

# **EXHIBIT 3**

Hon. Richard A. Jones

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UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF WASHINGTON

United Federation of Churches, LLC (dba )  
"The Satanic Temple") )  
 )  
Plaintiff, )  
 )  
v. )  
 )  
David Alan Johnson (AKA "ADJ"), )  
Leah Fishbaugh, Mickey Meeham, and )  
Nathan Sullivan, )  
 )  
Defendants. )

Case No. 2:20-cv-00509-RAJ  
SECOND AMENDED  
COMPLAINT FOR DAMAGES  
AND INJUNCTIVE RELIEF

In support of its claims, Plaintiff United Federation of Churches (dba "The Satanic Temple") (abbreviated "TST") alleges as follows:

**I. PREAMBLE**

1. This case is about two hacked social media accounts and failed attempts at hacking a different social media account and an email account. TST is suing Defendants for misappropriating two of TST's Facebook business pages by replacing all approved administrators with themselves. Shortly after the misappropriation, Johnson started posting content critical of TST from TST's own webpage while retaining the original branding. Later, Johnson modified the name of the website, ostensibly to create a competitor organization, while appending the suffix "Archive Temple Chapter."

2. Since entry of the original complaint, the Court entered an order dismissing parts

1 of this case without prejudice and parts with prejudice. Dkt. # 20. The parts dismissed without  
2 prejudice are the subject of the amendments in this complaint.

3 (1) As to Count 1 (CFAA), the facts are further developed to state when the  
4 revocation occurred, how that revocation was communicated, and what  
5 actions Defendants undertook afterwards. Compare Dkt. # 20 at pp. 7-9.

6 (2) As to former Count 3 (tortious interference with business expectancy), the  
7 facts are further developed to state the factual underpinnings for how  
8 Defendants knew about the Facebook pages' pecuniary value and how the  
9 interference was wrongful beyond the interference itself. Compare Dkt. # 20  
10 at p. 15. This count is renumbered to Count 2 in light of the order of dismissal  
11 with prejudice of former Count 2 (Cyberpiracy).

12 (3) As to former Count 4 (Washington Consumer Protection Act), that claim is  
13 replaced with a trespass to chattel claim (Count 3) and a conversion claim  
14 (Count 4). Compare Dkt. # 20 at pp. 16-17.

15 3. The Cyberpiracy and Defamation counts have been removed from this First  
16 Amended Complaint in compliance with the orders of dismissal with prejudice. To the extent  
17 the Court may grant Plaintiff's now-pending Motion for Reconsideration, Dkt. # 21, Plaintiff  
18 reserves the right to file a second amended complaint to reassert whichever claims the order of  
19 reconsideration may revive.

20 4. Since the filing of the original complaint, the rightful Washington Chapter  
21 leadership has reclaimed the Chapter page through Facebook. This moots the need of injunctive  
22 relief to return the Chapter website to its rightful owners. This controversy is still live, however,  
23 because TST still needs: injunctive relief for Defendants to return the Allies page, to preclude  
24 Defendants from future unauthorized access of TST's electronic materials, to return TST's  
25 wrongfully detained membership documents, and as otherwise appropriate to prevent the creation  
26 of other counterfeit materials; money damages; and attorney's fees and costs of this action.

1 **II. JURISDICTION AND VENUE**

2 5. This Court has original jurisdiction over the federal claim arising under the CFAA.  
3 28 U.S.C. § 1331 (federal question); 18 U.S.C. § 1030(g) (CFAA). The Court has supplemental  
4 jurisdiction over the state common law claims arising from the same facts. 28 U.S.C. § 1367.

5 6. The Court can properly exercise general personal jurisdiction over each Defendant  
6 because they live in Seattle, Washington which is in this District. The Court can properly exercise  
7 specific personal jurisdiction over each Defendant because their actions took place in Seattle,  
8 Washington which is in this District.

9 7. Venue properly lies with this Court because the hacking took place in Seattle,  
10 Washington. 28 U.S.C. § 1391.

11 **III. PARTIES**

12 8. TST is a religious organization. See generally “About us,” available at  
13 <https://www.thesatanictemple.org/about-us.html>

14 9. TST subscribes and advances seven fundamental tenets:

- 15 (1) One should strive to act with compassion and empathy toward all creatures  
16 in accordance with reason.
- 17 (2) The struggle for justice is an ongoing and necessary pursuit that should  
18 prevail over laws and institutions.
- 19 (3) One’s body is inviolable, subject to one’s own will alone.
- 20 (4) The freedoms of others should be respected, including the freedom to  
21 offend. To willfully and unjustly encroach upon the freedoms of another is  
22 to forgo one's own.
- 23 (5) Beliefs should conform to one's best scientific understanding of the world.  
24 One should take care never to distort scientific facts to fit one's beliefs.
- 25 (6) People are fallible. If one makes a mistake, one should do one's best to  
26 rectify it and resolve any harm that might have been caused.
- (7) Every tenet is a guiding principle designed to inspire nobility in action and  
thought. The spirit of compassion, wisdom, and justice should always  
prevail over the written or spoken word.

1 See “Our tenets” available at <https://www.thesatanictemple.org/our-tenets.html>.

2 10. TST’s mission is to “encourage benevolence and empathy among all people,  
3 reject tyrannical authority, advocate practical common sense and justice, and be directed by the  
4 human conscience to undertake noble pursuits guided by the individual will.” See “Our mission”  
5 available at <https://www.thesatanictemple.org/our-mission.html>.

6 11. TST was the subject of the recent documentary “Hail Satan?” (2019), directed by  
7 Penny Lane and distributed by Magnolia Pictures.

8 12. TST maintains sole title to the trade name “The Satanic Temple” in the context of  
9 religious organizations. See **Exhibit 1** (registration of trademark).

10 13. TST has adherents in each of the 50 States, importantly to include Washington.  
11 At the relevant time, TST was organized at local levels in “Chapters,” which are largely  
12 autonomous but are subject to centralized control to ensure faithfulness to organizational  
13 principles and purposes.

14 14. TST had a Washington State Chapter which, at the relevant time, was led by two  
15 individuals: one serving as Chapterhead and the other serving as Media Liason.

16 15. The Chapterhead has administrative authority over the Washington Chapter and,  
17 until March 12, 2020, was assisted by an advisory council.

18 16. The Media Liaison promotes the Washington Chapter’s activities to the general  
19 public.

20 17. Defendants were councilors on the advisory council to the Chapterhead. On  
21 March 12, 2020, the advisory council consisted of 16 positions, of which Defendants held four.  
22 Attendant to their positions on the council, Defendants were entrusted with management of the  
23 Chapter’s social media presence along with the other councilors.

24 18. On March 12, 2020, Defendants were removed from their positions on the council  
25 because of interpersonal conflicts with Chapter leadership and other councilors.

26 19. Defendant David Alan Johnson is an individual residing in Seattle, which is within

1 this Court's district. Johnson is a former associate of TST who misappropriated TST's  
2 Washington Chapter Facebook website from within this Court's district and is using it and its  
3 audience in an effort to undermine TST and to create a competitor organization.

4 20. Defendant Nathan Sullivan is an associate of Johnson, and former associate of  
5 TST, who aided and abetted the hacking. Sullivan also lives in Seattle. TST entrusted Sullivan  
6 as the custodian of various documents which constitute trade secrets. Examples include original  
7 signed membership agreements, internal policies and procedures, and a listing of members with  
8 contact information. Sullivan now wrongfully maintains exclusive control over these sensitive  
9 documents. On information and belief, Johnson has wrongfully given Sullivan administrative  
10 privileges to TST's Washington Chapter page.

11 21. Defendant Leah Fishbaugh is an associate of Johnson, and former associate of  
12 TST, who aided and abetted the hacking and who separately attempted to hack the Google  
13 account. Fishbaugh also lives in Seattle. Fishbaugh changed the account credentials to the  
14 Washington Chapter's email account in a failed attempt to usurp control over the email account.  
15 On information and belief, Johnson has wrongfully given Fishbaugh administrative privileges to  
16 TST's Washington Chapter page.

17 22. Defendant Mickey Meeham is an associate of Johnson, and former associate of  
18 TST, who aided and abetted the hacking. Meeham also lives in Seattle. On information and  
19 belief, Johnson has wrongfully given Fishbaugh administrative privileges to TST's Washington  
20 Chapter page. Meeham misappropriated the Affiliate page.

21 **IV. FACTUAL BACKGROUND**

22 23. Facebook is a ubiquitous internet social medium which permits users to create and  
23 share content including without limitation links, commentary, and written conversations. Content  
24 can be shared by individuals on personal pages or by organizations on business pages.

25 24. Twitter is also a ubiquitous internet social medium which permits users to create and  
26 share substantially similar content as Facebook.

1           25. Google is a ubiquitous internet-based information platform. Among its many  
2 services, Google provides an email platform (“gmail”) and a cloud-based document creation and  
3 storage platform (“Google Drive.”)

4           26. At the relevant time, Facebook was the Washington Chapter’s primary platform of  
5 communicating with its membership.

6           27. At the relevant time, Twitter was the Washington Chapter’s secondary platform of  
7 communicating with its membership.

8           28. TST’s Washington Chapter has a Google account to generally facilitate its  
9 organizational purposes by creating and storing documents.

10          29. In October of 2014, the Washington Chapter business page was created exclusively  
11 for the benefit of TST in its efforts to disseminate information for what was then the Seattle Chapter.  
12 See *id.*, in its current state, available at <https://www.facebook.com/thesatanictemplewashington>.  
13 See also **Exhibit 2** (Chapter page history, updated since original complaint).

14          30. Over the next several years, the Washington Chapter has grown the Facebook page  
15 to an audience exceeding 17,000 followers. *Ibid.*

16          31. In January of 2015, the Washington Chapter created a Twitter account for the  
17 organization. See *id.* available at [https://twitter.com/TST\\_Washington](https://twitter.com/TST_Washington). Currently, the Twitter  
18 account has an audience of about 4,000 followers. *Id.*

19          32. In September of 2018, the Washington Chapter created a secondary Facebook page,  
20 named “TST WA Allies,” to facilitate communications with individuals who were interested in TST  
21 but did not want to identify as a member. Since the original complaint, Defendants renamed the  
22 Allies page to “Evergreen Memes for Queer Satanic Fiends.” **Exhibit 3**; see also  
23 <https://www.facebook.com/queersatanic> (Last visited April 26, 2021).

24          33. Until the hacking, both Facebook pages were maintained and controlled exclusively  
25 by administrators approved by TST.

26          34. Administrators are given a written Code of Conduct, which instruct requirements for

1 permissible activity on behalf of TST. In relevant part, the instructions pertaining to online conduct  
2 follow:

3 Public statements & interactions with media

4 All public actions and statements must be approved and vetted by the TST National Council  
5 and the TST Executive Council. If a member is approached by media or asked for any  
6 official statement regarding an action or belief relating to TST all members must refrain  
7 from comment and refer the inquiring party to the Chapter Head.

8 . . .

9 Confidentiality

10 Members should respect confidentiality, including documentation. Internal information  
11 should not be shared beyond members of the local chapter. Members' names, contact  
12 information, and meeting locations are also considered confidential. If you are ever unsure,  
13 don't share.

14 . . .

15 Copyright

16 Material produced by The Satanic Temple is the property of the organization. Consent for  
17 use of logo, name or other identity materials may be approved for use for certain projects.  
18 You may not use any official materials without prior approval. Approval may also be  
19 withdrawn at any time.

20 . . .

21 Online code of conduct

22 As a member of TST, your interactions with others, both online and off, will be held to the  
23 TST Code of Conduct. As an individual, we support your freedom of speech and freedom  
24 to hold your opinions. Members' behavior, however, reflects on the organization as whole  
25 and also builds the internal culture of TST. Therefore, we have a code of conduct specifically  
26 for the internet.



1 Respect the diversity of opinions you find online and respond in a courteous manner. All  
2 TST members' online conduct must be free of harassment, stalking, threats, abuse, insults,  
3 defamation, or humiliation. This includes, but is not limited to, demeaning comments of an  
4 ethnic, religious, sexist, or racist nature; and unwanted sexual advances or intimidation by  
5 email or online. Such behavior will result in termination from the organization.

6 As a member of TST, always assume that what you publish on the web is permanent.  
7 Anyone can easily print out a comment or save it as a screenshot. Remember, that TST is  
8 often engaged in legal suits and exchanges online, or via text have the right to be exposed in  
9 the case of a deposition. Think before you hit "send".

10 Using TST in connection with surveys, contests, pyramid schemes, chain letters, junk email,  
11 spamming or any duplication or unsolicited messages is prohibited and will result  
12 termination from the organization.

13 Any public disagreements between TST members should be taken to a private conversation.

14 If mediation is needed, it will be provided.

15 See form agreement, available as **Exhibit 4**. Sullivan has the only known copies of the agreement  
16 which was signed by Defendants.

17 35. The above written instructions form the contours of administrators' authorization to  
18 access TST's social media accounts.

19 36. Defendants, each, were entrusted with administrative rights to the above-described  
20 social media accounts, subject to the requirements set forth in the written instructions.

21 37. Until the hacking, Defendant Sullivan had exclusive access of the original copies of  
22 each Defendants' signature, acknowledging and agreeing to be bound by the above terms in return  
23 for access to the social media accounts.

24 38. On information and belief, Sullivan still has exclusive access to these documents,  
25 among other highly sensitive materials including membership listings, internal policies and  
26 procedures, and meeting notes.

1           39. Defendants were each well aware of the Code of Conduct because it served as a  
 2 source of friction leading up to the events giving rise to this litigation. For example, on March 2,  
 3 2020, Johnson shared the following post on the Allies page outside of his authority:



19           40. The ensuing deletion and reiteration of the expectation that Johnson adhere to the  
 20 Code of Conduct as a condition of continued social media access would serve as foreshadowing for  
 21 the misappropriation of the Allies page.

22           41. Between March 2 and March 12, TST’s Washington leadership became increasingly  
 23 frustrated with Defendants’ organizational failures and inflammation of interpersonal conflicts  
 24 within the advisory council.

25           42. “Organizational failures,” as used above, particularly included:

- 26           (1) Repeatedly operating TST’s social media to endorse leftist politics as opposed

1 to Satanism, despite repeated reminders that this was unacceptable;

2 (2) Failing to attend a particular meeting to address the above issue; and

3 (3) Failing to initiate, conceive, or execute any publicity for the Washington  
4 Chapter's Prayer for Plurality event, which was a matter of organizational  
5 significance.

6 43. On March 12, 2020, TST's Washington leadership removed Defendants from their  
7 advisory positions.

8 44. Defendants' positions on the advisory council entailed the authorization to manage  
9 the Chapter's social media activity. By removing Defendants from their advisory positions, the  
10 Washington Chapter leadership revoked Defendants' authorization to manage the Chapter's social  
11 media activity and revoked Defendants' authorization to serve as custodians of records.

12 45. At some point between March 12 and March 14, 2020, Defendants entered into an  
13 unlawful agreement to misappropriate and shut down substantially all the internet presence of TST's  
14 Washington Chapter toward the twin goals of forming a competitor organization and harming TST.

1           46. On March 14, 2020, Meeham exceeded authorization for the Allies page by  
 2 removing all TST-approved administrators except the other named Defendants, changing the name  
 3 to “Evergreen Memes for Queer Satanic Friends,” and posting the following manifesto:



16           47. Meeham, in conjunction with the other named Defendants, then began posting  
 17 material in violation of the Code of Conduct and in disregard of the revocation of authority entailed  
 18 in being removed from the position on the advisory council.

19           48. Sullivan explicitly recognized that Defendants had no authorization to access the  
 20 Allies page. On March 15, 2020, Sullivan publicly stated that he was no longer affiliated with TST.  
 21 **Exhibit 5.** A commentator suggested “Time to found your own,” to which Sullivan responded  
 22 “three steps ahead of you” and “we have a meme page here that we stole from TST: Evergreen  
 23 Memes for Queer Satanic Friends.” **Id.** at pp. 3-4.

24           49. Following Meeham’s usurpation of the Allies page, the Washington Chapterhead  
 25 removed all defendants from administrative access privileges to the remaining social media  
 26 accounts. More specifically, the Chapterhead removed all administrative privileges of Johnson,

1 Fishbaugh, Meeham, and Sullivan to the Facebook Chapter account and the Twitter and Google  
2 accounts referenced herein.

3 50. On or around March 18, 2020, Johnson hacked the TST's Twitter account, removed  
4 all of TST's approved administrators, replaced the approved administrators with his co-Defendants,  
5 followed a number of extremist groups, and changed the description from "Washington State  
6 Chapter of the Satanic Temple" to "Satan stands as the ultimate icon for selfless revolt. We oppose  
7 irrational, unjust hierarchies like white supremacy, patriarchy, ableism, & cisnet normality."  
8 Johnson took these actions despite having a subjective awareness that he no longer had authorization  
9 to use TST's Twitter account.

10 51. On March 20, 2020, despite having a subjective awareness that he no longer had  
11 authorization to use TST's Facebook Chapter page, Johnson took control of the Chapter page by  
12 removing all TST-approved administrators, modifying the cover page without approval, and posting  
13 a three-page manifesto. The manifesto, as it looked as of the original complaint, is attached and  
14 incorporated as **Exhibit 6** (the archive reflects Central time). Originally, the manifesto was posted  
15 with the original trade dress of TST.

16 52. Broadly, the manifesto levied false claims that TST leadership is cozy with the alt-  
17 right, are white supremacists, are generally insufficiently leftist for Johnson's preference, and does  
18 not conform to Johnson's impression of Satanism. Posting the manifesto exceeded Johnson's grant  
19 of authority as defined in the Code of Conduct, disregarded the revocation of authority entailed in  
20 being removed from the position on the advisory council, and disregarded the explicit revocation of  
21 authority entailed in having his administrative access to the Chapter page removed.

22 53. On March 20 at 11:29 pm, the Chapter's media liaison emailed Johnson a cease and  
23 desist instruction, stating "I'd like you to return the Facebook page back to us please." **Exhibit 7**

24 54. Johnson ignored the email and did not return the Facebook page to TST.

25 55. Instead, Johnson spent the next couple of days posting links and commentary from  
26 the Chapter page, all with the general, and false, theme that TST leaders are incompetent fascists.

1 See **Exhibit 8** (posts and commentary in excess of authorization). The links and commentary all  
2 exceeded Johnson’s grant of authority as defined in the Code of Conduct, disregarded the revocation  
3 of authority entailed in being removed from the position on the advisory council, disregarded the  
4 explicit revocation of authority entailed in having his administrative access to the Chapter page  
5 removed, and disregarded the explicit cease and desist demand referenced in ¶ 53

6 56. On March 20 at 11:36 pm, Fishbaugh attempted to change the password to the  
7 Chapter’s Google-based email account by changing the recovery email and changing the phone  
8 number. This ignored the revocation of authority entailed in being removed from the position on  
9 the advisory council and disregarded the explicit withdrawal of authority entailed in removing her  
10 administrative access.

11 57. On March 22 at 3:08 pm, Johnson modified the name of the Chapter page from “The  
12 Satanic Temple Washington” to “Satanic Washington State – Archived Temple Chapter” and  
13 modified the profile picture to replace TST-specific iconography with “antifa” symbolism. These  
14 modifications disregarded the revocation of authority entailed in being removed from the position  
15 on the advisory council, disregarded the explicit revocation of authorization entailed in having his  
16 social media administrative access revoked, and disregarded the explicit cease and desist demands  
17 referenced in ¶ 53.

18 58. By operation of his removal as a member of the advisory council, Sullivan’s control  
19 over original signed copies of membership agreements, cloud-based trade secret documentation,  
20 became unauthorized.

21 59. Of importance to this action, Sullivan had, and continues to have, exclusive control  
22 over membership enrollment and application documents and background check documents for  
23 prospective new members (to exclude felons from membership), both of which are paper  
24 documents. Sullivan also had, and continues to have, an electronic database of the membership, as  
25 well as their contact information.

26 60. TST opposes the use or threat of violence as a mechanism for control.





1           69. TST re-alleges and incorporates by reference the foregoing allegations.

2           70. The CFAA provides a civil cause of action when a Defendant knowingly accesses a  
3 “protected computer” by “exceeding authorized access,” which causes a cumulative “loss” of at  
4 least \$5,000. See 18 U.S.C. § 1030(g), (c)(4)(A)(i)(I). Or, in the case of an attempted violation, the  
5 successful violation would cause at least \$5,000 in “loss.” Ibid.

6           71. A “computer,” is broadly defined as any device for processing or storing data. 18  
7 U.S.C. § 1030(e)(1).

8           72. A “protected computer” is a “computer” which is “used in or affecting interstate or  
9 foreign commerce or communication.” 18 U.S.C. § 1030(e)(2)(B).

10          73. Websites have been recognized as a “protected computer” within the meaning of the  
11 CFAA. See United States v. Drew, 259 F.R.D. 449, 457-58 (C.D. Cal. 2009).

12          74. A defendant “exceeds authorized access” by accessing a computer “with  
13 authorization and to use such access to obtain or alter information in the computer that the accesser  
14 is not entitled so to obtain or alter.” 18 U.S.C. § 1030(e)(6).

15          75. A “loss” is “any reasonable cost to any victim, including the cost of responding to  
16 an offense, conducting a damage assessment, and restoring the data, program, system, or  
17 information to its condition prior to the offense, and any revenue lost, cost incurred, or other  
18 consequential damages incurred because of interruption of service.” 18 U.S.C. § 1030(e)(11).

19          76. As described above, Defendants wrongfully and intentionally by exceeding their  
20



**Pete Reeves** I'm confused as to why a TST Facebook page is being used to attack TST... Shouldn't that be left to the Evangelical Christians?

Like · Reply · 1w



**Pete Reeves** I'm confused as to why a TST Facebook page is being used to attack TST... Shouldn't that be left to the Evangelical Christians? Saturday, March 21, 2020 at 1:59 PM

Like · Reply · 1w





1 authorized access, perpetrated fraud upon TST and its membership, as well as any who happened  
2 upon the offending posts, by posting under the misappropriated identity of TST. Perfectly  
3 encapsulating the issue, one commenter expressed confusion on March 21, stating:

4 See <https://www.facebook.com/TheSatanicTempleWashington/posts/2908426992513671>

5 77. There is a cognizable dollar value to social media accounts. Preliminary estimates  
6 of the “loss” related to the misappropriation of the Chapter page is \$33,689.70, plus \$1,037.52 for  
7 the Allies page. The Twitter page, if successfully misappropriated, would have lost \$8,246.70. The  
8 aggregate sum being \$42,973.92—well in excess of the \$5,000 jurisdictional requirement.

9 78. Defendants were aware that the social media accounts had an economic value to  
10 TST. The social media accounts were the primary means for TST to communicate with the general  
11 public and TST’s supporters, and that those communications help to foster the kind of relationship  
12 which results in charitable donations to support TST’s organizational purposes. By depriving TST  
13 of its social media accounts, Defendants intended to diminish those donations and divert donations  
14 to their competitor organization, provisionally named “The Satanic Temple 2: Electric Boogaloo.”  
15 Exhibit 5 at p. 4.

16 79. Further compounding the losses are TST’s attorney’s fees for investigating this  
17 matter, entering futile demands for corrective action: both of Facebook and from Defendants, and  
18 drafting this complaint. TST will continue to incur losses in the costs and fees related to this lawsuit.  
19 TST’s costs and attorney’s fees well exceed the \$6,000 incurred in researching and drafting the  
20 original complaint.

21 80. TST has incurred, and continues to incur, reputation losses from the  
22 misappropriation of its Facebook pages. These reputation losses are quantifiable in monetary terms,  
23 but are irreparable by money damages alone.

24 81. Based on the foregoing, TST is entitled to injunctive relief in the form of a permanent  
25 injunction enjoining Defendants from accessing any of TST’s “protected computers” (i.e. any  
26 internet-based media) under threat of contempt, economic damages of at least \$48,973.92, and costs

1 and attorney's fees to be computed after entry of the decree.

2 **Count 2:**

3 **Tortious interference**

4 82. TST re-alleges and incorporates by reference the foregoing allegations.

5 83. TST maintains ongoing business relationships with Facebook, importantly to  
6 include the Chapter page and Allies page.

7 84. There is an economic benefit for TST in having a ubiquitous platform to interact  
8 with members and prospective members in the convenience of their homes and wherever they carry  
9 their smartphones. Namely, with increased awareness comes increased membership and donations  
10 which create a positive feedback loop.

11 85. At the relevant time, Defendants had subjective knowledge of the business  
12 relationship between Facebook and TST. Facebook is well-known as a separate company from the  
13 organizations that have profiles on its proprietary network.

14 86. Defendants intentionally and with an improper motive acted to sever the Washington  
15 Chapter's relationships with Facebook by misappropriating the two websites for the twin goals of  
16 harming the Washington Chapter, and TST at large, and creating a competitor organization.

17 87. Defendants were aware that the social media accounts had an economic value to  
18 TST. The social media accounts were the primary means for TST to communicate with the general  
19 public and TST's supporters and Defendants personally used those social media accounts for the  
20 purpose of assisting TST in creating the kind of communications that help to foster the kind of  
21 relationship which results in charitable donations to support TST's organizational purposes. By  
22 depriving TST of its social media accounts, Defendants intended to diminish those donations and  
23 divert donations to their competitor organization, provisionally named "The Satanic Temple 2:  
24 Electric Boogaloo." Exhibit 5 at p. 4.

25 88. Defendants' interference with TST's social media presence was wrongful beyond  
26 the interference itself. Defendants abused TST's social media presence as a channel to publish

1 derogatory messages directly to TST's intended audience and to falsely suggest that the Washington  
2 Chapter was replaced by Defendants' competitor organization. The contemplated and intentional  
3 purpose of so doing was to diminish TST's membership and donation base.

4 89. As a direct and proximate result of Defendants' wrongful conduct, TST has suffered  
5 substantial economic injury and loss of business opportunity and has incurred attorney's fees and  
6 other costs in attempting to remedy the situation.

7 90. Based on the foregoing, TST is entitled to injunctive relief in the form of a permanent  
8 injunction enjoining Defendants from accessing any of TST's "protected computers" under threat  
9 of contempt, and costs and attorney's fees to be computed after entry of the decree.

10 **Count 3:**

11 **Trespass to chattels**

12 91. TST re-alleges and incorporates by reference the foregoing allegations.

13 92. Trespass to chattels is the intentional interference with a party's personal property  
14 without justification that deprives the owner of possession or use. G&G Closed Cir. Events, LLC  
15 v. Single, LLC, No. C18-1295JLR, 2020 WL 5815050, at \*4 (W.D. Wash. Sept. 30, 2020) (citing  
16 Restatement (Second) of Torts § 217).

17 93. The first chattel at issue is TST's possessory interest in Facebook's computer  
18 network which manifested through the internet as the Chapter page and the Allies page.

19 94. Defendants intentionally dispossessed TST of the Chapter page and the Allies page  
20 by logging in to Facebook's computer network and replacing Defendants for TST's authorized  
21 administrators of the pages.

22 95. Defendants had no justification to remove all of TST's approved administrators or  
23 to usurp the pages at issue. Their authorization to use the pages were revoked by virtue of the  
24 removal of their positions on the advisory council and was explicitly revoked as to the Chapter page  
25 by the revocation of their administrative access.

26 96. Although Washington has not squarely addressed the question, California courts

1 have resolved that dispossession of access to a computer system is an actionable trespass to chattels.  
2 See Synopsys, Inc. v. Ubiquiti Networks, Inc., 313 F. Supp. 3d 1056, 1080 (N.D. Cal. 2018) and  
3 Intel Corp. v. Hamidi, 30 Cal. 4th 1342, 1351, 71 P.3d 296, 303 (2003); see also JLM Couture, Inc.  
4 v. Gutman, No. 20 CV 10575-LTS-SLC, 2021 WL 827749 (S.D.N.Y. Mar. 4, 2021) (granting a  
5 preliminary injunction to restrain a former employee’s use of an employer’s social media accounts  
6 post-termination—albeit while explicitly declining to address the ultimate trespass to chattel and  
7 conversion claims, id. at \*19).

8 97. The second chattel at issue is TST’s membership-related documents, whether in  
9 physical or electronic format.

10 98. Defendants, particularly Sullivan, intentionally dispossessed TST of these  
11 membership-related documents by maintaining exclusive control over the documents despite the  
12 termination of Sullivan’s role as custodian of records.

13 99. Based on the foregoing, TST is entitled to injunctive relief in the form of a permanent  
14 injunction enjoining Defendants from accessing any of TST’s “protected computers” under threat  
15 of contempt, an order to return TST’s membership related documents and destroy any copies  
16 thereof, and costs and attorney’s fees to be computed after entry of the decree.

17 **Count 4:**

18 **Conversion**

19 100. TST re-alleges and incorporates by reference the foregoing allegations.

20 101. Conversion is the act of “willfully interfering with any chattel, without lawful  
21 justification, whereby any person entitled thereto is deprived of the possession of it. In re Mastro,  
22 No. 09-16841-MLB, 2017 WL 2889659, at \*13 (Bankr. W.D. Wash. July 6, 2017) (citing Public  
23 Util. Dist. No. 1 v. Wash. Public Power Supply Sys., 104 Wn.2d 353, 378 (Wash. 1985)).

24 102. “Willful” means “intentional” but not necessarily “malicious.” Id. (citing Schilling  
25 v. Radio Holdings, Inc., 136 Wn.2d 152, 159–60 (Wash. 1998)) (citations omitted).

26 103. Malicious intent is not an element of conversion and good faith is not a defense. Id.

1 (citing Brown v. Brown, 157 Wn. App. 803, 818, (2010)).

2 104. Trespass to chattels differs from conversion as a matter of degree. See Intel Corp.  
3 v. Hamidi, 30 Cal. 4th 1342, 1350, 71 P.3d 296, 302 (2003) (“Dubbed by Prosser the ‘little brother  
4 of conversion,’ the tort of trespass to chattels allows recovery for interferences with possession of  
5 personal property ‘not sufficiently important to be classed as conversion, and so to compel the  
6 defendant to pay the full value of the thing with which he has interfered’); see also Damiano v. Lind,  
7 163 Wash. App. 1017 at \*5 (2011) (“Trespass to chattels is something less than a conversion.”)  
8 (unpublished opinion, but the Court “may consider unpublished state decisions, even though such  
9 opinions have no precedential value.” Emps. Ins. of Wausau v. Granite State Ins. Co., 330 F.3d  
10 1214, 1220 (9th Cir. 2003)).

11 105. The same chattels are at issue in this Conversion claim as the Trespass to Chattels  
12 claim. Both claims are included because Washington courts tend to discuss the two claims in  
13 tandem. E.g. Damiano, above; see also Sexton v. Brown, 147 Wash. App. 1005 (2008).

14 **Count 5:**

15 **Dilution under 15 USC § 1125(c)**

16 106. TST re-alleges and incorporates by reference the foregoing allegations.

17 107. 15 USC § 1125(c) provides for trademark remedies when one or more defendants  
18 uses a famous or distinctive mark or trade name in commerce which is likely to cause dilution by  
19 blurring or dilution by tarnishment of the famous mark. See 15 USC § 1125(c)(1) and (5).

20 108. A mark is “famous” if it is widely recognized by the general consuming public. 15  
21 USC § 1125(c)(2)(A).

22 109. “The Satanic Temple” is a famous mark because it is commonly referenced in the  
23 general media. For recent references, see e.g. Penny Lane, *Magnolia Films*, “Hail Satan?” (2019);  
24 Cameron Sheppard, *WNPA News Service*, “Amid Pious Protesters, Satanists Conduct a Ritual on  
25 the Capitol Steps” (March 6, 2020) (reposted by *The Chronicle*, available at  
26 <https://www.chronline.com/stories/amid-pious-protesters-satanists-conduct-a-ritual-on-the-capitol->

1 [steps,4905](#)) (last visited April 23, 2021); David S. Cohen, Rolling Stone, “How the Satanic Temple  
2 Could Bring Abortion Rights to the Supreme Court” (August 24, 2020) (available at  
3 [https://www.rollingstone.com/culture/culture-features/satanic-temple-abortion-rights-supreme-  
4 court-1048833/](https://www.rollingstone.com/culture/culture-features/satanic-temple-abortion-rights-supreme-court-1048833/)) (last visited April 23, 2021); Erik Larson, *Bloomberg News*, “Satanic Temple’s  
5 lawyers try Christian-right tactics” (March 22, 2021) (reposted by the Seattle Times, available at  
6 <https://www.seattletimes.com/nation-world/satanic-temple-lawyers-try-christian-right-tactics/>)  
7 (last visited April 23, 2021).

8 110. Dilution by blurring is an association arising from the similarity between a mark or  
9 trade name and a famous mark which impairs the distinctiveness of the famous mark. 15 USC §  
10 1125(c)(2)(B).

11 111. Defendants’ competitor organization, which was provisionally entitled “The Satanic  
12 Temple 2: Electric Boogaloo” and “Satanic Washington – Archived Temple Chapter” had a  
13 likelihood of impairing the distinctiveness of TST as a famous mark. To-wit:

14 (1) “The Satanic Temple 2: Electric Boogaloo” directly copies “The Satanic  
15 Temple;” and “Satanic Washington – **Archived Temple Chapter**” (emphasis  
16 added) directly suggests that the Washington Chapter has been replaced by  
17 Defendants’ competitor organization.

18 (2) TST has an inherently distinctive mark because there is only one “The Satanic  
19 Temple,” Plaintiff, which has acquired distinctiveness as a mark through years  
20 of effort.

21 (3) There is only one “The Satanic Temple” because TST jealously guards its  
22 intellectual property rights.

23 (4) As addressed in ¶ 109, above, there is wide public recognition of The Satanic  
24 Temple.

25 (5) Defendants intended to create an association between their competitor  
26 organization with TST by stealing TST’s Facebook pages, falsely suggesting

1 that TST’s Washington Chapter was no more (“Archived”), and redirecting all  
2 internet traffic away from TST’s Washington Chapter and toward Defendants’  
3 competitor organization.

4 (6) There is an actual association between Defendants’ mark and TST because  
5 Defendants were former TST associates, who intended to create a competitor  
6 organization by using TST’s own intellectual property (both the name and the  
7 Facebook pages), and advertising their competitor organization through the  
8 Facebook pages.

9 Compare 15 USC § 1125(c)(2)(B)(i)-(vi).

10 112. Alternatively, dilution by tarnishment is an association arising from the similarity  
11 between a mark and a famous mark that harms the reputation of the famous mark. 15 USC §  
12 1125(c)(2)(C).

13 113. TST’s membership base tends to be repelled by organizations which promote  
14 ableism, misogyny, racism, fascism, transphobia, and the endorsement of police brutality.

15 114. Defendants’ competitor organization broadcasted statements, directly to current and  
16 potential members of TST through TST’s Facebook pages, that TST promotes ableism, misogyny,  
17 racism, fascism, transphobia, and the endorsement of police brutality. Defendants broadcasted these  
18 statements for the purpose of diverting away from TST both current members and interested  
19 potential members of the public.

20 115. Defendants’ competitor organization also publicly affiliated itself (and TST, to an  
21 uninformed public) with politically extremist organizations by having the Twitter page follow  
22 various politically extremist organizations (¶ 50, above) and by modifying the Chapter page’s profile  
23 picture to suggest that TST is associated with Antifa (¶ 57 above).

24 116. These actions harmed TST—which is a religious organization—by suggesting that  
25 TST is not a religious organization, but is instead an extremist political organization. This  
26 jeopardizes TST’s tax exempt status as a “church;” jeopardizes the tax exempt status of donations



1 to TST; jeopardizes the civil rights of TST's membership base ("religion" is a protected class under  
2 Title VII, but "politics" is not); and diverts TST's membership base, which is interested in joining a  
3 religion and not an extremist political group.

4 117. Defendants' competitor group is also selling merchandise which features  
5 Defendants' derivative marks and which Defendants are advertising on TST's Allies page. See  
6 generally <https://www.redbubble.com/people/QueerSatanic/shop> (last visited April 26, 2012).

7 118. Based upon the foregoing, TST is entitled to recover monetary damages up to three  
8 times the sum of: (1) Defendants' profits; (2) TST's reputational damages; and (3) the costs of this  
9 action (15 USC § 1125(c)(5), referencing 15 USC § 1117(a) and (b)); an order to destroy all means  
10 of making Defendants' counterfeit materials (id., referencing 15 USC § 1118); and orders to seize  
11 any goods bearing Defendants' counterfeit marks, any records related to the sale thereof, and other  
12 such appropriate orders to prevent the violation of TST's rights as a registered mark holder. (id.,  
13 referencing 15 USC § 1116).

14 **IV. PRAYER FOR RELIEF**

15 **WHEREFORE**, in addition to all other relief to which the Court finds TST entitled,  
16 TST prays for orders as follows:

17 (1) Defendants shall, jointly and severally, immediately return full control to counsel for  
18 Plaintiff under threat of contempt: control of the Allies page, all TST materials, whether in paper or  
19 electronic format, including without limitation: all signed agreements, all membership listings, all  
20 internal policies and procedures, all governance documentation, any branding materials, and any  
21 other document created by or for the benefit of TST.

22 (2) Defendants shall, jointly and severally, permanently refrain from accessing any  
23 administrative function of any internet-based medium, including without limitation any social media  
24 accounts, email accounts, or document storage accounts, created by or for the benefit of TST.

25 (3) Defendants shall, jointly and severally, pay economic to Plaintiff in the amount of  
26 \$42,973.92 (the sum value of the social media accounts), or such other sum of the numbers identified



1 in ¶ 118, above.

2 (4) Defendants shall, jointly and severally, pay statutory damages to Plaintiff in the  
3 amount of \$100,000, or such other amount to be determined at trial.

4 (5) Defendants shall, jointly and severally, pay costs and attorney's fees to Plaintiff in  
5 an amount to be determined after trial.

6 (6) Defendants shall, jointly and severally, pay prejudgment and postjudgment interest  
7 until paid in full.

8  
9 Respectfully submitted this 24th day of May, 2021.

10 LYBECK PEDREIRA & JUSTUS, PLLC

11 By: /s/ Benjamin Justus  
12 Benjamin Justus (#38855)  
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19 And: /s/ Matthew A. Kezhaya  
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**CERTIFICATE OF SERVICE**

I hereby certify that on the 24th day of May, 2021, I electronically filed the SECOND AMENDED COMPLAINT FOR DAMAGES AND INJUNCTIVE RELIEF with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to all parties of record.

Dated at Seattle, Washington, the 24th day of May, 2021.

By: /s/ Benjamin Justus  
Benjamin Justus

# **EXHIBIT 4**

# r/SatanicTemple\_Reddit - TST Court Update! (May 26, 2022) -- this one is by TST's lawyer

Hello everyone! Thank you for your interest in TST's legal efforts. I'm Matt Kezhaya, TST's general counsel. I am recently the subject of a Federal Judge's ire, which is actually pretty normal in my law practice (TST cases and otherwise).

So I've been made aware that Mr. "Chip on my shoulder after Matt bailed out on a podcast taping because I misled him into believing I'm a TST supporter" Hail Satan Podcast guy is crowing about a sanctions order against me. I felt the community was entitled to know the other side of the story.

I'll start with the bottom line-upfront. Yes, I am ordered to pay about \$17,000 of my own personal money because I have been a very naughty boy, or so the Judge says. I have a different take, of course. Basically this sanctions order is the product of a bait-and-switch scheme. TST was told that some of its claims were legally insufficient, and were to be dismissed from an ongoing lawsuit ("TST 1"). But, TST was assured that it was entitled to fix the claims and refile them. I asked the Court if I could fix the claims in the ongoing lawsuit ("TST 1") and a magistrate said "no." A magistrate is not allowed to preclude other lawsuits, and TST was told it could refile the dismissed claims, so I refiled the dismissed claims as "TST 2." The District Judge later affirmed the magistrate's then-six-month-old decision to tell me "no" and, since I already filed TST 2, TST 2 was to be dismissed without leave to refile and I owe the City's lawyers \$17,000 for them having to get TST 2 dismissed. Again, bait-and-switch: "you can refile" turned into "how dare you refile."

That's the short version. If you're interested in the case, read on. If not, I'll be around to answer questions about TST's legal efforts. No promises on answering every question. If I think your question is harmful to the organization I'll probably ignore it, unless I feel like fucking with you. I'm TST's cheerleader, so please note that I am maximum biased in TST's favor. I will not answer any questions related to the idiots that call themselves "QueerSatanic," or their idiot-conspiracy theories. My only comment on that topic is:

I can't believe you morons have spent more than \$80,000 fighting to keep TST's Facebook page. You are pathetic. You have no concept of civil liberties, or what is at stake by the ever-encroaching theocracy. Your lawyer is gentleman and a scholar. I hope he squeezes every last penny from you living corpses, and anyone that gives you the time of day.

Not very "First Tenet," or whatever, but you can't teach an old war dog new tricks.

On with Belle Plaine.

This case arose from TST's efforts to get equal treatment to a "limited public forum" (a place where a government opens its private property for the purpose of accommodating expressive activity about a particular topic), which the City of Belle

Plaine opened, "basically so the cross could stay in the Park" (that's a verbatim quote from the mayor, follow [this link](#) to see him say it for yourself, it's at 1:15 - 1:20). The full meeting can be found [here](#). The primary purpose of that meeting was to hear out the local Catholic priest's religious objection to the City granting TST equal access to the forum.

Rewind about four months, and the City Council had a meeting to hear out a proposal to open the Park to private monuments. The full meeting can be found [here](#). The proposal was prepared by the ADF (a Christian legal advocacy group) and presented by the Veterans Group, who were proponents of putting this Christian monument in the park.

At that meeting, Councilor Stier, who would later become the tie-breaking vote asks for assurances there would be no competitor monuments by an Atheist or Satanic group:

[I've seen monuments that are going up in Detroit right now that have [a] Satanic meaning to them. So, how can we up here, be assured that, number one, these monuments won't go into that Park?

The proponent of the proposal assured him that, indeed, the proposal is designed to allow in their good Christian monument to the contemplated exclusion of dirty Atheists or Satanists:

[There is [sic] specific criteria . . . [that] the monument would be consistently seen in other memorial parks. A Satanic statute is not consistently seen in other memorial parks. Your foxhole, for an atheist foxhole thing, is not consistently seen in other memorial parks.

The particularly astute among you might think "That's super illegal, they can't do that!" And you are correct. The City Attorney tells them as much:

[[T]his is illustrating my concern . . . The concern is that if the intent is, or the effect of the criteria is, to eliminate certain messages, that is constitutionally suspect—which is putting it nicely. That is exactly what is not allowed: [which] is for the government to establish rules which prevent certain religions from speaking.

You can hear the above exchange for yourself by following [this link](#).

Councilor Stier was also concerned about the [FFRF](#) having a monument, but the FFRF never did join in on the fun. They correctly figured that once we got involved, the Cross would go away.

The City attorney was very much against the proposal because, obviously, TST would be demanding equal access to this forum. We told them as much. Ultimately, the final policy was clear that everyone is allowed in, but your display would have to honor Belle Plaine veterans.

So, TST did what it is famous for and created a display that honors Belle Plaine veterans. It's [beautiful](#). The artist even donated \$40,000 worth of services, just because he supports the cause. But, once TST announced it was ready for some of that constitutionally-guaranteed equal access to the "free speech zone," the City delayed installation efforts until they closed the forum.

So, TST did what it is famous for and sued the government for a whole lot of constitutional violations. The problem is that this was before my involvement with TST, so the complaint not up to the task of overcoming judicial bias. Follow [this link](#) to see their complaint. Compare [mine](#). See, TST's original lawyers made the fatal error of thinking that TST actually receives its rightful "equal treatment under the law." No, I'm afraid that judges are willfully ignorant about basic concepts like "recuse if you feel like you are biased" once it comes time to dogpile onto an oppressed minority religion.

The Judge hand-waved some basic notions like "free speech" and "Satanists have just as much a right as Christians to participate in the public square," and [dismissed](#) all but one claim for various reasons. But we were told that we could refile (that's what "[Dismissed without prejudice](#)" means).

Rather than file a whole other lawsuit, I figured "hey let's just have one lawsuit, that's twice as efficient for everyone!" [Boy was I wrong](#). Basically, the magistrate chastised me because I waited two months to get started on discovery, on a case that had been running for 1.5 years. Fuck me for having other cases, I guess. And since I was "dilatory," I could take TST's dismissed claims and I could fuck all the way off.

So that put me in a bit of a pickle. TST needed a dismissal "with prejudice" or I can't appeal. But the Magistrate said I'm not allowed to bring those claims into TST 1. But I was told I could refile. And Magistrates lack the power to preclude claims. And, if I appealed the Magistrate's order, the District Judge was almost certain to affirm the Magistrate, which *might* preclude the claims (District Judges do have the power to preclude claims.)

So, I said "fuck the Magistrate, [and the police while you're at it](#)" and filed the claims (which I really can't overstate had been "[dismissed without prejudice](#)") as a separate lawsuit. I was entitled to file them all along, so if the Magistrate wants to be inefficient, that sounds like "not-me" problem. [Boy was I wrong](#).

I guess the moral of the story is, if a judge tells you that you are entitled to refile some dismissed claims as a separate lawsuit, the judiciary can take its "strong preference for judicial economy" and shove it all the way up their collective asses. Better to ask for forgiveness because, if you ask for permission first, you risk paying your chickenshit adversary [\\$17,000](#). God forbid the [insurance company](#) take a loss.

The underlying orders of dismissal are on appeal. If you want to hear me say all the above in a professional tone and with all the legal authority to back up why I'm right about everything and the District Judge is a big dum-dum, the briefing is worth a read.

- Here is my [opening brief](#).
- Here is the appendix (which has all the important record entries)
  - [TST 1](#) and
  - [TST 2](#); and
- Here is the [addendum](#) (which has all the orders at issue).
- Here is my [reply](#), which explains why the City's response to my opening brief is full of shit.

You'll want the appendices and addendum handy to cite-check my claims about what the record says.

I didn't share the filemarked copies because, for some ungodly reason, efilng removes bookmarks and I think bookmarks are incredibly helpful.

You can get their response from [PACER](#) (case no. **21-3079**), but it's not worth reading because it is the legal equivalent of "nuh uh," except they didn't even respond to most of my points. I would share my copy, but it has all of my super-secret notes and highlighting on it.

I will appeal the sanctions order. And I am asking for reassignment if I win either appeal.

AMA re: TST legal stuff.

# **EXHIBIT 5**





Defendants are prolific on those areas of social media where TST is discussed. One cannot view content about TST on social media sites without encountering posts by Queer Satanic, or posts that share their talking points. Those talking points are then shared by other social media users.

6. That I have first-hand knowledge of the some of the factual allegations made by both TST and by the defendants in this case. I also have firsthand knowledge of the harm TST has suffered as the result of Defendants' commandeering of TST's Facebook and Twitter pages.
7. That Defendants are passing off TST's Facebook page, now known as Evergreen Memes for Queer Satanic Fiends ("the TST Allies page") as their own page.
8. That Defendants are using TST's Allies Page to spread messages that are against TST's tenets and not approved by TST.
9. That on March 14, 2020, Defendants posted on the TST Allies page that they had taken over that page and that the

page was no longer affiliated with TST.

10. That Defendant David Johnson admitted on a podcast called Dixieland of the Proletariat dated February 15, 2022 that he used his admin rights for TST's Facebook page to post statements against TST on TST's Facebook page to further his personal agenda against the organization. Specifically, he stated in the podcast that "about a week later I was still admin of the local chapter page. So I used the admin rights to . . . basically talk about what had actually happened and also criticize the national leaders." A transcript of this podcast is attached to this Affidavit as exhibit A.

11. My experience in monitoring Defendants' social media and internet activity clearly shows that Defendants are actively trying to harm TST. Part of their activity involves their use of the TST Allies Facebook page. It is my opinion that the Defendants' agenda and the QueerSatanic social media handle's sole purpose in is to harm TST. I believe that they would not and could not exist without this purpose.

12. Part of that experience has shown that Defendants, operating under the name QueerSatanic, insert themselves into conversations about TST on Reddit and disparage TST. However, they do not typically insert their disparaging talking points into conversations about TST where potential TST members are not likely to be found. This tells me that the Defendants' sole purpose is to prevent people from becoming TST members.

**FURTHER YOUR AFFIANT SAYETH NOT.**

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on November 22, 2022,

*s/Rachel Chambliss*

# **EXHIBIT 6**



**Matt Kezhaya**  
@matt\_kezhaya



Replying to [@satanicherald](#) and [@QueerSatanic](#)

Are these fuckwits still talking about me?  
Grow up, and file an answer so I can get at  
your financial records. I'm coming for you.  
Tell the judge on me again, I double dare  
you.

2:20 PM · Nov 16, 2022 · Twitter for Android

# **EXHIBIT 7**



## ARÊTE LAW GROUP

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May 10, 2023

### VIA EMAIL ONLY

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Re: *United Federation of Churches, LLC v. David Alan Johnson, et al.*,  
No. 23-2-06120-9 SEA (King County Superior Court)

Dear Matt and Ben:

I write regarding the above-captioned complaint you filed against my clients, David Alan Johnson, Leah Fishbaugh, Mickey Meehan n/k/a Mickey Joshua Powell, and Nathan Sullivan (collectively “Defendants”), in King County Superior Court on April 5, 2023 (the “King County Action”). Your filing of the King County Action violates CR 11. You should voluntarily dismiss the King County Action now, as it is improper for the reasons described below and appears to be intended to further your stated goal to have “every last penny” squeezed from Defendants’ “living corpses” in defense of the United Federation of Churches’ (“TST”) baseless three-plus year litigation campaign against them. Although not required by CR 11, I am writing to give you the opportunity to right this wrong before Defendants file a Rule 11 motion.

In relevant part, CR 11 provides that by signing a complaint an attorney certifies that:

the attorney has read the pleading . . . and that to the best of the . . . attorney’s knowledge, information, and belief, formed after an inquiry reasonable under the circumstances: (1) it is well grounded in fact; (2) it is warranted by existing law or a good faith argument for the extension, modification, or reversal of existing law or the establishment of new law; (3) it is not interposed for any improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of litigation . . . .



CR 11(a). Here are the reasons the King County Action complaint violates Rule 11.

***The Breach of Fiduciary Duty Claim is Time-Barred***

Setting aside for now that TST's breach of fiduciary duty claim is substantively meritless, it is plainly time-barred. The statute of limitations for a breach of fiduciary duty claim is three years. RCW 4.16.080(3); *Hudson v. Condon*, 101 Wn. App. 866, 872-73, 6 P.3d 615 (2000). "[A] cause of action accrues when the plaintiff knew or should have known the essential elements of the cause of action." *Mayer v. Huesner*, 136 Wn. App. 114, 123, 107 P.3d 152 (2005). "A plaintiff who has notice of facts sufficient to cause injury is deemed to have notice of all acts which reasonable inquiry would disclose." *August v. U.S. Bancorp*, 146 Wn. App. 328, 342, 190 P.3d 86 (2008); see also *American Sur. Co. of N.Y. v. Sundberg*, 58 Wn.2d 337, 344, 363 P.2d 99 (1961) ("notice sufficient to excite attention and put a person on guard, or to call for an inquiry is notice of everything to which such inquiry might lead"). "The statute of limitations is not postponed by the fact that further, more serious harm may flow from the wrongful conduct." *Green v. A.P.C.*, 136 Wn.2d 87, 96, 960 P.2d 912 (1998).

Virtually all the conduct TST alleges in the King County Action was also alleged in the federal court case (the "Federal Action") dismissed by Judge Jones. The initial complaint in the Federal Action was filed on April 3, 2020, more than three years before you filed the King County Action. Further, *all the conduct* alleged in the King County Action occurred in March of 2020 and before. That TST alleges that "[s]ince March 2020, Defendants have wrongfully detained profits from the use of TST's property," Complaint ¶ 68, does not save TST's claim on some kind of continuing harm theory because TST specifically alleged that the harm began in March of 2020. *Green*, 136 Wn.2d at 96.

When a reasonable investigation would have revealed that a claim is barred by a statute of limitations, Rule 11 sanctions are appropriate. *Estate of Blue v. County of Los Angeles*, 120 F.3d 982, 985 (9th Cir. 1997). Here, not only would a reasonable investigation show that the breach of fiduciary duty claim is barred by the statute of limitations, TST's own complaint in the King County Action demonstrates the same. Put another way, TST's own allegations show that its breach of fiduciary duty claim is time barred.

***The Conversion/Trespass to Chattels Claim as to the Chapter Page has Already Been Dismissed***

In TST's Second Amended Complaint in the Federal Action, TST asserted trespass to chattels and conversion claims as to the Chapter Page, the Memes Page, and "membership-related documents." Second Amended Complaint (Dkt. No. 26) ¶¶ 93, 97, 105. But as to the Chapter Page, Judge Jones dismissed TST's trespass to chattels and conversion claims. See Order Granting in Part and Denying in Part Defendants' Motion to Dismiss Second Amended Complaint (Dkt. No. 31) at 27 ("the court DISMISSES [TST's] trespass and conversion claims based on Defendants' interference with the Chapter page"); see also *id.* at 32 (The Court "GRANTS Defendants' motion to dismiss TST's trespass to chattels and conversion claims with respect to the Chapter page."). Although Judge Jones did not specify whether TST had leave to amend its trespass to chattels and conversion claims as to the Chapter Page, presumably he did not grant leave to amend as to those claims because he explicitly granted leave for TST to amend its loss allegations as to the CFAA claim and the FTDR claim. *Id.* at 32. Whether or not Judge

Jones would have entertained amendment as to the trespass to the Chapter Page chattels and conversion claims, TST elected not to attempt to amend within the time permitted. *See id.* at 33 (“TST shall file its amended complaint, if any, within 14 days after the filing date of this order.”).

Failure to amend a complaint in the time a court allows results in dismissal. *Cf. Vess v. Ciba-Geigy Corp. USA*, 317 F.3d 1097, 1108 (9th Cir. 2003); *Smith v. Terhune*, 213 F.3d 643, 2000 WL 300944, at \*1 (9th Cir. 2000); *Bolar v. Wood*, 89 F.3d 844, 1996 WL 384901, at \*1 (9th Cir. 1996). Judge Jones did not grant TST leave to amend its trespass to chattels/conversion claims as to the Chapter Page. But even reading Judge Jones’ order expansively, TST failed to amend that claim in the time Judge Jones permitted other claims to be amended. Accordingly, the trespass to chattels/conversion claims as to the Chapter Page have been dismissed, and TST’s attempt to revive them here is barred by the *res judicata* doctrine.<sup>1</sup> *Feminist Women’s Health Center v. Codispoti*, 63 F.3d 863, 869 (9th Cir. 1995); *cf. Bourgeau v. Corrections Corp. of Am.*, 71 Fed. Appx. 695, 696 (9th Cir. 2003).

***There is no Good Faith Basis for the Conversion/Trespass to Chattels Claims as to the Memes Page Because TST Relinquished any Interest in It***

TST’s pursuit of its conversion/trespass to chattels claims as to the Memes Page further shows that its litigation campaign against Defendants is intended to harass and burden them. TST long ago abandoned any interest in that page and expressly gave the page to Defendants, as you well know given that I informed you of TST’s affirmative abandonment in June of 2022. As you know, on March 14, 2020, *after* Meehan had changed the Memes Page’s name and posted a statement that it was “no longer affiliated with The Satanic Temple” (in other words, *after* the alleged misappropriation), TST-WA’s Media Liaison, Paul Case / Tarkus Claypool, sent an email to Meehan with the subject line “Evergreen Memes for Queer Satanic Fiends.” In that email, Case/Claypool explicitly stated that TST had no interest in that Facebook page and the Defendants could have and use the page “free and clear:”

Hi Lenore,

I saw that you made some changes to the TST WA State Allies FB group. **I just wanted to let you know that it’s yours free and clear and we’ve no desire to claim it.** You and ADJ built it and have done a great job doing so. I’m confident you’ll both continue doing awesome work.

Sorry the way things panned out, and I do mean all of it. I wish you and your family well, and respect your need to fight the fight your way.

Rock on,

Tarkus Claypool  
Media Liaison, The Satanic Temple of Washington  
(he/him)

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<sup>1</sup> TST did not appeal this ruling.

(emphasis added). The next day Case/Claypool reiterated that TST had abandoned the Memes page and had given it to Defendants, stating in a town hall meeting on Zoom:

I do want to say that **we're not going to, you know, ask Lenore to give the page back in any way.** I wish them well, and I hope that they continue growing that and make it a great success. Because they're going to fight their fight, their way. And so, let them do what they want to, and I wish them well, because both Lenore and ADJ [Defendant Johnson] did a wonderful job in the roles that they had. It just wasn't within the TST guidelines that we are beholden to. So I want to give them due credit, and just you know, wish them well with what they're going to plan to do with it in the future.

This town hall meeting was public and attended by the TST-WA Chapter Head, Leah Garvais / Siri Sanguine. Garvais/Sanguine did not dispute Case/Claypool's statement that TST had relinquished any interest in the Memes Page and had given the page to Defendants. (These communications were attached to the declarations filed in opposition to TST's abandoned motion for preliminary injunction in the Federal Action.)

In June of 2022, Matt wrote to me regarding TST's threatened TRO. In that email, Matt admitted that Case/Claypool was an agent of TST, but argued that he had no actual or apparent authority to release TST's interest in the Memes Page. Setting aside factual errors regarding the development of that page, it is plain that Case/Claypool had at least apparent authority. Case/Claypool was TST's "Media Liaison." "One of the ways in which a principal may cloak an agent with apparent authority is "by appointing [him] to a position, such as that of a manager or treasurer, which carries with it generally recognized duties; to those who know of the appointment there is apparent authority to do the things ordinarily entrusted to one occupying such a position."'" *Bybee Farms, LLC v. Snake River Sugar Co.*, 563 F. Supp. 2d 1184, 1190 (E.D. Wash. 2008) (quoting *Smith v. Hansen, Hansen & Johnson, Inc.*, 63 Wn. App. 355, 365, 818 P.2d 1127 (1991)) (applying Washington law). Who, if anyone, could have more authority over a social media account than TST's own "Media Liaison?"

TST's allegations regarding the Memes Page are not "well grounded in fact" and therefore violate CR 11.

***There is no Basis to Split the Tortious Interference Claim from the Federal Action***

TST's assertion of state law claims against Defendants for breach of fiduciary duty and conversion/trespass to chattels violates CR 11 for the reasons described above. The sole remaining state law claim – tortious interference – should not be pending in King County Superior Court. Of course, should TST prevail in reversing Judge Jones' dismissal of the cyberpiracy claim, the federal court will again have jurisdiction over TST's tortious interference claim. *See Zheng v. Liberty Apparel Co. Inc.*, 355 F.3d 61, 79 (2d Cir. 2017) (state law claims, previously dismissed for lack of subject matter jurisdiction, reinstated when appellate court reverses dismissal of related federal claims); *R & J Holding Co. v. Redevelopment Auth. of Cty. of Montgomery*, 670 F.3d 420, 433 (3d Cir. 2011).

I suspect you filed the tortious interference claim in King County Action for fear of losing that claim on statute of limitations grounds. The statute of limitations for tortious

interference under Washington law is three years. RCW 4.16.080(2); *City of Seattle v. Blume*, 134 Wn.2d 243, 251, 947 P.2d 223 (1997). Had the statute of limitations been running during the pendency of the Federal Action, TST's claim for tortious interference in the King County Action would be time barred. But the supplemental jurisdiction statute provides that, as to claims for which a district court has supplemental jurisdiction, "[t]he period of limitations . . . shall be tolled while the claim is pending and for a period of 30 days after it is dismissed unless State law provides for a longer tolling period." 28 U.S.C. § 1367(d). The Supreme Court has squarely held that Section "1367(d)'s instruction to 'toll' a state limitations period means to hold it in abeyance, *i.e.*, to stop the clock." *Artis v. District of Columbia*, \_\_\_ U.S. \_\_\_, 138 S. Ct. 594, 598, 199 L. Ed. 2d 473 (2018). Accordingly, TST is not at risk of losing its tortious interference claim on statute of limitations grounds for two and a half years.

If TST wins its appeal of Judge Jones' dismissal of the cyberpiracy claim, do you intend to pursue the tortious interference claim in federal court or split that federal claim (and possibly the defamation claim) from the tortious interference claim (and the other state law claims) and pursue them separately in King County Superior Court? The latter would constitute improper claim splitting. *Feminist Women's Health Center*, 63 F.3d at 869. If TST intends the former, asserting that claim in King County Superior Court could only be motivated by TST's stated desire to impose suffering on Defendants by forcing them to defend a claim in state court that TST intends to pursue in federal court. Either way, there is no need for the tortious interference claim to be pending in King County Superior Court at this time.<sup>2</sup>

\* \* \*

As mentioned in my June 23, 2022 email to Matt, I do not invoke Rule 11 lightly. But the King County Action violates it for the reasons described above. Please confirm no later than May 17, 2023, that you will voluntarily dismiss it.

Thank you.

Sincerely,

/s/ *Jeremy Roller*

Jeremy Roller

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<sup>2</sup> If, despite the Supreme Court's holding in *Artis*, TST believes it is necessary to have the tortious interference claim in King County Superior Court to avoid the statute of limitations running, Defendants would consider agreeing to stay that claim and the trespass to chattels/conversion claims as to "membership-related documents," provided that TST dismisses the other claims in the King County Action.