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3 _____

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7 Pro Se Plaintiff

8 **UNITED STATES DISTRICT COURT**
9 **NORTHERN DISTRICT OF CALIFORNIA**
10 **Oakland**

11)	
12	<u>Rian Waters</u>)	Case Number: 4:23-cv-00643-YGR
13	Plaintiff)	
14	vs.)	
15	<u>Meta Platforms INC</u>)	Motion for an Ex Parte TRO, and a
16	<u>Aidan Kearney</u>)	Preliminary Injunction with Consolidation of
17	<u>Worcester Digital Marketing LLC.</u>)	trial on the merits
18	Defendants)	_____
19)	
20)	Judge Yvonne Gonzalez Rogers
21)	Fed. R. Civ. Proc. 65

22 Civil L.R. 65-1 Temporary Restraining Orders.

23

24 Hearing date: To be determined, or Tuesday May 2nd, 2023 at 2pm

25

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9
10 **I. NOTICE OF MOTION AND MOTION**

11 **TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:**

12 **PLEASE TAKE NOTICE** that on _____ at 2pm in Oakland Federal District
13 Courthouse, 1301 Clay Street, Courtroom 1, Fourth Floor., Pro Se Plaintiff Rian Waters
14 shall and hereby does move for an order granting Plaintiff’s Motion for an Ex Parte TRO,
15 and a Preliminary Injunction with Consolidation of trial on the merits.

16
17 Additionally, I move for an order granting a permanent injunction. The motion is
18 based on, the Memorandum of Points and Authorities, and the First Amended Verified
19 Complaint, Affidavit of Rian Waters, and such other written or oral argument as may be
20 presented at or before the time this motion is taken under submission by the Court.

21 **II. STATEMENT OF REQUESTED RELIEF**

22
23 Pursuant to Federal Rule of Civil Procedure 65(B), Plaintiff Rian Waters requests that
24 this court issue an Ex Parte (Kearney was notified with facsimile service by email)
25 Temporary Restraining Order preventing WDM, and Aidan Kearney to refrain from
26 making any blog, post, or video, that shames, threatens, discusses, or otherwise harasses
27 any persons involved in this case including, court officials, natural parties, lawyers, or
28 witnesses, on Facebook or any website or social-media page directly associated with

1 Turtleboy, including but not limited to TBDailynews.com, and Clarence Woods
2 Emerson., starting 10 days before any hearing for this motion.

3 Pursuant to Federal Rule of Civil Procedure 65 Plaintiff Rian Waters requests that
4 after hearing, this court issue a preliminary or permanent injunction requiring Kearney to
5 remove, and refrain from making any blog, post, or video, that shames, threatens,
6 discusses, or otherwise harasses any persons involved in this case including, court
7 officials, natural parties, lawyers, or witnesses, on Facebook or any website or social-
8 media page directly associated with Turtleboy, including but not limited to
9 TBDailynews.com, and Clarence Woods Emerson.

10 Notably, Kearney would still be allowed to communicate his beliefs on any and all
11 traditional media that he has not weaponized.

12 Pursuant to Federal Rule of Civil Procedure 65(a)(2), I move for this court to advance
13 the trial on the merits and consolidate the trial with the hearing to issue a permanent
14 injunction. (Section 1983 claim will be better addressed when I have an attorney.)

15 I request that the court reschedule the hearing for as soon as legally possible, and that
16 under inherent power to ensure 14th Amendment due process the court issue witness
17 subpoenas for Aidan Kearney and Cristina Yakimowsky. (see Affidavit 10-11)

18 **III. STATEMENT OF ISSUES TO BE DECIDED**

- 19 1. Whether I am likely to succeed on the merits
- 20 a. Whether conspiring to frame an opposing party for threatening to rape
21 and murder children is a 42 U.S.C. § 1985(2) conspiracy.
- 22 b. Whether sending heinous threats to a witness, knowing that it would
23 trigger a parties adjustment disorder is a § 1985 conspiracy.
- 24 c. Whether Meta's past conversations with Kearney about paying for a
25 guarantee that his profiles wouldn't be unpublished, and Meta's
26 decision to allow Kearney special privileges to break their rules, and
27 Meta's opposition to an investigation into Kearney's obstruction, and
28

1 the timing of Meta's decision to delete my Facebook account infer
2 agreement or complicity in a conspiracy with Kearney.

3 d. Whether Section 230 immunizes Meta from § 1986 liability of having
4 legal knowledge that a codefendant was engaged in a § 1985
5 conspiracy, and having the power to prevent or aid in preventing the
6 commission of the same, and neglecting and refusing to do so.

7 2. Whether consistent harassment before court hearings, and numerous heinous
8 threats to witnesses, and a promise to not stop harassing until my witness is
9 destitute justifies a finding that I am likely to suffer irreparable harm in the
10 absence of relief preventing further harassment.

11 3. Whether balance of equities tip in my favor.

12 4. Whether the injunction and consolidation is in the public interest.

13 5. Whether advancing the trial is appropriate to stop past conspiracies from
14 causing due process issues in this court.

15
16 **IV. MEMORANDUM OF POINTS AND AUTHORITIES**

17 **Statement of facts**

18 **The complaint includes but is not limited to the following allegations**

19 1. Kearney conspired to deter or prevent me from attending or testifying freely in
20 federal court (First Circuit 21-1582) by trying to frame me for threatening to rape
21 and murder his children with, Cristina Yakimowsky, Laura Hakes, and Cris Gagne
22 (“conspirators”) in Worcester Digital Marketing’s (hereon “WDM”) Facebook
23 group titled “#BlogDat.” (First Amended Verified Complaint ¶ 132) (Here on
24 “FAVC”) (Exhibit A)

25 2. Kearney was one of four members in a Facebook group named #BlogDat, and the
26 alias he used was a Facebook profile named “Clarence Woods Emerson.” (The
27
28

1 group was identified by police in Massachusetts from the town of Holden, incident
2 # 2101-711-OF) (FAVC ¶ 43)

- 3 3. WDM owned the #BlogDat group chat and the Clarence Woods Emerson
4 Facebook account, and conspired with Kearney and the other conspirators by
5 using its assets for the planning and execution of the conspiracy. (FAVC ¶ 133)
- 6 4. I sent Meta Platforms INC.'s (here on "Facebook" or "FB") attorneys and
7 Kearney's attorney screenshots of the fake profile and threats, and Kearney's
8 attorney forwarded my email to Kearney. Kearney then uploaded his lawyer's
9 email into the #BlogDat group chat. (Exhibit F 1-2)
- 10 5. According to Kearney the fake profile was up for about 15 minutes before
11 someone reported it, and coconspirator Laura hakes correctly presumed it was me.
12 (FAVC ¶ 48) (Exhibit G1)
- 13 6. While talking about my motions to investigate the conspiracy Kearney told
14 Cristina Yakimowsky not to worry because "I'm the one who did it" (Exhibit D3)
- 15 7. It can be inferred that Kearney sent the November 19th, 2021, threats, because
16 Kearney has consistently defaulted or used ex parte conversations to avoid
17 testifying about the allegations, and Kearney has not denied the allegations in
18 court. (FAVC ¶ 137) Affidavit at 2
- 19 8. It can be inferred that Kearney sent the November 19th, 2021, threats, because the
20 conspiracy happened the same day he defaulted in the First Circuit, and there is a
21 long documented pattern of Kearney sending threats and intimidating witnesses,
22 and Kearney says attacking children is the best way to get pro se litigants to drop
23 lawsuits. (FAVC ¶ 135)
- 24 9. It can be inferred that Kearney sent the November 19th, 2021, threats, because
25 Kearney privately sent his conspirators screenshots of the fake threats and asked
26 his coconspirators to privately send him screenshots of the fake threats so he could
27
28

1 use them and act like he found the threats innocently. (FAVC ¶ 136)(Exhibit A
2 1-2, & 4)

3 10. On November 20th, 2021, Aidan Kearney publicly accused me of threatening to
4 rape and murder his children in attempt to spoil the well, and prevent me from
5 testifying freely. (FAVC ¶ 139)

6 11. Kearney and Facebook were legally aware that Kearney's harassment caused me
7 to have an adjustment disorder, and Kearney implied to his coconspirators that the
8 threats were intended to trigger my adjustment disorder. (FAVC ¶ 140)(Exhibit B

9 12. Cristina Yakimowsky joined the conspiracy by sending Kearney screenshots of
10 the fake threats to Kearney (Exhibit A7 & Exhibit D2) and criticizing Kearney's
11 use of his real address in the threats, and suggesting that he should have informed
12 the other conspirators earlier (FAVC ¶ 141) (Exhibit A5)

13 13. On either November 23rd, 2021, or December 1st, 2021, Aidan Kearney submitted
14 to the court the screenshots that Yakimowsky sent him, which he knew to be
15 fabricated with intent to intimidate witnesses and prevent me from testifying freely
16 in First Circuit case 21-1582. (FAVC ¶ 142)

17 14. Kearney intentionally gave the court an old address for me in attempt to get an
18 unopposed secret restraining order and prevent me from testifying freely in First
19 Circuit case 21-1582. (FAVC ¶ 143)

20 15. Kearney stated false testimony in court with intent to make me look guilty for
21 threatening children, and thereby intimidate witnesses and prevent me from
22 testifying freely in First Circuit case 21-1582. (FAVC ¶ 144) (Exhibit B)

23 16. The November 19th threats caused a due process violation by hampering my
24 ability to present an effective case in federal court by causing significant
25 preoccupation preventing me from being able to focus on the reply brief and get
26 reasonable sleep at night. (FAVC ¶ 145)

- 1 17. Kearney discussed paying to not have his account suspended with two Facebook
2 employees, and then Facebook emboldened Kearney by allowing him to continue
3 to post after his accounts were suspended. (FAVC ¶ 146; ¶ 16-19) (Exhibit C)
- 4 18. Facebook knew Kearney and WDM's public shaming and conspiracies were
5 dependent on Facebook for reach and effect at all times relevant to the complaint.
6 (FAVC ¶ 147; 23-24; 27-29)
- 7 19. Facebook was a codefendant with Kearney in Waters v. Facebook Inc. et al.
8 District Court 3:20-CV-30168; First Circuit 21-civil-01582 and 22-civil-01054;
9 Supreme Court 22-5133 and 21A626 (FAVC ¶ 20)
- 10 20. Kearney has threatened my past roommates using Facebook, which paired with
11 his access to the state's registry information (that he gets through Facebook)
12 prevented me from renewing my driver's license. (FAVC ¶ 25)
- 13 21. Facebook knew that Kearney's witness intimidation constitutes a breach of duty
14 as a party in a Federal Court and Facebook continued to give substantial assistance
15 and/or encouragement. (FAVC ¶ 148; 16-19; 21; 22; 31-33)
- 16 22. With consideration to the surrounding circumstances and timing, Facebook's
17 decisions to delete my Facebook account a few days after the November 19th
18 conspiracy, and decision to oppose investigations into Kearney's heinous crimes
19 justifies an inference of agreement and complicity. (FAVC ¶ 149; 26)
- 20 23. Facebook showed deliberate indifference to constitutional rights, as they had
21 ample time to correct or prevent the continued damage of the conspiracies, yet
22 Facebook keeps doubling down on protecting the conspiracy. (FAVC ¶ 150)
- 23 24. The Defendants' acts caused mental anguish and community intimidation by
24 confirming that it was too dangerous to have witnesses without protection. (FAVC
25 ¶ 151)
- 26 25. The Defendants' acts critically stressed my adjustment disorder making me unable
27 to work, eat, or sleep in a reasonable fashion. (FAVC ¶ 152) (FAVC ¶ 36)
- 28

- 1 26. On June 18th, 2022, Kearney conspired to deter by threat and intimidation, and to
2 hamper my ability to present an effective case in federal court (U.S. 22-5133) Rian
3 G. Waters, Petitioner V. Facebook, Inc., et al.) (FAVC ¶ 154)
- 4 27. On June 18th, 2022, Kearney publicly sent heinous threats to Cristina
5 Yakimowsky because she released screenshots indicating he orchestrated the
6 November 19th threats. (FAVC ¶ 63-64)(Exhibit A and D)
- 7 28. Kearney's June 18th threats are like a dog whistle for his followers, and with a
8 unity of purpose and understanding Kearney intentionally sent the threats to incite
9 his followers to cause harm and deter witnesses from participating. (FAVC ¶ 155)
- 10 29. Kearney conspired with WDM by conspiratorial design, in that he intentionally
11 weaponized WDM's social media profiles, so that his followers would routinely
12 harass whoever he targeted. (FAVC ¶ 156)
- 13 30. Kearney conspired with WDM by conspiratorial design, in that he used the assets
14 of a defunct company for the purpose of making it difficult for a plaintiff to hold
15 him liable and reach the assets. (FAVC ¶ 157)
- 16 31. Kearney's June 18th, 2022, threats violated due process rights by preventing me
17 from focusing on, and fairly addressing the merits of my Petition for a writ of
18 certiorari, which is a rare opportunity wasted. (FAVC ¶ 158)
- 19 32. No court or party has ever provided an intelligible reason for denying the 42
20 U.S.C. 1985(2)(i) claim in that case, if it was safe for me to have an attorney or
21 witnesses, I undoubtedly would have won. (FAVC ¶ 159) infra pg 15
- 22 33. Preoccupation with Kearney's threats caused physical harm and mental anguish
23 by stressing my adjustment disorder and preventing me from reasonably sleeping,
24 eating, working, and enjoying the blessings of life. (FAVC ¶ 160)
- 25 34. Facebook was made legally aware of their codefendants' toxic background and
26 the details of the November 19th, 2021, and other 42 usc 1985 conspiracies
27 through their attorneys. (FAVC ¶ 163; 21) (Exhibit F 1-3)
- 28

1 35. With reasonable diligence Facebook could have uncovered the November 19th
2 conspiracy and stopped its effects, and disincentivized Kearney's retaliation by
3 confirming Cristina Yakimowsky's evidence was genuine before the conspiracy
4 caused significant harm. (FAVC ¶ 164; 166)

5 36. Facebook could have prevented Kearney's conspiracies by not giving Kearney
6 special privileges to post more toxic stuff than normal people without
7 consequences. (FAVC ¶ 165)

8 37. My life would not have been consumed with holding Kearney accountable for his
9 crime if Facebook used reasonable diligence. (FAVC ¶ 167)

10 **Advancing the trial is necessary to repair the status quo.**

11 The conspiracies of the Defendants have led me to a state of extreme poverty, which
12 gravely impedes my ability to effectively fight the case and places me in a position of
13 desperation that precludes fair settlement negotiations. Witness intimidation is rife and
14 unchecked, denying me the opportunity to retain legal representation or depose and
15 converse with witnesses in a just and equitable manner. I am disinclined to prosecute this
16 case pro se, so I beseech the court to ensure the safety of any attorney who would take
17 the case. Once Aidan Kearney is found liable for Counts I & II, he will have no further
18 leverage or incentive to obstruct the proceedings, which I contend will result in a greater
19 degree of safety for witnesses than any injunction could ever provide.

20 To ensure the provision of due process, this court is obligated to rectify the current
21 status quo. The requested relief is the most straightforward means of expeditiously and
22 equitably mending the damage caused by civil rights conspiracies and forestalling any
23 ensuing due process violations in this court. It would likewise contravene my due process
24 rights to endorse evident threats that infringe upon my constitutional rights without
25 providing me with a justifiable basis for such actions.

26 **TRO/ Preliminary Injunction Standard**

1 “[T]he legal standards applicable to TROs and preliminary injunctions are
2 substantially identical.” *State v. Trump*, 847 F.3d 1151, 1159 n.3 (9th Cir. 2017)

3 “A plaintiff seeking a preliminary injunction must establish that he is likely to succeed
4 on the merits, that he is likely to suffer irreparable harm in the absence of preliminary
5 relief, that the balance of equities tips in his favor, and that an injunction is in the public
6 interest.” *American Trucking v. City of Los Angeles*, 559 F.3d 1046, 1052 (9th Cir. 2009)

7 Alternatively, under the sliding scale approach, “a stronger showing of one element
8 may offset a weaker showing of another. For example, a stronger showing of irreparable
9 harm to plaintiff might offset a lesser showing of likelihood of success on the merits.”
10 *Alliance for the Wild Rockies v. Cottrell*, 632 F.3d 1127, 1131 (9th Cir. 2011) when
11 (“serious questions going to the merits were raised and the balance of hardships tips
12 sharply in plaintiffs favor.”)

13 The only apparent difference in standards for TROs, is that TROs, “should be
14 restricted to serving their underlying purpose of preserving the status quo and preventing
15 irreparable harm just so long as is necessary to hold a hearing, and no longer.” *Reno Air
16 Racing Ass'n., Inc. v. McCord*, 452 F.3d 1126, 1131 (9th Cir. 2006)

17 **Absent relief I will suffer irreparable harm**

18 Under the current circumstances abstention would run afoul with the due process
19 clause of the 14th Amendment, as Kearney has a pattern of intentionally stressing my
20 adjustment disorder before court hearings, Affidavit at 5 (FAVC ¶ 59-63 ¶ 36 ¶ 50,) and
21 Kearney has made it abundantly clear that I cannot safely have witnesses absent relief,
22 and that he will keep attacking my witnesses until a court intervenes. “I will not stop until
23 you beg for mercy, and then I’m going to do it twice as much, you’re gonna feel the way
24 I felt when I was in my garage when I wanted to kill myself.” FAVC ¶ 63 see also (FAVC
25 ¶ 31, ¶ 58, ¶ 59, ¶ 60 ¶ 67, ¶ 68) “[P]ast wrongs are evidence bearing on whether there is
26 real and immediate threat of repeated injury.” *Blum v. Yaretsky*, 457 U.S. 991, 1001
27 (1982) citation omitted “[A]n eventual trial that reflects witness intimidation or jury
28

1 tampering is as bad as not trial at all.” United States v. Acevedo-Ramos, 755 F.2d 203,
2 206 (1st Cir. 1985)

3 The last time Kearney and I held a deposition Kearney harassed me before, after, and
4 during the deposition. (Affidavit at 3) Kearney’s outbursts while I was asking questions
5 caused the deponent to cry and ask to stop the deposition. (Affidavit at 4) Taking
6 testimony in court is the only way for me to have a deposition without unreasonably
7 obstructive harassment.

8 Without relief lawyers will continue to be too scared to represent me, witnesses will
9 have trouble giving their best testimony, and preoccupation with Kearney’s harassment
10 would/will prevent me from being able to effectively prosecute Meta’s claims.

11 “The right to meaningful opportunity to be heard within limits of practicality must be
12 protected against denial by particular laws that operate to jeopardize it for particular
13 individuals.” Boddie v. Connecticut, 401 U.S. 371, 91 S. Ct. 780, 28 L. Ed. 2d 113 (1971)
14 (“Due process requires, at minimum, that absent countervailing state interest of
15 overriding significance, persons forced to settle their claims of right and duty through the
16 judicial process must be given meaningful opportunity to be heard.” i.d.)

17 “[T]he constitutional violation alone, coupled with the damages incurred, can suffice
18 to show irreparable harm.” American Trucking v. City of Los Angeles, 559 F.3d 1046,
19 1058 (9th Cir. 2009) (“constitutional violations cannot be adequately remedied through
20 damages”) id., at 1059

21 If this court rules in my favor without any protection, Kearney is likely to scrutinize
22 and misrepresent your judicial history, portraying you as an evil entity to cause his
23 followers to file judicial complaints and attempt to get you fired. (FAVC 81) If I win final
24 relief, Kearney may even resort to sexualizing any children he can find in your family,
25 like he did to Katherine Peter. Allowing his routine carnival tactics would clearly create
26 unfair pressure on this court to be biased.

1 Lastly my health is being destroyed by these conspiracies requiring action one way or
2 another. (Affidavit 6-7)

3 **Likelihood of success on the merits**

4 I do not have space to argue the merits of Section 1983, and I pray that this motion
5 will make it safe to get a lawyer to plead and argue that claim. “A party may set out 2 or
6 more statements of a claim... If a party makes alternative statements, the pleading is
7 sufficient if any one of them is sufficient.” FED. R. CIV. P. 8(d)(2)-(3) The Supreme
8 Court confirmed after Twombly that “a pro se complaint, however inartfully pleaded,
9 [still] must be held to less stringent standards than formal pleadings drafted by lawyers”
10 Erickson v. Pardus, 551 U.S. 89, 94 (2007)

11 **1985(2) Legal Standard**

12 “Section 1985(2), in relevant part, proscribes conspiracies ‘to deter, by force,
13 intimidation, or threat, any party or witness in any court of the United States from
14 attending such court, or from testifying to any matter pending therein, freely, fully, and
15 truthfully, or to injure such party or witness in his person or property on account of his
16 having so attended or testified.’ If one or more persons engaged in such a conspiracy ‘do,
17 or *cause* to be done, any act in furtherance of the object of such conspiracy, ... the party
18 so injured ... may have an action for the recovery of damages occasioned by such an injury
19 ... against *any one* or more of the conspirators.’” Head v. Wilkie, 936 F.3d 1007, 1010
20 (9th Cir. 2019) quoting 42 U.S.C. § 1985(2) and 42 U.S.C. § 1985(3) emphasis added

21 The First Circuit agreed with District Court judge Mastroni, that Kearney was free to
22 conspire and send rape and murder threats because, “Plaintiff’s claim for a conspiracy in
23 violation of 42 U.S.C. § 1985 fails because he does not allege any facts supporting an
24 agreement by the parties to deprive him of equal protection of the law based on his
25 membership in a protected class.” Waters v. Facebook, Inc., No. CV 20-30168-MGM,
26 2021 WL 3400607, at *2 (D. Mass. May 11, 2021) However. “[t]here is no such
27 requirement in an action alleging the denial of access to federal court under the first clause
28

1 of section 1985(2).” *Portman v. County of Santa Clara*, 995 F.2d 898, 909 (9th Cir. 1993)
2 quoting *Kush v. Rutledge*, 460 U.S. 719, 726, 103 S.Ct. 1483, 1487, 75 L.Ed.2d 413
3 (1983)

4 While the KKK Act was introduced in the house, the provision for protection of
5 parties and witnesses was introduced in the Senate. *Sen Edmunds Cong. Globe*, 42d
6 Cong., 1st Sess., 567 (1871) (“The House had made no provision for punishing a
7 conspiracy to hinder any person who was obliged to resort to the [federal] courts for
8 redress, but they had undertaken to make provision for securing the witnesses and the
9 jurors. It appeared to us that it would be a somewhat singular course of legislation to
10 afford no protection to parties who had been hindered and oppressed and who were
11 undertaking to resort to the judiciary for their protection, while we undertook to protect
12 the agencies through which that protection was to be obtained, leaving the conspirators
13 to conspire against the life of the party; and if they should succeed in that conspiracy there
14 would be no occasion for them to conspire against his liberties, for he would be dead and
15 gone.”) *Now I am dying*. (Affidavit at 6-7)

16 **Meta Kearney Conspiracy**

17 A conspiratorial agreement between Kearney and Facebook can be inferred because
18 Kearney discussed paying for a guarantee that his accounts would not be suspended with
19 two Facebook employees. (FAVC ¶ 16; FAVC ¶ 146) Facebook was legally aware that
20 Kearney was breaking several of their rules that they said were meant for safety, FAVC
21 ¶ 29, and with that knowledge Facebook emboldened Kearney by allowing him to
22 continue to post after his accounts were suspended. FAVC ¶ 18-19 Therefore, Facebook
23 acted with deliberate indifference by “recognize[ing] an unreasonable risk and actually
24 intended to expose [the Plaintiff] to such risks without regard to the consequences.”
25 *Hernandez v. City of San Jose*, 897 F.3d 1125, 1135 (9th Cir. 2018)

26 With consideration to the surrounding circumstances and timing, Facebook’s
27 decisions to delete my Facebook account shortly after the November 19th conspiracy,
28

1 (FAVC ¶ 22) and decision to oppose a two-minute investigation into Kearney’s heinous
2 crimes, (FAVC ¶ 26) justifies an inference of agreement and complicity. FAVC ¶ 147-49

3 “A defendant's knowledge of and participation in a conspiracy may be inferred from
4 circumstantial evidence and from evidence of the defendant's actions.” *Gilbrook v. City*
5 *of Westminster*, 177 F.3d 839, 856-57 (9th Cir. 1999) “[W]hen the entire sequence of
6 events in the complaint is considered in context, what might otherwise appear to have
7 been coincidental parallel conduct on its own becomes ‘suggestive of illegal conduct’ and
8 is thus sufficient to survive a motion to dismiss.” *Park v. Thompson*, 851 F.3d 910, 929
9 n.22 (9th Cir. 2017) “[A]n act done for a legitimate purpose in furtherance of a conspiracy
10 may, together with other evidence, be evidence of a conspiratorial purpose.” *United*
11 *Steelworkers of Am. v. Phelps Dodge*, 865 F.2d 1539, 1547 (9th Cir. 1989) “Even
12 evidence of a slight connection to the conspiracy is sufficient to convict a defendant of
13 knowingly participating in an established conspiracy.” *U.S. v. Ortega*, 203 F.3d 675, 684
14 (9th Cir. 2000) “To be liable, each participant in the conspiracy need not know the exact
15 details of the plan, but each participant must at least share the common objective of the
16 conspiracy.” *Mendocino Env't Ctr. v. Mendocino Cty.*, 192 F.3d 1283, 1302 (9th Cir.
17 1999) Facebook obviously wanted to win the lawsuit even at the cost of my health and
18 due process rights. Notably Facebook would be an accessory after the fact if they had
19 reason to believe that I sent the threats but still deleted my account. 18 U.S. Code § 3;
20 Penal Code § 32 FAVC ¶ 138

21 **Meta integral participant**

22 Facebook knew that Kearney would send heinous threats to my witnesses if they
23 didn’t confirm her evidence, (FAVC ¶ 31-33, FAVC ¶ 58, FAVC ¶ 67, FAVC ¶ 118-9)
24 and they knew that the threats would stress my adjustment disorder causing sleep
25 disturbances and preoccupation. (FAVC ¶ 121) The Ninth Circuit permits liability under
26 the integral-participant doctrine when “(1) the defendant knows about and acquiesces in
27 the constitutionally defective conduct as part of a common plan with those whose conduct
28

1 constitutes the violation or (2) the defendant sets in motion a series of acts by others which
2 the defendant knows or reasonably should know would cause others to inflict the
3 constitutional injury.” Peck v. Montoya, 51 F.4th 877, 889 (9th Cir. 2022)

4 Facebook changed their product design making it impossible to provide details and
5 context to reports of violations to their Terms of Service, which helped cause
6 constitutional violations by making it impossible to address the issues before the harm
7 takes place. FAVC ¶ 181

8 Facebook knew that Kearney’s and WDM’s public shaming and conspiracies were
9 dependent on Facebook for reach and effect at all times relevant to the complaint. FAVC
10 ¶ 23, ¶ 24, ¶ 27, ¶ 147

11 Additionally, Facebook had over 7 months to admit Yakimowsky’s evidence was
12 genuine before the June 18th threats. FAVC ¶ 150 “We apply the deliberate-indifference
13 standard when officials had ample time to correct their obviously wrongful conduct” Peck
14 v. Montoya, 51 F.4th 877, 893 (9th Cir. 2022)

15 **Count 1 42 U.S.C. § 1985(2)(i)**

16 Kearney's involvement in the conspiracy has never been disputed, and if he possessed
17 any evidence that could exonerate him, I would be aware of it. It is irrefutable that he is
18 guilty. (Affidavit at 2) (FAVC ¶ 86, ¶ 89-91, ¶ 95, ¶ 97) See also, Rian Waters Vs. Aidan
19 Kearney, SJC-13373 (consolidated appeal of the State’s unintelligible refusal to issue a
20 criminal complaint over obvious undenied crimes.) The Court “may take judicial notice
21 of court filings and other matters of public record.” Reyn's Pasta Bella, LLC v. Visa USA,
22 Inc., 442 F.3d 741, 746 n.6 (9th Cir. 2006)

23 It can be inferred that Kearney sent the November 19th, 2021, threats, because
24 Kearney privately sent his conspirators screenshots of the fake threats and asked his
25 coconspirators to privately send him screenshots of the fake threats so he could use them
26 and act like he found the threats innocently. (Exhibit A 1-2) (FAVC ¶ 46) Kearney was
27 worried the plan failed after the profile was taken down, but coconspirator Cris Gagne
28

1 had already gotten screenshots. (Exhibit A 2) (FAVC ¶ 47) According to Kearney the
2 fake profile was up for about 15 minutes before someone reported it, and coconspirator
3 Laura hakes correctly presumed it was me. (Exhibit G1) (FAVC ¶ 48) These statements
4 are plainly admissible under the hearsay exception 801(d)(2)(E).

5 Kearney tried to keep his conspirators abreast by telling them that there was nothing
6 to worry about because “I’m the one who did it.” (Exhibit D 3) (FAVC ¶ 55)
7 “[S]tatements made to keep coconspirators abreast of an ongoing conspiracy's activities
8 satisfy the ‘in furtherance of’ requirement” of 801(d)(2)(E). U.S. v. Williams, 989 F.2d
9 1061, 1068 (9th Cir. 1993)

10 It can be inferred that Kearney sent the November 19th, 2021, threats, because the
11 conspiracy happened the same day that he defaulted in the First Circuit. FAVC ¶ 35 "The
12 timing of the defendant's actions makes it more, rather than less, likely that he was trying
13 to intimidate the witness." Commonwealth v. Robinson, 444 Mass. 102, 109, 825 N.E.2d
14 1021 (2005).

15 Even assuming arguendo that Kearney has been hiding exculpatory specific facts
16 proving that he did not send the threats, Aidan Kearney definitely conspired by presenting
17 evidence that he knew to be fabricated and giving perjured oral testimony in attempt to
18 mislead the judge into thinking that I threatened to rape and murder his children. FAVC
19 ¶ 50-53 “[I]n this case involving direct evidence of fabrication, Plaintiff was not required
20 to show that [the Defendants] actually or constructively knew that he was innocent.”
21 Spencer v. Peters, 857 F.3d 789, 800 (9th Cir. 2017)

22 There is a long-documented pattern of Kearney sending threats and intimidating
23 witnesses, (FAVC passim) and Kearney says attacking children is the best way to get pro
24 se litigants to drop lawsuits. FAVC ¶ 31

25 **Count 2 42 U.S.C. § 1985(2)(i)**

26 Aidan Kearney knew that I was going to try to get the Supreme Court to appeal the
27 First Circuit’s refusal to investigate the Count I conspiracy in my Petition for Writ of
28

1 Certiorari, FAVC ¶ 116, ¶ 120-121, which Cristina Yakimowsky was a primary witness
2 for. Cristina Yakimowsky had shared screenshots from her perspective because she did
3 not like Kearney hurting people. FAVC ¶ 57 But Kearney’s threats successfully scared
4 her into not being willing to testify without a subpoena, and Kearney knew when he sent
5 the threats that it would prevent me from presenting an effective case in the Supreme
6 Court. FAVC ¶ 121, ¶ 140

7 Even assuming arguendo that Meta is cleared from liability as a conspirator, Kearney
8 at a minimum conspired with WDM by conspiratorial design, in that he intentionally
9 weaponized WDM, so that his followers would routinely harass whoever he targeted, and
10 that Kearney did the conspiracy using WDM’s assets knowing that as a defunct company
11 it would be difficult for a plaintiff to hold him liable and reach the assets. FAVC ¶ 65, ¶
12 66, ¶ 68 ¶ 156-57

13 **42 U.S.C. § 1986 Legal Standard**

14 “Every person who, *having knowledge* that any of the wrongs conspired to be done,
15 and mentioned in section 1985 of this title, are about to be committed, *and having power*
16 *to prevent or aid in preventing* the commission of the same, *neglects or refuses* so to do,
17 if such wrongful act be committed, shall be liable to the party injured, or his legal
18 representatives, for all damages caused by such wrongful act, which such person by
19 reasonable diligence could have prevented...” 42 U.S.C. § 1986

20 Right before the House voted for the bill, Mr. Garfield stated, “[t]he last, section of
21 the bill, as reported by this conference committee, it is made the *duty of all citizens* to aid
22 in repressing these outrages; and any citizen knowing that an outrage is threatened, and
23 not aiding to prevent it, is made liable for the wrong, and damages done.” Cong. Globe,
24 42d Cong., 1st Sess., 807 (1871) emphasis added.

25 **Meta’s Knowledge**

26 FB was a codefendant with Kearney in *Waters v. Facebook, Inc., et al.* (21-civil-
27 01582) (FAVC ¶ 20) “[A] corporation is a ‘person’” *Lacey v. Maricopa Cnty.*, 693 F.3d
28

1 896, 919 n.9 (9th Cir. 2012) FB was made legally aware of their codefendants’ toxic
2 background of harming opposing lawyers, plaintiffs, and witnesses, (FAVC ¶ 30-33) and
3 that Kearney was flagrantly breaking several rules that were made for safety. FAVC ¶ 29
4 FB also knew the details of the November 19th, 2021, conspiracy, (Exhibit F 1)(FAVC ¶
5 21) not through their role as a publisher but through their attorneys. “Each party to
6 litigation is deemed bound by the acts of his attorney-agent and is considered to have
7 notice of all facts, notice of which can be charged upon the attorney.” Link v. Wabash R.
8 Co., 370 U.S. 626, 627 (1962)

9 FB was also legally aware that Kearney’s harassment caused me to have an adjustment
10 disorder, (FAVC ¶ 36, 121) which caused sleep disturbances and preoccupation.

11 **Meta’s power to prevent**

12 FB could have prevented Kearney’s conspiracies by not opposing investigations
13 (FAVC ¶ 26; FAVC ¶ 149) and FB could have stopped giving Kearney special privileges
14 to post more toxic stuff than normal people without consequences. (FAVC ¶ 16-19;
15 FAVC ¶ 146) Facebook could have prevented significant harm to me and my witnesses
16 if they confirmed Cristina Yakimowsky’s evidence was genuine any time before June
17 18th, 2022. (FAVC ¶ 166)

18 **§ 1985(2)/ § 1986 damages**

19 These conspiracies stressed my adjustment disorder causing extreme preoccupation
20 and prevented me from fairly addressing the merits for First Circuit case, 21-1582 and
21 Supreme Court case U.S. 22-5133. The conspiracies violated my due process rights and
22 caused mental anguish and community intimidation by confirming that it was too
23 dangerous to have witnesses without protection. FAVC ¶ 151-152, ¶ 158-160, ¶ 167-168
24 The Defendants’ acts critically stressed my adjustment disorder making me unable to
25 work, eat, or sleep in a reasonable fashion, which by extension I believe these actions
26 shortened my life by at least ten years. (Affidavit 6-7) “[T]he Supreme Court later held
27 in Haddle that interference with a plaintiff’s employment—which has no relationship to
28

1 or impact on the underlying litigation for which he was subpoenaed to testify—is a
2 cognizable injury under section 1985(2)” *Head v. Wilkie*, 936 F.3d 1007, 1012 (9th Cir.
3 2019) (FAVC 113-114)

4 **Section 230 is useless for these claims**

5 “[R]egardless of the type of claim brought, [the court] focus on whether the duty the
6 plaintiff alleges stems from the defendant's status or conduct as a publisher or speaker.”
7 *Lemmon v. Snap, Inc.*, 995 F.3d 1085, 1091 (9th Cir. 2021) emphasis added. In this case
8 Facebook was a codefendant, so “the website provider was alleged to have known
9 independently of the ongoing scheme beforehand, the CDA d[oes] not bar [the] action”
10 *Homeaway.Com, Inc. v. City of Santa Monica*, 918 F.3d 676, 682 (9th Cir. 2019)
11 “Though the defendant did, in its business, act as a publisher of third-party content, the
12 underlying legal duty at issue did not seek to hold the defendant liable as a ‘publisher or
13 speaker’ of third-party content.” i.d.,

14 *Meta Platforms INC.*, is empowered with federal law by Section 230, as they would
15 not have thought they could violate constitutional rights at all, let alone on this scale
16 without the federal provided power. (FAVC ¶ 34, 190) The Constitution does not have
17 exceptions that says the government can only violate constitutional rights if billion-dollar
18 companies create an undetectable back-door. “Section 1983 creates a species of tort
19 liability that, on its face, admits of no immunities.” *Wyatt v. Cole*, 504 U.S. 158, 163
20 (1992) citation omitted. “The constitution is superior to any ordinary act of the legislature,
21 the constitution, and not such ordinary act, must govern the case to which they both
22 apply.” *Marbury v. Madison*, 5 U.S. 137, 178 (1803) “The Supremacy Clause provides
23 that: ‘This Constitution, and the Laws of the United States which shall be made in
24 Pursuance thereof... shall be the supreme Law of the Land...’” *American Trucking v.*
25 *City of Los Angeles*, 559 F.3d 1046, 1053 (9th Cir. 2009) quoting U.S. Const. art. VI, cl.
26 2. “[S]tate courts have the solemn responsibility equally with the federal courts to
27
28

1 safeguard constitutional rights.” *Burt v. Titlow*, 571 U.S. 12, 19, 134 S. Ct. 10, 15, 187
2 L. Ed. 2d 348 (2013)

3 “A statute or a rule may be held constitutionally invalid as applied when it operates
4 to deprive an individual of protected right although its general validity as measure enacted
5 in the legitimate exercise of state power is beyond question.” *Boddie v. Connecticut*, 401
6 U.S. 371, 91 S. Ct. 780, 28 L. Ed. 2d 113 (1971) “[E]very reasonable construction must
7 be resorted to, in order to save a statute from unconstitutionality.” *Chapman v. United*
8 *States*, 500 U.S. 453, 464, 111 S. Ct. 1919, 1927, 114 L. Ed. 2d 524 (1991) “When new
9 insight reveals discord between the Constitution's central protections and a received legal
10 stricture, a claim to liberty must be addressed.” *Obergefell v. Hodges*, 576 U.S. 644, 664,
11 135 S. Ct. 2584, 2598, 192 L. Ed. 2d 609 (2015)

12 Mr. Perce of the House predicted 150 years ago that Facebook would be invented, and
13 he thought the KKK act would hold it accountable. “What I do fear is, that the
14 [conservative] party of the North... *will invent some new and more terrible scourge* with
15 which to drive the people of the South lately enfranchised bodily into the ranks of the
16 [conservative] party. That they will do it if they can, without regard to the character of
17 the crime to be committed or the degree of violence to be used, I have not the slightest
18 doubt. It is our duty to prevent all crime and preclude the exercise of all violence, and by
19 wise and timely legislation, secure peace, tranquility, and quiet, accompanied by the free
20 and uninterrupted exercise of all the rights and duties appertaining to American citizens
21 throughout the entire country, without regard to the condition, race, or party affiliation of
22 the individual citizen.” *Cong. Globe*, 42d Cong., 1st Sess., 512 (1871)

23 “[N]o one has constitutional protection in engaging in organized crime or in corrupt
24 practices in government.” *Sheridan v. Gardner*, 347 Mass. 8, 17 (1964) “No conduct has
25 such an absolute privilege as to justify all possible schemes of which it may be a part. The
26 most innocent and constitutionally protected of acts or omissions may be made a step in
27 a criminal plot, and if it is a step in a plot neither its innocence nor the Constitution is
28

1 sufficient to prevent the punishment of the plot by law.” Aikens v. Wisconsin, 195 U.S.
2 194, 205-206 (1904)

3 **V. The balance of equities overwhelmingly favors plaintiff**

4 Aidan Kearney does not have a First Amendment right to intimidate witnesses and
5 deny my right to a fair trial. “The enumeration in the Constitution, of certain rights, shall
6 not be construed to deny or disparage others retained by the people.” Ninth Amendment

7 “Reasonable time, place, and manner regulations are permissible, and a content-based
8 prohibition must be narrowly drawn to effectuate a compelling state interest.” Perry Educ.
9 Ass'n v. Perry Local Educators' Ass'n, 460 U.S. 37, 38 (1983)

10 My health is systemically failing from malnutrition and sleep deprivation because of
11 these conspiracies. (Affidavit at 6) I cannot afford, and I am not willing to participate in
12 another charade where Kearney gets to prevent me from having witnesses and a lawyer,
13 and then the court denies me without a legitimate reason, if I don't get an urgent sign of
14 justice, pursuant to Mass. Const. pt. 1 art. I., I will epically rely on necessary measures to
15 settle all of my disputes. (Affidavit 8-9)

16 **VI. Relief is in the public's interest.**

17 Unchecked “instances of witness intimidation create the perception that the law
18 cannot protect its citizens and thereby undermines public confidence in the police and
19 government. If individuals believe that they cannot be adequately protected, they are less
20 likely to cooperate with the police,” (and Plaintiff’s) “which in turn impedes the ability
21 of the police to gather evidence in attempt to stop criminal behavior. Thus, the cycle is
22 vicious and invidious... Each instance of witness intimidation by gang violence or threat
23 of violence reinforces the perception that cooperation with the criminal justice system is
24 dangerous.”¹

27 ¹ ARTICLE: Balancing the Anonymity of Threatened Witnesses Versus a Defendant's Right
28 of Confrontation: The Waiver Doctrine After Alvarado, 39 San Diego L. Rev. 1165, 1195-6

1 “The public welfare demands that the agencies of public justice be not so impotent
2 that they must always be mute and helpless victims of deception and fraud.” Hazel-Atlas
3 Co. v. Hartford Co., 322 U.S. 238, 246 (1944)

4 A PEW research study “The State of Online Harassment” (January 2021) found that
5 41% of Americans have experienced online harassment, and 25% had experienced the
6 more extreme types of harassment “which encompasses physical threats, stalking, sexual
7 harassment and sustained harassment.” This number was up from 15% in 2014, and 18%
8 in 2017.

9 If this court denies the requested relief, Kearney will feel empowered to keep
10 attacking children, to send more threats like he did on June 18th, and to impersonate more
11 litigants and try to frame them for crimes like he did to me on November 19th.

12 This court's unintelligible refusal to grant relief, would further empower me with a
13 Mass. Const. pt. 1 art. I² Right, and affirmative defense against any civil or criminal
14 proceedings that are in response to measures that were necessary to resecure my safety
15 prosperity and happiness. “The U.S. Constitution was written against a background of
16 existing state constitutions, charters, and laws; indeed, it borrowed generously from those
17 constitutions. The U.S. Constitution did not displace such laws, U.S. Const. amend. X,
18 except where it did so expressly” Young v. Hawaii, 992 F.3d 765, 815 (9th Cir. 2021)

19 **VII. Conclusion, this court should urgently grant the requested relief**

20 **Signature**

21 /S/ Rian Waters

22 (530)739-8951 Watersrian@gmail.com Dated: 4/03/2022

23 _____
24 ² “All people are born free and equal and have certain natural, essential and unalienable
25 rights; among which may be reckoned the right of enjoying and defending their lives and
26 liberties; that of acquiring, possessing and protecting property; in fine, that of seeking and
27 obtaining their safety and happiness...” which is almost the same as Sec. 1 of California’s
28 Declaration of Rights

1 I Rian Waters, Declare and state,

- 2 1. I have notified Aidan Kearney through email at
3 TurtleboySports@gmail.com, and he says, "I do not voluntarily give up
4 any of my rights to free speech and free press."
- 5 2. Kearney has defaulted on or left unopposed the Count I and Count II
6 allegations in at least four courts, and no court has addressed the
7 conspiracies on the merits, and neither Kearney nor any court has
8 stated intelligible argument/reason for why relief was denied.
- 9 3. The last time Kearney and I held a deposition Kearney harassed me
10 before, after, and during the deposition. April 15th 2022 (1879CV0344)
- 11 4. The deponent was casually answering questions before Kearney
12 arrived late, and Kearney's outbursts while I was asking questions
13 caused the deponent to cry and ask to stop the deposition until she
14 was able to obtain a lawyer. (I believe she did so because she knew if
15 she answered honestly that Kearney would treat her like he treats
16 me.)
- 17 5. Aidan Kearney has consistently harassed me on the days before court
18 hearings, which stresses my adjustment disorder preventing me from
19 fairly addressing the merits.
- 20 6. Lack of sleep and malnutrition as a result of the conspiracies is
21 causing systemic health issues, and the resulting poverty has made
22 me unable to seek medical care.
- 23 7. I have a half-done medical procedure that is unlikely to be completed
24 until Kearney can no longer threaten people that support me.
- 25 8. My daughter had a rare seizure disorder that I treated with cannabis
26 oil, which led me too pioneering the industrialization of cannabis oil
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extraction in 2014 with a store-front in the center of Redding, and a 4,000 sq ft residence in Forest Glen CA.

9. I cannot afford any more Government abuse, and I am prepared to exercise my Mass. Const. pt. 1 art. I right, and make the tactics in Abbie Hoffman’s “Steal this Book” seem amateur if the Government fails to urgently secure my safety prosperity and happiness.

10. Aidan Kearney lives at 111 Mason rd. Jefferson MA 01522

11. Cristina Yakimowsky’s last known address is 9 Hollis street Uxbridge, ma 01569

I Rian Waters swear that all the above statements are true and accurate, under the pains and penalties of perjury.

/s/ Rian Waters 4/3/2023

WatersRian@gmail.com



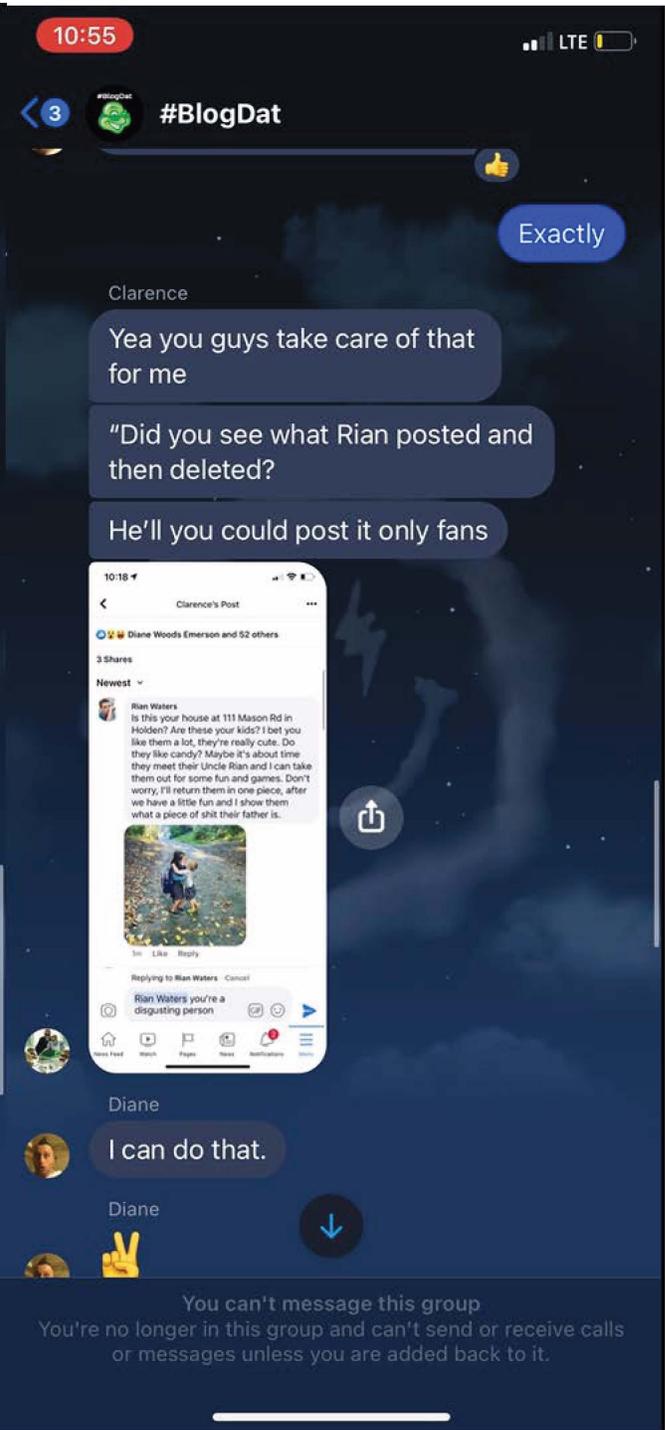
EXHIBIT A 01



02



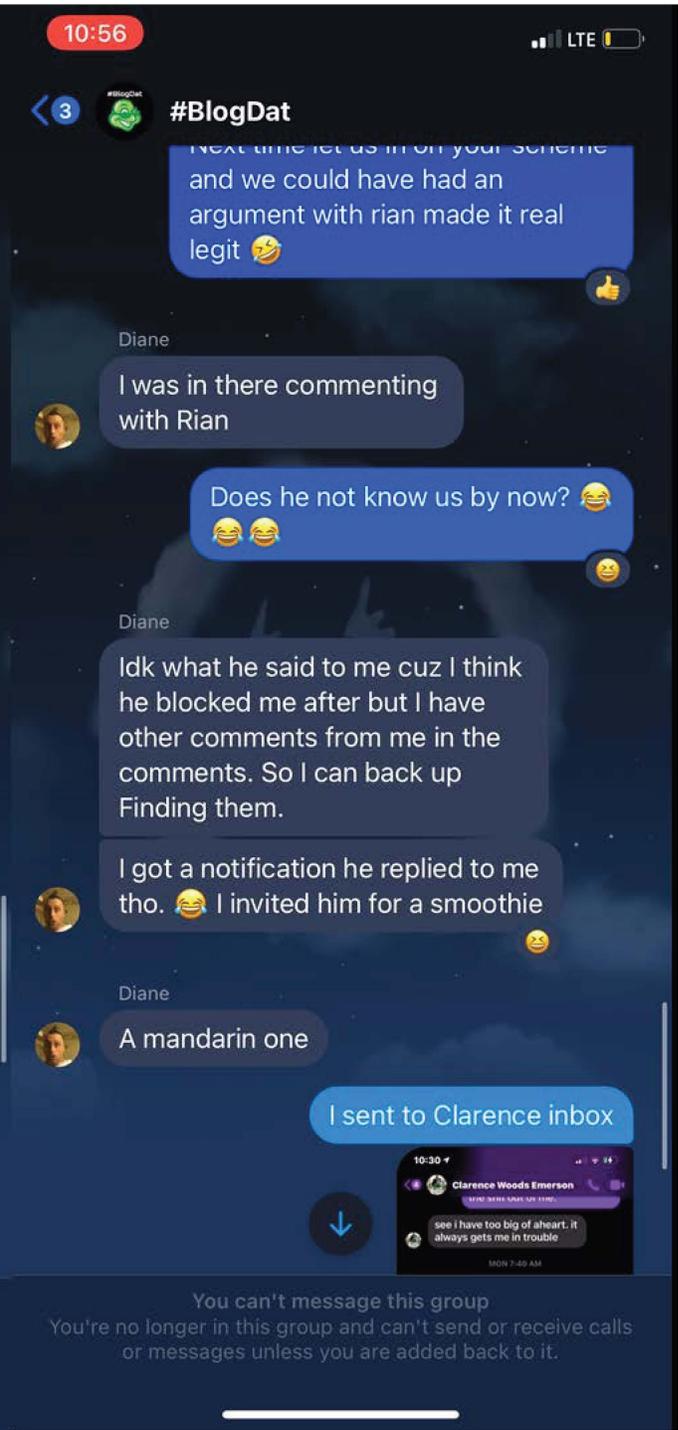
EXHIBIT A 03



04



EXHIBIT A 05



06

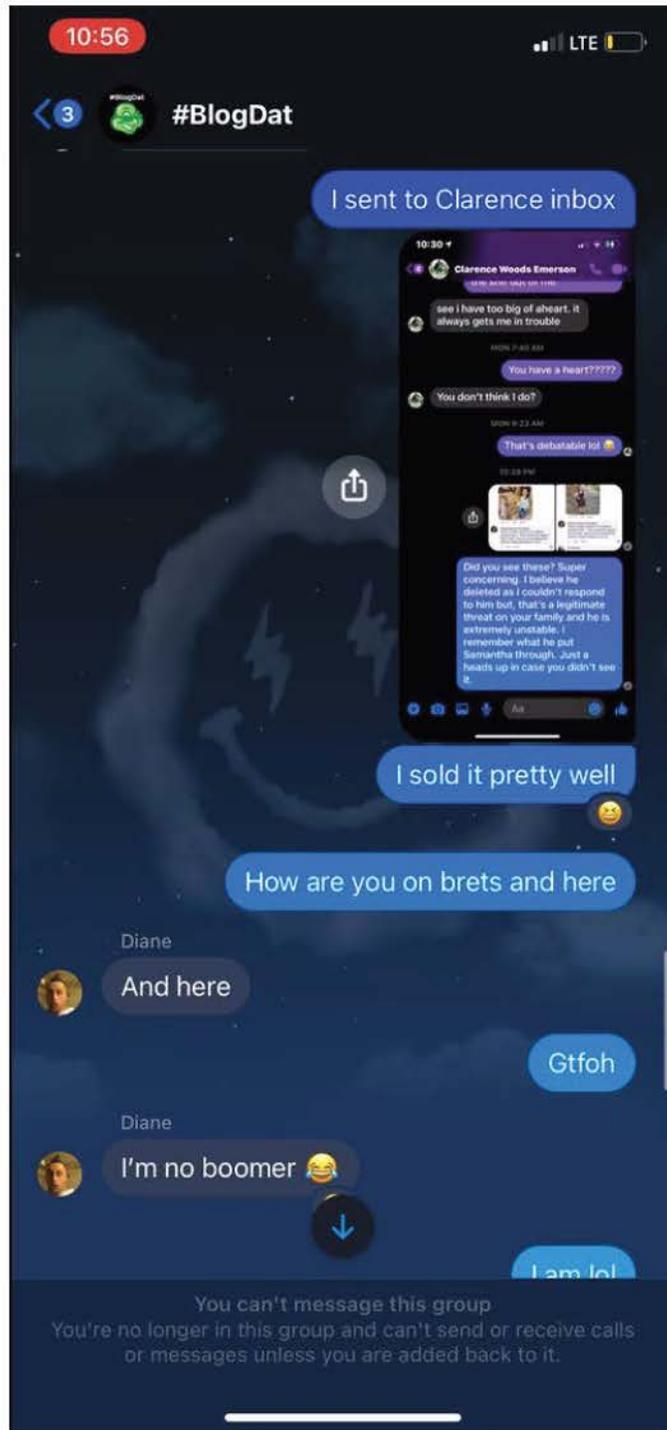


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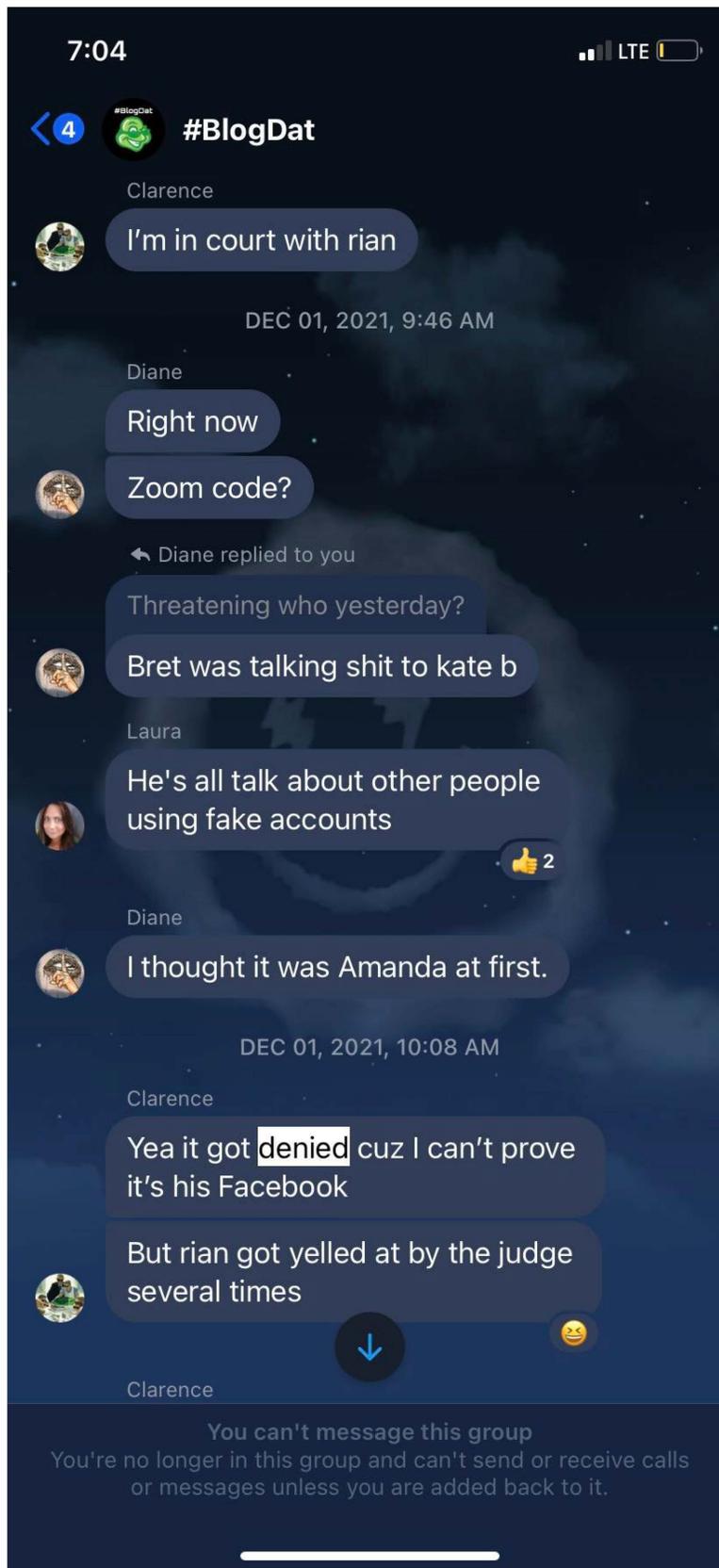


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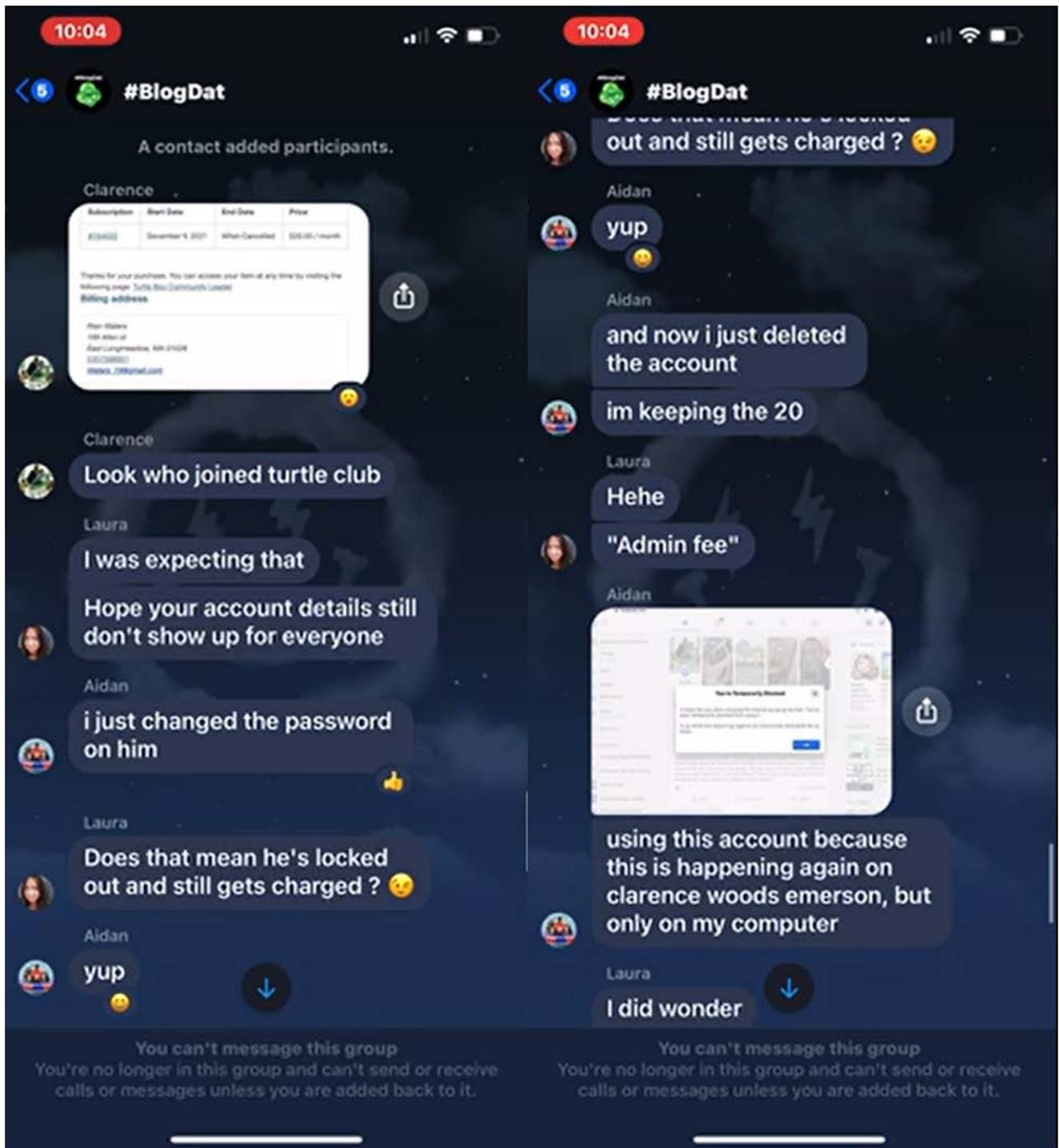


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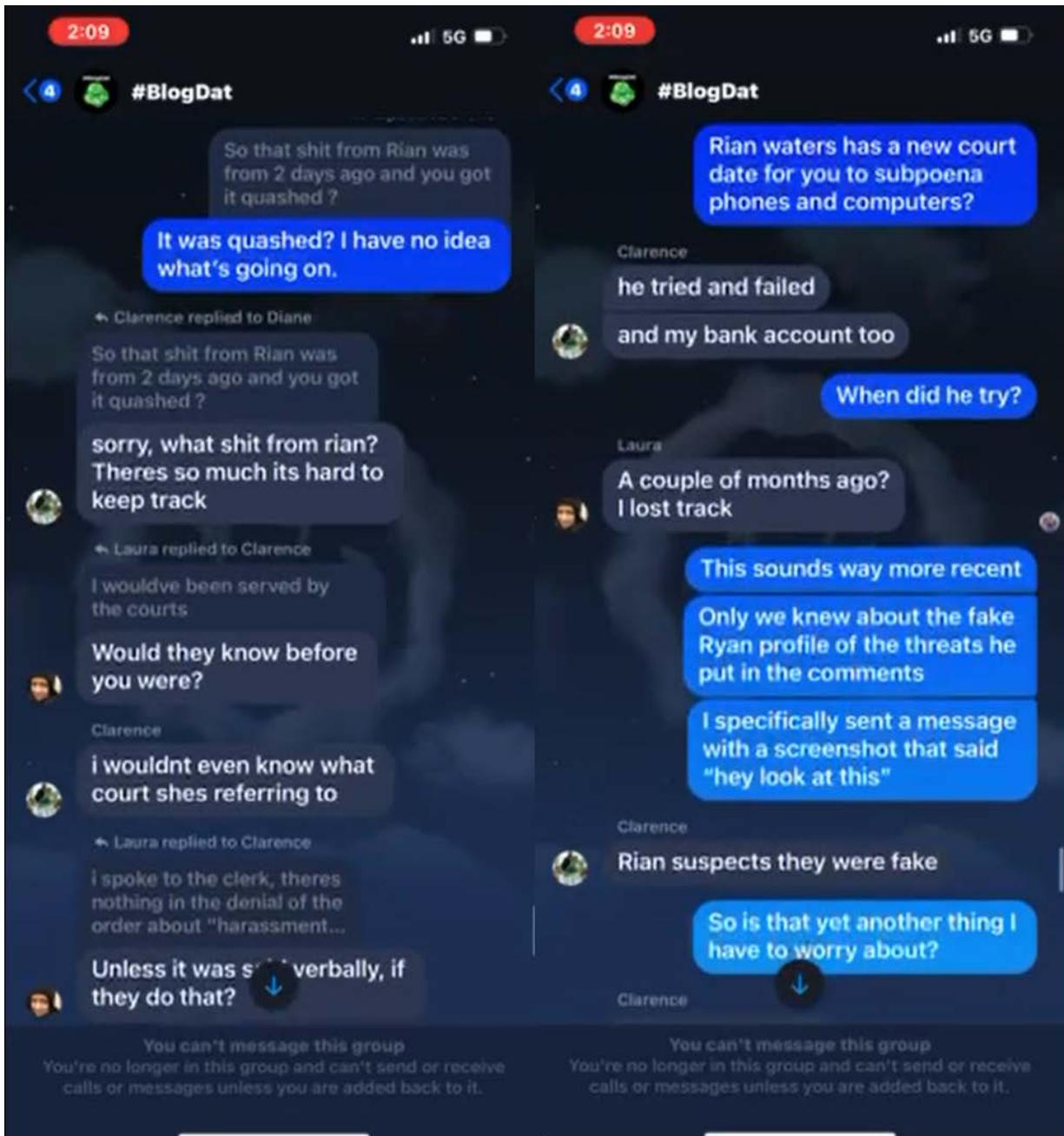


Exhibit D 01

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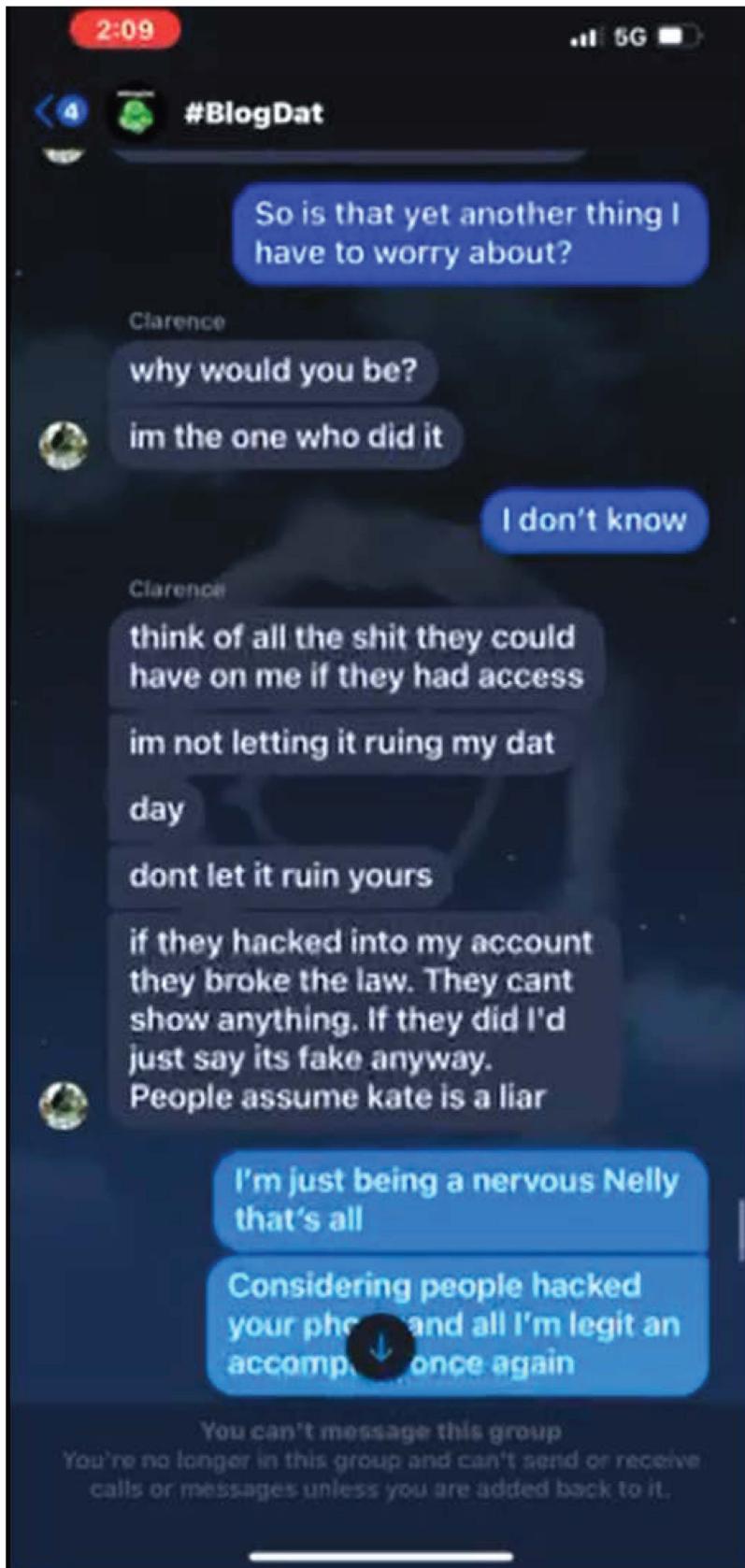


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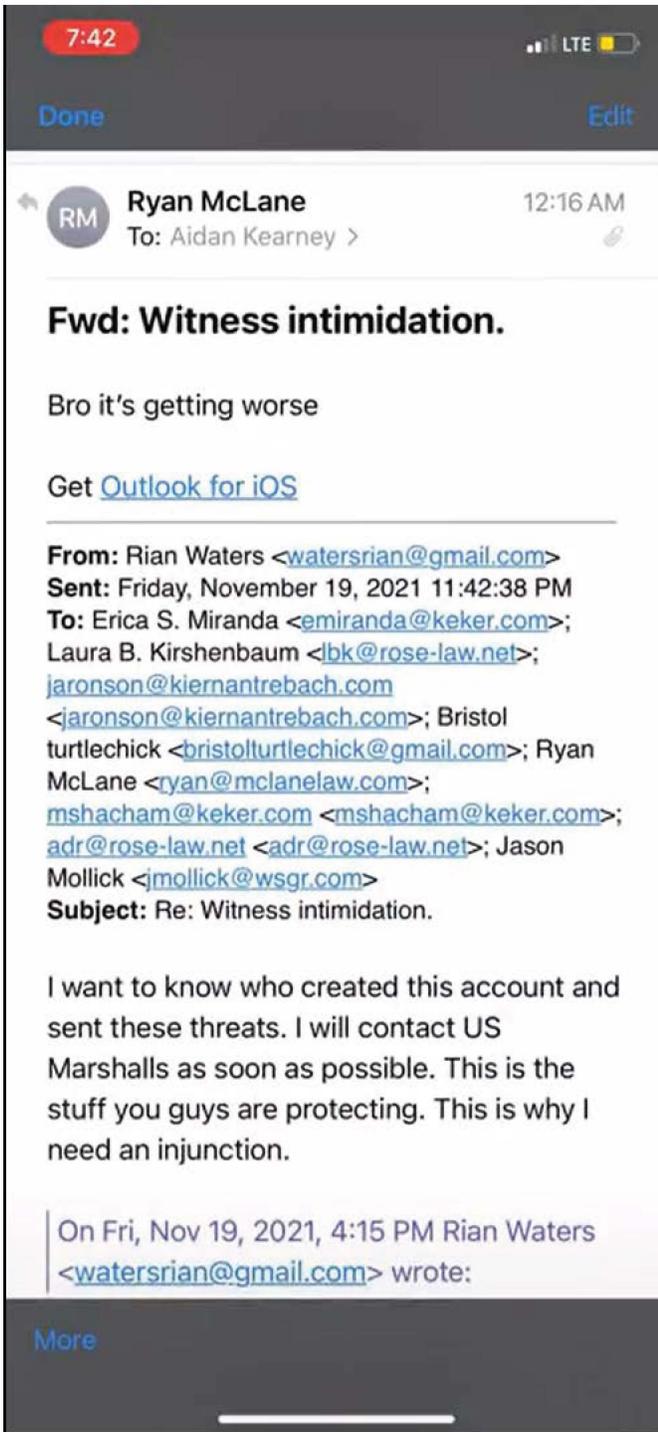
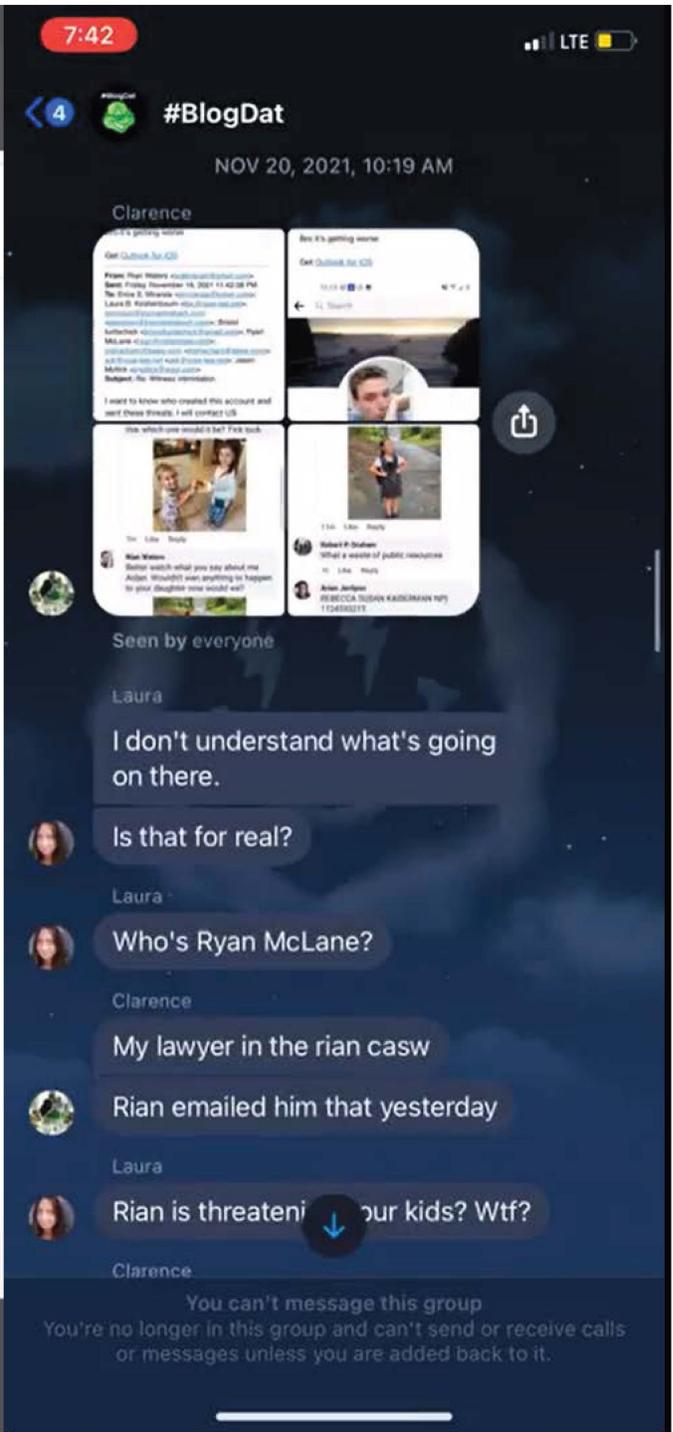


EXHIBIT F 01



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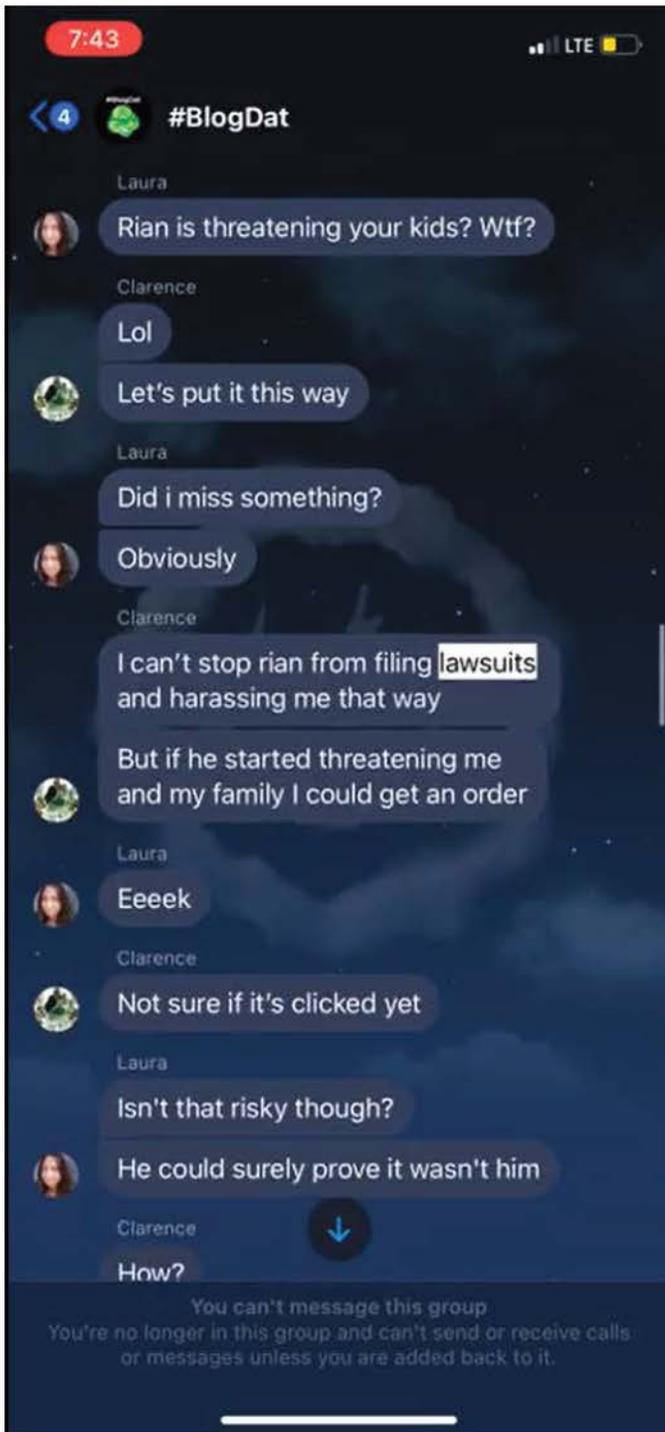
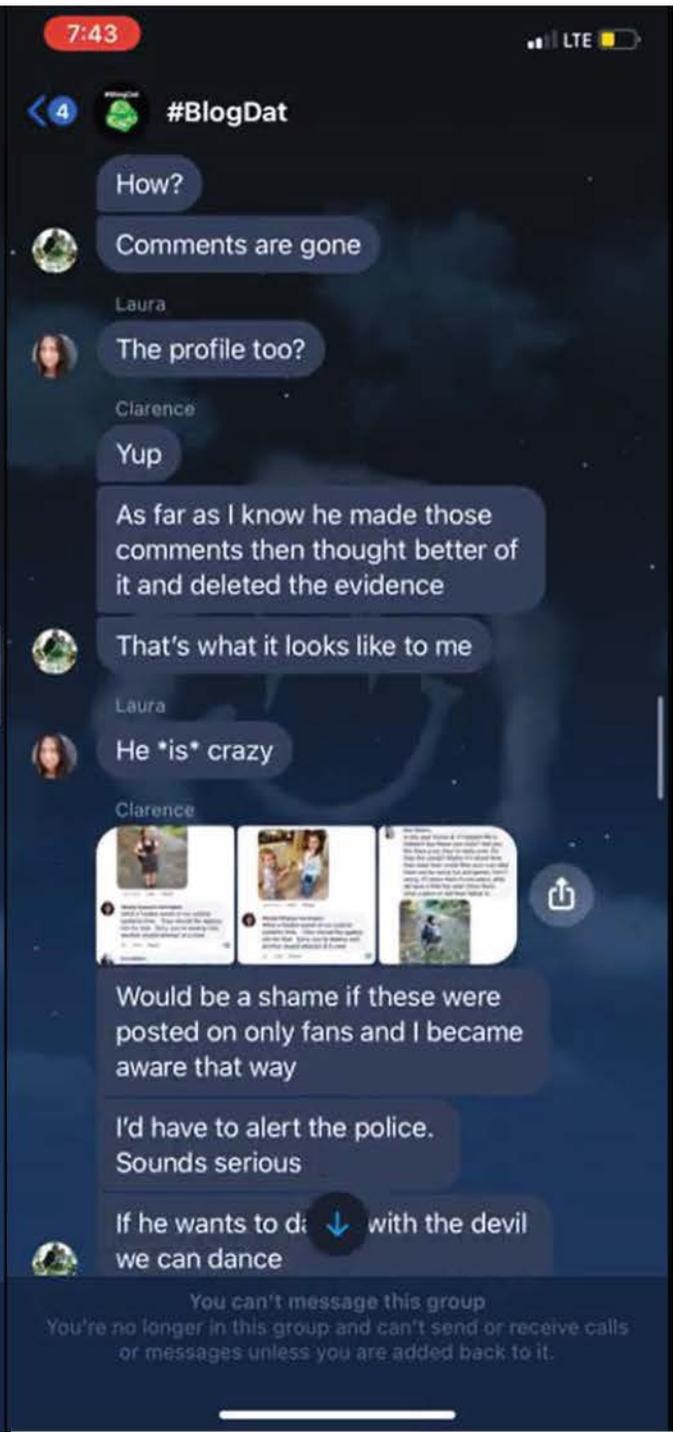


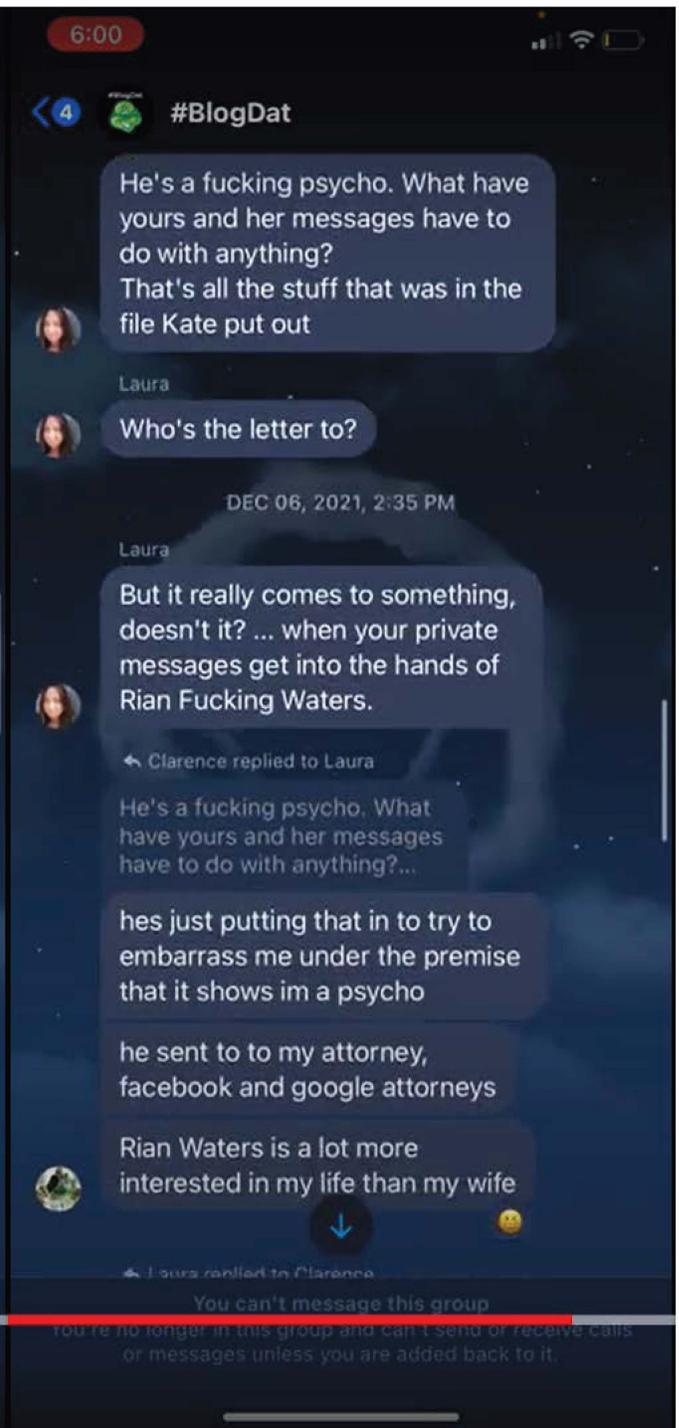
EXHIBIT F 03



04



Exhibit G 01



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