41:17-:2:41:21, 2:45:23-2:45:25. The standard of review requires the court to "accept[s] all subsidiary credibility determinations and findings that are not clearly erroneous." *Gleason*, 319 Conn. at 408. That the court did not credit some of Jones' hedges – what he calls a "selective reading," and "ignor[ing]" statements he made "that cast his diatribe as something other than a threat," Def. Br. at 10-11 – is the factfinder doing her job, not error.

C. The First Amendment Does Not Protect Jones' Attack on Attorney Mattei

Jones' speech was an immediate threat of violence; any reasonable person who experienced a similar attack would fear violent consequences. First Amendment doctrine does not just protect people from "the possibility that ... threatened violence will occur[.]" *Haughwout*, 332 Conn. at 571. It also "protect[s] individuals from the fear of violence and from the disruption that fear engenders[.]" *Id.*; *Virginia v. Black*, 538 U.S. 343, 344 (2003) (same). "[T]hreatening speech ... works directly the harms of apprehension and disruption, whether the apparent resolve proves bluster or not and whether the injury is threatened to be immediate or delayed." *State* v. *Pelella*, 327 Conn. 1, 16-17 (2017).

In determining whether an objective listener would readily interpret Jones' broadcast as a true threat, context is vital. "[A] determination of what a defendant actually said is just the beginning of a threats analysis…[C]areful attention must be paid to the context in which those statements are made to determine if the words may be objectively perceived as

threatening." *State v. Krijger*, 313 Conn. 434, 452-453 (2014); *Haughwout*, 332 Conn. at 575 (same). This includes the "reasonable connotations derived from its ambience[.]" *Id.*

While the context to be considered is sometimes quite immediate, it need not be. It can include an individual's "access to guns" or other dangerous instrumentalities. *Haughwout*, 332 at 579. It can include local community factors, including a "local history of violence," *id.* at 575 (citing *United States* v. *Dillard*, 795 F.3d 1191, 1200-1201 (10th Cir. 2015)), or "a campus environment purportedly conducive to sexual assault," *id.* at 579 (quoting *Feminist Majority Foundation* v. *Hurley*, 911 F.3d 674, 691-92 (4th Cir. 2018)). And it can be much broader. In *Haughwout*, "the relative frequency of ... mass shootings" was important context that informed "the reasonableness of viewing [an individual's remarks] ... as true threats." *Id.* at 580.[16]

He made his threats in a broadcast to his particular audience. He both threatened Attorney Mattei directly: "You're trying to set me up with child porn. I'm going to get your ass." PA409, 6/14 Broadcast Tr. at 21; Ex. A, Video at 2:34:35-2:35:00. "If you want blood, you've got it. Blood on the streets, man." PA423, 6/14 Broadcast Tr. at 35; Ex. A, Video at 2:47:10-2:48:25. And he threatened Attorney Mattei by activating his audience: "I will give everything I have to stop living in this world with these people."[17] PA421, 6/14 Broadcast Tr. at 33; Ex. A, Video at 2:45:19-2:46:12. He called specifically on the part of his audience most closely associated with violence to make war on Attorney Mattei:

[16] Jones made his threats to opposing counsel in the context of his repeated discovery abuses. See Part I. above.

[17] This statement is a threat. By the same token, Henry II famously asked, "Will no one rid me of this turbulent priest?" a question leading to the death of Thomas Becket.

> And I'm just asking the Pentagon and the patriots that are left, and 4chan[18] and 8chan[19], … anybody that's a patriot, I am under attack, and if they bring me down, they'll bring you down. I just have faith in you. I'm under attack. And I summon the mean war. I summon all of it against the enemy.

PA423, 6/14 Broadcast Tr. at 35; Ex. A, Video at 2:47:10-2:48:25.

Jones' audience has a history; he knows it, and so does anyone who reads the news. The trial court recognized that Jones' broadcast was meant to activate his audience: "it was an intentional, calculated act of rage for his viewing audience." A40, MOD at 7. That audience has threatened and stalked Sandy Hook family members[20] and acted on Jones' promotion of Pizzagate to shoot up the Comet Ping Pong pizza restaurant in Washington D.C.[21] Jones tapped into precisely that history. He called on "the patriots that are left, and 4chan and 8chan, and anonymous," and he summoned an attack: "I summon all of it against the enemy." PA423, 6/14 Broadcast Tr. at 35; Ex. A, Video at 2:47:10-2:48:25. That Jones' threat of violence says it is to be effectuated by others makes it no less a threat. *See United States v. White*, 698 F.3d 1005, 1016 (7th Cir. 2012) (no First Amendment defense available to conviction for soliciting violent crime against juror where defendant's electronic broadcast "was specifically designed to reach as many white supremacist readers as

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[18] 4chan is the online, anonymous message board that, in combination with Jones' promotion of the conspiracy theory Pizzagate, is tied to the shooting up of the Comet Ping Pong pizza parlor in Washington, D.C. *See* PA471, "4chan" Wikipedia entry excerpt.

[19] 8chan is the online, anonymous message board created for radical, violent conspiracy theorists expelled from 4chan; is associated with mass shootings, some of which occurred before Jones' June 14 broadcast; and is where the El Paso shooter posted his pre-shooting manifesto. *See* PA489, "8chan" Wikipedia entry excerpt.

[20] PA498, Derek Hawkins, *Sandy Hook hoaxer gets prison time for threatening 6-year-old victim's father*, Wash. Post (June 8, 2017).

[21] PA503, James Doubek, *Conspiracy Theorist Alex Jones Apologizes For Promoting 'Pizzagate'*, NPR (Mar. 26, 2017).

possible so that *someone* could kill or harm Juror A").

The FBI recently issued a report about the dangers of precisely this kind of broadcast: "The FBI assesses anti-government, identity based, and fringe political conspiracy theories very likely motivate some domestic extremists, wholly or in part, to commit criminal and sometimes violent activity." PA457, FBI Field Intelligence Bulletin, 5/30/19, at 1. "Very likely" is a term of art used by the FBI to mean an 80-95% chance. PA466, *id.* at 10. "These conspiracy theories" – the FBI references the Sandy Hook hoax theory and Pizzagate among them –

> very likely encourage the targeting of specific people, places, and organizations, thereby increasing the risk of extremist violence against such targets…. This targeting occurs when promoters of conspiracy theories, claiming to act as 'researchers' or 'investigators,' single out people, businesses, or groups which they falsely accuse of being involved in the imagined scheme. These targets are then subjected to harassment campaigns and threats by supporters of the theory, and become vulnerable to violence or other dangerous acts.

PA459, *id.* at 3. Because of Jones' broadcast, plaintiffs' counsel placed a uniformed police officer in the firm lobby, A204, 6/18 at 45; *see Haughwout*, 332 Conn. at 571 (noting importance of considering "reaction of the listeners"). Jones' audience threatened the judge in this case after the sanctions order issued and Jones turned his fire on her.[22] Affirming the ruling below is crucial to protect the integrity of the proceedings in this case.

Jones argues that his broadcast did not fall into any exception to protected speech because his words did not provoke any imminent danger. Def. Br. at 14-20. The Court has

[22] After the trial court sanctioned him, Jones posted a broadcast titled "Judicial Tyranny? Judge Says Criticism Of Democrat Lawyers Forbidden." Shortly after that broadcast was posted, the court filed a notice stating that it had been "contacted by the Connecticut State Police who were reportedly contacted by the FBI regarding threats against the undersigned made by individuals on the defendant Infowars website." PA427, DN 271. Jones then apparently removed the broadcast; it is no longer accessible via the Infowars website.

repeatedly held that "[a] threat need not be imminent to constitute a constitutionally punishable true threat." *State* v. *Pelella*, 327 Conn. 1, 11 (2017); *Haughwout*, 332 Conn. at 580 (same). Indeed, "the social costs of a threat can be heightened rather than dissipated if the threatened injury is promised for some fairly ascertainable time in the future ... for then the apprehension and disruption directly caused by the threat will continue for a longer rather than a shorter period." *Pelella*, 327 Conn. at 17. And the threat here was imminent; the broadcast and bounty was out to Jones' audience.

Jones tries to characterize his broadcast as "hyperbole," Def. Br. at 21, a category of speech that may be protected. His self-serving view of his own broadcast is irrelevant. The test is whether "an objective listener would readily interpret the statement as a real or true threat…." *Haughwout*, 332 Conn. at 572. This is for the Court to decide on review of the broadcast, after deferring to the trial court's credibility determinations and factual findings. An objective listener hearing a person named and seeing him pictured, then cursed, accused of criminal wrongdoing, and threatened would hardly conclude this is hyperbole. Jones also argues that his statements are not direct enough to be true threats. *E.g.* Def. Br. at 20, 21 (arguing that Jones "aired suspicions" and did no more than "advocate violence at some future date"). Jones' threats are not veiled, but "even veiled statements may be true threats." *Haughwout,* 332 Conn. at 575.

In his brief, Jones blames his victims and proposes that this Court protect him at their expense. He argues that it would be "shocking" if Attorney Mattei "felt threatened" or even "discomfited," and that "experienced litigators" learn to take speech like this "in stride," Def. Br. at 7-8, 22. He proposes that rather than sanction him, the right outcome is for

Attorney Mattei "to withdraw as counsel." *Id.* at 9. The lack of remorse and denial of accountability is chilling and dangerous.

IV. THE TRIAL COURT GAVE JONES AMPLE NOTICE AND A FULL HEARING

The trial court gave Jones five warnings that his Special Motion was in jeopardy over the course of discovery, and that is the exact sanction it entered on June 18. It gave an additional specific warning that "[t]he 35 page Google Analytics print out produced in response to production requests 15-17 is simply not full and fair compliance," A1522, DN 255.10, the kind of discovery abuse that had caused it to issue the five prior warnings. And it warned him again: "the court will consider appropriate sanctions for the defendants' failure to fully and fairly comply should they not produce the data within one week [by June 17]." *Id.* It also gave notice by court order on June 17 that it would address the broadcast at the June 18 hearing: "Counsel should be prepared to address the matter at tomorrow's hearing, and the clerk is directed to notify counsel of record of same." A1622, DN265.10. Jones' counsel, Pattis, was personally familiar with the content of the June 14 broadcast, having participated in it. Even before plaintiffs were aware the threats had been made, Pattis had notice of their content. In short, Jones had notice in multiple ways that the June 18 hearing would be a sanctions hearing, and both discovery noncompliance and the broadcast would be at issue.

Jones claims that "[n]o exigency excuses" the supposed lack of process. Def. Br. at 24. In fact, the contents of his broadcast created an exigent circumstance.

He then argues that the court's decision to proceed on June 18 "deprived [his clients] of any meaningful opportunity to prepare." *Id.* at 26. That is a surprising argument, since Jones made the June 14 broadcast and Pattis participated in it; and Jones also found

the opportunity to make and present to the trial court a June 15 broadcast, which he claimed to be an "apology," before the June 18 hearing. A1945, DN 267 at 2.[23] That Jones' counsel called the June 15 broadcast an "apology" in their June 17 pleading also indicates a high degree of awareness that Jones' June 14 broadcast had been unacceptable.

In short, the claim of lack of notice is contrived for appeal. The final confirmation of this is that the claim was not made during the June 18 hearing itself. Meaningful preparation could have involved three things – a lawyer familiarizing himself with the facts, a witness preparing to testify, or legal research. If Jones' counsel truly felt unready to proceed for one of those reasons, Reiland or Pattis would have said so. Neither did. They did not object to proceeding based on lack of sufficient notice, state they were unprepared, ask for an opportunity to call witnesses, move for a continuance for any purpose, or ask for the opportunity to brief further. Instead, they proceeded to the merits. Reiland argued, "we understand that the plaintiffs are seeking some serious sanctions right now…. [W]e're asking the Court … to deny any sanctions[.]" A175, 6/18 at 16. Pattis told the court, "I understand and accept your inherent authority over these proceedings." A182, *id.* at 23. The court asked, before it left the bench to rule, if Jones' counsel wished to say anything more. Counsel did not indicate any need to add to the record: "we'll stand on Attorney Pattis's argument." A205, *id.* at 46.

The trial court gave Jones a full opportunity to be heard before it entered a measured sanction he had been told repeatedly could enter. Due process is satisfied.

[23] The trial court did not find it to be an apology. A174, 6/18 at 15 ("The Court: It doesn't sound like an apology.")

CONCLUSION

For these reasons, the ruling below must be affirmed and the case permitted to proceed through discovery and to a determination on the merits.

RESPECTFULLY SUBMITTED,

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CERTIFICATION OF SERVICE AND COMPLIANCE

I hereby certify, on this 19th day of August, 2019, the following:

1. The Brief and Appendices comply with the format requirements and all provisions of § 67-2 of the Rules of Appellate Procedure;

2. The printed Brief and Appendices were mailed postage prepaid to:

   The Honorable Barbara N. Bellis
   Judge of the Superior Court
   400 Grand Street
   Waterbury, CT 06702
   Tel: (203) 236-8200

3. The Brief and Appendices have been redacted and do not contain any names or other personal identifying information that is prohibited from disclosure;

4. The printed Brief and Appendices are true copies of the Brief and Appendices that were submitted electronically;

5. Pursuant to the requirements of the Rules of Appellate Procedure § 62-7, the electronically filed Brief and Appendices were delivered electronically to the last known e-mail address of each counsel of record for whom an e-mail address has been provided, and paper copies of the Brief and Appendices were mailed, postage prepaid, to:

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APPENDIX J

Reply Brief On The Merits For The Applicants Before The Connecticut Supreme Court In *Lafferty v. Jones*, SC20327 (August 29, 2020).

STATE OF CONNECTICUT
SUPREME COURT

S.C. 20327

LAFFERTY, ERICA, ET AL.,
Plaintiffs-Appellees,
v.
JONES, ALEX EMERIC, AT AL.
Defendants-Appellants.

JUDICIAL DISTRICT OF WATERBURY
at WATERBURY
COMPLEX LITIGATION DOCKET
(Hon. Barbara Bellis)

DEFENDANTS-APPELLANTS' REPLY BRIEF AND SUPPLEMENTAL APPENDIX

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ARGUMENT

"There is a conspiracy theory for everything. Ancient Atlanteans built the pyramids. Abraham Lincoln was assassinated on the orders of his vice president…The Apollo moon landings were filmed on a sound stage…Area 51 is home to advanced technology of alien origin. Alex Jones, a conspiracy-minded radio host based out of Austin, Texas, is actually the alter-ego of comedian Bill Hicks (Who faked his death in the early 1990s to pursue a career in conspiracism.)"[1] Sandy Hook was a hoax; crisis actors faked deaths to promote outrage over gun violence. (Plaintiffs' Brief, pp. 3-4)

Conspiracy theories are a constant feature of American political life and culture, representing part of the robust, sometimes disturbing, cacophony of debate, especially in troubled times.[2] But not in Connecticut. In Connecticut, failure to embrace the tragedy narrative with respect to Sandy Hook is a cause for the pursuit of money damages. In three lawsuits, the surviving family members of several of the Sandy Hook families seek to punish Alex Jones for uttering, at various isolated points in thousands of hours of broadcasts over the past six years, isolated comments about the "hoax" theory of Sandy

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[1] Rob Brotherton, *Suspicious Minds: Why We Believe Conspiracy Theories,* 121 (Bloomsbury, 2015). Why the appeal of conspiracy theories? They "render the inexplicable explicable, the complex comprehensible."

[2] For two recent studies of conspiracy theories, and their significance in American life, see: Fenster, Mark, *Conspiracy Theories: Secrecy and Power in American Culture*, 11 (University of Minnesota Press, 2d ed. 2008)("Conspiracy theory does not pose a threat from outside some healthy center of political engagement; rather, it is a historical and perhaps necessary part of capitalism and democracy."); Merlan, Anna, *Republic of Lies: American Conspiracy Theorists and Their Surprising Rise to Power*, 29 (Metropolitan Books, 2019)("The issue, then, isn't the conspiracy theories themselves, which any healthy societal discourse can absorb; we've done so for generations, treating them as a natural and understandable outgrowth of social upheaval and (very) spirited public discussion.")

Hook. Not only that, he's hosted others on his radio and television broadcasts – including the pro se defendant in the suits, Wolfgang Halbig -- who have openly questioned the investigation of the shooting. Never mind that Mr. Jones has since apologized to the family members for whatever discomfort his speech on matters of public concern may have caused.[3] Enter the white knights of the plaintiffs' bar. They will rescue the plaintiffs from the evil speech of Mr. Jones. And they will do so urgently, insistently, and with an eye towards bankrupting the Defendants into silence with litigation.

The Jones defendants sought relief from litigation they regard as frivolous, filing a special motion to dismiss pursuant to C.G.S., Section 52-196a. The plaintiffs obtained expedited and limited discovery, and transformed a first amendment case into a game of litigation gotcha fueled by a manufactured sense of urgency. When Mr. Jones lost his temper on a nationally broadcast television show, the trap the plaintiffs patiently laid was sprung. The trial Court relieved the plaintiffs of having to defend their baseless claims on the merits and set them free to attempt to silence Mr. Jones with more litigation expense and niggling.

It's a tedious species of performance moralism, driven by an overabundance of pathos. This Court should put an end to this breathless charade.

I. Alex Jones Did Not Threaten Anyone

As the defendants' opening brief was being edited for submission, this

[3] See, for example, recent comments in an interview broadcast in Connecticut: https://www.iheart.com/podcast/463-the-vinnie-penn-poject-28222677/episode/infowars-alex-jones-exclusive-interview-on-30836462/.

Court published online its decision in *Haughwout v. Tordenti*, 332 Conn. 559 (2019).[4] *Haughwout* continues the work begun in *State v. Krijger*, 313 Conn. 343 (2014), eliminating any scienter requirement from the true threat doctrine, and anchoring it in a purely objective standard, a ruling that suggests the very problem the United States Supreme Court signaled, without deciding, in *Elonis v. United States*, 135 S.Ct. 2001 (2015). Even on application of the *Haughwout* standard, however, Mr. Jones' speech is protected.[5]

After a hearing at which both sides had the opportunity to be heard, Mr. Haughwout was found by university officials to have violated written university standards prohibiting physical assault, intimidation or threatening behavior, harassment, disorderly conduct and offensive or disorderly conduct. He was suspended from the Central Connecticut State University for comments fellow students reported he had made involving guns, mass shootings, and potential threats to identifiable students. A warrant for his arrest for threatening in the second degree in violation of General Statutes Section 53a-52 was rejected by prosecutors. *Haughwout*, 564-565. University officials discredited Mr. Haughwout's denial of having made the comments. He defended on alternative grounds in the Superior Court: his speech was protected and

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[4]The official release date was July 30, 2019, the day after the opening brief was due. This Court has yet to decide whether to grant Mr. Haughwout's motion to reconsider; he contends the *Haughwout* decision eliminated any discussion of scienter from a true threat analysis, effectively transforming the doctrine into a strict liability standard.

[5] Use of this standard should not be construed as waiver of any claims that the proper standard requires a culpable mental state. The undersigned maintains the correct statement of the law is the view favored by those Circuits and Courts concluding that *Virginia v. Black,* 538 U.S.343 (2003) requires a finding of intent, a position the United States Supreme Court declined to hear in rejecting the petition for certiorari filed in *State v. Taupier*, 330 Conn. 149 (2018), *cert. denied*, 139 S.Ct. 1188 (2019), a petition briefed by Mr. Jones' counsel.

was dark humor and political hyperbole. In rejecting the first amendment defense, this Court noted: "a prohibition on true threats protect[s] individuals from the fear of violence and from the disruption that fear engenders, in addition to protecting people from the possibility that threatened violence will occur." *Id*, 571 citing, *Krijger,* 313 Conn. 449-50. Significantly, this Court noted that Mr. Haughwout had had the opportunity to offer "factual support for his argument that his statements and gestures would reasonably be understood as political hyperbole or humor, rather than a true threat." *Id.*, 586.[6]

Although *Haughwout* is steeped in concern about gun violence and school shootings, the Court applied the *Krijger* standard in evaluating Mr. Haughwout's' speech:

> Whether a particular statement may properly be considered a [true] threat is governed by an objective standard – whether a reasonable person would foresee that the statement would be interpreted by those to whom the maker communicates the statement as a serious intent to harm or assault.... Alleged threats should be considered in the light of their entire factual context, including the surrounding events and reaction of the listeners.... A reasonable listener, familiar with the entire factual context of the defendant's statement, would be highly likely to interpret them as communicating a genuine threat of violence, rather than protected expression, however offensive or repugnant.

Haughwout, 571-572; *Krijger*, 449-450, 460.

The factors considered by the *Haughwout* Court demonstrate why no criminal charges were brought against Mr. Haughwout. His comments, taken in context, lack the immediacy required for a criminal prosecution.

> [He] (1) made frequent shooting hand gestures as a form of greeting to students in the student center, (2) with his hand in a shooting gesture, [he] aimed at students and made firing noises as they were walking through the student center; (3) wondered aloud how many rounds he would need

[6] Mr. Jones was summarily denied such an opportunity and burdened with a record of factual findings that find no foothold in the evidence.

> to shoot people at the school and referred to the fact that he had bullets at home and in his truck, (4) showed off pictures of the guns he owned and boasted about bringing a gun to school, (5) referred specifically and on more than one occasion to his shooting up he school, (6) during a test of the school's alarm system stated that someone should shoot up the school for real so it's not a drill; (7) named as his number one target a particular student in the student center, (8) made specific reference to a shooting at an Oregon community college where several students had been killed and wounded, stating that the Oregon shooting has best us."

Haughwout, 574 (quotation marks omitted).

The instant case is distinguishable. Both Jones and Mattei are public figures engaged in a highly contentious relationship: the former, a broadcaster; the latter, a former federal prosecutor and sometime candidate for statewide office given to making jejune comments about the litigation against Mr. Jones to grow his following on social media. Mr. Jones' comments in no way impeded the progress of the litigation. Mr. Mattei sought out a contentious relationship with Mr. Jones, suing him for money damages: complaints raised on Mr. Mattei's behalf ring precious and pretextual. On the plaintiffs' overheated reading of the law, Henry II is guilty of a true threat by uttering: "Will no one rid me of this turbulent priest," a question, they assert, "leading to the death" of Thomas Becket. (Plaintiff's Brief, fn. 17, p.29). This Court is urged not to crucify the first amendment on so flimsy a cross.

The trial Court's conclusion that Mr. Jones engaged in a calculated threat is, at best, speculative. The undersigned was present and sat next to Mr. Jones as the televised outburst took place. He was reduced to such shock that, uncharacteristically, he was at a loss for words when asked to comment on air, uttering, simply, "Hi, mom." [7]

[7] The Jones defendants urge the Court to view the broadcast itself, although he notes the broadcast itself was never part of any public proceeding in the instant case. The trial Court viewed it in camera, reciting at least one "fact" that appears in no transcript.

Had the Court permitted a hearing on this matter with adequate notice and opportunity to be heard, Mr. Jones could have determined whether he wished the undersigned to testify. The trial Court's decision to decide the contents of Mr. Jones' mind without giving him a chance to speak or to testify, or otherwise offer "factual support for his argument that his statements and gestures would reasonably be understood as political hyperbole or humor" or other legitimate criticism, distinguishes this case from *Haughwout*. Id. at 586.

II. The Trial Court's "Discovery" Sanction Was Driven By Its Misapprehension Of Mr. Jones' Comments, And Was Overly Harsh

A. "Expedited" "Limited" Discovery Became A Tool To Avoid A Decision On The Merits Of The Defendants' Motion To Dismiss

The breathless run-on sentence summarizing the plaintiffs' contentions about discovery – all fourteen clauses and 121 words of it – captures well the tenor of the litigation below. (Plaintiffs' Brief, pp. 1-20.) Pile grievances upon half-truths and misrepresentations and a weary Court might just do what Judge Bellis did in this case: throw up its hands, and cry "enough!".

The underlying litigation is a classic example of a strategic lawsuit against public participation, seeking to silence a right-wing conspiracy theorist. That the suits were filed in 2018, many years after most of the utterances complained of were made, and after the 2016 election, is notable – in Mr. Jones' view, he will never be forgiven his role in defeating Hillary Clinton in the 2016 election, and this suit, raising novel, and in some instances frivolous, claims proves it. What case stands for the proposition that airing extreme views about a topic, any topic, unrelated to the sale of product, is a deceptive trade practice?

The Jones defendants filed a motion to dismiss under Connecticut's new and untested anti-SLAPP statute. The plaintiffs then persuaded the Court to grant it expedited and limited discovery. The defendants objected that the discovery was not limited. As events unfolded, all that was expedited was the plaintiffs' demand for virtually weekly status conferences, a practice the defendants objected to as wasteful of time and resources. The plaintiffs, who filed the dilatory claims, then, and now, blame the defendants for defending too vigorously. (Plaintiffs' Brief, p. 4)

The record is devoid of evidence that there was a "strategic change of counsel." A change of counsel was forced by the plaintiffs, who took the unparalleled step of filing an opposition to the appearance of Mr. Jones's supervising counsel of choice, Mark Randazza, to appear pro hac vice. (PA A-6, D.E.162) Mr. Randazza's firm, acting through a local attorney, was the firm that filed the special motion to dismiss. There was no strategic decision to change lawyers. Mr. Jones was denied his counsel of choice, and sought new counsel after the Court had both denied Mr. Randazza's motion to appear and after the Court had granted orders permitting what became, under the manipulation of plaintiffs' counsel, a crippling financial burden for the Jones defendants. The plaintiffs mischaracterize these events.

Even their claim of a "false affidavit" rings of half-truth.

The defendants were required to search nearly 10 million emails on an expedited basis to satisfy the plaintiffs' demand that certain search terms be sifted through nearly seven years of electronic data. The trial Court imposed deadlines for the search. The defendants sought relief. When it became apparent that the general counsel Mr. Jones selected to replace Mr. Randazza had failed to conduct the required search and had not

informed Mr. Jones of that fact, the undersigned tendered an affidavit signed by a man with power of attorney for Mr. Jones. (PA-295) Signing as Mr. Jones, and after Mr. Jones affirmed the truth of the statements, the affidavit was tendered. When counsel raised questions at a later hearing about whether Mr. Jones had physically signed the document, counsel, the undersigned, acknowledged he had not, explaining the circumstances. The trial Court expressed shock. (PA-295) Based on that reaction, the undersigned self-referred to grievance authorities, and promptly cured the defect with an affidavit actually signed by Mr. Jones, but in all other respects identical to the one it replaced. (PA-304-305; 307) (SA pp 1-2). The trial Court later referred the undersigned to grievance authorities.

Whatever defects in the affidavit, the underlying truth is clear enough to unbiased eyes: Mr. Jones' general counsel misled him about the scope of discovery compliance. Punishing Mr. Jones for the defective performance of counsel would be unjust. The trial Court never questioned the legitimacy of requests for continuances by counsel to sort out potential conflict claims as the difficulties involving counsel in the case progressed. (PA-270) Yet, the plaintiffs attribute this to bad faith on Mr. Jones' part.

The attribution rings hollow. The plaintiffs had the right to depose Mr. Jones when they traveled to Texas to take the deposition of four of his associates. They elected not to do so, and still have not done so, despite their claim that their expedited and limited discovery requires such a deposition. They did, however, tender a detailed set of Requests to Admit without Court approval. Mr. Jones completed and signed those requests, a fact the plaintiffs ignore. (SA p.3)

At various points, the trial Court observed that Mr. Jones had, in fact, tendered "substantial compliance" with discovery – providing tens of thousands of emails, and such documents as appeared responsive.[8] The plaintiffs then claimed they needed meta-data from the emails, waiting for weeks until after they had received nearly 60,000 PDF copies of emails to make the claim, and renewing their claim that the plaintiffs had been obstructive. (May 7, 2019, PA-323 – et seq.) The trial Court ordered that the meta-data be produced, requiring a prompt production of tens of thousands of emails encoded in a form a layperson cannot read. Mr. Jones met the deadline. In order to meet that deadline, neither he nor his counsel reviewed the meta-data of each e-mail. Indeed, the plaintiffs' complained that the defendants provided ***too much*** metadata. As it turns out, a dozen emails had unopened child-pornography attached to them, the result of an attempt to frame Jones for a crime by spiking his email with child pornography. The plaintiffs discovered these emails and turned the matter over to the Federal Bureau of Investigation, which concluded there was no evidence that anyone involved in the case – counsel, clients or others – had opened the emails or had any reason to believe the child pornography existed.

Mr. Jones did address how the child pornography found its way into the discovery in this case on a broadcast. He was angry. He raised suspicions about the plaintiffs' lawyers, including Mr. Mattei. As argued earlier, he threatened no one. His concern was to make sure no one leaked the story first. His counsel had previously complained about how details of the case involving him were constantly leaked to the

[8]THE COURT: "I had said a few times that I thought there was substantial compliance." (JA-324)

press. No sooner would a pleading be filed by the plaintiffs, than CNN and other news outlets would run a story on the latest allegations of the plaintiffs' counsel.

Amid this, however, he continued attempting to comply with the ceaseless carping of plaintiffs' counsel and their perpetual demands to be relieved of the responsibility of responding to his motion to dismiss. Had a hearing taken place on the discovery issues pending on June 18, 2019, the Court would have learned that efforts had taken place as late as the evening before, on June 17, 2019, to get discovery to counsel for the plaintiffs.

In written discovery, the plaintiffs requested all reports and data regarding marketing. The defendants tendered the physical reports in their possession, and replied that they do not have marketing reports. What the defendants do have is access to Google Analytics, a vast repository of raw data. The deposition testimony in this case was that the defendants did not use Google Analytics to market health-related products in relation to editorial content broadcast on Infowars. The plaintiffs simply don't accept that as true, and were pressing for all of the raw data in Google Analytics to be turned over, a claim even the trial Court found difficult to fathom.[9]

The simple fact is that there is no satisfying the plaintiffs. What they want is to punish Mr. Jones for engaging in unpopular speech. We have an anti-SLAPP statute and a special motion to dismiss to protect speech from the predations of self-righteous

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[9] "THE COURT: I've never heard of anybody having a party give them entire access, give them the log [sic] information and go at it. I've never heard about that anecdotally. That seems pretty extreme, doesn't it?
"ATTY MATTEI: We're just suggesting an efficient way to go about it.
"THE COURT: It's a suggestion I've never heard of or seen." (June 5, 2019, JA-340-341)

ntermeddlers. The plaintiffs don't like the statute, neither the short shrift it gives to Plaintiffs who attempt to silence citizens validly exercising their constitutional right to participate in the public discourse, nor the requirement it imposes on them of defending their claims on the merits.

B. Pretext

After filing a request for the trial Court to review a transcript of Mr. Jones' remarks on June 14, 2019[10], the plaintiffs appeared at the June 18, 2019 hearing, and, sensing the mood of the trial Court, swung for the fences – asking not just for a denial of their motion to dismiss, but for a default judgment. The Court did not grant them their hearts' desire, but did impose the death penalty on the Jones defendants' right to have their special motion to dismiss heard. (The trial Court effectively sanctioned the non-Jones defendants as well. Their motions remain unheard.)

No real argument took place about discovery. The Court's decision to act on that alternative basis rings of pretext, an attempt to cover a record about which the trial Court, an experienced jurist, must have had misgivings.

C. Harshness of sanction

Sanctions orders are intended to be remedial, "not to exact punishment." *Usowki v. Jacobson*, 267 Conn. 73, 85 (Conn. 2003). "[T]he violation of a discovery order must be reasonably clear, the record must establish that the order was violated, and the

[10] The plaintiffs asked in their pleading for expedited briefing to address any claims for sanctions they may have had. Lead counsel for Mr. Jones did not even attend the morning hearing on June 18, 2019, as he was in trial elsewhere in the building, sending an associate to obtain dates. When it became apparent that the trial Court prepared to act without briefing and immediately, lead counsel obtained a brief adjournment from trial to appear at the afternoon session to argue against sanctions.

sanction imposed must be proportional to the violation." *Usowki, p.* 91. This Court repeatedly reminds all Courts that they "should be reluctant to employ" any "remedy of last resort" such death penalty like sanctions of dismissal unless it is "the only reasonable remedy available." *Id.* In all cases, a hearing with due process and due notice must be provided. *Id.*, p. 95.

Mr. Jones believes meritless claims have been filed against him to silence him. He seeks to defend on the merits and has litigated his discovery claims in hearing after hearing, winning the Court's acknowledgement of "substantial compliance." His speech, while raw and offensive, was not sanctionable.

D. Mr. Jones Violated No Court Order In His June 14, 2019 Speech

The United States Supreme Court long ago recognized that any attempt to punish speech "outside the courtroom which comments upon a pending case" would "weigh heavily" toward unconstitutionality. *Bridges v. State of Cal.*, 314 U.S. 252, 260 (1941). Only speech that presented a "clear and present danger" to the ability of the courts to function could even be considered for proscription or punishment. *Id., p.* 262. Indeed: "what finally emerges from the clear and present danger cases is a working principle that the substantive evil must be extremely serious and the degree of imminence extremely high before utterances can be punished." *Id.*, p. 263. Free speech must enjoy "the broadest scope" including "explicit language" as a "liberty-loving society" must allow. *Id.* The Supreme Court expressly rejected the idea that inherent court power permitted such sanctions, noting the First Amendment was intended to prohibit precisely such misuse of judicial power. *Id.,* 264. "The assumption that respect for the judiciary can be won by shielding judges from published criticism wrongly

appraises the character of American public opinion. For it is a prized American privilege to speak one's mind, although not always with perfect good taste, on all public institutions. And an enforced silence, however limited, solely in the name of preserving the dignity of the bench, would probably engender resentment, suspicion, and contempt much more than it would enhance respect." *Id.*, 264. No case suggests that lawyers are more protected from insult than judges.

A citizen's being a party to a case does not "make out of Court remarks more censorable." *In re Sawyer*, 360 U.S. 622, 636 (1959). Generally, Court orders proscribing or punishing speech are "repugnant to the First Amendment to the Constitution." *Parker v. Columbia Broadcasting System, Inc.*, 320 F.2d 937 (2d Cir. 1963). Any proscription on speech must raise a "reasonable likelihood of prejudicial impact" on the functioning of the judiciary itself. *Connecticut Magazine v. Moraghan*, 6767 F.Supp. 38, 43 (D. Conn. 1987). Free discussion, and Court openness in high profile cases, make gag orders and closure orders alike Constitutionally dubious, while undermining, not aiding, public confidence in the judiciary. *See State v. Kelly*, 45 Conn.App. 142, 148 (Conn. App. 1997).

In particular, fellow federal Courts have noted the rule limiting out-of-court discussion of a party or witness could not be constitutional unless the Court found the specific statement posed a serious and imminent threat to the Court's ability to perform its task. *Chi. Council of Lawyers v. Bauer*, 522 F.2d 242 (7th Cir. 1975). For First, Fifth and Sixth Amendment reasons, speech-regulating rules "must be neither vague nor overbroad." *Id.*, p. 249. Even statements that "impair the orderly and fair administration of justice in a pending case" cannot be restricted or sanctioned given the paramount interest of free speech. *Id.*

III. The "Hearing" At Which Sanctions Were Imposed Lacked Even Rudimentary Due Process

Even in its appendix before this Court, the plaintiffs submit an unsigned transcript of Mr. Jones' comments. (Plaintiffs' App, A-84-85) A pending motion by the Jones defendants has yet to be acted upon by the trial court. (Defendants' App. A-10, Docket Entry 272) In its haste to rule, the trial Court could not even assure that an adequate record was prepared for review.

"[N]o matter shall be decided unless the parties have fair notice that it will be presented in sufficient time to prepare themselves upon the issue." *Town of New Hartford v. Connecticut Resources Recovery*, 291 Conn. 489, 500 (Conn. 2009) (quoting from and citing *Osterlund v. State*, 129 Conn. 591, 596 Conn. 1943). There, the Court gave the defendant less than one day to consider a request for sanctions, while defendant's attorney had another pending matter the morning of the scheduled hearing, and no time given to read or review all the exhibits or research relevant law. The Court found it "clear that the defendant's attorney was not afforded sufficient time to investigate, much less to prepare, a defense." *Town of New Hartford,* 501. This Court therefore found it a "denial of due process of law" that "cannot be justified." *Id.* This case is almost identical in terms of the length of time of preparation and the known competing obligations of defense counsel, and even more egregious from a due process perspective, as no motion for sanctions had been filed and the record involved was far more factually extensive for counsel to review.

No Court in Connecticut, or anywhere, has denied a defendant a hearing or the right to bring an anti-SLAPP motion as a sanction. No Court in Connecticut, or anywhere, has sanctioned a defendant based on their out-of-Court speech where the

defendant's conduct did not violate any court order. No Court in Connecticut, or anywhere, has denied a defendant a statutory hearing as a sanction on less than 24-hour notice, without even a motion for sanctions being filed, and no meaningful opportunity to prepare a response. No Court in Connecticut, or anywhere, has said it can punish out-of-courtroom speech merely because that speech is made by a party to the case about an opposing attorney involved in the case.

Filing a lawsuit does not make the lawyer filing the suit immune from criticism in the court of public opinion by the party the lawyer has sued. There is no special safe space for lawyers to prevent criticism by the people they sue. In the glaring absence of any true threat, this unprecedented precedent poses a far greater risk to both the credibility of the legal process and the sanctity of the First Amendment than any speech by any private party ever could.

IV. Conclusion

At a minimum, this Court should conclude that the Jones defendants were deprived of due process of law by the abrupt and conclusory manner in which the trial court proceeded and remand the case for further proceedings. In the alternative, the Jones defendants contend that Mr. Jones' speech was neither a threat, nor an utterance worthy of sanctions. The Jones defendants had "substantially complied" with discovery requests, and were in the process of honoring their continuous duty to disclose when the trial court abused its discretion and succumbed to the siren calls of the plaintiffs' phantom revolving crises. The result? First amendment weakened, and justice denied. It is well past time for the plaintiffs to answer the defendants' special motion to dismiss.

THE JONES DEFENDANTS

Alex Jones;
Infowars, LLC;
Free Speech Systems, LLC;
Infowars Health, LLC; and,
Prison Planet, LLC

BY:/s/ Norman A. Pattis/s/
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CERTIFICATION

This is to certify and a copy of the foregoing has been emailed and/or mailed, this 29th day of August, 2019 to:

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/s/Norman A. Pattis /s/

CERTIFICATION OF SERVICE AND COMPLIANCE

The undersigned herby certifies that, in compliance with all provisions of P.B. §67-2, that:

(1) the electronically submitted copy of this brief has been delivered electronically to the last known email address of each counsel of record for whom an email address has been provided;

(2) the electronically submitted brief and appendix and the filed paper brief and appendix has been redacted or does not contain the names or other personal identifying information that is prohibited from disclosure by rule, statute, court order, or case law;

(3) a copy of the brief has been sent to each counsel of record and any trial judge who rendered a decision that is the subject matter of this appeal, in compliance with P.B. §62-7;

(4) the brief being filed with the appellate clerk is a true copy of the brief that was submitted electronically; and

(5) the brief complies with all provisions of this rule.

/s/Norman A. Pattis/s/
Pattis & Smith, LLC

APPENDIX K

Connecticut Superior Court Docket Sheet In *Lafferty v. Jones*, Dkt. No. UWY-CV-18-6046437-S; UWY-CV-18-6046438-S; UWY-CV-18-6046436-S

State of Connecticut Judicial Branch
Superior Court Case Look-up

Superior Court Case Look-up
Civil/Family
Housing
Small Claims
-
Attorney/Firm Juris Number Look-up
-
Case Look-up
By Party Name
By Docket Number
By Attorney/Firm Juris Number
By Property Address
-
Short Calendar Look-up
By Court Location
By Attorney/Firm Juris Number
Motion to Seal or Close
Calendar Notices
-
Court Events Look-up
By Date
By Docket Number
By Attorney/Firm Juris Number
-
Legal Notices
-
Pending Foreclosure Sales
-
Understanding
Display of Case Information
-
Contact Us

Comments

UWY-CV18-6046436-S LAFFERTY, ERICA Et Al v. JONES, ALEX EMRIC Et Al

Prefix: X06 **Case Type:** T50 **File Date:** 05/23/2018 **Return Date:** 06/26/2018

Case Detail | Notices | History | Scheduled Court Dates | E-Services Login | Screen Section Help

To receive an email when there is activity on this case, click here.

This case is consolidated with one or more cases

Information Updated as of: 09/24/2020

Case Information

Case Type: T50 - Torts - Defamation
Court Location: WATERBURY JD
List Type: No List Type
Trial List Claim:
Last Action Date: 09/17/2020 (The "last action date" is the date the information was entered in the system)

Disposition Information

Disposition Date:
Disposition:
Judge or Magistrate:

Party & Appearance Information

Party			No Fee Party	Category
P-01	**ERICA LAFFERTY** **Attorney:** KOSKOFF KOSKOFF & BIEDER PC (032250) 350 FAIRFIELD AVENUE BRIDGEPORT, CT 06604	File Date: 05/23/2018		Plaintiff
P-02	**DAVID WHEELER** **Attorney:** KOSKOFF KOSKOFF & BIEDER PC (032250) 350 FAIRFIELD AVENUE BRIDGEPORT, CT 06604	File Date: 05/23/2018		Plaintiff
P-03	**FRANCINE WHEELER** **Attorney:** KOSKOFF KOSKOFF & BIEDER PC (032250) 350 FAIRFIELD AVENUE BRIDGEPORT, CT 06604	File Date: 05/23/2018		Plaintiff
P-04	**JACQUELINE BARDEN** **Attorney:** KOSKOFF KOSKOFF & BIEDER PC (032250) 350 FAIRFIELD AVENUE BRIDGEPORT, CT 06604	File Date: 05/23/2018		Plaintiff
P-05	**MARK BARDEN** **Attorney:** KOSKOFF KOSKOFF & BIEDER PC (032250) 350 FAIRFIELD AVENUE BRIDGEPORT, CT 06604	File Date: 05/23/2018		Plaintiff
P-06	**NICOLE HOCKLEY** **Attorney:** KOSKOFF KOSKOFF & BIEDER PC (032250) 350 FAIRFIELD AVENUE BRIDGEPORT, CT 06604	File Date: 05/23/2018		Plaintiff
P-07	**IAN HOCKLEY** **Attorney:** KOSKOFF KOSKOFF & BIEDER PC (032250) 350 FAIRFIELD AVENUE BRIDGEPORT, CT 06604	File Date: 05/23/2018		Plaintiff
P-08	**JENNIFER HENSEL** **Attorney:** KOSKOFF KOSKOFF & BIEDER PC (032250) 350 FAIRFIELD AVENUE BRIDGEPORT, CT 06604	File Date: 05/23/2018		Plaintiff
P-09	**JEREMY RICHMAN** **Attorney:** KOSKOFF KOSKOFF & BIEDER PC (032250) 350 FAIRFIELD AVENUE BRIDGEPORT, CT 06604	File Date: 05/23/2018		Plaintiff
P-10	**DONNA SOTO** **Attorney:** KOSKOFF KOSKOFF & BIEDER PC (032250) 350 FAIRFIELD AVENUE BRIDGEPORT, CT 06604	File Date: 05/23/2018		Plaintiff
P-11	**CARLEE SOTO-PARISI** **Attorney:** KOSKOFF KOSKOFF & BIEDER PC (032250)	File Date: 05/23/2018		Plaintiff

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P-13 JILLIAN SOTO Plaintiff
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P-14 WILLIAM ALDENBERG Plaintiff
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D-02 INFOWARS, LLC Defendant
Attorney: JAY MARSHALL WOLMAN (433791) File Date: 07/07/2020
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D-03 FREE SPEECH SYSTEMS, LLC Defendant
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D-04 INFOWARS HEALTH LLC Defendant
Attorney: JAY MARSHALL WOLMAN (433791) File Date: 07/07/2020
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14TH FLOOR
HARTFORD, CT 06103

D-05 PRISON PLANET TV LLC Defendant
Attorney: JAY MARSHALL WOLMAN (433791) File Date: 07/07/2020
100 PEARL STREET
14TH FLOOR
HARTFORD, CT 06103

D-06 WOLFGANG HALBIG Defendant
Self-Rep: 25526 HAWKS RUN LANE File Date: 06/18/2018
SORRENTO, FL 32776
Attorney: ESTY & BUCKMIR LLC (415435) File Date: 03/18/2020
2340 WHITNEY AVE.
HAMDEN, CT 06518

D-07 CORY T. SKLANKA Defendant
Non-Appearing

D-08 GENESIS COMMUNICATIONS NETWORK, INC. Defendant
Non-Appearing

D-09 MIDAS RESOURCES, INC. Defendant
REMOVED

D-10 MIDAS RESOURCES, INC. Defendant
Attorney: WILSON ELSER MOSKOWITZ EDELMAN & DICKER (412712) File Date: 07/06/2018
1010 WASHINGTON BLVD
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Viewing Documents on Civil, Housing and Small Claims Cases:

If there is an e in front of the docket number at the top of this page, then the file is electronic (paperless).

- Documents, court orders and judicial notices in electronic (paperless) civil, housing and small claims cases with a return date on or after January 1, 2014 are available publicly over the internet.* For more information on what you can view in all cases, view the Electronic Access to Court Documents Quick Card.
- For civil cases filed prior to 2014, court orders and judicial notices that are electronic are available publicly over the internet. Orders can be viewed by selecting the link to the order from the list below. Notices can be viewed by clicking the **Notices** tab above and selecting the link.*
- Documents, court orders and judicial notices in an electronic (paperless) file can be viewed at any judicial district courthouse during normal business hours.*
- Pleadings or other documents that are not electronic (paperless) can be viewed only during normal business hours at the Clerk's Office in the Judicial District where the case is located.*
- An Affidavit of Debt is not available publicly over the internet on small claims cases filed before October 16, 2017.*

*Any documents protected by law Or by court order that are Not open to the public cannot be viewed by the public online And can only be viewed in person at the clerk's office where the file is located by those authorized by law or court order to see them.

Motions / Pleadings / Documents / Case Status

Entry No	File Date	Filed By	Description	Arguable
	05/23/2018	P	SUMMONS	
	05/23/2018	P	COMPLAINT	
	05/23/2018	P	ADDITIONAL PARTIES PAGE	
	06/18/2018		APPEARANCE	
	06/22/2018	D	APPEARANCE Appearance	
	06/28/2018	D	APPEARANCE Appearance	
	06/29/2018	D	APPEARANCE Appearance	
	07/06/2018		APPEARANCE	
	03/01/2019	D	APPEARANCE Appearance	
	11/04/2019	D	APPEARANCE Appearance	
	02/24/2020	D	APPEARANCE Appearance	
	03/18/2020	D	APPEARANCE Appearance	
	07/07/2020	D	APPEARANCE Appearance	
	07/07/2020	D	APPEARANCE Appearance	
100.30	05/23/2018	P	RETURN OF SERVICE	No
101.00	06/11/2018	P	SUPPLEMENTAL RETURN Midas - Genesis - Halbig	No
102.00	06/14/2018	P	SUPPLEMENTAL RETURN as to Alex Emric Jones	No
103.00	06/29/2018	D	WITHDRAWAL IN PART	No
104.00	07/12/2018	D	MOTION TO DISMISS PB 10-30 *RESULT:* Denied 4/29/2019 HON BARBARA BELLIS	Yes
104.10	04/29/2019	C	ORDER *RESULT:* Denied 4/29/2019 HON BARBARA BELLIS	No
105.00	07/13/2018	P	SUPPLEMENTAL RETURN	No
106.00	07/13/2018	D	NOTICE OF REMOVAL TO FEDERAL DISTRICT COURT	No
107.00	07/13/2018	D	**REMOVED TO FEDERAL DISTRICT COURT**	No
108.00	07/18/2018	D	MOTION TO DISMISS PB 10-30	Yes
109.00	07/18/2018	C	ENTRY ERASED TO CORRECT ERROR **Last Updated:** Party Type - 07/18/2018	No
110.00	07/31/2018	D	NOTICE OF REMOVAL TO FEDERAL DISTRICT COURT	No
111.00	11/09/2018	P	CLAIM FOR JURY OF 6	No
112.00	11/21/2018	C	REMANDED FROM FEDERAL DISTRICT COURT	No
113.00	11/21/2018	D	SPECIAL MOTION TO DISMISS / COUNTERCLAIM / CROSS CLAIM	Yes
113.10	11/23/2018	C	ORDER *RESULT:* Order 11/23/2018 HON BARBARA BELLIS	No
114.00	11/21/2018	D	MEMORANDUM IN SUPPORT OF MOTION Re: Special Motion to Dismiss (113.00)	No
115.00	11/29/2018	P	SCHEDULING ORDER *RESULT:* Order 11/30/2018 HON BARBARA BELLIS	No
115.10	11/30/2018	C	ORDER *RESULT:* Order 11/30/2018 HON BARBARA BELLIS	No

116.00	11/29/2018	P	**CLAIM FOR JURY OF 6**	No
117.00	11/29/2018	P	**MOTION TO CONSOLIDATE** *RESULT:* Granted 12/17/2018 HON BARBARA BELLIS	No
117.10	12/17/2018	C	**ORDER** *RESULT:* Granted 12/17/2018 HON BARBARA BELLIS	No
118.00	12/04/2018	D	**SPECIAL MOTION TO DISMISS / COUNTERCLAIM / CROSS CLAIM**	Yes
118.10	12/05/2018	C	**ORDER** *RESULT:* Order 12/5/2018 HON BARBARA BELLIS	No
119.00	12/04/2018	P	**OBJECTION TO MOTION** Objection to Defendant Halbig's Motion to Dismiss *RESULT:* Order 4/29/2019 HON BARBARA BELLIS	No
119.10	04/29/2019	C	**ORDER** *RESULT:* Order 4/29/2019 HON BARBARA BELLIS	No
120.00	12/04/2018	P	**MEMORANDUM OF LAW IN OPPOSITION TO MOTION TO DISMISS PB 10-31** Memorandum in Support of Plaintiffs' Objection to Defendant Halbig's Motion to Dismiss	No
121.00	12/04/2018	D	**OBJECTION** *RESULT:* Order 4/22/2019 HON BARBARA BELLIS	No
121.10	04/22/2019	C	**ORDER** *RESULT:* Order 4/22/2019 HON BARBARA BELLIS	No
122.00	12/05/2018	P	**CASEFLOW REQUEST (JD-CV-116)** re MET to file initial motions re targeted discovery *RESULT:* Granted 12/7/2018 HON BARBARA BELLIS	No
122.10	12/07/2018	C	**ORDER** *RESULT:* Granted 12/7/2018 HON BARBARA BELLIS	No
123.00	12/10/2018	P	**MOTION FOR ORDER** Motion for Limited Discovery Pursuant to Conn. Gen. Stat. Section 52-196a(d) *RESULT:* Order 12/17/2018 HON BARBARA BELLIS	No
123.10	12/17/2018	C	**ORDER** *RESULT:* Order 12/17/2018 HON BARBARA BELLIS	No
124.00	12/12/2018	D	**MOTION TO DISQUALIFY** *RESULT:* Denied 4/8/2019 HON BARBARA BELLIS	No
124.10	04/08/2019	C	**ORDER** *RESULT:* Denied 4/8/2019 HON BARBARA BELLIS	No
125.00	12/12/2018	D	**OBJECTION TO MOTION OR REQUEST FOR DISCOVERY PB CH13** *RESULT:* Overruled 4/22/2019 HON BARBARA BELLIS	No
125.10	04/22/2019	C	**ORDER** *RESULT:* Overruled 4/22/2019 HON BARBARA BELLIS	No
126.00	12/14/2018	D	**MEMORANDUM IN OPPOSITION TO MOTION** in Opposition to Plaintiffs' Motion for Limited Discovery (Entry No. 123.00) *RESULT:* Order 12/17/2018 HON BARBARA BELLIS	No
126.10	12/17/2018	C	**ORDER** *RESULT:* Order 12/17/2018 HON BARBARA BELLIS	No
127.00	12/14/2018	D	**MEMORANDUM IN OPPOSITION TO MOTION** Limited Opposition to Motion to Consolidate Cases (Entry No. 117.00) *RESULT:* Order 12/17/2018 HON BARBARA BELLIS	No
127.10	12/17/2018	C	**ORDER** *RESULT:* Order 12/17/2018 HON BARBARA BELLIS	No
128.00	12/14/2018	D	**MEMORANDUM IN OPPOSITION TO MOTION** in Opposition to Defendant Wolfgang Halbig's Motion to Recuse (Entry No. 124.00) *RESULT:* Order 4/8/2019 HON BARBARA BELLIS	No
128.10	04/08/2019	C	**ORDER** See order #124.10 *RESULT:* Order 4/8/2019 HON BARBARA BELLIS	No
129.00	12/14/2018	D	**MEMORANDUM IN OPPOSITION TO MOTION** Opposition to Plaintiff's Motion for Limited Discovery *RESULT:* Order 12/17/2018 HON BARBARA BELLIS	No
129.10	12/17/2018	C	**ORDER** *RESULT:* Order 12/17/2018 HON BARBARA BELLIS	No
130.00	12/17/2018	P	**REPLY MEMORANDUM** Reply in Support of Motion for Limited Discovery	No
131.00	12/18/2018	D	**REPLY** *RESULT:* Order 4/8/2019 HON BARBARA BELLIS	No

131.10	04/08/2019	C	**ORDER** See order #124.10 *RESULT:* Order 4/8/2019 HON BARBARA BELLIS	No
132.00	12/24/2018	D	**REPLY** *RESULT:* Order 4/29/2019 HON BARBARA BELLIS	No
132.10	04/29/2019	C	**ORDER** *RESULT:* Order 4/29/2019 HON BARBARA BELLIS	No
133.00	12/24/2018	D	**REPLY** *RESULT:* Order 4/29/2019 HON BARBARA BELLIS	No
133.10	04/29/2019	C	**ORDER** *RESULT:* Order 4/29/2019 HON BARBARA BELLIS	No
134.00	12/24/2018	D	**EXHIBITS** *RESULT:* Order 4/29/2019 HON BARBARA BELLIS	No
134.10	04/29/2019	C	**ORDER** *RESULT:* Order 4/29/2019 HON BARBARA BELLIS	No
135.00	12/27/2018	D	**OBJECTION TO INTERROGATORIES/PRODUCTION PB 13-8 and 13-10** and to Depositions, in Exhibits to Entry No. 123.00	No
136.00	12/28/2018	D	**OBJECTION TO INTERROGATORIES/PRODUCTION PB 13-8 and 13-10**	No
137.00	12/31/2018	P	**AFFIDAVIT OF ATTEMPT TO RESOLVE DISCOVERY OBJECTION** Plaintiffs' Affidavit of Attempt to Resolve Discovery Objections	No
138.00	01/03/2019	D	**NOTICE** Notice of Filing Objections to Plaintiffs Interrogatories and Requests for Productions	No
139.00	01/03/2019	D	**OBJECTION** Defendant Midas Resources Inc.'s Objections to Plaintiffs Discovery Requests	No
140.00	01/07/2019	D	**WAIVER - GENERAL**	No
141.00	01/07/2019	C	**ENTRY ERASED TO CORRECT ERROR** **Last Updated:** Party Type - 01/07/2019	No
142.00	01/08/2019	D	**SPECIAL MOTION TO DISMISS / COUNTERCLAIM / CROSS CLAIM** Special Motion to Dimiss Plaintiff's Complaint	Yes
142.10	01/09/2019	C	**ORDER** *RESULT:* Order 1/9/2019 HON BARBARA BELLIS	No
143.00	01/08/2019	D	**MEMORANDUM IN SUPPORT OF MOTION** Defendant Midas Resources Inc Memorandum of Law in Support of Motion to Dismiss	No
144.00	01/09/2019	D	**OBJECTION** TO PLAINTIFFS' FIRST SET OF SPECIAL INTERROGATORIES & REQUESTS FOR PRODUCTION	No
145.00	01/09/2019	P	**MEMORANDUM** Memo of Law & Fact Concern. Ds' Objs to Ps' Req for Limited Disc w Attached Meet-&-Confer Affidavit	No
146.00	01/09/2019	D	**OBJECTION TO MOTION OR REQUEST FOR DISCOVERY PB CH13** to Plaintiffs' Revised Discovery Requests re: Motion of Limited Discovery (Entry No. 123.00)	No
147.00	01/10/2019	D	**OBJECTION TO MOTION OR REQUEST FOR DISCOVERY PB CH13** Defendant, Cory Sklanka's Objections to Plaintiffs' First Set of Special Int. & Req. for Production	No
148.00	01/10/2019	C	**ORDER** *RESULT:* Order 1/10/2019 HON BARBARA BELLIS	No
149.00	01/11/2019	P	**MOTION FOR CLARIFICATION-COURT ORDER** Motion for Clarification Re: Order #148.00	No
150.00	01/11/2019	D	**AFFIDAVIT** *RESULT:* Order 4/29/2019 HON BARBARA BELLIS	No
150.10	04/29/2019	C	**ORDER** *RESULT:* Order 4/29/2019 HON BARBARA BELLIS	No
151.00	01/15/2019	P	**MOTION FOR ORDER** Motion to Clarify Compliance Deadlines	No
152.00	01/16/2019	P	**CASEFLOW REQUEST (JD-CV-116)** Status conference to address deposition scheduling	No
153.00	01/17/2019	D	**NOTICE TO ALL PARTIES** of Filing of Petition for Certification to Appeal (PET SC 180321)	No
154.00	01/22/2019	D	**MOTION FOR PERMISSION TO APPEAR PRO HAC VICE PB 2-16** for Attorney Marc Randazza *RESULT:* Denied 1/30/2019 HON BARBARA BELLIS	No
154.10	01/30/2019	C	**ORDER**	No

			RESULT: Denied 1/30/2019 HON BARBARA BELLIS	
155.00	01/22/2019	D	**MEMORANDUM IN OPPOSITION TO MOTION** to Motion to Clarify Compliance Deadlines (Entry No. 151.00)	No
156.00	01/22/2019	D	**MEMORANDUM IN OPPOSITION TO MOTION** to Motion for Clarification re: Order #148.00 (Entry No. 149.00)	No
157.00	01/22/2019	D	**MEMORANDUM IN OPPOSITION TO MOTION** Opposition to Plaintiffs Motion for Clarification re: Order #148.00	No
158.00	01/24/2019	D	**EXHIBITS** Supplemental Exhibits Regarding Application for Pro Hac Vice Admission (Entry No. 154.00)	No
159.00	01/24/2019	P	**NOTICE** Notice of Service of Ps' First Set of Special Interrogatories & Requests for Production	No
160.00	01/30/2019	D	**MOTION FOR CHANGE OF VENUE**	No
161.00	01/30/2019	P	**NOTICE** Notice of Filing Ruling of the Chief Justice	No
162.00	01/30/2019	P	**MEMORANDUM** ON DEFENDANTS' APPLICATION FOR APPEARANCE PRO HAC VICE	No
163.00	01/30/2019	P	**EXHIBITS** Exhibit A to Plaintiffs' Memorandum re: Defendants' Application for Appearance Pro Hac Vice	No
164.00	01/31/2019	D	**REPLY MEMORANDUM** in support of Application for Pro Hac Vice Appearance of Marc Randazza (Entry No. 154.00)	No
165.00	01/28/2019	C	**APPELLATE COURT MATERIAL** Statement in Opposition	No
166.00	01/31/2019	C	**APPELLATE COURT MATERIAL** Letter denying application for cert	No
167.00	02/01/2019	D	**MOTION FOR CHANGE OF VENUE** *RESULT:* Denied 4/22/2019 HON BARBARA BELLIS	No
167.10	04/22/2019	C	**ORDER** *RESULT:* Denied 4/22/2019 HON BARBARA BELLIS	No
168.00	02/05/2019	P	**MEMORANDUM** Supplemental Memorandum on the Scope of Individual Depositions	No
169.00	02/07/2019	D	**MOTION TO TRANSFER** Motion to Transfer Venue	No
170.00	02/11/2019	D	**MEMORANDUM** Defendant, Cory Sklanka's, Opposition to Plaintiffs' Supplementary Memo on Scope of Ind Depositions	No
171.00	02/13/2019	D	**MEMORANDUM IN OPPOSITION TO MOTION** Opposition to Supplemental Memorandum Regarding Depositions (Entry No. 168.00)	No
172.00	02/13/2019	P	**OBJECTION TO MOTION** Objection to Def. Halbig's Motion for Venue Change & Sanctions *RESULT:* Sustained 4/22/2019 HON BARBARA BELLIS	No
172.10	04/22/2019	C	**ORDER** *RESULT:* Sustained 4/22/2019 HON BARBARA BELLIS	No
173.00	02/13/2019	D	**MOTION FOR EXTENSION OF TIME** Re: Defendants' Response to the Plaintiffs? Supplementary Memorandum on the Scope of Individual Depo *RESULT:* Granted 2/13/2019 HON BARBARA BELLIS	No
173.10	02/13/2019	C	**ORDER** *RESULT:* Granted 2/13/2019 HON BARBARA BELLIS	No
174.00	02/13/2019	P	**REPLY** in support of supp memo on the scope of individual depositions	No
175.00	02/13/2019	D	**MEMORANDUM** Response to Pl. Objection to Halbig Venue Motion & Req. for Sanctions (Entry No. 172.00).	No
176.00	02/13/2019	C	**ORDER** *RESULT:* Order 2/13/2019 HON BARBARA BELLIS	No
177.00	02/15/2019	D	**MOTION FOR PROTECTIVE ORDER PB 13-5**	No
178.00	02/19/2019	P	**OBJECTION TO MOTION** Plaintiffs' Objection to the Jones Defendants' Motion for Protective Order	No
179.00	02/19/2019	C	**PRESIDING JUDGE REFERRAL TO COMPLEX LITIGATION DOCKET** *RESULT:* Order 3/8/2019 HON JAMES ABRAMS	No

179.10	03/08/2019	C	**ORDER** *RESULT:* Order 3/8/2019 HON JAMES ABRAMS	No
180.00	02/19/2019	D	**MOTION FOR PROTECTIVE ORDER PB 13-5** Defendant, Cory Sklanka's, Motion for Entry of Protective Order joining Jones' Motion #177.00	No
181.00	02/20/2019	D	**REPLY MEMORANDUM** In Support of Motion for Protective Order (Entry No. 177.00)	No
182.00	02/20/2019	D	**CASEFLOW REQUEST (JD-CV-116)** re Motion for Protective Order (Entry No. 177.00)	No
183.00	02/21/2019	D	**PROPOSED ORDER** Protective Order, PB 13-5, per Court Revisions	No
184.00	02/22/2019	P	**REPLY** Ps' Response Concernng Proposed Protective Order	No
185.00	02/22/2019	D	**PROPOSED ORDER** Protective Order, PB 13-5, per Court Revisions, with edit per Plaintiffs' Response *RESULT:* Granted 2/22/2019 HON BARBARA BELLIS	No
185.10	02/22/2019	C	**ORDER** *RESULT:* Granted 2/22/2019 HON BARBARA BELLIS	No
186.00	02/22/2019	D	**MOTION FOR EXTENSION OF TIME RE DISCOVERY MOTION OR REQUEST PB CH13**	No
187.00	02/22/2019	D	**OBJECTION** *RESULT:* Overruled 4/22/2019 HON BARBARA BELLIS	No
187.10	04/22/2019	C	**ORDER** *RESULT:* Overruled 4/22/2019 HON BARBARA BELLIS	No
188.00	02/25/2019	D	**REPLY**	No
189.00	02/25/2019	D	**RECORD CORRECTION** **Last Updated:** Multiple Field Correction - 02/25/2019	No
190.00	02/25/2019	P	**CASEFLOW REQUEST (JD-CV-116)** re: marking off status conference scheduled for 2.26.19 *RESULT:* Granted 2/25/2019 HON BARBARA BELLIS	No
190.10	02/25/2019	C	**ORDER** *RESULT:* Granted 2/25/2019 HON BARBARA BELLIS	No
191.00	02/25/2019	D	**NOTICE OF COMPLIANCE** Notice of Compliance with Plaintiff's First Set of Special D&P's	No
192.00	03/01/2019	P	**MOTION FOR ORDER OF COMPLIANCE – PB SEC 13-14 (INTERR/PROD – 13-6/13-9)** Motion to Compel *RESULT:* Order 3/7/2019 HON BARBARA BELLIS	No
192.10	03/07/2019	C	**ORDER** *RESULT:* Order 3/7/2019 HON BARBARA BELLIS	No
193.00	03/04/2019	P	**CASEFLOW REQUEST (JD-CV-116)** requesting status conf on 3/7/19 at 2pm	No
194.00	03/04/2019	D	**WITHDRAWAL OF MOTION** 160	No
195.00	03/05/2019	P	**NOTICE** of Consent to Referral to Complex Litigation Docket	No
196.00	03/06/2019	D	**MOTION FOR EXTENSION OF TIME** TO COMPLY WITH DISCOVERY ORDER *RESULT:* Order 3/7/2019 HON BARBARA BELLIS	No
196.10	03/07/2019	C	**ORDER** *RESULT:* Order 3/7/2019 HON BARBARA BELLIS	No
197.00	03/07/2019	P	**MEMORANDUM** in Response to Jones Defendants' MET to Comply with Discovery of 3.6.19	No
198.00	03/08/2019	C	**ORDER** *RESULT:* Order 3/8/2019 HON BARBARA BELLIS	No
199.00	03/08/2019	C	**ORDER** *RESULT:* Order 3/8/2019 HON BARBARA BELLIS	No
200.33	03/08/2019	C	**TRANSFERRED FROM SUPERIOR COURT JUDICIAL DISTRICT OF FAIRFIELD**	No
201.33	03/08/2019	C	**TRANSFERRED TO SUPERIOR COURT JUDICIAL DISTRICT OF WATERBURY**	No
202.00	03/11/2019	O	**LETTER** Atty Randazza letter (only 2 of 3 pages received)	No
203.00	03/18/2019	D	**MOTION FOR EXTENSION OF TIME** TO COMPLY WITH DISCOVERY ORDER	No

			RESULT: Denied 3/20/2019 HON BARBARA BELLIS	
203.10	03/20/2019	C	**ORDER** *RESULT:* Denied 3/20/2019 HON BARBARA BELLIS	No
204.00	03/19/2019	P	**OBJECTION TO MOTION FOR EXTENSION OF TIME** Objection to Jones Ds' Third Motion for Extension of Time *RESULT:* Sustained 3/20/2019 HON BARBARA BELLIS	No
204.10	03/20/2019	C	**ORDER** *RESULT:* Sustained 3/20/2019 HON BARBARA BELLIS	No
205.00	03/19/2019	P	**CASEFLOW REQUEST (JD-CV-116)** Re: #203.00 and #204.00	No
206.00	03/20/2019	P	**MOTION FOR ORDER** for sanctions against the Jones defendants	No
207.00	03/21/2019	P	**REQUEST FOR ADJUDICATION COMPLEX LITIGATION (JD-CL-77)**	Yes
208.00	03/21/2019	P	**REQUEST FOR ADJUDICATION COMPLEX LITIGATION (JD-CL-77)** Corrected version of #207 (which referenced incorrect Motion) - requesting adjudication of #206	Yes
209.00	03/21/2019	P	**REQUEST FOR ADJUDICATION COMPLEX LITIGATION (JD-CL-77)** Updated Corrected Version of 207 and 208 noting Defense objection	Yes
210.00	03/21/2019	D	**MOTION FOR EXTENSION OF TIME RE DISCOVERY MOTION OR REQUEST PB CH13**	No
211.00	03/22/2019	D	**AFFIDAVIT** 3/20/19 affidavit of M Zimmerman	No
212.00	03/22/2019	D	**AFFIDAVIT** 3/22/19 affidavit of A. Jones	No
213.00	03/25/2019	P	**MEMORANDUM IN SUPPORT OF MOTION** Suppl Memo in Support of Motion for Sanctions Against the Jones Defendants	No
214.00	03/29/2019	P	**AFFIDAVIT** Declaration of David R. Jones 2/22/19 **Last Updated:** Multiple Field Correction - 04/01/2019	No
215.00	04/02/2019	P	**MEMORANDUM IN SUPPORT OF MOTION** Second Supplemental Memorandum in Support of Motion for Sanctions	No
216.00	04/08/2019	D	**REQUEST FOR ADJUDICATION COMPLEX LITIGATION (JD-CL-77)** Halbig -- motion to recuse #124	Yes
217.00	04/10/2019	P	**NOTICE** Notice of Filing Served Requests for Production	No
218.00	04/11/2019	D	**NOTICE** OF FILING OF RESPONSES TO PLAINTIFFS? SPECIAL REQUESTS FOR PRODUCTION	No
219.00	04/11/2019	D	**NOTICE** OF FILING OF RESPONSES TO PLAINTIFFS? SPECIAL REQUESTS FOR PRODUCTION	No
220.00	04/11/2019	D	**NOTICE** OF FILING OF RESPONSES TO PLAINTIFFS? SPECIAL REQUESTS FOR PRODUCTION	No
221.00	04/11/2019	D	**NOTICE** OF FILING OF RESPONSES TO PLAINTIFFS? SPECIAL REQUESTS FOR PRODUCTION	No
222.00	04/11/2019	D	**NOTICE** OF FILING OF RESPONSES TO PLAINTIFFS? SPECIAL REQUESTS FOR PRODUCTION	No
223.00	04/11/2019	D	**MOTION FOR ORDER OF COMPLIANCE – PB SEC 13-14 (INTERR/PROD – 13-6/13-9)** *RESULT:* Order 4/30/2019 HON BARBARA BELLIS	No
223.10	04/30/2019	C	**ORDER** *RESULT:* Order 4/30/2019 HON BARBARA BELLIS	No
224.00	04/16/2019	D	**AFFIDAVIT**	No
225.00	04/16/2019	D	**MOTION FOR DISQUALIFICATION OF JUDICIAL AUTHORITY PB 1-23** Halbig's renewed and supplemental motion to recuse	No
225.10	05/08/2019	C	**ORDER** *RESULT:* Denied 5/8/2019 HON BARBARA BELLIS	No
226.00	04/18/2019	P	**MEMORANDUM IN OPPOSITION TO MOTION** Plaintiffs' Memorandum in Opposition to Defendants' Motion to Compel Compliance (#223.00) *RESULT:* Order 4/30/2019 HON BARBARA BELLIS	No

226.10	04/30/2019	C	**ORDER** *RESULT:* Order 4/30/2019 HON BARBARA BELLIS	No
227.00	04/22/2019	P	**MOTION FOR ORDER** Plaintiffs' Motion to Compel Compliance	No
228.00	04/18/2019	D	**REQUEST FOR ADJUDICATION COMPLEX LITIGATION (JD-CL-77)** Halbig's motion to recuse & supplemental	Yes
229.00	04/18/2019	D	**REQUEST FOR ADJUDICATION COMPLEX LITIGATION (JD-CL-77)** Halbig's objection to "limited Discovery"	Yes
230.00	04/18/2019	D	**REQUEST FOR ADJUDICATION COMPLEX LITIGATION (JD-CL-77)** Halbig's objection to order re: Halbig Deposition	Yes
231.00	04/18/2019	D	**REQUEST FOR ADJUDICATION COMPLEX LITIGATION (JD-CL-77)** Halbig's objection to exparte communications	Yes
232.00	04/18/2019	D	**REQUEST FOR ADJUDICATION COMPLEX LITIGATION (JD-CL-77)** Halbig's motion sanctions for pretrial publicity	Yes
233.00	04/18/2019	D	**REQUEST FOR ADJUDICATION COMPLEX LITIGATION (JD-CL-77)** Halnig's dismiss lack personal & subject matter	Yes
234.00	04/22/2019	P	**MOTION FOR ORDER** for discovery regarding compliance *RESULT:* Order 4/30/2019 HON BARBARA BELLIS	No
234.10	04/30/2019	C	**ORDER** *RESULT:* Order 4/30/2019 HON BARBARA BELLIS	No
235.00	04/25/2019	P	**MOTION FOR ORDER** Re: Additional Motion to Compel Jones Defendants' Responses	No
236.00	04/29/2019	P	**MOTION FOR ORDER** Motion for Relief Concerning the Alex Jones False Affidavit	No
237.00	04/29/2019	P	**NOTICE** Notice of Matters Ready for Argument	No
238.00	04/30/2019	D	**MEMORANDUM IN OPPOSITION TO MOTION** For Further Discovery Proceedings *RESULT:* Order 4/30/2019 HON BARBARA BELLIS	No
238.10	04/30/2019	C	**ORDER** *RESULT:* Order 4/30/2019 HON BARBARA BELLIS	No
239.00	05/07/2019	D	**OBJECTION TO MOTION OR REQUEST FOR DISCOVERY PB CH13**	No
240.00	05/14/2019	P	**MOTION FOR ORDER**	No
241.00	05/15/2019	D	**MEMORANDUM IN OPPOSITION TO MOTION** FOR REQUEST FOR RELIEF FILED BY PLAINTIFFS	No
242.00	05/15/2019	D	**MEMORANDUM IN OPPOSITION TO MOTION** FOR REQUEST FOR RELIEF FILED BY PLAINTIFFS - REVISED	No
243.00	05/15/2019	D	**NOTICE OF COMPLIANCE** Special Requests for Production Provided to Plaintiffs on May 14, 2019	No
244.00	05/17/2019	P	**NOTICE OF SERVICE OF REQUEST FOR ADMISSION PB 13-22** to Alex Jones	No
245.00	05/17/2019	P	**NOTICE OF SERVICE OF REQUEST FOR ADMISSION PB 13-22** FSS	No
246.00	05/17/2019	P	**NOTICE OF SERVICE OF REQUEST FOR ADMISSION PB 13-22** IW LLC	No
247.00	05/17/2019	P	**NOTICE OF SERVICE OF REQUEST FOR ADMISSION PB 13-22** IWH LLC	No
248.00	05/17/2019	P	**NOTICE OF SERVICE OF REQUEST FOR ADMISSION PB 13-22** PPTV	No
249.00	05/20/2019	P	**WITHDRAWAL OF MOTION** Re: Motion #244, #245, #246, #247, #248	No
250.00	05/20/2019	P	**NOTICE OF SERVICE OF REQUEST FOR ADMISSION PB 13-22** to Alex Jones	No
251.00	05/20/2019	P	**NOTICE OF SERVICE OF REQUEST FOR ADMISSION PB 13-22** to Free Speech Systems	No
252.00	05/20/2019	P	**NOTICE OF SERVICE OF REQUEST FOR ADMISSION PB 13-22** to Infowars	No
253.00	05/20/2019	P	**NOTICE OF SERVICE OF REQUEST FOR ADMISSION PB 13-22** to Infowars Health	No
254.00	05/20/2019	P	**NOTICE OF SERVICE OF REQUEST FOR ADMISSION PB 13-22** to Prison Planet	No

255.00	05/29/2019	P	**MOTION FOR ORDER** Motion to Compel Adequate Responses to Ps' Limited, Court-Ordered Requests for Production *RESULT:* Order 6/10/2019 HON BARBARA BELLIS	No
255.10	06/10/2019	C	**ORDER** *RESULT:* Order 6/10/2019 HON BARBARA BELLIS	No
256.00	05/30/2019	P	**MOTION FOR ORDER** Motion to Compel Production of Alex Jones' Personal Email Metadata	No
257.00	06/04/2019	D	**MEMORANDUM IN OPPOSITION TO MOTION** FOR ADDITIONAL DISCOVERY *RESULT:* Order 6/10/2019 HON BARBARA BELLIS	No
257.10	06/10/2019	C	**ORDER** *RESULT:* Order 6/10/2019 HON BARBARA BELLIS	No
258.00	06/10/2019	D	**OBJECTION** Jones Defendants' Supplemental Memorandum in Objection to Additional Discovery *RESULT:* Order 6/10/2019 HON BARBARA BELLIS	No
258.10	06/10/2019	C	**ORDER** *RESULT:* Order 6/10/2019 HON BARBARA BELLIS	No
259.00	06/10/2019	P	**MOTION FOR ORDER** Supplemental Memo ISO Motion to Compel Adequate Responses to Pltfs Limited Court Ordered RFPs	No
260.00	06/12/2019	D	**REQUEST** Clarification of the Court's order entered June 10, 2019 *RESULT:* Denied 6/18/2019 HON BARBARA BELLIS	No
260.10	06/18/2019	C	**ORDER** *RESULT:* Denied 6/18/2019 HON BARBARA BELLIS	No
261.00	06/14/2019	P	**CASEFLOW REQUEST (JD-CV-116)** requesting status conf on 6/18/19	No
262.00	06/14/2019	P	**OBJECTION TO MOTION** Objection to Jones Defendants' Request for Clarification *RESULT:* Sustained 6/18/2019 HON BARBARA BELLIS	No
262.10	06/18/2019	C	**ORDER** *RESULT:* Sustained 6/18/2019 HON BARBARA BELLIS	No
263.00	06/14/2019	P	**MOTION FOR ORDER** Motion for Ruling on Other Outstanding Discovery Issues	No
264.00	06/17/2019	P	**NOTICE** Plaintiffs Motion for Review of Broadcast by Alex Jones Threatening Plaintiffs' Counsel	No
265.00	06/17/2019	P	**REQUEST FOR ADJUDICATION COMPLEX LITIGATION (JD-CL-77)** for immediate review of #264 - Notice - P's Motion for Review of Broadcast of Alex Jones *RESULT:* Order 6/17/2019 HON BARBARA BELLIS	Yes
265.10	06/17/2019	C	**ORDER** *RESULT:* Order 6/17/2019 HON BARBARA BELLIS	No
266.00	06/17/2019	D	**OBJECTION TO MOTION** TO COMPEL (DOCKET NOS. 255 AND 259)	No
267.00	06/17/2019	D	**MOTION FOR STAY** *RESULT:* Denied 6/18/2019 HON BARBARA BELLIS	No
267.10	06/18/2019	C	**ORDER** *RESULT:* Denied 6/18/2019 HON BARBARA BELLIS	No
268.00	06/18/2019	P	**NOTICE** of filing transcript of Alex Jones' broadcasts of 6/14/19 and 6/15/19 per the Court's request	No
269.00	06/19/2019	C	**TRANSCRIPT** Transcript of 6.18.19 hearing	No
270.00	06/19/2019	D	**NOTICE OF COMPLIANCE** with Requests to Admit dated May 20, 2019	No
271.00	06/21/2019	C	**ORDER** Disclosure *RESULT:* Order 6/21/2019 HON BARBARA BELLIS	No
272.00	06/24/2019	D	**MOTION TO CORRECT** transcripts error	No
273.00	06/24/2019	D	**APPLICATION** APPLICATION FOR CERTIFICATION TO APPEAL PURSUANT TO C.G.S. §52-265a	No
274.00	06/24/2019	D	**APPLICATION**	No

			APPLICATION FOR CERTIFICATION TO APPEAL PURSUANT TO C.G.S. §52-265a AND ATTACHED APPENDIX	
275.00	07/01/2019	C	**SCHEDULING ORDER** Agreed to by counsel on 6/18/19 status conference	No
276.00	07/10/2019	D	**MOTION FOR STAY** PROCEEDINGS PENDING DECISION OF THE SUPREME COURT OF CONNECTICUT *RESULT:* Granted 8/16/2019 HON BARBARA BELLIS	No
276.10	08/16/2019	C	**ORDER** *RESULT:* Granted 8/16/2019 HON BARBARA BELLIS	No
277.00	07/10/2019	D	**SUPREME COURT ORDER TRANSFERRING APPEAL FROM APPELLATE COURT** incorrect legend code **Last Updated:** Legend Code - 07/31/2019	No
278.00	07/18/2019	P	**NOTICE** Notice of Filing Motion for Rectification *RESULT:* Order 7/31/2019 HON BARBARA BELLIS	No
278.05	07/25/2019	D	**APPELLATE COURT APPEAL WITHDRAWN**	No
278.10	07/31/2019	C	**ORDER** *RESULT:* Order 7/31/2019 HON BARBARA BELLIS	No
279.00	08/16/2019	D	**REQUEST FOR ADJUDICATION COMPLEX LITIGATION (JD-CL-77)**	Yes
280.00	05/04/2020	D	**MOTION FOR PERMISSION TO WITHDRAW APPEARANCE** *RESULT:* Order 5/5/2020 HON BARBARA BELLIS	Yes
280.10	05/05/2020	C	**ORDER** order scheduling 6/9/2020 telephone hearing *RESULT:* Order 5/5/2020 HON BARBARA BELLIS	No
281.00	05/04/2020	D	**MOTION FOR PERMISSION TO WITHDRAW APPEARANCE** *RESULT:* Order 5/5/2020 HON BARBARA BELLIS	Yes
281.10	05/05/2020	C	**ORDER** order scheduling 6/9/2020 telephone hearing *RESULT:* Order 5/5/2020 HON BARBARA BELLIS	No
282.00	05/18/2020	D	**WITHDRAWAL OF MOTION** TO WITHDRAW AS COUNSEL	No
283.00	05/28/2020	D	**WITHDRAWAL OF MOTION** 05/04/2020 281.00 MOTION FOR PERMISSION TO WITHDRAW APPEARANCE	No
284.00	05/29/2020	C	**ORDER** 6/9/2020 hearing is off *RESULT:* Order 5/29/2020 HON BARBARA BELLIS	No
285.00	06/24/2020	D	**MOTION FOR PERMISSION TO WITHDRAW APPEARANCE** AS COUNSEL *RESULT:* Order 6/24/2020 HON BARBARA BELLIS	Yes
285.10	06/24/2020	C	**ORDER** *RESULT:* Order 6/24/2020 HON BARBARA BELLIS	No
286.00	07/07/2020	D	**MOTION FOR PERMISSION TO APPEAR PRO HAC VICE PB 2-16** for Attorney Marc J. Randazza *RESULT:* Order 7/7/2020 HON BARBARA BELLIS	No
286.10	07/07/2020	C	**ORDER** *RESULT:* Order 7/7/2020 HON BARBARA BELLIS	No
287.00	07/07/2020	D	**AFFIDAVIT** of Alex Emric Jones in support of Motion for Pro Hac Vice (286.00)	No
288.00	07/07/2020	D	**AFFIDAVIT** of Marc J Randazza in support of Motion for Pro Hac Vice (286.00)	No
289.00	07/07/2020	D	**REQUEST FOR ARGUMENT - NON-ARG MATTER (JD-CV-128)** Re Motion for Marc Randazza to Appear Pro Hac Vice (286.00) *RESULT:* Denied 7/7/2020 HON BARBARA BELLIS	No
289.10	07/07/2020	C	**ORDER** *RESULT:* Denied 7/7/2020 HON BARBARA BELLIS	No
290.00	07/07/2020	C	**ORDER** order marking off 7/9/20 hearing *RESULT:* Order 7/7/2020 HON BARBARA BELLIS	No
290.50	07/23/2020	C	**APPELLATE COURT MATERIAL** Sanctions orders affirmed	No
291.00	07/29/2020	C	**ORDER** order postponing the 7/30 status conference *RESULT:* Order 7/29/2020 HON BARBARA BELLIS	No

292.00	08/14/2020	D	**MOTION FOR PERMISSION TO WITHDRAW APPEARANCE** as counsel for Cory T. Sklanka *RESULT:* Granted 9/8/2020 HON BARBARA BELLIS	Yes
292.10	08/17/2020	C	**ORDER** Order scheduling 9/8/20 remote hearing *RESULT:* Order 8/17/2020 HON BARBARA BELLIS	No
292.20	09/08/2020	C	**ORDER** *RESULT:* Granted 9/8/2020 HON BARBARA BELLIS	No
293.00	09/15/2020	C	**APPELLATE COURT MATERIAL** NEW stay denied	No
294.00	09/15/2020	P	**APPELLATE COURT MATERIAL** NEW Stay pending USSP denied	No
295.00	09/15/2020	C	**APPELLATE COURT MATERIAL** NEW reconsideration denied	No

Consolidated Cases

Docket Number	Case Caption	Disp. Date	Disp. Code
UWY-CV18-6046437S	SHERLACH, WILLIAM v. JONES, ALEX Et Al		
UWY-CV18-6046438S	SHERLACH, WILLIAM Et Al v. JONES, ALEX EMRIC Et Al		

Scheduled Court Dates as of 09/23/2020

UWY-CV18-6046436-S - LAFFERTY, ERICA Et Al v. JONES, ALEX EMRIC Et Al

#	Date	Time	Event Description	Status
1	10/02/2020	3:00PM	Remote Status Conference	Proceeding
2	11/03/2020	10:00AM	Jury Selection / Trial	Proceeding
3	11/04/2020	10:00AM	Jury Selection / Trial	Proceeding
4	11/05/2020	10:00AM	Jury Selection / Trial	Proceeding
5	11/06/2020	10:00AM	Jury Selection / Trial	Proceeding
6	11/10/2020	10:00AM	Jury Selection / Trial	Proceeding
7	11/11/2020	10:00AM	Jury Selection / Trial	Proceeding
8	11/12/2020	10:00AM	Jury Selection / Trial	Proceeding
9	11/13/2020	10:00AM	Jury Selection / Trial	Proceeding
10	11/17/2020	10:00AM	Jury Selection / Trial	Proceeding
11	11/18/2020	10:00AM	Jury Selection / Trial	Proceeding
12	11/19/2020	10:00AM	Jury Selection / Trial	Proceeding
13	11/20/2020	10:00AM	Jury Selection / Trial	Proceeding
14	11/24/2020	10:00AM	Jury Selection / Trial	Proceeding
15	12/01/2020	10:00AM	Jury Selection / Trial	Proceeding
16	12/02/2020	10:00AM	Jury Selection / Trial	Proceeding
17	12/03/2020	10:00AM	Jury Selection / Trial	Proceeding
18	12/04/2020	10:00AM	Jury Selection / Trial	Proceeding
19	12/08/2020	10:00AM	Jury Selection / Trial	Proceeding
20	12/09/2020	10:00AM	Jury Selection / Trial	Proceeding
21	12/10/2020	10:00AM	Jury Selection / Trial	Proceeding
22	12/11/2020	10:00AM	Jury Selection / Trial	Proceeding
23	12/15/2020	10:00AM	Jury Selection / Trial	Proceeding
24	12/16/2020	10:00AM	Jury Selection / Trial	Proceeding
25	12/17/2020	10:00AM	Jury Selection / Trial	Proceeding
26	12/18/2020	10:00AM	Jury Selection / Trial	Proceeding
27	12/22/2020	10:00AM	Jury Selection / Trial	Proceeding
28	12/23/2020	10:00AM	Jury Selection / Trial	Proceeding
29	12/29/2020	10:00AM	Jury Selection / Trial	Proceeding
30	12/30/2020	10:00AM	Jury Selection / Trial	Proceeding
31	12/31/2020	10:00AM	Jury Selection / Trial	Proceeding
32	01/05/2021	10:00AM	Jury Selection / Trial	Proceeding
33	01/06/2021	10:00AM	Jury Selection / Trial	Proceeding

34	01/07/2021	10:00AM	Jury Selection / Trial	Proceeding
35	01/08/2021	10:00AM	Jury Selection / Trial	Proceeding
36	01/12/2021	10:00AM	Jury Selection / Trial	Proceeding
37	01/13/2021	10:00AM	Jury Selection / Trial	Proceeding
38	01/14/2021	10:00AM	Jury Selection / Trial	Proceeding
39	01/15/2021	10:00AM	Jury Selection / Trial	Proceeding

Judicial ADR events may be heard in a court that is different from the court where the case is filed. To check location information about an ADR event, select the **Notices** tab on the top of the case detail page.

Matters that appear on the Short Calendar and Family Support Magistrate Calendar are shown as scheduled court events on this page. The date displayed on this page is the date of the calendar.

All matters on a family support magistrate calendar are presumed ready to go forward.

The status of a Short Calendar matter is not displayed because it is determined by markings made by the parties as required by the calendar notices and the civil standing orders. Markings made electronically can be viewed by those who have electronic access through the Markings History link on the Civil/Family Menu in E-Services. Markings made by telephone can only be obtained through the clerk's office. If more than one motion is on a single short calendar, the calendar will be listed once on this page. You can see more information on matters appearing on Short Calendars and Family Support Magistrate Calendars by going to the Civil/Family Case Look-Up page and Short Calendars By Juris Number or By Court Location.

Periodic changes to terminology that do not affect the status of the case may be made.

This list does not constitute or replace official notice of scheduled court events.

Disclaimer: For civil and family cases statewide, case information can be seen on this website for a period of time, from one year to a maximum period of ten years, after the disposition date. If the Connecticut Practice Book Sections 7-10 and 7-11 give a shorter period of time, the case information will be displayed for the shorter period. Under the Federal Violence Against Women Act of 2005, cases for relief from physical abuse, foreign protective orders, and motions that would be likely to publicly reveal the identity or location of a protected party may not be displayed and may be available only at the courts.

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APPENDIX L

Connecticut Superior Court Order Staying Discovery In *Lafferty v. Jones*, Dkt. No. UWY-CV-18-6046437-S; UWY-CV-18-6046438-S; UWY-CV-18-6046436-S (November 23, 2018)

DOCKET NO: FBTCV186075078S

SUPERIOR COURT

LAFFERTY, ERICA Et Al
V.
JONES, ALEX EMRIC Et Al

JUDICIAL DISTRICT OF FAIRFIELD
AT BRIDGEPORT

11/23/2018

ORDER

ORDER REGARDING:
11/21/2018 113.00 SPECIAL MOTION TO DISMISS / COUNTERCLAIM / CROSS CLAIM

The foregoing, having been considered by the Court, is hereby:

ORDER:

In accordance with C.G.S. Sec. 52-196a, the court hereby orders a stay of discovery which shall remain in effect until disposition of the special motion to dismiss and any interlocutory appeals thereof. The court may, upon motion of a party and good cause shown, or sua sponte, order specified and limited discovery relevant to the special motion to dismiss.

An expedited hearing shall be scheduled not more than sixty days after the file date of the special motion to dismiss and notice sent to all parties/counsel of record.

Judicial Notice (JDNO) was sent regarding this order.

421277

Judge: BARBARA N BELLIS
Processed by: Ashleigh Doherty

APPENDIX M

Excerpt – Connecticut Practice Book, § 13-6

a method of discovery other than that selected by the party seeking discovery; (4) that certain matters not be inquired into, or that the scope of the discovery be limited to certain matters; (5) that discovery be conducted with no one present except persons designated by the judicial authority; (6) that a deposition after being sealed be opened only by order of the judicial authority; (7) that a trade secret or other confidential research, development, or commercial information not be disclosed or be disclosed only in a designated way; (8) that the parties simultaneously file specified documents or information enclosed in sealed envelopes to be opened as directed by the judicial authority; (9) specified terms and conditions relating to the discovery of electronically stored information including the allocation of expense of the discovery of electronically stored information, taking into account the amount in controversy, the resources of the parties, the importance of the issues, and the importance of the requested discovery in resolving the issues.

(P.B. 1978-1997, Sec. 221.) (Amended June 20, 2011, to take effect Jan. 1, 2012.)

Sec. 13-6. Interrogatories; In General

(a) In any civil action, in any probate appeal, or in any administrative appeal where the judicial authority finds it reasonably probable that evidence outside the record will be required, any party may serve in accordance with Sections 10-12 through 10-17 written interrogatories, which may be in electronic format, upon any other party to be answered by the party served. Written interrogatories may be served upon any party without leave of the judicial authority at any time after the return day. Except as provided in subsection (d) or where the interrogatories are served electronically as provided in Section 10-13 and in a format that allows the recipient to electronically insert the answers in the transmitted document, the party serving interrogatories shall leave sufficient space following each interrogatory in which the party to whom the interrogatories are directed can insert the answer. In the event that an answer requires more space than that provided on interrogatories that were not served electronically and in a format that allows the recipient to electronically insert the answers in the transmitted document, the answer shall be continued on a separate sheet of paper which shall be attached to the completed answers.

(b) Interrogatories may relate to any matters which can be inquired into under Sections 13-2 through 13-5 and the answers may be used at trial to the extent permitted by the rules of evidence. In all personal injury actions alleging liability based on the operation or ownership of a motor vehicle or alleging liability based on the ownership, maintenance or control of real property, or in actions claiming a loss of consortium or uninsured/underinsured motorist coverage benefits, the interrogatories shall be limited to those set forth in Forms 201, 202, 203, 208, 210, 212, 213 and/or 214 of the rules of practice, unless upon motion, the judicial authority determines that such interrogatories are inappropriate or inadequate in the particular action. These forms are set forth in the Appendix of Forms in this volume. Unless the judicial authority orders otherwise, the frequency of use of interrogatories in all actions except those for which interrogatories have been set forth in Forms 201, 202, 203, 208, 210, 212, 213 and/or 214 of the rules of practice is not limited.

(c) The standard interrogatories are intended to address discovery needs in most cases in which their use is mandated, but they do not preclude any party from moving for permission to serve such additional discovery as may be necessary in any particular case.

(d) In lieu of serving the interrogatories set forth in Forms 201, 202, 203, 208, 210, 212, 213 and/or 214 of the rules of practice on a party who is represented by counsel, the moving party may serve on such party a notice of interrogatories, which shall not include the actual interrogatories to be answered, but shall instead set forth the number of the Practice Book form containing such interrogatories and the name of the party to whom the interrogatories are directed. The party to whom such notice is directed shall in his or her response set forth each interrogatory immediately followed by that party's answer thereto.

(e) The party serving interrogatories or the notice of interrogatories shall not file them with the court.

(f) Unless leave of court is granted, the instructions to Forms 201 through 203 are to be used for all nonstandard interrogatories.

(P.B. 1978-1997, Sec. 223.) (Amended June 28, 1999, to take effect Jan. 1, 2000; amended Aug. 24, 2001, to take effect Jan. 1, 2002; amended June 30, 2008, to take effect Jan. 1, 2009; amended June 14, 2013, to take effect Jan. 1, 2014; amended June 24, 2016, to take effect Jan. 1, 2017; amended June 23, 2017, to take effect Jan. 1, 2018.)

Sec. 13-7. —Answers to Interrogatories

(a) Any such interrogatories shall be answered under oath by the party to whom directed and such answers shall not be filed with the court but shall be served within sixty days after the date of certification of service, in accordance with Sections 10-12 through 10-17, of the interrogatories or, if applicable, the notice of interrogatories on the answering party, or within such shorter or longer time as the judicial authority may allow, unless:

APPENDIX N

Excerpt – Connecticut Practice Book, § 13-9

(1) Counsel file with the court a written stipulation extending the time within which answers or objections may be served; or

(2) Upon motion, the judicial authority allows a longer time; or

(3) Objections to the interrogatories and the reasons therefor are filed and served within the sixty day period.

(b) All answers to interrogatories shall: (1) repeat immediately before each answer the interrogatory being answered; and (2) be signed by the person making them.

(c) A party objecting to one or more interrogatories shall file an objection in accordance with Section 13-8.

(d) Objection by a party to certain of the interrogatories directed to such party shall not relieve that party of the obligation to answer the interrogatories to which he or she has not objected within the sixty day period.

(e) The party serving interrogatories or the notice of interrogatories may move for an order under Section 13-14 with respect to any failure to answer.

(P.B. 1978-1997, Sec. 224.) (Amended June 28, 1999, to take effect Jan. 1, 2000; amended June 20, 2011, to take effect Jan. 1, 2012; amended June 12, 2015, to take effect Jan. 1, 2016; amended June 24, 2016, to take effect Jan. 1, 2017.)

Sec. 13-8. —Objections to Interrogatories

(a) The party objecting to any interrogatory shall: (1) set forth each interrogatory; (2) specifically state the reasons for the objection; and (3) state whether any responsive information is being withheld on the basis of the stated objection. Objections shall be governed by the provisions of Sections 13-2 through 13-5, signed by the attorney or self-represented party making them, and filed with the court pursuant to Section 13-7. No objection may be filed with respect to interrogatories which have been set forth in Forms 201, 202, 203, 208, 210, 212, 213 and/or 214 of the rules of practice for use in connection with Section 13-6.

(b) To the extent a party withholds responsive information based on an assertion of a claim of privilege or work product protection, the party must file an objection in compliance with the provisions of subsection (a) of this section and comply with the provisions set forth in subsection (d) of Section 13-3.

(c) No objections to interrogatories shall be placed on the short calendar list until an affidavit by either counsel is filed certifying that bona fide attempts have been made to resolve the differences concerning the subject matter of the objection and that counsel have been unable to reach an agreement. The affidavit shall set forth the date of the objection, the name of the party who filed the objection and the name of the party to whom the objection was addressed. The affidavit shall also recite the date, time and place of any conference held to resolve the differences and the names of all persons participating therein or, if no conference has been held, the reasons for the failure to hold such a conference. If any objection to an interrogatory is overruled, the objecting party shall answer the interrogatory, and serve the answer within twenty days after the judicial authority ruling unless otherwise ordered by the judicial authority.

(d) An interrogatory otherwise proper is not objectionable merely because it involves more than one fact or relates to the application of law to facts.

(P.B. 1978-1997, Sec. 225.) (Amended Aug. 24, 2001, to take effect Jan. 1, 2002; amended June 20, 2011, to take effect Jan. 1, 2012; amended June 14, 2013, to take effect Jan. 1, 2014; amended June 24, 2016, to take effect Jan. 1, 2017; amended June 23, 2017, to take effect Jan. 1, 2018.)

Sec. 13-9. Requests for Production, Inspection and Examination; In General

(a) In any civil action, in any probate appeal, or in any administrative appeal where the judicial authority finds it reasonably probable that evidence outside the record will be required, any party may serve in accordance with Sections 10-12 through 10-17 upon any other party a request to afford the party submitting the request the opportunity to inspect, copy, photograph or otherwise reproduce designated documents or to inspect and copy, test or sample any tangible things in the possession, custody or control of the party upon whom the request is served or to permit entry upon designated land or other property for the purpose of inspection, measuring, surveying, photographing, testing or sampling the property or any designated object or operation thereon. Such requests will be governed by the provisions of Sections 13-2 through 13-5. In all personal injury actions alleging liability based on the operation or ownership of a motor vehicle or alleging liability based on the ownership, maintenance or control of real property, or in actions claiming a loss of consortium or uninsured/underinsured motorist coverage benefits, the requests for production shall be limited to those set forth in Forms 204, 205, 206, 209, 211, 215 and/or 216 of the rules of practice, unless, upon motion, the judicial authority determines that such requests for production are inappropriate or inadequate in the particular action. These forms are set forth in the Appendix of Forms in this volume.

(b) The standard requests for production are intended to address discovery needs in most cases in which their use is mandated, but they do not preclude any party from moving for permission

to serve such additional discovery as may be necessary in any particular case.

(c) Requests for production may be served upon any party without leave of court at any time after the return day. In lieu of serving the requests for production set forth in Forms 204, 205, 206, 209, 211, 215 and/or 216 of the rules of practice on a party who is represented by counsel, the moving party may serve on such party a notice of requests for production, which shall not include the actual requests, but shall instead set forth the number of the Practice Book form containing such requests and the name of the party to whom the requests are directed.

(d) The request shall clearly designate the items to be inspected either individually or by category. The request or, if applicable, the notice of requests for production shall specify a reasonable time, place and manner of making the inspection. Unless the judicial authority orders otherwise, the frequency of use of requests for production in all actions except those for which requests for production have been set forth in Forms 204, 205, 206, 209, 211, 215 and/or 216 of the rules of practice is not limited.

(e) If information has been electronically stored, and if a request for production does not specify a form for producing a type of electronically stored information, the responding party shall produce the information in a form in which it is ordinarily maintained or in a form that is reasonably usable. A party need not produce the same electronically stored information in more than one form.

(f) The party serving such request or notice of requests for production shall not file it with the court.

(g) Unless leave of court is granted, the instructions to Forms 204 through 206 of the rules of practice are to be used for all nonstandard requests for production.

(h) A party seeking the production of a written authorization in compliance with the Health Insurance Portability and Accountability Act to inspect and make copies of protected health information, or a written authorization in compliance with the Public Health Service Act to inspect and make copies of alcohol and drug records that are protected by that act, shall file a motion pursuant to Section 13-11A. A motion need not be filed to obtain such authorization in actions to which Forms 204, 205 and 216 of the rules of practice apply.

(P.B. 1978-1997, Sec. 227.) (Amended June 28, 1999, to take effect Jan. 1, 2000; amended Aug. 24, 2001, to take effect Jan. 1, 2002; amended June 20, 2005, to take effect Jan. 1, 2006; amended June 20, 2011, to take effect Jan. 1, 2012; amended June 14, 2013, to take effect Jan. 1, 2014; amended June 24, 2016, to take effect Jan. 1, 2017; amended June 23, 2017, to take effect Jan. 1, 2018.)

Sec. 13-10. —Responses to Requests for Production; Objections

(a) The party to whom the request is directed or such party's attorney shall serve a written response, which may be in electronic format, within sixty days after the date of certification of service, in accordance with Sections 10-12 through 10-17, of the request or, if applicable, the notice of requests for production on the responding party or within such shorter or longer time as the judicial authority may allow, unless:

(1) Counsel and/or self-represented parties file with the court a written stipulation extending the time within which responses may be served; or

(2) Upon motion, the court allows a longer time; or

(3) Objections to the requests for production and the reasons therefor are filed and served within the sixty day period.

(b) All responses: (1) shall repeat immediately before the response the request for production being responded to; and (2) shall state with respect to each item or category that inspection and related activities will be permitted as requested, unless the request or any part thereof is objected to.

(c) Where a request calling for submission of copies of documents is not objected to, the party responding to the request shall produce those copies with the response served upon all parties.

(d) Objection by a party to certain parts of a request shall not relieve that party of the obligation to respond to those portions to which that party has not objected within the sixty day period.

(e) A party objecting to one or more of the requests for production shall file an objection in accordance with subsection (f) of this section.

(f) A party who objects to any request or portion of a request shall: (1) set forth the request objected to; (2) specifically state the reasons for the objection; and (3) state whether any responsive materials are being withheld on the basis of the stated objection. Objections shall be governed by the provisions of Sections 13-2 through 13-5, signed by the attorney or self-represented party making them and filed with the court.

(g) To the extent a party withholds any responsive material based on an assertion of a claim of privilege or work product protection, the party must file an objection in compliance with the provisions of subsection (f) of this section and comply with the provisions set forth in subsection (d) of Section 13-3.

(h) No objection may be filed with respect to requests for production set forth in Forms 204, 205, 206, 209, 211, 215 and/or 216 of the rules of practice for use in connection with Section 13-9.

(i) No objection to any request for production shall be placed on the short calendar list until an

APPENDIX O

Excerpt – Connecticut Practice Book, § 13-26

apply to the court for an order requiring the other party to pay the reasonable expenses incurred in making that proof, including reasonable attorney's fees. The judicial authority shall make the order unless it finds that such failure to admit was reasonable.

(P.B. 1978-1997, Sec. 241.)

Sec. 13-26. Depositions; In General

In addition to other provisions for discovery and subject to the provisions of Sections 13-2 through 13-5, any party who has appeared in a civil action, in any probate appeal, or in any administrative appeal where the judicial authority finds it reasonably probable that evidence outside the record will be required, may, at any time after the commencement of the action or proceeding, in accordance with the procedures set forth in this chapter, take the testimony of any person, including a party, by deposition upon oral examination. The attendance of witnesses may be compelled by subpoena as provided in Section 13-28. The attendance of a party deponent or of an officer, director, or managing agent of a party may be compelled by notice to the named person or such person's attorney in accordance with the requirements of Section 13-27 (a). The deposition of a person confined in prison may be taken only by leave of the judicial authority on such terms as the judicial authority prescribes. (See General Statutes § 52-178.)

(P.B. 1978-1997, Sec. 243.)

Sec. 13-27. —Notice of Deposition; General Requirements; Special Notice; Nonstenographic Recording; Production of Documents and Things; Deposition of Organization

(a) A party who desires to take the deposition of any person upon oral examination shall give reasonable notice in writing to every other party to the action. Such notice shall not be filed with the court but shall be served upon each party or each party's attorney in accordance with Sections 10-12 through 10-17. The notice shall state the time and place for taking the deposition, the name and address of each person to be examined, if known, and, if the name is not known, a general description sufficient to identify such person or the particular class or group to which he or she belongs and the manner of recording. If a subpoena duces tecum is to be served on the person to be examined, the designation of the materials to be produced as set forth in the subpoena shall be attached to or included in the notice.

(b) Leave of a judicial authority, granted with or without notice, must be obtained only if the party seeks to take a deposition prior to the expiration of twenty days after the return day, except that leave is not required (1) if the adverse party has served a notice of the taking of a deposition or has otherwise sought discovery, or (2) if special notice is given as provided herein.

(c) Leave of a judicial authority is not required for the taking of a deposition by a party if the notice (1) states that the person to be examined is about to go out of this state, or is bound on a voyage to sea, and will be unavailable for examination unless such person's deposition is taken before the expiration of twenty days after the return day, and (2) sets forth facts to support the statement. The party's attorney shall sign the notice, and this signature constitutes a certification by such attorney that to the best of his or her knowledge, information and belief the statement and supporting facts are true.

(d) Whenever the whereabouts of any adverse party is unknown, a deposition may be taken pursuant to Section 13-26 after such notice as the court, in which such deposition is to be used, or, when such court is not in session, any judge thereof, may direct.

(e) The judicial authority may for good cause shown increase or decrease the time for taking the deposition.

(f) (1) The judicial authority may upon motion order that the testimony at a deposition be recorded by other than stenographic means such as by videotape, in which event the order shall designate the manner of recording, preserving, and filing the deposition, and may include other provisions to assure that the recorded testimony will be accurate and trustworthy. If the order is made, a party may nevertheless arrange to have a stenographic transcription made at the party's own expense.

(2) Notwithstanding this section, a deposition may be recorded by videotape without prior court approval if (A) any party desiring to videotape the deposition provides written notice of the videotaping to all parties in either the notice of deposition or other notice served in the same manner as a notice of deposition and (B) the deposition is also recorded stenographically.

(g) The notice to a party deponent may be accompanied by a request made in compliance with Sections 13-9 through 13-11 for the production of documents and tangible things at the taking of the deposition. The procedure of Sections 13-9 through 13-11 shall apply to the request.

(h) A party may in the notice and in the subpoena name as the deponent a public or private corporation or a partnership or an association or a governmental agency or a state officer in an action arising out of the officer's performance of employment and designate with reasonable particularity the matters on which examination is