

REPORTER'S RECORD
VOLUME 1 OF 1 VOLUME
TRIAL COURT CAUSE NO. D-1-GN-18-001842
COURT OF APPEALS NO. 03-18-00603-CV

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4	LEONARD POZNER AND)	IN THE DISTRICT COURT
5	VERONIQUE DE LA ROSA,)	
6	Plaintiffs)	
7	VS.)	TRAVIS COUNTY, TEXAS
8)	
9	ALEX E. JONES, INFOWARS,)	
10	LLC, AND FREE SPEECH)	
11	SYSTEMS, LLC)	
12	Defendants)	345TH JUDICIAL DISTRICT

HEARING ON MOTION TO DISMISS

On the 1st day of August, 2018, the following proceedings came on to be heard in the above-entitled and numbered cause before the Honorable Scott H. Jenkins, Judge presiding, held in Austin, Travis County, Texas;

Proceedings reported by machine shorthand.

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I N D E X
VOLUME 1
HEARING ON MOTION TO DISMISS
AUGUST 1, 2018

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PROCEEDINGS

1
2 THE COURT: We are on the record in
3 Cause No. GN-18-1842, Leonard Pozner and Veronique
4 De La Rosa vs. Alex Jones, InfoWars, LLC, and Free
5 Speech Systems, LLC. Would you announce your presence
6 for the record beginning with counsel for plaintiff.
7 And announce the presence of anyone who will at least
8 today be making any argument or appearance with you.

9 MR. BANKSTON: My name is Mark Bankston
10 appearing for the plaintiffs, and I'll be arguing for
11 the plaintiffs today.

12 THE COURT: Thank you, Counsel. For the
13 responding party, announce yourself and anyone else who
14 might be arguing today.

15 MR. ENOCH: Mark Enoch representing Alex
16 Jones, InfoWars, LLC, and Free Speech Systems, LLC,
17 Your Honor.

18 THE COURT: Thank you, Counsel. We just
19 had a collegial discussion about the record. This
20 hearing today came to me off the central docket with not
21 a great deal of notice, but enough to have taken this
22 motion home last night and read it, which I did. It was
23 filed on the 26th of June. It's defendants' motion to
24 dismiss under the Citizens Participation Act. I read
25 that motion. I read plaintiffs' response to the motion

1 filed on the 25th of July. And I read defendants' first
2 supplement to the motion to dismiss filed on July 27th.

3 Knowing that I've read all that and some
4 of the cases, you have announced that you would like to
5 have one hour and 20 minutes per side to make further
6 oral argument, and you'd like me to give you a 15-minute
7 time warning so that you can get the last word in the
8 last 15 minutes. Is that agreed?

9 MR. ENOCH: It is, Your Honor.

10 THE COURT: Is it agreed with you?

11 MR. BANKSTON: Yes, Your Honor.

12 THE COURT: Great. Thank you, Counsel.

13 With that, you may proceed.

14 MR. ENOCH: May it please the Court.
15 Your Honor, what we're here today on is a Texas Citizen
16 Participation Act motion. That act was enacted by the
17 state legislature unanimously without the governor's
18 signature in 2011. And the purpose of that is to
19 protect people from being sued from strategic-type
20 lawsuits intended to silence free speech, right of
21 association, right of petition. Under that act, the
22 prevailing party, if we prevail, the legislature thinks
23 so strongly of this act --

24 THE COURT: That I must award attorneys'
25 fees.

1 MR. ENOCH: I'm sorry? Must -- you're
2 ahead of me, yes, sir.

3 THE COURT: I knew what you were going to
4 say.

5 MR. ENOCH: Very well, Your Honor. Now,
6 with respect to the specifics here, this is not about
7 Sandy Hook, notwithstanding the fact that these people
8 suffered a terrible tragedy. My client wants me to
9 reiterate the fact that he is sorry for their loss,
10 acknowledges the death, and he has done previously as
11 you'll see in the video in a minute.

12 This is not about Sandy Hook. This is
13 about statements that my client made on April 22nd and
14 whether or not they are defamatory. They are not. And
15 one of the important things that you must consider,
16 of course, under a TCPA motion is the nature of the
17 claims that are brought. And a number of claims -- I'm
18 going to move this a little closer if I can, Judge. I'm
19 not sure --

20 THE COURT: That's fine. Just put it in
21 between -- I can see it pretty much, but --

22 MR. ENOCH: Okay. If you can see it, then
23 I'll leave it there.

24 THE COURT: I'm glad to see there's a
25 lawyer like me who still uses poster board.

1 MR. ENOCH: It helps a little bit. Judge,
2 they have brought -- both Mr. Pozner and Ms. De La Rosa
3 each have brought identical claims against InfoWars,
4 Free Speech, and Mr. Jones. So that means every time
5 they claim someone did something wrong, they have three
6 claims. And so defamation *per quod*, this is
7 Mr. Pozner's actions only. He has a claim against Jones
8 for April 22, April 28, and June 18. There are three
9 claims, defamation *per quod*, just against -- for
10 Mr. Jones for three days.

11 If you go down here, there's a total of
12 33. Each of these plaintiffs at least -- there are
13 really more, but at least 33 claims, each plaintiff has
14 made in this case, a total of 66 claims. And the reason
15 I mention that is in the hubbub, I want to make sure
16 that, for example, Mr. Pozner has evidence of *respondeat*
17 *superior* against Jones or against InfoWars or Free
18 Speech for the April 28th as well as anything else. I
19 want to track those because those are important.

20 They're also important because last night
21 the plaintiffs nonsuited one of their claims. As
22 you know under the law, that doesn't absolve you of
23 liability under the TCPA. What they did is they
24 nonsuited by an amended pleading -- they dropped the
25 June 18th Megyn Kelly interview as being the basis for

1 any wrong in this case. That means that immediately
2 one-third of their case is gone.

3 Now, they did amend last night and added
4 another claim, but of course, as you know, our duty --
5 or our timeline to file another motion to dismiss is
6 another 60 days. So we start out with the idea that
7 one-third of their claims are gone.

8 THE COURT: But now I'm curious. I
9 haven't read that amendment. It was filed when?

10 MR. ENOCH: Just last night.

11 THE COURT: Yeah. And that's why I
12 haven't read it. It's not scanned in the file yet.

13 MR. ENOCH: Yes.

14 THE COURT: So what does it add, just
15 because I have to satisfy my curiosity about that?

16 MR. ENOCH: Intentional infliction of
17 emotional distress.

18 THE COURT: Thank you.

19 MR. ENOCH: It also adds a claim for
20 defamation for a June 13th broadcast, which, of course,
21 under the statute of limitations has passed anyway.

22 So now I want to add two more things to
23 this. Besides the fact that they have dropped a third
24 of their claims, as you know, the Supreme Court in *Tatum*
25 and other cases, *KTRG* and the other cases, if you -- if

1 when you look at --

2 THE COURT: Is that *McLemore*?

3 MR. ENOCH: Well, *WFAA* is the one on
4 public figure, Your Honor.

5 THE COURT: That's right. I just wanted
6 to make sure I was following your letters that you're
7 throwing out, which case. Now I'm oriented with you.
8 Go ahead.

9 MR. ENOCH: You're already catching up
10 pretty fast, Judge. The language in this case is pretty
11 simple. Well, let me say one other thing about this.
12 They did not provide any evidence regarding April 28th.
13 They did not provide argument with respect to
14 April 28th. They pled it. Nothing in the affidavits
15 that I can see, nothing in the response that I can see.
16 My view of that is April 28th is gone too because
17 there's not clear and specific evidence on every -- in
18 fact, any of the elements on April 28th. Mr. Bankston
19 might disagree. I'm interested to hear what he says,
20 but it wasn't mentioned in their brief.

21 So I think April 28 and June 18 are gone
22 and we're just on April 22nd. Now, with that said,
23 you -- it's your job to look at the language that they
24 claim is defamatory. It's not about children didn't
25 die. It's not about sirens and helicopters and

1 port-o-potties. It's about what Mr. Jones said on
2 April 22nd and whether or not that is capable of being
3 defamatory, was defamatory, proximately caused damages
4 as a result of it, and whether it was *per se* or
5 *per quod*. And if, as they argue, it was *per quod*, they
6 must establish by their evidence pecuniary damages. As
7 you well know, in a *per se* action for defamation, libel
8 or slander, they can simply aver mental anguish, severe
9 or disrupts my daily routine, et cetera.

10 In a *per quod* situation, you've got to
11 have evidence of pecuniary damages. I'll show you the
12 cases on that. There is no evidence of pecuniary
13 damages. There's not an allegation in the pleading.

14 THE COURT: Where --

15 MR. ENOCH: There's not an allegation in
16 the response, nor in the affidavits.

17 THE COURT: And that's fine. I was really
18 focused on the limited public figure briefing that
19 you --

20 MR. ENOCH: And I'll --

21 THE COURT: -- that you wrote. Where is
22 that in your lengthy motion that because of the absence
23 of specificity -- or in your reply, because of the
24 absence of specificity and the damages --

25 MR. ENOCH: Judge, that wasn't a reply.

1 That was a supplement just to get --

2 THE COURT: Or a supplement.

3 MR. ENOCH: Yes, sir, a supplement.

4 THE COURT: I'm misconstruing it. The
5 last word, I didn't read that there. Was it in there
6 and I missed it?

7 MR. ENOCH: No, sir. No, sir, it's not.

8 THE COURT: So is this the first time
9 they're hearing that argument?

10 MR. ENOCH: Yes, it is.

11 THE COURT: I see.

12 MR. ENOCH: Yes, it is. And so on
13 April 22nd, this is the language that is claimed to be
14 defamatory. And I'll show you the video in a moment.
15 "And then we've got Anderson Cooper, famously, not just
16 with flowers blowing and a fake, but when he turns, his
17 nose disappears repeatedly because the green screen
18 isn't set right."

19 THE COURT: And by the way, for future
20 reference, it's a beautiful courtroom, but the acoustics
21 are very challenging. And when you turn away from the
22 court reporter, it becomes very difficult for her to get
23 you a record.

24 MR. ENOCH: Thank you. I'll remember
25 that.

1 THE COURT: Try to keep facing this way.
2 And just stay behind counsel table and face this way and
3 we'll all be fine.

4 MR. ENOCH: All right. Thank you, sir.
5 Now, if it's *per se* -- and they have alleged *per se* --
6 that those -- under the *Tatum* case, texturally, you must
7 look at this, find out what they claim it says. And in
8 the pleadings you can see that means that Lenny Pozner
9 and Veronica -- Veronique, excuse me, De La Rosa
10 committed a fraud, lied about dead children, and
11 committed a crime. That's what their interpretation of
12 this statement is.

13 Now, I believe this is not *per se*. I
14 believe it is not *per quod*. I don't think it alleges a
15 crime. I don't think it's of and concerning either of
16 the plaintiffs. But obviously there's capable counsel
17 in the room; they might disagree.

18 THE COURT: And so it was the later
19 statement which you say because there's no specificity
20 on the damages they can't talk about now or can't assert
21 in response to this motion where he went on to --

22 MR. ENOCH: Yes, sir.

23 THE COURT: -- elaborate on that
24 statement; is that right?

25 MR. ENOCH: That is correct. And,

1 Your Honor, their briefing --

2 THE COURT: Now, would that statement be
3 *per se* if they had some evidence of special damages and
4 it would therefore survive your argument, which you're
5 making for the first time today that because they don't
6 it can't survive -- would it be *per se* given the
7 elaboration of language from your client on the second
8 statement?

9 MR. ENOCH: No, sir.

10 THE COURT: Why not?

11 MR. ENOCH: And the reason is under *Tatum*,
12 the Supreme Court case just --

13 THE COURT: And you do have to stay at
14 counsel table, because when you get in front of him,
15 it's hard for him to hear.

16 MR. ENOCH: Thank you.

17 THE COURT: It's also actually in the
18 local rules. Go ahead.

19 MR. ENOCH: Sorry. In the *Tatum* case that
20 was just decided in May of this year, the Supreme Court
21 reiterated what it said before, and that is a *per se*
22 statement must be one that, you know, alleges misconduct
23 sexually of a woman or calls into disrepute for your --
24 the attributes that you need for the job.

25 THE COURT: Is it enough to say someone's

1 lying about an event?

2 MR. ENOCH: No, absolutely not.

3 THE COURT: And so that's your argument.

4 And so when they stand and say that you're part of a
5 hoax, that simply doesn't meet the *per se* standard?

6 MR. ENOCH: Well --

7 THE COURT: Is that your argument?

8 MR. ENOCH: No, sir, because we didn't say
9 it's a hoax. What we said is that.

10 THE COURT: No, I understand. I was
11 asking about the subsequent statement where -- again,
12 I'm trying to read plaintiffs' pleadings for the first
13 time, too -- where there's a more elaborate statement
14 made by Mr. Jones that they say one could only infer
15 means this is a hoax.

16 MR. ENOCH: Then that means it's *per quod*.
17 If you have to get to implication, if you have to get to
18 innuendo, it cannot as a matter of law be *per se*. You
19 have to have special damages.

20 THE COURT: In other words, if it's the
21 least bit ambiguous, in other words, if you have to
22 construe what it means, then that gets you past *per se*?

23 MR. ENOCH: Actually, the way it works is
24 you look at this statement and you say: Is this capable
25 of the meaning they say it has? If it is, then you go

1 to the next statement: Okay. Is this capable of being
2 defamatory?

3 THE COURT: And that's why I'm asking you
4 about the second statement. Is that one capable of the
5 meaning they say --

6 MR. ENOCH: It is not.

7 THE COURT: -- they infer from it and
8 people they know infer from it? I guess they've even
9 got an affidavit from a physician who infers that, too.
10 I haven't read the affidavit, but I read the reference
11 to it.

12 Your argument is no, no reasonable person
13 could infer that from the more elaborate statement by
14 Mr. Jones on the second event?

15 MR. ENOCH: Yes, sir. And let me
16 elaborate on what you just said because you're obviously
17 ahead of me on this. Dr. Carver and Ms. DiStephan --
18 I'm hoping I'm not saying it wrong.

19 THE COURT: Say it louder for me again.
20 I'm sorry.

21 MR. ENOCH: Ms. DiStephan. I'm not sure
22 I'm doing it right.

23 THE COURT: That's all right.

24 MR. ENOCH: It's a friend of --

25 THE COURT: You have to stay at counsel

1 table and you have to speak loudly.

2 MR. ENOCH: I'm learning. I'm learning,
3 Judge.

4 THE COURT: That's all right.

5 MR. ENOCH: I keep going back there to my
6 chart.

7 THE COURT: That's okay. You just have to
8 stay there or go to your podium.

9 MR. ENOCH: I'll do that. Affidavits from
10 friends or people that say I understood it spoke about
11 and I understood it called a crime are inadmissible and
12 not probative. And the reason is the test under the law
13 is what the hypothetical reasonable watcher would say,
14 not a dullard, as the case says, not omniscient, but
15 someone who is reasonable in interpretation.

16 The difference between that and Dr. Carver
17 and anybody else -- and that's why the case law doesn't
18 allow individuals to testify about it -- is because
19 reasonable people like you and me, we make a mistake
20 every once in a while, but the hypothetical person never
21 makes a mistake. So your analysis is not informed by
22 someone saying I thought it was that way. Now --

23 THE COURT: That's why it's a question of
24 law for the Court.

25 MR. ENOCH: It is, Your Honor. Now, you

1 were asking about the other statement. I'm going to
2 show you the other statement. This is the statement
3 they allege, green screen. It's the central theme of
4 the fraud -- the defamation.

5 This is what follows: "And then we've got
6 Anderson Cooper, famously, not just with flowers blowing
7 and a fake, but when he turns, his nose disappears
8 repeatedly because the green screen isn't set right.
9 And they don't like to do live feeds because somebody
10 might run up. CNN did that in the Gulf War and admitted
11 it. They just got caught two weeks ago doing it in,
12 supposedly, Syria. And all we're saying is if these are
13 known liars that lied about WMDs and lied to get us into
14 all of these wars and backed the Arab Spring, and Libya,
15 and Syria, and Egypt and everywhere else to overthrow
16 governments and put in radical Islamicists, if they do
17 that and have blood on their hands and lied about the
18 Iraq War and for the sanctions that killed a half
19 million kids and let the Islamicists attack Serbia and
20 lied about Serbia launching the attack, when it all came
21 out later that Serbia didn't do it, how could you
22 believe any of it if you have a memory and you're not
23 Dory from Finding Dory, you know, the Disney movie?
24 Thank God you're so stupid. Thank God you have no
25 memory. It all goes back to that."

1 THE COURT: I guess I'm at a disadvantage
2 because I never saw "Finding Dory," so I don't know what
3 that last part means.

4 MR. ENOCH: I don't either.

5 THE COURT: All right.

6 MR. ENOCH: But what I do know that means
7 is --

8 THE COURT: What does it mean?

9 MR. ENOCH: That's political speech.
10 Mr. Jones is a political commentator.

11 THE COURT: And that's fine. And you
12 start your motion with that, and that's actually one of
13 the pivot points here, it seems to me, is it a statement
14 of opinion or fact.

15 MR. ENOCH: Yes, sir.

16 THE COURT: And you can go back to -- what
17 is it, Justice -- that's really significant, as we all
18 know, going back to *Gertz* and Justice Powell's opinion
19 in *Gertz*, opinions protected, facts not. You can't make
20 false statements of fact.

21 And so you're right to tease this out.
22 Isn't some of that a statement of fact and some of it is
23 opinion?

24 MR. ENOCH: Well, the only statement of
25 fact that matters is a statement of fact of and

1 concerning Lenny Pozner.

2 THE COURT: No, I understand. But you're
3 saying this is all opinion, so I'm following up on your
4 statement that you just made. Isn't some of what was
5 just written statements of fact, not opinions, which is
6 where you start your motion saying this is all opinion,
7 but in fact some of it's not? Some of it's factual
8 statements. Am I right about that?

9 MR. ENOCH: I think probably you're right
10 about that. You're going to see a 40-minute video. But
11 I don't think that that's, with all due respect, a
12 relevant inquiry because the statements of fact have to
13 be of and concerning these folks, and they can't refer
14 to anybody else.

15 Dr. Carver testifies in his affidavit
16 here, I understood him to be accusing the medical
17 director, police officers, first responders. You know,
18 Judge, that's group libel, and group libel is not libel
19 in the state of Texas. It can -- it has to refer only
20 to the plaintiffs and no one else.

21 THE COURT: They seem to be arguing that
22 the statement you infer from this that this is a hoax,
23 again, and for it to be a hoax, there must be a
24 conspiracy of all of the participants to allow that hoax
25 to occur; ergo, they are lying.

1 MR. ENOCH: And --

2 THE COURT: Why would a reasonable person
3 not be able to infer that?

4 MR. ENOCH: Because a reasonable person
5 could not do that from this.

6 THE COURT: Okay.

7 MR. ENOCH: We cannot --

8 THE COURT: It would take other statements
9 from your client and, sure enough, if they had sued
10 within the statute of limitations, maybe so. But they
11 didn't, they're limited to this, and it's just not clear
12 enough. Is that essentially it?

13 MR. ENOCH: Yes, sir. But beyond that,
14 Your Honor, what the law requires is you cannot look
15 outside this statement. You cannot do it unless you
16 find that there's an ambiguity in this statement. Just
17 like a trial before the jury, you've got to first find
18 ambiguity.

19 So now that we know what followed this
20 statement that they claim is defamatory, I'd like to
21 play a video for Your Honor of the actual -- the actual
22 show is about two or three hours. The law requires you,
23 especially if you find against us, to have reviewed the
24 entire publication, to view it in context. Even a
25 defamatory you're a liar and a thief, if later in the

1 broadcast I say I was just joking, you have to consider
2 the entire context. I'm going to show you the context
3 in which this and other comments were made.

4 THE COURT: So you believe there are
5 statements where he completely disabuses everybody of
6 the notion that he has ever thought this was a hoax?

7 MR. ENOCH: He doesn't have to do that,
8 Judge.

9 THE COURT: So the answer to my question
10 is no, that has never been done?

11 MR. ENOCH: Oh, sure, it has. I'll show
12 you his Father's Day message a year and three months ago
13 where he says exactly that.

14 THE COURT: Okay.

15 MR. ENOCH: So let me see if I can operate
16 this. Which button do I go to the video? I'm sorry.
17 The lady who was helping us --

18 THE COURT: I couldn't practice law
19 anymore with the technology.

20 MR. ENOCH: If I want to just go to the
21 computer, how do I do that to get out of this?

22 THE COURT: But Ms. Gould can do
23 everything.

24 MR. ENOCH: I'll play -- this I think is
25 B-50, Exhibit B-50, Your Honor.

1 *(The video played as follows:)*

2 "I woke up this morning on Father's Day.
3 I was holding my young infant daughter in my arms and
4 looked into her eyes, sitting out on the back porch
5 hearing the birds sing, and it just brought tears to my
6 eyes thinking about all the parents that have lost their
7 children on Father's Day or Mother's Day who have to
8 then think about that. Parents should never have to
9 bury their own children. And that's why on Father's Day
10 I want to reach out to the parents of the slain children
11 of the horrible tragedy in Newtown, Connecticut and give
12 you my sincere condolences.

13 "I'd also like to reach out to any of the
14 parents who lost their child in Newtown to invite them
15 to contact me to open a dialogue, because I think it's
16 really essential to do that instead of letting MSN
17 misrepresent things and really try to drive this nation
18 apart. Right now is a time for unity and peace in our
19 country I think now more than ever."

20 *(Video stops)*

21 MR. ENOCH: Now, Your Honor, before I was
22 hired, I had never heard of Alex Jones. I must have
23 been living in a cave somewhere. I didn't know his
24 speech, didn't know of his reputation, et cetera. My
25 understanding is he is seen among many people in this

1 country as fringe speech. But as you know, fringe
2 speech is exactly the purpose we have the First
3 Amendment, because that is when it is most likely that
4 the majority of us will wield our power to silence it.

5 This is the April 22nd -- and this is not
6 the full tape, but this is what I believe is the
7 relevant. You have the full one. I think it's B-46.
8 And this is one about 30 minutes long just for purposes
9 of video.

10 *(Video began playing, then stopped)*

11 MR. ENOCH: Judge, let me set it up a
12 little bit. Mr. Jones is known by some people as a
13 conspiracy theorist. Mr. Jones starts from the
14 supposition that I don't believe what my government
15 tells me; I don't believe what MSN, mainstream media
16 tell me; they're in cahoots together; and what they do
17 is they either create or they use actual events,
18 manipulate the public opinion in such a way as to start
19 taking away individual rights, including gun rights and
20 free speech rights. That's the basis from which he
21 starts.

22 Now, if you just start that in the
23 abstract, you might think, well, that makes him kind of
24 strange, except for the fact you're going to hear him
25 talking about George Bush lying to us in his view to get

1 us into Iraq, into Kuwait, WMDs.

2 So his view is it's not just the democrats
3 doing it; it's people, and historically they've done it.
4 And that is the position from which he sees the
5 political world. And political speech, Judge, under
6 *Tatum*, you have an especially rigorous job to make sure
7 that free speech is maintained in connection with these
8 statements. You'll see -- he plays videos. You'll see
9 that's his mantra. That's his theme.

10 *(The video played as follows:)*

11 "Soylent Green, ladies and gentlemen, is
12 made out of people."

13 "But now children are literally being
14 passed to the furnace in order to fuel hospitals in the
15 UK. They're being sacrificed on the altar of efficiency
16 and prosperity."

17 "What is the secret of Soylent Green?"

18 "The powdered flesh from dead babies.
19 Some people believe it can cure disease."

20 "Because of its enormous popularity,
21 Soylent Green is in short supply. Remember, Tuesday is
22 Soylent Green Day."

23 "The supply of Soylent Green has been
24 exhausted. You must evacuate the area."

25 "Today is Tuesday."

1 "The family court ruled that the
2 shareholders of PepsiCo, McDolderberg (phonetic) Group
3 Company, are not allowed to know what they're using the
4 baby parts for in the flavoring, but we already know.
5 So enjoy the flavor."

6 "We're gonna get the real solution, which
7 is going to be a combination of death panels and sales
8 taxes."

9 "I'm consistently pro-death. I'm for
10 assisted suicide. I'm for regular suicide. I'm for
11 whatever gets the freeway moving."

12 "Is spending a million dollars on that
13 last three months of life for that patient, would it be
14 better not to lay off the -- those ten teachers and to
15 make that part of the medical costs? But that's
16 called the death panel, and you're not supposed to have
17 that discussion."

18 "They told me to -- to say that they were
19 sorry, but you had become unreliable."

20 "Is this the kind of society that you want
21 to live in? Any kind of society that would do this to
22 its children will do it to its senior citizens. It will
23 do it to its dissidents. That kind of society will
24 also eventually turn on its police, on its army, on its
25 prison guards, on the prislings (phonetic) and the

1 collaborators who make that possible. This is nothing
2 but a suicide cult."

3 "The scoops are on their way. The scoops
4 are on their way. I repeat, the scoops are on their
5 way."

6 "You will find out why Soy lent Green means
7 life. You will find out why Soy lent Green means death."

8 "We've got to stop them. Come on!"

9 "What is the secret of Soy lent Green?"

10 "Soy lent Green is people!"

11 "We got to tell 'em."

12 "Next thing they'll be breeding us like
13 cattle."

14 "We got to warn 'em."

15 "We got to tell 'em."

16 "Next, they'll be breeding us like cattle,
17 and that's the point we've gotten to. First off, my
18 friends, Donald Trump has had his attorney general come
19 out, Jeff Sessions, and say the number one priority
20 right now is going after Julian Assange and 'leakers.'

21 "Well, you're not a leaker when you're
22 exposing criminal activity in an out of control, rogue
23 government. And it was Wikileaks and the great patriots
24 in our government that leaked the information that
25 helped get the truth out about the Democratic Party and

1 the Republican establishment that put Donald John Trump
2 into office.

3 "We always hear Donald Trump's this
4 incredibly loyal person, an honorable man that stands up
5 for what he believes in. He's done that on many
6 promises. He said he would -- he would -- he would --
7 he would carry out, but quite frankly, the disloyalty of
8 making it the top priority or demonizing Julian Assange
9 and others is amazing.

10 "Now, I'm going to get into some new Sandy
11 Hook information here today, Newtown, the massacre. I'm
12 gonna break it down, some of the new developments and
13 what's been happening in the media. And the first thing
14 I want to play, though, before I get into this, to kick
15 this off, and I'm gonna get back to the Donald Trump
16 later, it all ties together, is Madeline Albright on
17 '60 Minutes' with Lesley Stahl 14 years ago, 15 years
18 ago saying 500,000 Iraqi kids dying was a reasonable
19 price to pay. And I'm going to tie that into Sandy
20 Hook, and so much more straight ahead. Here's Madeline
21 Albright."

22 "We have heard that a half a million
23 children have died. I mean, that's more children than
24 died in Hiroshima. And -- and, you know, is the price
25 worth it?"

1 "I think this is a very hard choice, but
2 the price -- we think the price is worth it."

3 "So -- so there you go. It's a good
4 price. It's worth it. That's 500,000 Iraqi children.
5 The 1991 war was wrong. Turns out Saddam was a CIA
6 operative who was ordered to attack Iran in the
7 Iran/Iraq war, ordered to attack Kuwait, given the green
8 light. U.S. ambassador told him it was okay.

9 "But what am I getting at here? Why is
10 this so important? Because we all know they got us into
11 that war saying babies were in incubators and got thrown
12 out on the floor and their brains kicked out. That was
13 by a young lady who was a PR firm daughter, 15 years of
14 age, in acting lessons, who'd never been to Kuwait.
15 We then got lied to about WMDs in 2003. And we've been
16 lied to over and over again with this latest chemical
17 attack where they caught the rebels as usual bragging
18 about how they launched the chemical attacks, and then
19 we cover it and the media says we're Russian agents or
20 Assad agents, when in 2013 Congress and the UN came out
21 and said the rebels had been caught launching a chemical
22 attack."

23 "Where's the left criticizing Trump for
24 doing that? You're not there. Then some will say, 'Oh,
25 what you don't like Trump?' No, I like him on most

1 issues. I think the Syria thing and other things
2 are very, very questionable. That's what I'm getting at
3 here. We don't choose sides except for the truth, and
4 it doesn't mean it's easy to find sometimes, ladies and
5 gentlemen, because there's a lot of research has to go
6 into this.

7 "So we're not just sound bites here. And
8 this isn't about defending InfoWars or myself. It's
9 about the audience and -- and -- and new viewers who've
10 only heard lies about us, understanding that we're
11 really giving you in-depth research and showing you
12 where we got the research so you can verify this for
13 yourself.

14 "Now, what's the new Newtown info and how
15 does this tie into the tragic event that happened on
16 Obama's watch? The media since day one has said that I
17 said the attacks never happened, when you can go and
18 find myself and Rob Dew and everybody else that works
19 around here in more than seven debates we've done, with
20 both sides, people that think the official story was as
21 exactly as it happened, and former top school security
22 training experts, law enforcement folks like Wolfgang
23 Halbing saying he believes nothing happened.

24 "Quite frankly, I've said I don't know the
25 truth, but if you've got a government caught lying about

1 WMDs that causes wars that killed millions of people,
2 and hundreds of thousands of children from starvation,
3 that Bill Clinton intensified, and people that launch
4 fraudulent wars against Syria, all based on lies, and
5 they do this over and over again, I don't want them to
6 sit there and shake their finger at me like I'm a demon
7 that doesn't care about children being shot in mass
8 shootings.

9 "I believe mass shootings happen. I
10 believe people get killed by guns. I know the
11 statistics. It's like the fourteenth or fifteenth,
12 depending on the year, cause of death. Drowning's
13 higher. Car wrecks are higher. Cancer's higher. We
14 all know that. But for unnatural death, it's -- it's --
15 it's not even in the top ten, and that's counting the
16 suicides into it.

17 "But still, it's an issue, and no one's
18 denying that. But we've had Islamicists run people over
19 with cars lately in -- in Stockholm, Sweden and other
20 areas, and they say let's ban cars instead of
21 Islamicists coming in.

22 "They won't even say it's Islamicists when
23 they -- they'll say it's a -- a -- a Swede ran over
24 somebody. His name's like Akbar whatever from, as
25 usual, Syria or Somalia. I mean, it's the same

1 story, and I've got stacks of MSN saying Trump's wrong
2 for even saying that this latest attack in England,
3 latest attack in Paris, killing police, running over
4 people, you name it, was Islamic.

5 "Media meltdown over Trump correctly
6 calling Paris attack terror, Islamic, of -- it -- it
7 was. They have riots every night of the week, basically
8 burning down cities. Tourism's almost dead in France
9 now. They've got millions of Islamicists running
10 around.

11 "It's -- my crew was there last year. You
12 can't walk around at night by the Eiffel Tower without
13 Muslims coming up and physically assaulting you. And I
14 don't want to fight with the Muslims. The point is, you
15 can't go to their countries. They won't let you walk
16 down the street there. If you're a Christian or a Jew,
17 they'll kill you. You're gay, they'll kill you. So the
18 media says I'm anti-gay because I don't want Muslims
19 killing them.

20 "So here's my new Sandy Hook information.
21 There have been -- and -- and I'm not exaggerating --
22 5,000 articles, because I can look in Google News, type
23 in Sandy Hook Alex Jones and do an aggregate search of
24 the last year, over 5,000 articles saying I believe that
25 the moon landings never happened. They'll probably clip

1 that out. I do believe they happened.

2 "They -- they falsely claim that I said
3 the moon landings never happened. They don't show the
4 clip. They claim that I believe that the Loch Ness
5 Monster is real, stuff like that. Okay. Hundreds and
6 hundreds and hundreds and hundreds and hundreds a week.
7 Now, thousands in the last year.

8 And here is Patient Zero article we found.
9 Donald Trump and the Amazing Alex Jones, *New Yorker*
10 *Magazine*. This has got to be the most plagiarized story
11 in history because I looked at everything from the
12 *L.A. Times*, the *Associated Press*, to everything else
13 I've ever seen with Patient Zero, and they all lift the
14 exact paragraph and don't even change it. This is the
15 most crazy thing I've ever seen.

16 "Now, look at this. September 11th
17 attacks, Jones' amazing reputation arises mainly from
18 his high-volume insistence that the national tragedies
19 such as the September 11 terror attacks, the Oklahoma
20 City bombing, Sandy Hook Elementary School shooting, and
21 the Boston Marathon bombing were all inside jobs, false
22 flags, or ops secretly perpetrated by the government to
23 increase its tyrannical power and in some cases
24 seize guns. Jones believes that no one was actually
25 hurt at Sandy Hook, those were actors, and that the

1 Apollo 11 moon landing footage was fake.

2 "Now, you notice there's not links here.

3 Now, let's talk about this. This has been in 5,000

4 articles since then, conservatively, that I know of. A

5 lot of stuff doesn't end -- end up on the Internet.

6 It's -- it's in newspapers physically or on TV. Just

7 like you've seen more than 5,000, 6,000, 7,000 articles

8 the last week and a half about me saying I've come out

9 and said I'm fake; I've come out and said I don't

10 believe in anything I say. Never said that. There's no

11 audio. There's no video. There's no nothing.

12 People come out and say that I believe, a

13 few years ago when I wore a lizard mask as a joke, the

14 Gaur -- Gaur from -- from Star Trek and -- and did a

15 joke spoof comedy piece -- they say I really believe

16 that I'm a lizard and that I'm insane and that I deserve

17 to be locked up in a mental institution. That's coming

18 up. They say that about Trump, too. And I go, dude,

19 I'm doing a skit like anyone else does, like Glenn Beck

20 does or like John Stewart does. And they go, 'Oh my

21 god, you admit you're fake!'

22 "But you know what? I backed off on

23 satire the last few years, because people are so serious

24 now. They want me to be more serious. But I do so

25 little of that. I think I need to do more of it with

1 like a warning before it, parental warning, viewer
2 discretion advised. You're about to see satire and
3 comedy and other illustrations, not to deceive you, but
4 to get you to think and realize, because if I just get
5 up here and say read the vaccine insert; it says it can
6 kill you; it says it can brain damage you; to have a
7 secret vaccine fund to cover all the vaccine damage,
8 which is admitted to exist, but the details are secret;
9 please learn about how it's this ultimate way to put the
10 government in your body; please research how learned
11 immunity is real but also has great dangers; please
12 learn about how the elite don't vaccinate; here's
13 mainstream news articles, no one listens.

14 "But if I get up there in a devil mask or
15 a lizard mask and say I want you to take vaccines and I
16 don't want you to read the insert because you need to
17 trust the government and do what I say and don't worry
18 about all the secret experiments giving people syphilis
19 in vaccines and cancer viruses, you know, just please
20 take the shots, please take the shots, please take the
21 shots, please, just trust me, drink the fluoride water,
22 don't look at the Harvard studies that say it can brain
23 damage you and lowers IQ on average ten points for every
24 few years you drink it, then everybody listens. Then it
25 gets five million views. I do a serious video, it gets

1 100,000. Well, here's Harvard, here's UT, here's MIT,
2 here's Stanford, here's -- here's this medical school.
3 Cancer rates up 10,000 percent in pediatrics. Why are
4 the kids getting cancer? Why is breast cancer up
5 3,000 percent? No one cares when I'm showing the
6 *Journal of Medicine* and *WebMD*. But man, I put on a
7 lizard outfit, have that on the impact of fluoride on
8 neurological development in children, I get massive,
9 massive, massive, massive, massive views. And then
10 people get warned.

11 "So they're saying, 'What do we do about
12 this guy reaching 35 million people a year ago, 45, 50,
13 60 million conservatively now? What do we do? Well,
14 he's -- he's done some comedy pieces. Let's come out
15 and say, look, he's an actor; he's fake. And look, he's
16 blown up quite a bit on air, so let's edit all that
17 together and say he must be crazy. And then let's take
18 everything from him. And let's take his sponsors.
19 Let's take his advertisers. Let's -- let's -- let's
20 take everything he's got. And that's what they did.

21 "Every major channel -- every major news
22 channel in the country has been saying for over a week
23 and a half that I admit I'm fake and that I'm not real.
24 Because they've shown clips of me dressed up in a clown
25 outfit saying really scary stuff, and say, 'This man is

1 psychotic. We've got to take everything away from
2 him.' Think about that. And then I sit here, bound to
3 not even let -- be able to speak about all the things
4 I'm going through and then I say, 'I was playing the
5 part of the Joker,' and they go, 'Oh, my god, everything
6 you said was fake.'

7 "Let me tell you something, everything I
8 said as the Joker was true, but from the other side.
9 'Take your shots. It's good. It's good to die. Don't
10 read the insert. It's good to drink fluoride water.
11 It's good to love big government. It's good to lose
12 your freedoms. It's good to support communism.' That's
13 done to warn people. And everything I say is
14 documented. You don't have to believe me. I'm showing
15 you where the media's saying Donald Trump's crazy for
16 saying the attacks in Paris with a bunch of people
17 getting killed last week or the week before that in --
18 in Stockholm, Sweden, or the week before that in London,
19 England, or the week before that in Brussels, Belgium,
20 and -- and -- and 238 dead in the last year or so,
21 couple years in -- in France from terrorist attacks, and
22 AP, Fresno shooting, changes the words from Allahu
23 Akbar, removes Islam reference.

24 "I mean, that's happening. They're the
25 fake news. They're the ones deceiving. When I tell you

1 Madeleine Albright went on multiple programs and said it
2 was a good price to pay, 500,000 dead kids, I show you a
3 clip. If I say George Soros said he wasn't ashamed of
4 being a Nazi collaborator, I show the clip. If I said
5 it, I might as well play it up. You guys got two guys
6 running the show that makes Takes 5 on the weekend.
7 A -- we have guests on. We don't pre-screen what
8 they're going to say. Callers, we don't screen what
9 you're going to say like other shows. Everybody knows
10 that. So why? We're so real, they say we're fake.
11 "So, here's the new Sandy Hook
12 information. They have got the people that don't
13 believe anything the government says mad at me because
14 I'm saying I don't know exactly what happened.
15 Sandy Hook's so inconclusive. You've got the mainstream
16 media saying -- and thousands of articles that I believe
17 nobody died. Then I see tweets from Oberman and tweets
18 from everybody else saying, 'He goes and harasses
19 families. He sues families. He gets in their faces.
20 He says their kids didn't die.' I've never been in
21 Newtown. I've never got in their faces. I've said, 'I
22 believe kids died,' but then I've said I've seen devil's
23 advocate. We've done debates that no kids died and that
24 it's all made up because the media has been caught
25 making things up.

1 "We've had debates where I said both sides
2 and they cut it knowing that. You can go watch the full
3 deals. Just like Pizzagate, Megyn Kelly, I said, 'I
4 don't know if Hillary really was involved in all this
5 pedophilia as it said in the Wikileaks, some of
6 them in the pizza place.' But I said I know she said I
7 came, I saw, he died in Libya. I know they made a
8 country that was stabilizing and working with the West
9 to have them come out of dark eight years before -- it's
10 like 14 years ago now -- a bit longer, and she fed
11 a radical Jihadist how to put hundreds of thousands of
12 women in slavery in North Africa and Syria and tens of
13 thousands under the age of like seven years old, the
14 little kids getting gang raped.

15 "Just show me the Al Jazeera from last
16 week, also *International Business Times*, tens of
17 thousands of women in Libya being sold on slave blocks
18 into slavery, video of it, *International Business Times*.
19 I've seen national pundits make fun of me when I talk
20 about the government allowing Islamicists to sell women
21 on slave blocks. They go, 'What's a slave block?'

22 "The migrant slave trade's booming in
23 Libya. Why is the world ignoring it? Well, our
24 government came in, took out the secular government,
25 quasi-sanctioned it, put it around (inaudible) the slave

1 trade's back for men, women and children by the Muslims.
2 They started the modern slave trade. They taught us how
3 to build, but nobody ever says it because they're the
4 Muslims.

5 "What do you think a harem is? It's a
6 bunch of kidnapped women. You watch any women's march;
7 Muslims are leading it with women wearing hijabs
8 everywhere, and the Muslims are just completely loving
9 it. They showed it in *International Business Times*. It
10 actually has video on the site of the women being sold.
11 It's -- it's something -- actually ripped their clothes
12 off. I'm not going to show that part, but they just rip
13 their clothes off and the men are just standing
14 there like, 'Ughh,' most misogynistic enslaving a woman
15 I've ever seen, but that's okay because it's Muslims.

16 "Open Europe up, bring them in, cover up
17 the rapes, cover up the murders, cover it all up.

18 So this is -- this is what I'm getting out
19 of Sandy Hook. Here's the new info. It just hit me.
20 Islamicists love the left. Five million have been
21 brought into Europe. Merkel's covering it all up. It's
22 all going on. It's intensifying. The -- the -- the --
23 the -- the liberals love infanticide. They -- they kill
24 more people, left people on the highway. Bill Maher
25 earlier: They're heating hospitals all over the West

1 with the bodies of babies. We broke that ten years ago.
2 People couldn't believe it. Now it's mainstream news.

3 "They're selling infanticide. The big
4 liberal professors want to kill kids up to age three.
5 This is all going on. You see up there? 'Migrants are
6 being sold in markets at a rate of around \$200 to
7 \$500 a head.' Look at that. As they come up through
8 Africa through Libya trying to get to Southern Europe,
9 Italy, Greece, Macedonia, and they -- and there's a link
10 in there somewhere that goes to footage that's too
11 graphic to show here.

12 "And they make jokes saying I'm crazy, the
13 Muslims aren't doing it, it's not true. And -- and when
14 the Muslims shoot, kill or run people over or bomb them,
15 the news says it's not Islamic, like the 160 dead
16 yesterday in Afghanistan.

17 "So here are these holier than thou
18 people, when we question CNN, who supposedly is at the
19 site of Sandy Hook, and they've got, in one shot, leaves
20 blowing and flowers that are out, and you see the leaves
21 blowing and they go -- they glitch. They're recycling
22 a -- a green screen behind them.

23 "You've got -- who's the female lawyer
24 used to be on CNN, fake southern accent or whatever?
25 She's on there with cars driving in a cul-de-sac in

1 circles and you see it's the same cars going in circles.
2 And then we've got Anderson Cooper, famously, not just
3 with the flowers blowing and the fake, but when he
4 turns" --

5 *(Video stops)*

6 MR. ENOCH: I'm going to play this, Judge,
7 and I'll back up in a minute. But something I noticed
8 looking at this, they have an expert we've objected to.
9 We've objected to Mr. Fredericks' testimony about the
10 CNN video. His opinion is that it happens because of a
11 lost compression degradation.

12 You're going to hear Mr. Cooper say
13 something different. He's not going to say it's a green
14 screen. I'm not saying that. He's going to say it's
15 caused by something else. And they're trying to say we
16 should have known it was caused by something else. And
17 their expert is disputed by Mr. Cooper, who was actually
18 there.

19 *(Video plays as follows:)*

20 "So here are these holier than thou
21 people, when we question CNN, who supposedly is at the
22 site of Sandy Hook, and they've got, in one shot, leaves
23 blowing and flowers that are out, and you see the leaves
24 blowing and they go -- they glitch. They're recycling
25 a -- a green screen behind them.

1 "You've got -- who's the female lawyer
2 used to be on CNN, fake southern accent or whatever?
3 She's on there with cars driving in a cul-de-sac in
4 circles and you see it's the same cars going in circles.
5 And then we've got Anderson Cooper, famously, not just
6 with the flowers blowing in the fake, but when he turns,
7 his nose disappears repeatedly, because the green screen
8 isn't set right. And they don't like to do live feeds
9 because somebody might run up.

10 "CNN did that in the Gulf War and admitted
11 it. They just got caught two weeks ago doing it in,
12 supposedly, Syria, and then the green screen cuts out
13 and they got, you know, phones ringing. And all we're
14 saying is if these are known liars that lied about WMDs
15 and lied to get us into all of these wars and backed the
16 Arab Spring, and Libya, and Syria, and Egypt, everywhere
17 else to overthrow governments and put in radical
18 Islamicists, if they do that and have blood on their
19 hands and lied about the Iraq War and for the sanctions
20 that killed a half million kids and let the Islamicists
21 attack Serbia and lied about Serbia launching the
22 attack, when it all came out later that Serbia didn't do
23 it, how could you believe any of it if you have a memory
24 and you're not Dory from 'Finding Dory,' you know, the
25 Disney movie?

1 "Thank God you're so stupid. Thank God
2 you have no memory. It all goes back to that. Now you
3 go on and on about the wars, the lies, the racial
4 attacks they cover up that are on white people.
5 And I'm not black/white, but just this weekend, they
6 have Science is Real marches everywhere. And here in
7 Austin they have signs officially saying 'White Men Run
8 Science, That's Why They Don't Believe in Global
9 Warming.'

10 "No, white men run the global warming scam
11 and want carbon taxes for the Davos group at 100
12 trillion every decade. And white men want to cut Africa
13 and Latin America and Asia's food and water off. 'Earth
14 Day is too white and out of touch with reality.' Now,
15 there's your New Republic headline. This is such a
16 racist, anti-western culture. There's only 7 percent
17 white people. They hate themselves. They're dying.
18 They're gone. Don't worry, they have 1.2 replacement
19 rate. The West is dead. Hey, let's at least pass
20 the West and free market and some good ideas on to the
21 rest of the people.

22 "I get it. White folks don't want to have
23 kids. They're self-loathing. They've been sterilized
24 by the water. Kill yourselves if that's what you want.
25 But don't sit there and tell me how much you love the

1 Earth and then lie about me and say that I hate the
2 children of Sandy Hook and I hate all the parents and I
3 think all the parents are liars and nobody died. I did
4 an investigation because you can't believe one word that
5 comes out of MSN. And we had debates with both sides,
6 but I read the headlines today about how I'm attacking
7 families, never a link, never to video, to make the
8 media and the government and the system look like
9 they're good, look like they're the good guys, when
10 they're the blood thirsty war mongers posing as liberals
11 and as mainline conservatives that have been pushing all
12 of this.

13 "And, you know, here's the good thing.
14 They miscalculated. Every time media creates new hoaxes
15 against us and says we're the devil, we're the liars,
16 we're the scum of the Earth, people do research and they
17 find out it's not true. And we've never seen
18 the traffic to infowars.com and prisonplanet.com
19 (inaudible) not even during the election.

20 "We've never seen the traffic and the new
21 people coming to the site. I mean, during the election
22 night we had more for that -- that day.

23 "So we have had a record visitors and
24 record support and record purchases of the products that
25 are excellent. Water filtration, (inaudible)

1 supplements, t-shirts. We're not funded by sponsors.
2 They took those away. The network that I'm on, the
3 radio show, that has ads, I have some ads that are on
4 there, but it's -- it's almost all our products now.
5 They're coming after that. You see all the articles
6 demonizing them, but they're high quality, so people see
7 what happened.

8 "But just getting back to Sandy Hook, why
9 is one headline we have running for this on Facebook
10 'The Vampires of Sandy Hook Exposed' or revealed? The
11 vampires are the corporate media. Whatever happened
12 there, one way or the other, which means usually in the
13 media, but they say don't let a good crisis go to waste.
14 That was the White House Chief of Staff when Sandy Hook
15 happened.

16 "There's emails from Bloomberg the day
17 before to these national anti-gun groups saying, 'Get
18 ready. Get ready to move tomorrow.' This should be
19 investigated. All I'm saying is you should investigate
20 what really happened. Most fake mass shootings, they
21 have shooters and then killer patsy. We know
22 that's happened before. They've been caught before.
23 False flag's a household name.

24 "I tend to believe that's what happened.
25 But real mass shootings happen. I'm not saying real

1 kids didn't die. We've entertained the idea because the
2 majority of people online don't believe the official
3 story because they've been lied to so much and seen our
4 government launch wars that killed millions on lies, so
5 they killed 20 something kids?

6 "But you watch the blue screens and you
7 watch the fake stuff. And -- and -- and again, who was
8 that? Who was the blonde lady? It was the -- the
9 lawyer on CNN forever? And then she had -- well, we
10 have a video where the cars are driving in circles,
11 and you see they're driving in circles around her. Now,
12 it wasn't Greta van Sesteren. It's the blonde chick
13 with the -- with the Southern accent. What was her
14 name? Well, we have it in there. And the cars drive in
15 circles for like 20 minutes while she's doing an
16 interview to say she's there and it's the same cars. I
17 mean, it's just -- it's just crazy. And it does -- it
18 doesn't matter. Everybody knows about it.

19 "There's so many of these blonde female
20 lawyers fired from CNN. She's on for 10 years. It --
21 it doesn't matter. Hell, I can look it -- shut it down.
22 I don't want to look. I don't want to know. The crew's
23 great. Just, let's not. It -- it doesn't matter.

24 The point is, is that everybody knows they
25 lied about WMDs. Everybody knows that that stuff went

1 on. Everybody -- it's in our normal reel about Sandy
2 Hook being fake. You -- you know why people question
3 it, okay.

4 "Now, the crew's doing a great job. I
5 just get so overloaded with information. Why do I call
6 these people vampires? It's because they've been caught
7 lying over and over and over and over and over and over
8 and over and over again to get us into big, bloody,
9 blood-thirsty wars and they make jokes about 500,000
10 dead kids, and Hillary makes jokes about 'I came, I saw,
11 he died.' So you destabilized a first world country,
12 the only one except for South Africa in the continent of
13 Africa and the whole thing falls apart.

14 "And then you're up there never getting in
15 trouble and John McCain's meeting with the Al-Qaeda ISIS
16 rebels, and they destabilized that country. We
17 overthrow our allies in Egypt and put ISIS and Muslim
18 Brotherhood in charge there. They blow up basically
19 every church in the country.

20 "Our media won't even say when Islamicists
21 are attacking us and won't even call it Islamist and say
22 Trump's crazy when he says it's Islamist. And all these
23 serious things are going on and you sit there posing
24 like you love everybody while you're pushing abortion,
25 while you're pushing infanticide, while you're

1 pushing euthanasia, while you're pushing this death
2 culture with Bill Gates saying if you kill an old lady,
3 you can hire ten teachers. No, you give more services,
4 more quality, more of an economy -- the economy rises,
5 not the other way, as long as it's free market. You
6 create a crony capitalist or socialist system, it does
7 the -- the opposite.

8 "So understand that and understand there
9 is a hit out on InfoWars to assassinate my character by
10 lying and creating as a -- a artificial Alex Jones, a
11 straw man that is not me, that is an imposter, to go out
12 there and misrepresent what's happening and what's going
13 on and what's unfolding.

14 "And they think you're incredibly stupid.
15 Now I've got a video of Gold Four propaganda, babies in
16 incubators, that I want to play. And the other one's
17 CNN caught reading off a script in false flag video
18 montage I want to play. And I'm gonna come back, and
19 we're gonna stop the live feed. I'm gonna come back
20 later with another feed in just a few minutes. But this
21 is so critical, because it came out later no babies were
22 thrown out of incubators, this is made up. That's
23 admitted.

24 "I mean, they got us, that was 1991. Then
25 it was 2003, on and on and on, on and on and on. The

1 rebels got caught launching chemical attacks three years
2 ago. They got caught again yesterday. Ron Paul comes
3 out and says it's happening. And Google begins banning
4 me. We got an internal leak from Google saying they've
5 been ordered to go through and ban us, saying it's fake
6 news, that Ron Paul's not credible, and we cannot have
7 Ron Paul on saying that he believes it's a false flag,
8 that the rebels have been caught before, and the UN says
9 it was the rebels, and so does the *Associated Press*.

10 "And they said because Alex is gaining
11 credibility, this proves what we said, ban it, because
12 it's fake news. Then it got leaked a day later. They
13 said, 'Okay, we did it. We're gonna stop.' But they're
14 not stopping. 'Google says rogue vendor violated
15 guidelines by instructing coworkers to rate InfoWars as
16 untrustworthy site.'

17 "We are way more trustworthy than CNN.
18 We're trying to tell the truth. Do we make mistakes?
19 Absolutely. But it's not about InfoWars. If they can
20 shut us down, if they can demonize us, if they can win
21 this fight, they can shut everybody else down. And
22 that's why spreading the links to InfoWars.com, the
23 articles, the videos, that's why sending out the links,
24 that's why sharing infowars.com/show.

25 "I know most of you know that, but it's a

1 critical war. Start your own website, start your own
2 blog, whatever it is, use Facebook, Twitter and Google
3 to pull to your own platform, your own site. They want
4 to make it easy on their platforms so they control it.
5 They censor it. That's in their own documents. Like
6 Matt Drudge said when he visited a year and a half ago,
7 we've got to build our own sites again. We've got to go
8 back to the future.

9 "They're stealing the future. So am I bad
10 questioning a government known for lying, a media known
11 for lying, that lies, that gets us into wars that kill
12 millions of kids, that are obsessed with abortion and
13 cultures of death and all this evil, to question
14 them? Absolutely, I'm right.

15 "Did I say nobody died, it's all bull?
16 Yeah, they took the clip out of context and -- and when
17 I was the devil's advocate in a debate. I didn't say
18 that's what I believe. I said I could see both sides.
19 They hope you don't see the truth. They hope you don't
20 research it. They hope you don't find out for yourself
21 because they think you're stupid and want to defeat you.

22 "Now, I know you understand that, and many
23 of you are more advanced and smarter than I am. We've
24 got to reach out to those that have been put in arrested
25 development and are like children so that they can bloom

1 and blossom because that's how we're going to have a
2 future. I'm gonna end this video with a couple videos
3 together. Gulf War propaganda, babies in incubators,
4 and then false flag video montage. Then I'm gonna come
5 back briefly with the fact they want to put Donald Trump
6 in a mental institution and we know why they want to do
7 it, here exclusively. We're gonna break it down.

8 "But the bottom line is, the vampires of
9 MSN and corporate media and that whole system are the
10 ones feeding off the dead children of all these mass
11 shootings and these tragedies, some of which the
12 government and other groups have been caught being
13 involved in, to go to us that have ethics and care about
14 kids and get us to give up our guns and our right to
15 self-defense as if we somehow did it. They project
16 their crimes and these horrors on us when they're the
17 ones in Chicago, New York and other victim disarmament
18 zones, who have the highest crime rates in the world,
19 like Mexico does as a country, they do as cities,
20 because they, the elites, have guns, but the people
21 don't, and they're the ones that are literally behind
22 the carnage and the sadness and the enslavement.
23 And that's why they're the vampires of Sandy Hook, the
24 people that feed off those deaths and use it to take our
25 Second Amendment and more of our rights, and we see

1 through it and how they back all these crimes worldwide,
2 and just how nasty they are. Here are these reports,
3 and I'll be right back with another live feed."

4 "They took the babies out of the
5 incubators. Took the incubators and left the children
6 to die on the cold floor."

7 "You can only ask how these animals can
8 commit such barbaric and inhuman acts and then deny that
9 these acts ever took place."

10 "Premature infants in incubators were
11 sentenced to die by having the incubators removed."

12 "The hardest thing was burying the babies.
13 I myself buried 30 newborn babies that had been taken
14 from their incubators."

15 "Now is the time to check regression of
16 this ruthless dictator, whose troops have bayoneted
17 pregnant women and have ripped babies from their
18 incubators in Kuwait."

19 "How can I not think of my nephew who was
20 born premature and might have died that day as well?"

21 "And they had kids in incubators, and they
22 were thrown out of the incubators so that Kuwait could
23 be systematically dismantled."

24 "We interrupt our regular program schedule
25 to bring you the following special report from ABC News

1 in Washington."

2 "As president and Commander in Chief, it
3 is my duty to the American people to report that renewed
4 hostile actions against United States ships on the high
5 seas in the Gulf of Tonkin have today required me to
6 order the military forces of the United States to take
7 action in reply."

8 "In retaliation to this unprovoked attack
9 on the high seas, our forces have struck the bases used
10 by the North Vietnamese patrol craft."

11 "That could allow a president to wage war
12 in Vietnam."

13 "Israel claims the attack was accidental.
14 Some former U.S. Naval officers say it was on purpose,
15 and they described a very (inaudible) part of a
16 continuum of coverage."

17 "Well, I know we can't be very specific
18 given these restrictions, but within those parameters,
19 what did you see?"

20 "Well, what I saw, I didn't see anything
21 hit. I looked very -- I looked straight above us. It
22 was a gun patrol coming from my right to my left, and
23 there's a cloud of something. It looked like it
24 might have been (inaudible), but let's say" --

25 "There's a statement I make today backed

1 up by sources, solid sources. These are not assertions,
2 but we're giving you facts and conclusions based on
3 solid intelligence."

4 "Saddam Hussein is a homicidal dictator
5 who is addicted to weapons of mass destruction."

6 "We came, we saw, he died."

7 "Ten days ago, the world watched in horror
8 as men, women and children were massacred in Syria in
9 the worst chemical weapons attack in the 21st century."

10 "The Assad regime and only, undeniably,
11 the Assad regime unleashed an outrageous chemical attack
12 against its own citizens."

13 "Now, after careful deliberation, I have
14 decided that the United States should take military
15 action against Syrian regime targets."

16 "We can tell you beyond any reasonable
17 doubt that our evidence proves the Assad regime prepared
18 for this attack."

19 "Yesterday morning, we awoke to pictures,
20 to children foaming at the mouth, suffering convulsions,
21 being carried in the arms of desperate parents."

22 "On Tuesday, Syrian dictator, Bashar
23 al-Assad, launched a horrible chemical weapons attack on
24 innocent civilians."

25 "What is your message to President Assad?"

1 "The world is watching. The world doesn't
2 do anything."

3 "Assad choked out the lives of helpless
4 men, women and children."

5 "We know that yesterday's attack bears all
6 the hallmarks of the Assad regime's use of chemical
7 weapons."

8 "We see these beautiful pictures at night
9 from the decks of these two U.S. Navy vessels in the
10 Eastern Mediterranean. I am guided by the beauty of our
11 weapons and they are beautiful pictures."

12 "This live special report has come to you
13 from ABC News Washington."

14 "Below there, I almost look stupid."

15 "Dude, America kicked Hillary's ass and
16 the Democrats, not the damn Russians. Can you give me
17 some credit here? We're the big swinging Johnson, bro,
18 not the Russians! Get that through your head! We're
19 back! You understand?"

20 "Microaggression."

21 "Cultural appropriation."

22 "Offensive. Offensive. Offensive."

23 "My millennials, stay woke!"

24 "In ancient times" --

25 *(Video stops)*

1 MR. ENOCH: Judge, I did not mark when I
2 started. What time do you show that I have?

3 THE COURT: You're down to 20 minutes now.
4 I was going to warn you at 15, which is what you asked
5 me to do.

6 MR. ENOCH: Thank you, Your Honor. I'm
7 sure, guessing with the size of this audience here, the
8 majority -- vast majority probably disagree with a lot
9 of things that they just heard. Maybe it's -- maybe
10 it's fringe speech. Maybe it's dangerous speech. Maybe
11 it's irrational speech. I don't know how other people
12 perceive it. I've never watched the show other than
13 producing these clips. But that's not defamation. That
14 is rhetorical hyperbole at its core.

15 Everybody died, they lied about
16 everything, they killed millions of people, those are
17 the things that people do not expect to be verifiable
18 facts. What they expect when they turn in is hyperbole,
19 rhetorical hyperbole, and his commentary on news. He
20 reports Internet sites, Harvard you saw, other things,
21 as well as other Internet sites. He comments on those.

22 THE COURT: I thought that your motion
23 conceded that he was media for both opinion --

24 MR. ENOCH: He is --

25 THE COURT: -- and assertions of fact.

1 MR. ENOCH: No, not -- well, news media,
2 yes. We report the news and we give commentary on the
3 news, of course, yes. And the facts as he -- for
4 example, there were facts that he gave and there's also
5 hyperbole about those facts. He gives you a fact and
6 then he says from that I extrapolate. If they're going
7 to lie about this, they'll lie about something else.
8 That's the essence, what you just saw, right, wrong or
9 indifferent. He's not criticizing Sandy Hook. He
10 says --

11 THE COURT: Well, I need to understand
12 your position on this, because that's where you start
13 your motion, is the opinion/fact dichotomy.

14 MR. ENOCH: Yes, sir.

15 THE COURT: We know about that in the
16 newspaper on the last page of the editorial page.
17 Before that it's reporting. And we did the
18 investigation, we've done the background digging, we're
19 bringing you the truth is part of your exhibits. And so
20 I infer from that that he is, like a newspaper, like the
21 nightly news on NPR or any media broadcast, reporting
22 both fact and giving commentary.

23 MR. ENOCH: Yes, sir.

24 THE COURT: Is your position today
25 different than that --

1 MR. ENOCH: No, sir.

2 THE COURT: -- that it's all commentary?

3 MR. ENOCH: No, sir.

4 THE COURT: Okay. So he is reporting
5 facts.

6 MR. ENOCH: Yes, sir.

7 THE COURT: And the question for the Court
8 is: Are these statements factual statements? Because
9 if they are, they're not entitled to the protection that
10 opinion statements would be.

11 MR. ENOCH: You're correct.

12 THE COURT: All right.

13 MR. ENOCH: Okay. Now, but you'll notice
14 that notwithstanding, one of the affidavits even said
15 vampires exposed with the parents of Sandy Hook. Their
16 motion said it. Their pleadings say it. They haven't
17 even watched it. Three times, MSN and CNN, corporate
18 media, those are the vampires, because they are the ones
19 feeding off of those deaths at Sandy Hook. That's what
20 he said, feeding off those deaths. And he's being sued
21 because in that broadcast he accused Mrs. De La Rosa and
22 Mr. Pozner supposedly of criminal intent.

23 Let me ask you, Judge, if in the --

24 THE COURT: I think their allegation is
25 that he's accusing them of being in a conspiracy of a

1 hoax, that it didn't happen and they are complicit in
2 the perpetuation of that hoax on the public.

3 Now, you seem to be arguing at times he's
4 never made that statement. Then I'm hearing you say he
5 may have made the statement, but he retracted it. And
6 I'm trying to understand --

7 MR. ENOCH: Sure.

8 THE COURT: -- what his position is on
9 that and what statements of fact he actually made about
10 that.

11 MR. ENOCH: You just heard it.

12 THE COURT: Okay. That's it.

13 MR. ENOCH: That's it.

14 THE COURT: Okay. And so one cannot infer
15 from those statements that he's saying this was a hoax,
16 or at least in part a hoax, and that the parents are
17 complicit in that?

18 MR. ENOCH: There is absolutely nothing
19 ambiguous about that. You don't have to go outside the
20 document. There's no -- outside of the broadcast.
21 There's nothing in that ambiguous that you need to have
22 to go and find out five years ago when he said Sandy
23 Hook he meant people didn't die. That is all remote.
24 It's past the statute of limitations. The only issue is
25 this statement which I pulled out of the context I think

1 fairly.

2 THE COURT: Now I understand. So your
3 argument is he did say those things --

4 MR. ENOCH: Yes.

5 THE COURT: -- as statements of fact, but
6 more recently within the statute of limitations he
7 hasn't made a statement of fact, and one cannot use the
8 prior statements to get context for the current
9 statements as a reassertion or a resurrection, so to
10 speak, of the factual statements that it was a hoax?

11 MR. ENOCH: Exactly, although I'm not
12 going to go that far. I don't know whether he made
13 factual statements. I have not gone back to 2012, 2013.

14 THE COURT: Well, I was asking that
15 question. So you're -- because you're arguing they have
16 to show malice. Their argument is in order to show
17 malice, you've got to sort of show the other context and
18 other statements in order to know the intent and the
19 extent to which it's reckless.

20 MR. ENOCH: I don't think the case law,
21 Judge -- and I've cited it. We've argued that I don't
22 think the case law allows them to do it. You don't go
23 outside of that broadcast unless you have found that
24 that broadcast is ambiguous and needed explanation. You
25 don't go outside of that statement, the green screen

1 isn't set right, to find out if it's of and concerning
2 Lenny Pozner. Did you see anything in that about Lenny
3 Pozner?

4 THE COURT: No. It's all about his
5 wife --

6 MR. ENOCH: Well, the only thing --

7 THE COURT: -- right?

8 MR. ENOCH: Yes. The only thing is she's
9 in this video with the green screen.

10 THE COURT: Is it a statement that she's
11 participating in a hoax on the screen?

12 MR. ENOCH: No, sir, it's not.

13 THE COURT: That seems to be what they're
14 arguing.

15 MR. ENOCH: Yes, it is. There is a case
16 *Houseman vs. Publicaciones Paso Del Norte*, Court of
17 Eastland. It's a 2007 case reported at 242 S.W.2d --
18 3d 518. There's another case -- excuse me. There's
19 another --

20 THE COURT: And before you cite your next
21 one, I told you I'd warn you at 15, but instead you
22 asked the time and I warned you at 20. You're now down
23 to 14 minutes. So use as much as you want of your
24 rebuttal time, but I did tell you I would warn you about
25 that.

1 MR. ENOCH: Thank you, Your Honor.

2 THE COURT: Go ahead.

3 MR. ENOCH: These two cases, the *Houseman*
4 case and the case cited in the *Houseman* case, which is a
5 federal court circuit case at 2006 Westlaw 271 --

6 THE COURT: Cited in your briefing? Or is
7 this the first time it's being cited?

8 MR. ENOCH: I don't know if this was cited
9 in the briefing. I just brought copies of the case,
10 Judge.

11 THE COURT: Okay.

12 MR. ENOCH: Obviously once I see their
13 response, I'm more able to respond to their response.
14 In this case, there are some drug agents. And there's a
15 photograph of three people. Two of them are drug
16 traffickers. They don't know who the third one is.
17 He's not identified. There's no name. He's on the
18 picture and they talk about the picture. And he sues
19 saying, oh, you defamed me, because the inference is I'm
20 one of the drug traffickers. The Court said no, you
21 can't do that. So the fact that she is on the
22 photograph -- in the video is not -- does not mean it's
23 of and concerning her.

24 And more importantly, Judge, the rehack
25 case, which is -- I think this was cited in our --

1 excuse me, *Moore vs. Waldrop* 166 3d at 380. "Once
2 innuendo is being considered, the statement has moved
3 beyond the analysis of slander *per se* and into that as
4 slander *per quod*, because innuendo not only reflects the
5 meaning of the statement but also illuminates..."

6 This case stands for the proposition that
7 you cannot go outside for this context. You cannot
8 revive. The *Cox/Penick* case says the same thing. You
9 can't go back. If you don't identify the person here,
10 you can't get that under innuendo. You just can't do
11 it.

12 Judge, I will -- I'll reserve my time. I
13 appreciate your patience. Thank you very much. And
14 obviously our position is that there was not defamation
15 in this case. Thank you.

16 THE COURT: Thank you, Counsel. Do you
17 want to begin your argument now? We haven't gone -- why
18 don't you make part of your argument and break at a
19 logical time, maybe 20 minutes from now. Would that
20 be --

21 MR. BANKSTON: I'll see if we can do
22 something like that, yeah.

23 THE COURT: Would that work for you?

24 MR. BANKSTON: Yeah. I mean, if everyone
25 in the room is okay and doesn't need a restroom break.

1 THE COURT: Well, what matters is the
2 court reporter and the lawyers and me, and that's what
3 we're going to do.

4 MR. BANKSTON: Excellent. Sounds good.
5 Judge, I think a good place to start for us is if I
6 start by addressing some of the new things that were
7 said in the courtroom today. We'll kind of get that out
8 of the way, and then I can start fresh for what I wanted
9 to talk about today.

10 A couple things I want to talk about was,
11 first, some of these charts that were put up initially.
12 There was this chart about this allegation that by
13 filing an amended complaint yesterday that plaintiffs
14 nonsuited something like 30 something claims. This is
15 just -- this is an absurdity that I just don't think
16 defendants have understood yet.

17 In our petition is listed some various
18 broadcasts. One of those broadcasts was a June 13th,
19 2017 broadcast. Like the April broadcast, it simply
20 repeats the allegation of the blue screen. Later in the
21 petition there's some language and some paragraphs which
22 describe these broadcasts, and it has a list of dates,
23 and it'll say April 22nd and June 18 and the other
24 broadcast. And there is no June 18 broadcast. That
25 doesn't exist. Going through the pleadings in our

1 petition, there's no broadcast on that day. They seem
2 to think that that's the day that Megyn Kelly had her
3 broadcast. That's not the day that Megyn Kelly had her
4 broadcast.

5 THE COURT: So what statements are you
6 relying on? I haven't read your amended pleading
7 because it was filed last --

8 MR. BANKSTON: Sure, exactly.

9 THE COURT: -- because it was filed last
10 night. I did read the original petition.

11 MR. BANKSTON: The only thing that changed
12 is that the 18 was a typo. From earlier in the
13 pleading, you can see that it's actually June 13 was the
14 broadcast we're talking about. So there are -- for the
15 broadcast in 2017, there are three key broadcasts, and
16 that is what we saw a piece of today, the "Sandy Hook
17 Vampires Exposed" broadcast.

18 THE COURT: So give me the dates of the
19 three statements that you contend are the defamatory
20 statements upon which you rely entirely for liability in
21 the case.

22 MR. BANKSTON: Correct. Well, there --

23 THE COURT: April 22nd is the first one,
24 right?

25 MR. BANKSTON: Correct, April 22nd. There

1 is a repetition of the April 22nd statement on
2 April 28th that happened outside on the steps here. And
3 that statement merely reinforces and republishes the
4 April 22nd green screen allegation.

5 THE COURT: And the last one was in June?

6 MR. BANKSTON: In June of 2017, correct,
7 June 13. There is a Facebook video which repeats the
8 Ms. De La Rosa interview allegation, Anderson Cooper got
9 caught on green screen through covering it.

10 Primarily, though, Your Honor, April 22nd
11 is the broadcast. Those statements are merely
12 repetitions and republications of that essential
13 allegation. Everything you can get you can get from the
14 April 22nd broadcast.

15 In fact, our briefing also discusses later
16 in the year, in October actually, which isn't part of
17 our pleading or, you know, we're not making an
18 independent claim on it, but in October of that year he
19 repeats it again and says blue screens phony as a
20 \$3 bill, the whole thing.

21 So I just want to make clear that the
22 amendment last night was in certain paragraphs just to
23 change the typo from 18 to 13 and that that 13 broadcast
24 had already been referenced.

25 THE COURT: His argument at the very

1 end -- well, talk about the amendments of what he's
2 saying you've taken out of the case, then I'll ask my
3 question. I don't want to --

4 MR. BANKSTON: Okay.

5 THE COURT: I don't want to cut you off on
6 that because one of the arguments he makes is as to
7 April 28th you've made no assertion of specific damages;
8 ergo, you can't pursue it; ergo, we just need to worry
9 ourselves with April 22nd.

10 MR. BANKSTON: I --

11 THE COURT: That's what I heard him say.
12 Did you hear that?

13 MR. BANKSTON: Right. Yeah, that's what I
14 heard him say as well. I don't think Mr. Zipp in his
15 affidavit spends any time specifically talking about the
16 April 2018 statement but spends time in some of his
17 statements talking about the 2017 statements as a whole.
18 And that includes the 22nd, the 18th, the 28th, and as
19 well as the October 2017 statement.

20 Again, these are, as Mr. Zipp points out,
21 merely republications of what was already said on
22 April 22nd that help him -- help him understand the
23 defamatory meaning and defamatory intent of those
24 statements, right?

25 I think it would be fair to say,

1 Your Honor, that if the April 22nd 'teen statement
2 hadn't happened that had a little more content to it, I
3 don't think plaintiffs would be here today just based on
4 the one-off repetitions down the road.

5 THE COURT: Say that one more time.

6 MR. BANKSTON: Okay. So if the April 22nd
7 'teen statement didn't happen --

8 THE COURT: Team?

9 MR. BANKSTON: Excuse me. Yeah,
10 April 22nd, 2017 broadcast --

11 THE COURT: Yes. Thank you.

12 MR. BANKSTON: -- which is what we just
13 saw here. Well, we saw part of it. There's a lot more
14 you need to see. But if that broadcast hadn't
15 happened -- that broadcast is important because it shows
16 Mrs. De La Rosa. It talks about the interview in
17 explicit facts. It has the green screen isn't set
18 right, you know, gives the reason because. If that
19 broadcast didn't happen, I'm not positive the next
20 broadcast would have given enough to put us in this
21 courtroom.

22 THE COURT: April 28th might not have been
23 enough.

24 MR. BANKSTON: Exactly. Or at least maybe
25 it might have been enough, but I'm not sure it would

1 have caused a suit.

2 THE COURT: So the part --

3 MR. BANKSTON: What I do know is that it
4 republishes and reconfirms what was said in the
5 April 22nd, 2017. And that's why we focused most of our
6 time on it. But it is -- the 2017 statements in a whole
7 are discussed in Mr. Zipp's affidavit.

8 THE COURT: So I hear you saying if we
9 couldn't survive on the April 22nd statements, we can't
10 survive this motion to dismiss.

11 MR. BANKSTON: I think that has to be
12 true, because the only content in the 28th and the 13th
13 statement is a blue screen allegation, right? So if the
14 blue screen allegation in the 22nd isn't enough to get
15 you there, I'm not going to stand here and tell you that
16 the same allegation made later in the year is going to
17 get you there.

18 So I really do think that the Court's
19 analysis is very much focused on this 22nd broadcast and
20 what it meant. And what the case law tells you is you
21 can know what it meant by what the defendant said
22 before, at, or after the time of the defamation. And in
23 this case, those 2017 later statements are important,
24 and we've cited you law on that.

25 THE COURT: What case do we need to read

1 to know that we need not look only -- or we are not
2 limited to the statement for which they're being sued on
3 April 22nd; we can look at all the other statements
4 going back as far as five years in order to discern what
5 he was communicating on April 22nd? What case should
6 they reread in order to understand that you can do that
7 and that can be the basis for the Court decision?

8 MR. BANKSTON: Sure. The first one they'd
9 need to read was last year with the Austin Court of
10 Appeals in the *Warner Brothers* decision. That is
11 538 S.W.3d 805. That is discovered numerous places in
12 our brief because the evidence is actually admissible
13 for multiple purposes. The Austin Court tells us that
14 plaintiff can admit evidence of the defendants' words,
15 act, or acts before, at, or after the time of
16 communication.

17 *Beaumont vs. Basham* says the same thing,
18 that prior statements are admissible.

19 THE COURT: I made a note of *Warner* when I
20 read your brief. Is *Beaumont* also cited?

21 MR. BANKSTON: Yes, Your Honor, it sure
22 is. And then the other things you'll see in there in
23 the later sections of that when we actually get down to
24 the meat of that is there's a ton more of authority on
25 it. Your Honor, it's just -- there's universal accord

1 that prior statements are relevant in a defamation case.

2 THE COURT: Well, now, you argue --

3 MR. BANKSTON: They have brought you no
4 law on that.

5 THE COURT: You did argue that for the
6 purpose of malice. If we get to limited purpose public
7 figure -- you say your clients are not. But if they
8 are, you say we get to the question of malice and that
9 you've made a *prima facie* case of malice, right?

10 MR. BANKSTON: I think yes --

11 THE COURT: And -- all right, let me
12 finish my question. And I read you argued that you can
13 consider -- and I picked on the other side about this --
14 prior statements for the purpose of determining
15 recklessness.

16 MR. BANKSTON: There you go, uh-huh.

17 THE COURT: But assuming you don't get to
18 malice, because assuming there's a -- as a matter of law
19 the Court must decide whether the person is or is not a
20 limited purpose public figure, you're simply at the
21 negligence stage, do you get to get the fact-finder to
22 look at prior statements in order to glean meaning from
23 the statement --

24 MR. BANKSTON: Yes.

25 THE COURT: -- on August 22nd -- I mean,

1 on April 22nd? I understand for malice.

2 MR. BANKSTON: Absolutely.

3 THE COURT: But --

4 MR. BANKSTON: For two reasons,
5 Your Honor.

6 THE COURT: All right. That's what I want
7 you to focus on.

8 MR. BANKSTON: First is the one I think
9 you're focusing on, which is, can you use extrinsic
10 circumstances, including prior statements, in order to
11 determine things like the scope of a defamatory meaning
12 rather than the state of mind of a defendant's conduct?
13 And yes, you absolutely can, Your Honor. And not only
14 did we cite that in our brief; they also did.

15 The case that you would need to look for
16 that, Your Honor, is the *Billington* matter. And in
17 *Billington*, 226 S.W.2d 497, the quote is that innuendo
18 can enlarge the natural meaning of words, introduce new
19 matters, or make certain that which was uncertain, so
20 long as it connects the words published with extrinsic
21 or explanatory circumstances alleged.

22 So what we're going to tell you, as you
23 can see from this broadcast, is there's a lot of things
24 being said in his August 22nd -- April 22nd broadcast.
25 The meaning of his statements, most charitably, is

1 ambiguous. You know from our arguments that we believe
2 there's no way that that's talking about the innocent
3 use of a blue screen. That -- from Mr. Zipp's affidavit
4 discusses that, that this is about -- consistent with
5 statements of abuses of power, that essentially she is
6 CNN. She's being accused of being fake, not at Newtown,
7 not a parent. And you'll see that from other statements
8 in the broadcast.

9 But here, Mr. Zipp in his affidavit -- and
10 as you know, he's a 20-year former editor of the
11 *Statesman* who went back and through all of these
12 statements. And he has found a five-year history of
13 explanatory circumstances, that anybody who looks at the
14 extrinsic circumstances of this will know exactly what
15 Mr. Jones was talking about.

16 That being said, Your Honor -- and we will
17 talk about this after the break -- is I don't -- you're
18 not going to need any explanatory circumstances to
19 understand what was said in the April 22nd broadcast.
20 There is plenty of things said in the text of that
21 broadcast, and a large majority of them were not shown
22 to you on that screen.

23 We just had to sit through 30 minutes to
24 supposedly give us the full context. And instead, we
25 saw all these blank-outs and edits, and the huge part of

1 our challenged statements were not even shown to you.
2 In fact, we just had to edit down to 30 minutes and we
3 still had to sit through, I mean, just racism basically,
4 and that was the good stuff. There is some other stuff
5 we want to show you after the break, Your Honor, that
6 we'll show you that in the actual text of that
7 broadcast --

8 THE COURT: So you're going to play
9 statements about the Newtown event --

10 MR. BANKSTON: Correct.

11 THE COURT: -- that have not been played
12 by the other side that were made -- statements made on
13 April 22nd, 2017?

14 MR. BANKSTON: That is correct,
15 Your Honor.

16 THE COURT: Okay.

17 MR. BANKSTON: Before we jump into that, I
18 want to address a couple of the other things that were
19 said that are kind of new before we jump into those
20 substances. One, you brought up this thing that is very
21 true, which is that a lot of the things we're seeing
22 here are new evidence and new arguments.

23 The TCPA gives them 60 days to file a
24 motion. That doesn't mean you can just file a piece of
25 paper saying I'm going to bring a TCPA motion and then

1 wait until I'm on the bus here to Austin and then file
2 evidence. That's not allowed. There's no procedure
3 within the TCPA to supplement your motion. There is
4 no way to ambush me for a dismissal on the eve of my
5 hearing by putting new evidence and new arguments into
6 the record.

7 THE COURT: So are there objections that
8 have been filed about that?

9 MR. BANKSTON: In terms of these new
10 arguments being made today, I don't -- I haven't had any
11 opportunity to object except what I'm doing right now
12 this very second.

13 THE COURT: Well --

14 MR. BANKSTON: Some of this I have not
15 ever seen on paper, period, even as of last night.

16 THE COURT: As I told both sides before
17 you began, everything on a 27 motion must be in writing.

18 MR. BANKSTON: Absolutely.

19 THE COURT: We all agreed with that.

20 MR. BANKSTON: Absolutely.

21 THE COURT: And I heard you say there will
22 be no more writing after today. And the oral objections
23 is not what we're going to entertain, and I thought we
24 agreed that that was true.

25 MR. BANKSTON: I do agree. And to the

1 extent that if you agree with me that the things said in
2 this courtroom today are not part of the written record
3 that should be decided on, I think we're in agreement,
4 and I don't really -- there's not an objection to that.

5 MR. ENOCH: *(Stood up)*.

6 THE COURT: It's not their time to speak,
7 but, yes, that's certainly the way I construe it.

8 MR. BANKSTON: Okay.

9 THE COURT: Oral argument under 27.006 is
10 not the record. It's the written record and affidavits.

11 MR. BANKSTON: Okay. The Court --

12 THE COURT: But what I heard you say was
13 they late filed some affidavits. The last one I read
14 was on the 27th. And it really just references some
15 attachments.

16 MR. BANKSTON: Sure. Sure.

17 THE COURT: Are you saying no, that's too
18 late; you can't consider the one filed on July 27th with
19 the attachments; it's only that which was filed back in
20 May?

21 MR. BANKSTON: Yes. But I have that in a
22 written objection, so I don't need to bother you with
23 that right now.

24 THE COURT: Okay.

25 MR. BANKSTON: In other words, that's

1 written down. You can look at that. And yes, there's
2 hearsay and it's untimely, and that's all on paper, and
3 I don't think we need to get into that, because I also
4 think you're right; everything in it's irrelevant too,
5 so I'm not too concerned about the affidavit.

6 THE COURT: Well, relevance we don't --

7 MR. BANKSTON: The Court was --

8 THE COURT: Relevance we really don't need
9 to worry about, even on summary judgment. We can just
10 decide what weight, if any, to give that in deciding the
11 summary judgment.

12 MR. BANKSTON: Right. Right. If you --

13 THE COURT: And so if your argument is
14 relevance I can --

15 MR. BANKSTON: If you --

16 THE COURT: -- you don't even need to
17 have -- excuse me -- you don't even need a sustained
18 objection; you just simply need the Court to decide I
19 don't give it any weight because it doesn't matter,
20 right?

21 MR. BANKSTON: That's what I think. I
22 think, for instance, they attached some articles
23 yesterday about the plaintiffs in the last week writing
24 letters to Facebook about -- it's not relevant, so I
25 don't really care if it's admitted or not, Your Honor.

1 THE COURT: Okay.

2 MR. BANKSTON: But the one issue I did
3 want to address on that, just because it came up and
4 there was some discussion about it, was this thing about
5 pecuniary damages, which, again, wasn't an argument, but
6 I just want to make sure the Court was clear and that
7 the defendants were clear that reputational damages,
8 mental anguish, those things are all pecuniary damage.
9 Their reputational damage and their mental anguish
10 that's been discussed in these affidavits is pecuniary.
11 That's in *Fox vs. Parker*. There's no question about
12 that.

13 In addition, I've never seen this
14 argument, but these people have had to move. They have
15 medical expenses. You can see from their affidavit
16 they're seeking medical care. I don't think there's any
17 question about pecuniary damage, but it was never
18 raised. But I just wanted to make sure the Court knew
19 that I was coming here with pecuniary damage.

20 The other issue I kind of want to talk
21 about real quickly is this idea about the affidavits, is
22 one of the issues we're going to talk about after the
23 break, is of or concerning, is whether this broadcast
24 could be construed by a member of the public as of or
25 concerning the plaintiffs.

1 And what we have heard today was just
2 totally wrong, that an affidavit from a person who's
3 acquainted with the plaintiff is inadmissible and should
4 not be considered by the Court. And that is just
5 absolutely wrong. You'll see in our brief on Page 19,
6 we cite four cases in a row on this subject, that
7 defendant does not need to specifically intend or refer
8 to a plaintiff, does not even need to name them, that
9 the only test is whether an individual who is personally
10 acquainted with them could have understood it had a
11 defamatory meaning and thus --

12 THE COURT: But isn't that a question of
13 law for the Court?

14 MR. BANKSTON: It -- you would -- it's
15 actually a mixed question of law, and that's what all
16 four of these cases talk about.

17 THE COURT: And so we can take evidence on
18 that.

19 MR. BANKSTON: Absolutely. And all four
20 of them explicitly conclude -- that's *Cox*, that's *Tatum*,
21 that's *Backes*, that's *Vice* -- that an affidavit from
22 such a person is sufficient to survive a TCPA motion on
23 of or concerning. That's black letter law.

24 And the problem that I have that's so
25 frustrating in this case dealing with this motion is

1 there are so many of these issues that we have cited you
2 absolute black letter law on. And then we'll hear from
3 the other side that, Your Honor, you can't hear a prior
4 statement; you're not allowed to discuss that. No law.
5 There has not been a single piece of law put in front of
6 you in which a prior defamatory statement of a defendant
7 has been excluded from a defamation act. And the same
8 thing is true of these affidavits. You're not going to
9 ever find a single case where an affidavit from an
10 acquainted party was excluded because the law
11 specifically was written to provide for it to be proven
12 that way.

13 The last thing I want to talk about before
14 we break is this idea about *per se*, is defamation
15 *per se*. This was also not really argued in the brief,
16 but considering that there is the line in the brief that
17 the plaintiffs didn't prove defamation *per se*, I feel
18 like I should probably address it just briefly, which is
19 this idea that according to their side, that an
20 ambiguous statement can never be defamation *per se*. And
21 that's just not true.

22 If you look in the case law, there are
23 plenty of cases involving criminal allegations which
24 they were not made in explicit black and white text.
25 When the statement is ambiguous, that's when you know it

1 needs to go to a jury. And in this case, you're going
2 to see the same type of evidence we discussed before on
3 this, which is that reasonable viewers did in fact
4 detect it as an allegation of criminal activity.

5 Specifically, you'll see that two people
6 who are acquainted with them both found that what
7 Mr. Jones was saying, because the allegation is
8 Ms. De La Rosa is a fraud, is filming a fake interview
9 to cover up the truth about Sandy Hook, this idea and
10 plus the other statements in the broadcast we'll talk
11 about when we get back shows that Ms. De La Rosa is not
12 a real parent and that Sandy Hook didn't happen. And if
13 that is true, then both Leonard Pozner and
14 Mrs. De La Rosa -- these viewers said that our
15 understanding is they were being accused of doing all
16 the things that would be necessarily appurtenant to
17 that, such as giving false statements to police, to
18 giving false government reports, all of these crimes
19 that would necessarily have to be committed if
20 Ms. De La Rosa is playing the part of a Sandy Hook
21 parent.

22 An interesting kind of dynamic to this
23 that I don't think a lot of people wrap their arms
24 around --

25 THE COURT: But don't you have to prevail

1 on this motion with the proposition that this statement
2 by itself is that she is part of a hoax in the
3 interview?

4 MR. BANKSTON: I think the entire -- first
5 we look at the entire broadcast of April 22nd and can
6 you reach that conclusion.

7 THE COURT: Exactly.

8 MR. BANKSTON: Right. And I think that,
9 yes, you can, and we're going to talk about that.

10 THE COURT: And you must have a finding
11 that that's true in order to survive this motion?

12 MR. BANKSTON: The only caveat I would
13 give it --

14 THE COURT: Because if you can't based on
15 that statement alone, you can't go back and find other
16 statements where he says that; you must be able to glean
17 that from this statement.

18 MR. BANKSTON: I think you would at least
19 have to conclude that differing people could have
20 differing understandings of the broadcast. I think you
21 would have to conclude that it is not black and white to
22 every viewer that he's not doing that, right? Because
23 the thing that it all comes down to whether these
24 statements are reasonably susceptible. And not every
25 reasonable viewer will catch every implication.

1 So all that really matters is if a viewer
2 could understand the broadcast in this way, if a viewer
3 could understand that and understand that they're being
4 implicated in a crime, that Mr. Pozner is necessarily
5 implicated. And there is an important case. We're
6 going to need to talk about that after the break.

7 But if a reasonable viewer could
8 understand that, we keep going. Now we're in discovery.
9 We're going to start doing discovery. It is not a
10 question that the Court must decide that, yes, you
11 absolutely -- the interpretation of that broadcast is
12 criminal, hoax, et cetera. All that's determined is
13 that the people who have determined this, that they
14 reasonably concluded it.

15 And here you're going to see from two,
16 you know, fact witnesses as well as two experts -- and
17 on this point I do think you brought up an interesting
18 other point about the idea of questions of law. For
19 instance, you're going to have to decide, is it an
20 opinion? And that is, depending on which court you
21 listen to, is either a question of law or a mixed
22 question of fact and law. But there's no question that
23 everything needed to reach that is going to be built on
24 facts. You have to know what he said in the broadcast.
25 You have to know what the standard style of InfoWars

1 broadcasting is. You have to understand all of these
2 things about it to understand what a reasonable viewer
3 would have taken away. And all of those facts are well
4 supplied by the affidavit of Zipp and the affidavit of
5 Ms. Binkowski.

6 These are the kind of issues that I want
7 to talk about. When we come back -- I noticed one of
8 the issues we haven't talked about is public figure. We
9 haven't gotten much into that. And there's some really
10 important things I want to talk to you about on public
11 figure.

12 So I think at this point if we could take
13 a break, we could come back, we could talk a little bit
14 about opinion, of or concerning, public figure, and
15 malice. And I think that's all that we needed to talk
16 to you about today, Your Honor.

17 THE COURT: Let me note the time you have
18 consumed. Let's just break for ten minutes to give
19 everybody an opportunity to refresh themselves.

20 So you know, the moving party has used an
21 hour and eight minutes, so you're down to 12 minutes in
22 rebuttal argument. The non-moving party -- and no one's
23 excused yet -- has used 20 minutes. And I will see
24 everyone back in ten minutes. Thank you, Counsel.

25 *(Recess taken)*

1 THE COURT: You may resume, Counsel.

2 MR. BANKSTON: Thank you, Your Honor.

3 Okay. Your Honor, where I want to pick up is talking
4 about what is actually in the contents of Mr. Jones'
5 statements that I'd like you to consider in this case,
6 both the challenge statement, the defamatory statement,
7 the further confirmatory statements, and the history of
8 prior extrinsic statements.

9 In going through this, I think it's
10 important for me to note that everything that I'm saying
11 here, all the facts that I'm offering, the inferences
12 off of the pleadings and the affidavits, all of it has
13 to be accepted in the light most favorable to our party.

14 You know, Judge, in asking some of the
15 questions today, we're piercing down to some of the
16 right legal issues. And for every one of those
17 questions you're asking, the law is going to require you
18 to answer them in the light most favorable to me. And
19 when you look at the contents of what's in these videos,
20 I think we're going to agree about the first one, one
21 very clear thing, is that Mr. Zipp discusses all of the
22 content. And what you have to come to is,
23 unquestionably, the gist of the broadcast is that
24 Ms. De La Rosa participated in a faked interview in
25 front of a blue screen to fake her location and that

1 this was part and consistent with a cover-up of what
2 happened at Sandy Hook, because Sandy Hook did not
3 happen is the original story.

4 In that broadcast, several assertions of
5 fact are made. The first is -- which is the one that's
6 obvious that's been up on the board for you, the one you
7 have been shown, is saying that Anderson Cooper's nose
8 disappears because the green screen isn't set right.
9 That's the first assertion. But, however, later in the
10 broadcast, which you were not shown, Mr. Jones talks to
11 one of his news directors, Rob Dew, and they engage in a
12 discussion about Sandy Hook, and they repeat a large
13 majority of the absolute false -- just monstrously false
14 statements about Sandy Hook that they intend to use to
15 have their viewers believe that it is a hoax.

16 The first is this theory that he has been
17 pushing for a long while -- and it's not theory. He's
18 not a conspiracy theorist. He doesn't espouse theories.
19 He just says facts falsely. And the one he says here is
20 that this couldn't have happened because the school was
21 closed. He says the school was closed until that year.
22 He says he's done research on it and it wasn't opened;
23 it was done as a drill. And he says the reason it was a
24 drill is because there's videos of children being
25 marched around in circles with their hands in the air in

1 a drill outside of the school. That doesn't -- that's
2 never happened. And that's discussed very well in
3 Mr. Zipp's affidavit.

4 He says that there are videos of the
5 school that show that it's rotting and falling apart,
6 that it's not an operational school. That's also false.
7 Mr. Zipp has personally reviewed the videos taken inside
8 of the school that day by the first responders, and not
9 just of the rooms but of the entire school, and it is a
10 functioning perfectly normal school. It's an absolute
11 lie.

12 He also said in that same broadcast this
13 news reporter said that on that day the police were
14 pulling guns out of cars, like the guns weren't in the
15 building, they were pulling stuff out of cars. That's
16 all been broken down by Mr. Zipp, absolutely false.

17 He says that there were port-o-potties
18 delivered to the scene within an hour for the big media
19 event. All right. This has also been one of his
20 constant themes that this was all a faked, pre-planned,
21 pre-setup hoax.

22 His prod- -- one of his producers went so
23 much as to just lament the fact and demand that he's
24 never seen even any blurred photos of dead children.
25 They want to see pictures of dead children with bullet

1 holes in them or else they're going to sit there and
2 call this a hoax to their audience.

3 Your Honor, these are all statements of
4 fact. And I think what sometimes gets lost is that
5 Mr. Jones has this overarching theory, opinion, belief,
6 assertion he's making, which is Sandy Hook is fake, it's
7 a hoax, it's a setup. In order to make that statement,
8 what he does is he marshals all of these false
9 assertions of fact, things -- you could maybe argue with
10 them all day long of I don't know what really happened
11 at Sandy Hook, maybe they killed little kids, maybe they
12 didn't. Part of his weird argument is maybe they did
13 kill some real kids, but look at these parents here, the
14 ones who are on the blue screen and the ones who are
15 doing the fake laughing, and these are the actors, these
16 aren't the real parents.

17 So even under a scenario where Alex Jones
18 could admit that children were killed, which under his
19 theory is that the school was opened that year for that
20 purpose, they stocked it full of kids and killed them --
21 that's his theory -- even under that theory,
22 Mrs. De La Rosa is still part of the Sandy Hook
23 vampires. She's still part of one of these people on
24 the blue screen. Because here's what you've got to
25 understand about that blue screen, Your Honor, that if

1 you look at the video, Ms. De La Rosa's clothes are
2 moving, her hair is moving, they're outside. If she's
3 in a CNN studio in Atlanta like Mr. Jones is saying or
4 wherever the heck she's supposed to be, that requires an
5 accomplice off screen with a fan blowing her clothing
6 and all of that. She -- if you conclude that this was a
7 blue screen, she's part of it; she's definitely
8 involved.

9 With regard to those statements, those
10 statements which unequivocally Sandy Hook was a hoax,
11 and the other one you did see -- I don't know if you
12 caught it on the video. But do you remember when
13 Mr. Jones was getting really aggravated because his crew
14 couldn't find a clip of a certain female lawyer on TV?
15 He couldn't remember if it was Greta Susteren.
16 Actually, I think he was talking about Nancy Grace. And
17 he was angry that he couldn't find the clip. And he was
18 like never mind, never mind, forget it. And he said,
19 guys, it's on our normal reel of Sandy Hook being a
20 hoax.

21 In the very broadcast, there's no way the
22 defendants can say that there wasn't ideas communicated
23 to the viewer that they wouldn't walk away from that
24 that man is saying that the event is a hoax. There's
25 no way that the school can be closed and it's all

1 rotting and falling apart, and the police are doing all
2 these evil things, that the school's not even real, that
3 the port-o-potties are being delivered, all of these
4 things are used to marshal to reach that defamatory
5 allegation. And all of that is within the text of the
6 broadcast.

7 And we have given you the affidavit of
8 Grant Fredericks. He's the FBI's forensic video
9 instructor. We had heard something about there was
10 going to be a difference of the two opinions between him
11 and Anderson Cooper. There's really not, but I'm not
12 going to go too deep into that. Mr. Fredericks'
13 affidavit needs to be accepted as true. And under his
14 interpretation, no person could have possibly come to
15 these conclusions.

16 THE COURT: I heard opposing counsel say
17 he filed very recently, so recently it wasn't viewable
18 by me last evening, objections to that affidavit.

19 MR. BANKSTON: Correct. They actually
20 filed objections to every affidavit.

21 THE COURT: Did you file a response to
22 those objections?

23 MR. BANKSTON: I haven't had an
24 opportunity to do that. No, Your Honor, I haven't.

25 THE COURT: And you've already told me

1 earlier today you're not going to be.

2 MR. BANKSTON: I don't think I need to,
3 Your Honor.

4 THE COURT: Well, I --

5 MR. BANKSTON: We could talk a little
6 about them, but I just don't think I need to, and I'll
7 explain to you why.

8 THE COURT: Well, I guess you'd better
9 tell me why I shouldn't consider the objections which
10 were on the eve of this hearing filed.

11 MR. BANKSTON: Sure. And let's go
12 through -- I think the easiest way to do it would be
13 affidavit by affidavit, because they have different
14 objections for different affidavits.

15 THE COURT: Okay.

16 MR. BANKSTON: So let's start with
17 Mr. Fredericks. Their really only one real, I think,
18 objection to Mr. Fredericks that's of any value -- they
19 have some about best evidence rules. He reviewed some
20 videos from YouTube. He reviewed their broadcasts.
21 There's no question that he documented what he viewed.
22 It's -- I'm not understanding the best evidence
23 objection actually at all.

24 But one that they do is that he's reaching
25 an ultimate opinion. I mean, at the end of his report

1 he straight up says, look, hey, they recklessly
2 disregarded the truth; they made the statement with
3 reckless disregard for whether it was false or they had
4 serious doubts about it.

5 To the extent the Court wants to find that
6 that is a finding of fact, I mean, first of all, I'd
7 point out that obviously in defamation cases it is
8 routine for there to be affidavits from experts, both
9 technical and journalistic, to establish the standard of
10 care whether it was violated, how it was breached. He's
11 not giving a conclusory affidavit. He's not just giving
12 you a conclusion -- his affidavit is not I'm Grant
13 Fredericks; here's my legal conclusion. That legal
14 conclusion is preceded by all of the facts which support
15 it, which you would have to accept as true. And thus,
16 there would be no way for you to reach any other
17 ultimate conclusion than what he's reaching anyway. So
18 even if their objection --

19 THE COURT: So I could take everything
20 other than the last sentence?

21 MR. BANKSTON: I think that's -- that's
22 exactly what I was about to say. I think that if you
23 strike the exact last sentence of his affidavit, the
24 Court doesn't get anywhere else and it's the exact same
25 stuff.

1 I think that's very true of all the
2 affidavits that this objection's on. There's -- there's
3 also the -- you know, there's the constant referring
4 brought up about clear and convincing evidence. And I
5 just want to remind the Court it's clear and specific on
6 those affidavits. But -- for instance, with Mr. Zipp,
7 there's hearsay affidavits, but nearly every single
8 out-of-court statement attached to Mr. Zipp's affidavit
9 is Jones' statement. It's a party opponent. It's not
10 hearsay.

11 There are a couple of articles that he
12 attached, but they're not for the truth of the matter
13 asserted. He gives them to show that other people
14 reached a defamatory meaning from Mr. Jones' broadcast,
15 not that what they're saying in those articles is true.
16 So there's no hearsay problem with Mr. Zipp.

17 They also actually bring Daubert
18 challenges on some of these people, which the idea of
19 even a Daubert challenge to a summary judgment affidavit
20 is weird to me, but to a motion to dismiss is just
21 absurd. But that being said, for instance, there's some
22 discussion about Ms. Binkowski. She's the managing
23 editor of Snopes. She talks about her background,
24 23 years as a multi-media journalist, describes what she
25 has done at Snopes for years, how it's relevant to the

1 case. I think her qualifications are absolutely set
2 out. So for most of those affidavits, I just don't
3 think there's any weight there that we need to talk
4 about.

5 There is one -- you'll notice there's a
6 declaration from the dean of the school of law at
7 Elon University in Greensboro. And he offered and
8 reached out to say I would like to provide a declaration
9 to the Court about some of these emerging issues of law.
10 And Professor Armijo --

11 THE COURT: Well, isn't that really an
12 amicus brief?

13 MR. BANKSTON: Correct.

14 THE COURT: I mean, are you really
15 offering it as evidence?

16 MR. BANKSTON: I don't think you should
17 put it into evidence, no.

18 THE COURT: So it's not part of your
19 *prima facie* case.

20 MR. BANKSTON: I wouldn't think so.

21 THE COURT: It's simply an amicus brief in
22 the form of a declaration that doesn't need to be a
23 declaration, I don't think.

24 MR. BANKSTON: I wouldn't think so either.
25 I just wanted to make sure that, you know, we had

1 something signed. But I think you should view it with
2 about the same as if I had attached a *Law Review* article
3 to my briefing. I think it's informative to you on some
4 of these new issues of law, but I don't think it's
5 anything more than a *Law Review* article, you know.

6 THE COURT: All right.

7 MR. BANKSTON: I think it's just a
8 persuasive piece of authority.

9 So that's a little bit on the affidavits.
10 There's -- I believe there's also an affidavit to one of
11 the other former persons who worked with Mr. Jones, but
12 it's a relevance objection, so I'm just not going to --
13 I'll let you deal with that. You can decide if you
14 think it's relevant.

15 I do want to talk now about the further in
16 2017 videos real quick and the two of them and just give
17 you the exact quotes, all right? Because in June of
18 2017, the quote that we're really pulling out of that
19 that really republishes what he said in April is there's
20 been a cover-up and Anderson Cooper got caught faking
21 where his location was with the blue screen. Then later
22 in October he said it's as phony as a \$3 bill, it being
23 Sandy Hook, with CNN doing fake newscasts with blue
24 screens. So he's continuously reupping this allegation
25 about this blue screen.

1 So now I want to talk a little bit about
2 the prior videos, about these five years of intrinsic
3 circumstances. And as I told you, you can see in our
4 brief the multiple places in which we have proven law.
5 This is going to be relevant for your consideration, so
6 I do want you to see some of those today.

7 Mr. Zipp in his affidavit documented about
8 20 prior broadcasts that all of or concerning implicate
9 the plaintiffs in this case. And I do want to make it
10 clear that while Mr. Jones' statements probably in most
11 cases implicate a broad group of people involved in a
12 Sandy Hook hoax, his statements about Mrs. De La Rosa's
13 interview are specific to her because it's her
14 interview.

15 And there is a view of Mr. Jones' hoax
16 theory in which other parents are potentially real
17 parents, and these actors, these crisis actors, people
18 who are appearing in the fake scene and then
19 broadcasting the fake crime, that those are the fake
20 people. Alternatively, everybody's fake. It depends on
21 the day of the week with Alex Jones. It really does.
22 Some days he says that everything is, you know, pretty
23 much the story, but I don't know what it is, and so
24 there's a lot of ambiguity to that. So I want to talk
25 to you a little bit about those broadcasts.

1 Mr. Jones started the Sandy Hook
2 conspiracy on the day of the shooting. It's that bad.
3 He does it for every shooting, and we'll talk about
4 that. But within hours of the shooting, if you'll look
5 at Exhibit 81, he published a broadcast called Sandy
6 Hook appears to be a -- looks like a -- looks like a
7 false flag, stay with us, and that's when he first
8 started his whole bit on this is a hoax. Within a
9 month --

10 Bill, do you want to get the video ready
11 for me? Yeah. The first one.

12 About a month after the tragedy is when he
13 first debuted his allegations about the blue screen. So
14 the blue screen allegation came on January 22nd, 2013.
15 That is Exhibit A-3. And we're going to put that up on
16 the screen for you.

17 MR. ENOCH: Judge, may I make an
18 objection, Your Honor? I don't want to interrupt him;
19 he didn't do me. I don't -- I don't know that the
20 videos were attached to the affidavits, and so I would
21 object to anything that's not been attached to an
22 affidavit in this case.

23 MR. BANKSTON: They were filed with the
24 Court. We filed both the transcripts and the videos
25 with the Court. We provided a Dropbox link to them.

1 THE COURT: The written record is what the
2 written record is. And before you leave here, we're
3 going to go through every filing from the beginning
4 until today that's in the written record that
5 constitutes the record upon which the Court must base
6 its decision on this motion to dismiss.

7 MR. BANKSTON: Okay. Can you play it for
8 me?

9 Well, you know, Judge, I told you
10 technology is supposed to make it a lot easier, right?

11 Yes, that's it. Okay. Can you display
12 the first one?

13 *(The video played as follows:)*

14 "Coming up we've got Anderson Cooper
15 supposedly at Sandy Hook, and it's clearly blue screen.
16 I've worked with blue screen for 17 years. We've got it
17 right in there. We know what it looks like. We know
18 what the anomalies look like. And we know what happens
19 when you don't tune it properly. It's clearly blue
20 screen."

21 *(Video stops)*

22 MR. BANKSTON: All right. Your Honor,
23 that was Exhibit A-3. Following that on April 2013 in a
24 video entitled "Shadow Government Strikes Again,"
25 Mr. Jones said, and I'll quote, "They staged Sandy Hook.

1 The evidence is just overwhelming. That's why I'm so
2 desperate and freaked out." That's Exhibit A-5.

3 THE COURT: And all of these exhibits were
4 the exhibits attached to your response filed on the 25th
5 of July?

6 MR. BANKSTON: Correct, attached to the
7 affidavit of Fred Zipp.

8 THE COURT: Which was attached to your
9 response filed on July 25th?

10 MR. BANKSTON: Correct.

11 THE COURT: Yes.

12 MR. BANKSTON: Mr. Zipp's is A, and then
13 all the numbers I'm giving you are the attachments.

14 In March 2014 in a video entitled "Sandy
15 Hook False Narratives vs. The Reality," he stated,
16 "Folks, we've got Anderson Cooper with clear blue screen
17 out there. He's not there in the town square. I've
18 looked at it, and undoubtedly there's a cover-up,
19 there's actors, they're manipulating, they've been
20 caught lying, and they were pre-planning before it and
21 they rolled out with it." That is Exhibit A-6.

22 In December of that year he continued in a
23 video entitled "America, The False Democracy" in which
24 he said, "I've had investigators on. I've had the state
25 police that have gone public. You name it. The whole

1 thing is a giant hoax. And the problem is, how do you
2 deal with a giant hoax? I mean, how do you even
3 convince the public something is a total hoax?" He
4 said, "Blue screens, green screens they got caught
5 using? I mean, the whole thing."

6 And then he said this. Bill, can you play
7 the video, too?

8 *(The video played as follows:)*

9 "People just instinctively know that
10 there's a lot of fraud going on, but it took me about a
11 year with Sandy Hook to come to grips with the fact that
12 the whole thing was fake. I mean, even I couldn't
13 believe it. I knew they jumped on it, used the crisis,
14 hyped it up, but then I did deep research and, my gosh,
15 it just pretty much didn't happen."

16 "Everything we've said can be proved."

17 *(Video stops)*

18 MR. BANKSTON: Your Honor, it continued
19 the next year in January in a video entitled "Why We
20 Accept Government Lies," and this time he included an
21 accusation about my client's son. It turns out that
22 after a school shooting in Pakistan, some of the people
23 there made a tribute wall in a show of solidarity and
24 included a picture of young Pozner's boy on that tribute
25 wall. Mr. Jones tried to use this, as you'll see in

1 this broadcast, that they're using fake pictures of kids
2 at Sandy Hook for fake shootings in Pakistan. That's
3 all a part of his lies.

4 Bill, can you play this video here from
5 January 2015?

6 *(The video played as follows:)*

7 "They have staged events before, but then
8 you learn the school had been closed and reopened and
9 you've got video of kids going in circles in and out of
10 the building, and they don't call the rescue choppers
11 for two hours, and then they tear the building down and
12 shingle it, and they get caught using blue screens. And
13 an email about Bloomberg comes out in a lawsuit where
14 he's telling his people get ready the next 24 hours to
15 capitalize on the shooting. Yeah, so Sandy Hook is a
16 synthetic, completely fake with actors, in my view
17 manufactured. I couldn't believe it at first. I knew
18 they had actors there, clearly, but I thought they
19 killed some real kids. And it just shows how bold they
20 are that they clearly used actors. I mean, they even
21 ended up using photos of kids killed in mass shootings
22 here in a fake mass shooting in Turkey. So yeah -- or
23 Pakistan. The sky is now the limit. I appreciate your
24 call."

25 *(Video stopped)*

1 MR. BANKSTON: In July of that year he
2 continued, in July 2015. This was entitled "Retired FBI
3 Agent Investigates Sandy Hook Mega Massive Cover-Up."
4 He stated, quote, "But you've got green screen with
5 Anderson Cooper where I was watching the videos and the
6 flowers and the plants are blowing in some of them and
7 then they blow again the same way. It's looped. And
8 then his nose disappears. I mean, it's fake." And then
9 he says, "It's 101. They're covering it up. This is
10 mega massive cover-up." And then he said this.

11 *(The video played as follows:)*

12 "You can clearly see they're scared. The
13 wagons are circled. They could just release all this.
14 There is no paperwork.

15 "It's all -- so, I mean, I guess totally
16 made up with green screens, everything. And we've got
17 them on green screens."

18 "Yeah."

19 "I mean, what is going on here?"

20 "On top of that" --

21 "That's how evil these people are, is that
22 they can have CNN involved, all these people."

23 *(Video stopped)*

24 MR. BANKSTON: By November of 2016, the
25 public outcry by the unmistakable meaning of the

1 statements had reached a fever pitch, and so he decided
2 to record a video in which he entitled "Alex Jones Final
3 Statement on Sandy Hook." Unfortunately, it wasn't his
4 final statement, but he said in that broadcast, quote,
5 "And then I saw Anderson Cooper -- I've been in TV for
6 20 something years; I know a blue screen or a green
7 screen -- turn, and his nose disappears. Then I saw
8 clearly that they were using footage on the green screen
9 looped because it would show flowers and other things
10 during the broadcast that were moving and then basically
11 cutting to the same piece of footage."

12 So to be clear -- actually, Bill, do you
13 want to play the video of that? What's the next video
14 here? This is what he said in that one.

15 *(The video played as follows:)*

16 "So to be clear, we point out clear
17 chroma key, also known as blue screen or green screen
18 being used, and we're demonized. We point out they're
19 clearly doing fake interviews."

20 *(Video stopped)*

21 MR. BANKSTON: In the finality of that
22 video -- that was Exhibit A-24. In A-25 the finality is
23 shown. And it's a chilling finality in which he calls
24 the parents actors. He says, quote, "Why should anybody
25 fear an investigation if they have nothing to hide? In

1 fact, isn't that in Shakespeare's Hamlet, me thinks you
2 protest too much?" Then he said this.

3 *(The video played as follows:)*

4 "But I will say this finally. My heart
5 does go out to all parents that lose children, whether
6 it's to stabbings, or whether it's to car wrecks, or
7 whether it's to stranglings, or whether it's to blunt
8 force trauma, or murder, firearms, whatever the case is.
9 I'm a parent, and my heart goes out to all parents that
10 have lost children in these tragic events.

11 "And so if children were lost in Sandy
12 Hook, my heart goes out to each and every one of those
13 parents and the people that said they're parents that I
14 see on the news. The only problem is I've watched a lot
15 of soap operas, and I've seen actors before. And I know
16 when I'm watching a movie and when I'm watching
17 something real."

18 *(Video stops)*

19 MR. BANKSTON: I know when I'm watching a
20 movie and I know when I'm watching something real is
21 what he said. And then one month later authorities
22 located Lucy Richards. And you may recall Lucy Richards
23 from the discussion at the beginning of our brief.
24 Ms. Lucy Richards was an InfoWars follower who stalked
25 and threatened to kill the Pozner family. She was so

1 motivated by Mr. Jones' lies that she upon her release
2 from prison will be barred from viewing InfoWars
3 programming.

4 Ms. Richards brought a new terror into my
5 clients' lives. And it was only because Mr. Jones would
6 not stop his statements after this new terror, somebody
7 who lived in their county who was trying to kill them,
8 it was then after that next broadcast that they knew
9 something had to be done.

10 That broadcast was a couple months later
11 and it was called "Sandy Hook Vampires Exposed." That
12 was the latest piece in a five-year campaign to say that
13 it's fake, it's phony as a \$3 bill, the school wasn't
14 even open. The chief evidence in all of that, the
15 pillar that has been repeated for five years, is
16 Ms. De La Rosa's green screen/blue screen interview.
17 That has been at the absolute center of it.

18 And one thing I think you'll be able to
19 tell, Your Honor, is that the meaning of those
20 statements didn't suddenly change. Those extrinsic
21 circumstances are important, not just the ones in the
22 videos themselves, but every statement leading up to it.
23 There is no way to conclude that on the 20 prior
24 occasions in which he discussed blue screen that he
25 wasn't talking about the same thing he's talking about

1 right there, which is if you're Dory in "Finding Dory,"
2 which is a little fish who can't form short -- long-term
3 memory, she forgets anything in two seconds, and what
4 he's saying is if you don't remember all of this, then
5 you'll believe this, too; you'll believe the blue screen
6 just like you believed every other one of CNN's lies.

7 These statements have been accepted by a
8 shocking number of people. Mr. Zipp talks about the
9 Fairleigh University poll from last year which found
10 that 24 percent of Americans believe that Sandy Hook was
11 possibly or definitely faked. It's a terrifying figure.
12 And the family has been exposed to nonstop threat. And
13 Mr. Jones has shown that he either doesn't understand
14 this threat or he simply doesn't care.

15 The legal standard you're going to have to
16 use today, Your Honor, comes from *Lipsky*. We both agree
17 on that. It's from our brief. In *Lipsky*, the Court
18 said what you're going to have to get from us is the
19 minimum quantum of evidence necessary to support a
20 rational inference. And *Lipsky* was really clear that
21 the TCPA does not impose a heightened evidentiary
22 standard, doesn't do that.

23 And in fact, *Lipsky* rejected that entire
24 line of cases from way back that said you needed direct
25 evidence on each element of your -- that you don't need

1 that. You can use circumstantial evidence. You can use
2 inferences based on the pleadings. In fact, what *Lipsky*
3 says is that if a plaintiff comes forward with the
4 details of who said it, what they said and how it
5 damaged the plaintiff, that that should be sufficient to
6 survive a TCPA motion.

7 However, Your Honor, we have brought you
8 summary judgment quality evidence. We have not ignored
9 a single element of our claim. We have brought you
10 perfect direct evidence on each of them, all of which
11 has to be accepted as true.

12 So let's talk about what those elements
13 are, the *prima facie* elements that because -- we don't
14 disagree that the suit implicates the TCPA. This was an
15 exercise of free speech. So let's look at -- now it
16 comes to us. It's now our burden. What are the
17 elements? So the first is, was it -- is it possible --
18 is it reasonably susceptible that Mr. Jones' statements
19 could be understood as an assertion of fact?

20 So let's talk about the first basic
21 assertion of fact in that video. His nose disappears
22 because the green screen isn't set right. *Tatum* says
23 that a fact is something that is, A, verifiable and, B,
24 in context was meant to disclose a fact. In other
25 words, an opinion can still be a fact unless it was

1 specifically disclosed not to disclose a fact.

2 So in this, the biggest clue is when he
3 says "And then we have Anderson Cooper, famously, not
4 just with flowers blowing and a fake" with a green
5 screen. And what he's saying by famously is that this
6 has been well documented; people know about this; this
7 is not novel news. And what he's also saying by
8 famously is he's referencing his own four years of prior
9 broadcasting where he said clearly it's blue screen;
10 it's clearly blue screen; 20 years in TV; we know what
11 it looks like. He's implying to the viewer he has
12 knowledge they don't; he's a TV professional.

13 When he says that it was -- when it
14 disappeared because it isn't set right, there is no
15 doubt that a reasonable person could look at that
16 statement and say that he is making an assertion of fact
17 that there was a green screen and it wasn't set right.
18 He was specific and confident. He didn't discuss any
19 possibilities.

20 *Tatum* tells us that there must be
21 something in the video to disclose that it wasn't
22 intended to assert a fact. But look at all what you saw
23 in the video, which was dedicated discussions to -- one
24 of the things he said was everything I say is
25 documented; what we talk about is real; we are more

1 trustworthy than CNN; this is all hard news.

2 Mr. Zipp talks about it in his affidavit
3 that InfoWars' style was the rapid fire assertion of
4 facts without attribution and that it is presented to
5 the viewer as fact. Ms. Binkowski concluded the same
6 thing, that these are things that can be easily
7 interpreted as facts. Both of these people are pretty
8 darn experienced at determining and parsing the meanings
9 of phrases.

10 All of these things and the other -- the
11 rest of the broadcasts were also presented as discrete
12 facts. The school was closed, the children going around
13 in circles, the port-o-potties showing up, the people
14 being -- the SWAT members in gear being arrested in the
15 woods, all of these things were said as facts. And each
16 of them Mr. Zipp goes through and shows exactly how
17 they're false. There's no question that you can
18 understand these as statements of facts.

19 The next thing you're going to have to
20 decide is that if Mr. Jones' statements are reasonably
21 susceptible of a meaning that is of or concerning the
22 plaintiffs, right? And what they argue pretty
23 strenuously is we didn't mean -- we didn't intend to
24 refer to her; we were referring to Anderson Cooper; we
25 were referring to CNN; we had no intention to reference

1 her in this broadcast.

2 The problem is, as you'll see on the law
3 on Page 19 of our brief, is that, one, from *Vice*, it's
4 not necessary that a plaintiff be specifically named for
5 it to be defamatory. Two, it's not necessary to prove
6 that the defendant intended to refer to them. And the
7 law is that a publication is of or concerning the
8 plaintiff if persons who knew and were acquainted with
9 the plaintiff understood from viewing the publication
10 that the alleged defamatory matter referred to the
11 plaintiff. And those are the four cases that I talked
12 about before.

13 THE COURT: Well, there's no doubt he's
14 referencing the plaintiff, Ms. De La Rosa. The question
15 is: Is he saying that she's doing something dishonest
16 or false?

17 MR. BANKSTON: Correct. And that's --

18 THE COURT: That's the argument, not
19 the --

20 MR. BANKSTON: That's our next argument.

21 THE COURT: -- not the identity of the
22 person.

23 MR. BANKSTON: Correct, although I do want
24 to talk about Mr. Pozner on that issue for a moment.

25 THE COURT: All right.

1 MR. BANKSTON: Okay. Because we will talk
2 about it. Our next issue is whether it carried
3 defamatory meaning. And here we have evidence that
4 reasonable people understood it to refer to Ms. Pozner,
5 of course, but also to Mr. Pozner.

6 THE COURT: I thought she was
7 Ms. De La Rosa.

8 MR. BANKSTON: I'm sorry. Yes, that was
9 my mistake, Your Honor.

10 THE COURT: All right.

11 MR. BANKSTON: Because they recently were
12 separated. They're still -- it's tough because they're
13 still living as the Pozner family. They live a block
14 away from each other. They've been moving together.

15 In this case you have the affidavits from
16 those parties. And those are also backed up by the
17 expert affidavits. And the case I think I'd really like
18 you to look closest at is the *Entravision* case.

19 THE COURT: The what what?

20 MR. BANKSTON: *Entravision*, or *Entravision*
21 *vs. Salinas*. And that was that Corpus Christi case.
22 That's 487 S.W.3d 284.

23 THE COURT: Cited in your response.

24 MR. BANKSTON: Yes, Your Honor. There was
25 a claim in that case that a mayor's father of -- a mayor

1 of Reynosa, his father was caught in El Paso with a
2 large sum of money. The mayor sued because that was a
3 fake statement. He wasn't -- or his father wasn't
4 caught. And he said, well, that defames me because
5 people are going to think I was involved in that. And
6 the Court said, look, this is a close call, but you
7 don't get that. And the reason you don't get that is
8 because there's nothing about your father's activity
9 that necessarily creates an implication or that a
10 reasonable viewer could create a rational implication
11 that the mayor was involved, right?

12 So what the Court said is there would be
13 liability, quote, if this false statement implied that
14 Everardo, the mayor, engaged in any wrong, if -- or,
15 quote, if it created the impression to a person of
16 ordinary intelligence that Everardo was involved in the
17 wrongdoing.

18 Here we have that evidence in the form of
19 these affidavits. And what these affidavits conclude is
20 this. There is no way you can conclude that
21 Ms. De La Rosa is a participant in the cover-up
22 regarding the death of her alleged child and also
23 simultaneously conclude that Mr. De La Rosa is not -- I
24 mean, Mr. Pozner is not a fraud, because if she's a fake
25 parent, he's not a real parent, because they're in this

1 together. They're making statements together. That's
2 their son, right?

3 So if Ms. De La Rosa is involved in this
4 malfeasance, if she is part of this scheme and these
5 viewers will take it this way that Sandy Hook is staged,
6 Mr. De La Rosa -- Mr. Pozner cannot be innocent in that.
7 The very nature of the crime, because they share a son,
8 the very nature of the wrongdoing, necessarily links
9 them in a way that the mayor and his father were never
10 linked by what may have been his father's private
11 activities.

12 The next inquiry is whether it is
13 susceptible to defamatory meaning. So what we need to
14 do is look first at the April 22nd broadcast itself and
15 the statements that were made in there. So if we
16 were -- if we were a viewer and we were to accept that
17 all of these things were said as assertions of fact,
18 that she was appearing in front of a blue screen
19 interview with Anderson Cooper, that that interview was
20 consistent, as Mr. Zipp says, with a series of
21 deceptions perpetrated by CNN to facilitate abuses of
22 power and violence --

23 THE COURT: If all you had was the
24 April 22nd interview, you wouldn't be able to make a
25 *prima facie* case, would you?

1 MR. BANKSTON: No, I think I could.

2 THE COURT: Tell me --

3 MR. BANKSTON: Because of the --

4 THE COURT: Tell me why. Let's assume no
5 prior statements; all we have is this I think arguably
6 cryptic statement about what this means, that this is a
7 somewhat framed interview. Does it necessarily mean
8 that Ms. De La Rosa is not really there or does it mean
9 that they're in a location other than where they're
10 pretending to be? Does it mean -- what does it mean in
11 isolation by itself?

12 MR. BANKSTON: Correct. In terms --

13 THE COURT: Because that's --

14 MR. BANKSTON: -- of the broadcast --

15 THE COURT: That's part of the tension
16 here in this hearing, is that if you can't use the prior
17 statements, there's an argument that they're making
18 strenuously that it's just not enough.

19 MR. BANKSTON: There's not a single --
20 I'll put it this way, Your Honor. There's not a single
21 thing said in the prior statements other than the
22 overarching Sandy Hook is a hoax.

23 THE COURT: So let's --

24 MR. BANKSTON: Every other statement is
25 made --

1 THE COURT: Let us assume -- let us assume
2 for a moment no prior statements. How do you get there
3 on a *prima facie* defamation case?

4 MR. BANKSTON: From all the statements
5 they didn't want to show you.

6 THE COURT: On April 22nd.

7 MR. BANKSTON: Exactly.

8 THE COURT: Which hopefully you'll have
9 time to show me.

10 MR. BANKSTON: I don't have -- I can get
11 it cut in video and put up before we get done here.

12 THE COURT: It's up to you.

13 MR. BANKSTON: I quoted them to you and
14 they're quoted in our briefs.

15 THE COURT: And that's what you just
16 quoted.

17 MR. BANKSTON: Right.

18 THE COURT: And so when I add what they
19 play to what you quoted, that by itself gets you there?

20 MR. BANKSTON: Yes. And in fact, I think
21 the easiest way for you to do it, Your Honor, is their
22 Exhibit B-43 is the entire "Sandy Hook Vampires Exposed"
23 transcript. That will include the stuff that wasn't
24 played for you today, and that will include the
25 assertion that the school was closed.

1 THE COURT: Tell me again the entire
2 transcript of the 22nd. B?

3 MR. BANKSTON: B-43 --

4 THE COURT: Thank you, Counsel.

5 MR. BANKSTON: -- is the entire
6 transcript.

7 THE COURT: Thank you.

8 MR. BANKSTON: That is where you'll find
9 the school was closed, port-o-potties, guns in cars.
10 The entire litany of the Sandy Hook mythology of the
11 hoax was presented in that video, was presented to back
12 up the information that was presented about what they're
13 saying about Anderson Cooper.

14 THE COURT: So you really don't need the
15 prior statements at all --

16 MR. BANKSTON: At all, no --

17 THE COURT: -- other than maybe on the
18 malice, assuming you have to prove malice.

19 MR. BANKSTON: Right. Although, and I
20 would -- just before we get to there, our view is that
21 the same evidence that proves malice is going to be the
22 same evidence that proves negligence. Anything that's
23 malicious is also negligent, right? So if I'm a private
24 figure and I don't have to prove malice, there's nothing
25 stopping me from putting in their grossly negligent

1 behavior in order to prove negligence.

2 So in that case, even if we were private
3 figures, I'm probably still sometime down the road going
4 to want to talk about the prior statements. But in
5 terms of whether you need to figure out whether this has
6 a defamatory meaning, the fact is he said on the video
7 that the entire purpose of this, the things -- the thing
8 that Ms. De La Rosa's interview came out of, that's
9 their reel of Sandy Hook being a hoax.

10 THE COURT: Because it's habit evidence?

11 MR. BANKSTON: No, because he said it on
12 the broadcast.

13 THE COURT: No, I'm talking about the
14 prior statements. Assuming you don't --

15 MR. BANKSTON: Oh. Oh, yes. Yes.

16 THE COURT: Assuming you don't get to the
17 malice standard, your argument is on simple negligence
18 you get to use the prior statements on a habit theory or
19 what?

20 MR. BANKSTON: I think so with that. But
21 I also think that the same -- the idea of having a
22 five-year, not -- you just said something on one
23 broadcast. But if for five years you kept saying it,
24 and we're not fact checking it for five years, and then
25 you said it again on the sixth year, the fact that you

1 didn't fact check your -- especially in the face of
2 public outrage, shows that you were negligent and you
3 said it the twentieth time, right? So I think all of
4 those prior statements are absolutely relevant to
5 negligence. Again, that may be a discussion for another
6 day, because ultimately, Your Honor, we have clear
7 evidence of recklessness. There's just no doubt of
8 that.

9 Let's move on a little bit from there
10 about -- one other thing I want to say about the
11 defamatory meaning: Not only is it supported by the
12 witness affidavits, the expert affidavits, the text, and
13 the broadcasts, but there's also a large body of public
14 reaction. And Mr. Zipp talks about how not only did he
15 find that the statements had that meaning, not just the
16 witnesses, but the national reaction to the unmistakable
17 meaning of the statements has been near universal, and
18 the reaction to this broadcast was near universal.

19 So not only is it the witnesses are
20 offering, not only is it the experts are offering, but
21 it's also -- it's documented in the public record that
22 these things have been understood this way. So for that
23 reason, Ms. De La Rosa's accusation that she did a fake
24 interview, there's no way you can come out of looking at
25 that broadcast -- let's assume for a second, Your Honor,

1 that their allegation is Ms. De La Rosa did a completely
2 innocent use of blue screen, there was nothing untoward
3 about it, there was nothing embarrassing or that would
4 cause her ridicule or embarrassment; it was totally
5 fine. Why is it in the broadcast? What is the point of
6 it? It has no point in the context of that broadcast of
7 the video of Sandy Hook vampires unless it is to say
8 what's going on here is bad. It is a part of what is
9 being used to manipulate and lie to you and take from
10 you and ultimately enslave you. And that is why you
11 can't look at that and talk about them having blood on
12 their hands while Ms. De La Rosa's pictured on the
13 screen and have it come out with anything other than
14 defamatory implication to her and her husband. And so I
15 think all that's very well documented in both the
16 witness affidavits and the expert affidavits.

17 Let's talk briefly about public figure.

18 THE COURT: Unless it can be construed
19 such that they are using her --

20 MR. BANKSTON: I again --

21 THE COURT: -- Anderson Cooper and CNN are
22 using her.

23 MR. BANKSTON: I think that's -- let's say
24 that's one interpretation. You could arrive at that
25 interpretation. You can also arrive at mine. And if

1 you could arrive at either one, we're going forward.
2 It's not a matter of is that what was said; it's is it
3 possible someone who's a reasonable person could believe
4 that's what was said.

5 And so if you're thinking, yeah, I
6 think -- I looked at that broadcast and I see two
7 possibilities of what he might be saying. One is that
8 she's a victim or a useful idiot, something like that,
9 right? I think that is maybe what our innocent
10 interpretation is, she's being manipulated. Though
11 again, as you remember, Your Honor, it would be hard to
12 manipulate her considering you're going to have to get
13 her in on it because she's going to have to have air
14 blowing on her and she's going to have to be a
15 participant in faking the scene.

16 But even if that is one interpretation,
17 that's just one interpretation, and there are other
18 interpretations of that broadcast. That's what the jury
19 is there to decide. The only way you should ever reach
20 the decision in their favor on this is if you look at
21 that broadcast and go there is no way anybody could ever
22 believe that he's saying anything bad about
23 Ms. De La Rosa or the victims of Sandy Hook. And, I
24 mean, respectfully, Your Honor, I just don't think
25 that's a possible thing you could arrive at.

1 I want to talk a little bit about public
2 figure. And there's a lot of things we could talk
3 about, but I really think we can save a ton of time,
4 because there's an issue that's totally dispositive.
5 And it doesn't -- we don't have to dig down into what
6 Mr. Pozner did or what Ms. De La Rosa did if this issue
7 is dispositive.

8 Now, public figures are only for a limited
9 range on a particular controversy. So an individual
10 can't be deemed a public personality for all aspects of
11 their lives. They have private elements of their lives.
12 It's only in connection with their participation. So
13 the rule is that there's this three-part test, and I
14 want to start with the last element, which is the
15 germane element.

16 And we talked about *McLemore* earlier.
17 *McLemore* says that it is required that the alleged
18 defamation is germane to the plaintiff's participation
19 in the controversy. In other words, it must be the
20 plaintiff's participation that gave rise to the
21 defamation. What courts have said this means is that it
22 is required that the defendant intended to refer to the
23 plaintiff.

24 I'll give you an example. It's *Allied*
25 *Marketing vs. Paramount*. And in that case out of

1 Eastland, 111 S.W.3d 177, Paramount aired a broadcast in
2 which Paramount did not intend to direct it at Allied,
3 but nonetheless reasonable viewers could understand it
4 as defamatory to Allied, right? But Paramount says we
5 weren't meaning to talk about Allied; it was not our
6 intention to talk about Allied or refer to them.

7 The Court said, quote: From Paramount's
8 perspective, the segment had nothing to do with Allied,
9 so Paramount could not establish that it was germane to
10 Allied's participation.

11 In this case, the defendant has
12 vociferously denied referring to plaintiff. They have
13 said on Page 16 of their brief that the plaintiff was
14 not referenced or identified in any way and that we
15 meant to refer to CNN. They say on Page 42 of their
16 brief that the connection of the plaintiffs to the
17 defamatory statements in broadcasts is non-existent,
18 right?

19 Now, this issue isn't determinative for
20 them on anything really. As we know on of or
21 concerning, it's about whether the viewer understood it,
22 not whether they intended to talk about it. And in
23 fact, in this *Allied* case, Paramount had no intention to
24 talk about Allied, but they did defame Allied because
25 the viewers understood it.

1 But what the Court says is that if you
2 weren't meaning to refer to them, how in the world could
3 it arise from the public participation? Because it's
4 not just a matter of is it related; it must be directly
5 germane. *McLemore* and *Gertz* both say it must arise from
6 it. So if they didn't mean to refer to them, which they
7 have judicially admitted many times now in many places,
8 they simply -- the broadcast cannot be because she was a
9 public figure. If anything, it was because Anderson
10 Cooper is a public figure. It has nothing to do in
11 their minds with Ms. De La Rosa.

12 There's a second reason why this is
13 dispositive for the same reason, which is that because
14 it must give rise to their defamation, it is necessary
15 that the plaintiffs' participation occur before the
16 content of the defamatory allegation is made. I mean,
17 it makes sense, right? You can't have an allegation
18 that's germane to their participation if that allegation
19 comes together as created and aired before they ever
20 participated in it.

21 In this case, the defamatory allegation
22 that Ms. De La Rosa participated in the blue screen
23 interview to cover up the truth about Sandy Hook, you
24 saw in A-3, that video that was played for you. The
25 first time he aired it, January 27th, 2013, was the time

1 when that defamatory allegation gave rise and came into
2 being.

3 THE COURT: But isn't the question whether
4 she made herself a limited purpose public figure prior
5 to the defamation for which they're being sued, which is
6 not 2013 but 2017?

7 MR. BANKSTON: Absolutely, that is
8 correct.

9 THE COURT: So isn't that the critical
10 question: Was she a limited purpose public figure as of
11 April 22nd, 2017?

12 MR. BANKSTON: Absolutely correct.

13 THE COURT: Okay.

14 MR. BANKSTON: What you have to ask is:
15 That statement on 2017, that defamatory allegation, what
16 gave rise to it? What created that -- where did that
17 allegation come from? What -- that allegation has
18 already been fully formed, created, and flushed out, and
19 given or arisen to long before 2017.

20 THE COURT: Well, then the question --

21 MR. BANKSTON: In other words, what you'd
22 have to conclude is that somehow now their purpose in
23 doing the broadcast in 2017 is different than what it
24 was before. And in fact, what you'd have to conclude is
25 that they were now making the statement in 2017 directly

1 due to Ms. De La Rosa's public participation as a public
2 figure in the intervening years. Perhaps that might
3 even fly as an argument if they had intended to refer to
4 Ms. De La Rosa, which they have aggressively said they
5 did not.

6 THE COURT: It seems a bit circular. I'll
7 read the case that you're citing. But the defamation
8 doesn't have to be due to necessarily. It seems to me
9 it just has to be about the same events in which that
10 person has made themselves a limited purpose public
11 figure.

12 MR. BANKSTON: The case I'd refer you to
13 is *Gertz*, the Supreme Court case --

14 THE COURT: Yes.

15 MR. BANKSTON: -- in which they say
16 that -- where's the quote here? It must be the
17 participation in the particular controversy giving rise
18 to the defamation.

19 THE COURT: No, I understand that. So the
20 question -- they argue she testifies at the Connecticut
21 legislature; she does some things to get herself out in
22 the public, which took a lot of courage, stamina, and
23 endurance to do; but in so doing, she made herself, on
24 this question of what happened at Sandy Hook, a limited
25 purpose public figure. That's their argument.

1 MR. BANKSTON: We'll jump into that
2 argument in a minute.

3 THE COURT: And that that occurred prior
4 to April 22nd, 2017.

5 MR. BANKSTON: Absolutely agree.

6 THE COURT: Okay.

7 MR. BANKSTON: But does the April 2017
8 allegation arise from any of her participation? That's
9 a totally separate question. All right. And that's
10 what I really want you to focus in on, is there's
11 nothing about that April 2017 statement that has
12 anything to do with Ms. De La Rosa or her participation
13 in a public controversy in any way.

14 THE COURT: Your point is, which is
15 interesting as a matter of law, she was an
16 involuntary -- perhaps even involuntarily became a
17 limited purpose public figure by virtue of the events.
18 The events occurred when they occurred, and they're
19 writing about -- or talking about on April 22nd, 2017 a
20 hoax that harkens back to that original date.

21 MR. BANKSTON: Exactly.

22 THE COURT: As of that point she was not a
23 limited purpose public figure. So the question is:
24 Does the law make her so by virtue of her subsequent
25 activities prior to the statement on April 22nd?

1 MR. BANKSTON: I think that's the question
2 you'd look at, depending on how you answer some other
3 questions. But I agree; I think that is an important
4 question.

5 I think you get the idea that before you
6 even jump into any of their activities, you've first got
7 to look at did they refer to her, does it have anything
8 to do with her public participation, did that motivate
9 the allegation in any way; and second, whether the
10 formation of that allegation predated her participation.

11 But assuming you can get past that, let's
12 talk a little bit about the two forms of public figure
13 they think they are, okay? So we'll start with the
14 first one that I think is a little bit easier, which is
15 Mr. Pozner. So they identify in their motion two
16 controversies, two particular -- it has to be a
17 particular controversy. It needs to be a general
18 concern.

19 Their first controversy is the Sandy Hook
20 hoax conspiracy allegation. And here Ms. De La Rosa has
21 done absolutely zero to be part of that before the
22 broadcast. Mr. De La Rosa they allege has made himself
23 a public figure on that, and they say it for a couple of
24 ways.

25 I mean, first of all, you're right,

1 Your Honor. The first big issue is in *Klantzman vs.*
2 *Brady*, which we talked about all through the brief,
3 which is you can't be an involuntary public figure. You
4 can't defame somebody into being a public figure. You
5 can't have somebody who's having from the conspiracy
6 theorist all these malicious accusations of a horrible
7 character and not expect them to defend themselves.
8 That's in the *Lluberes* case. All of this is heavily
9 discussed about how these are defensive statements, and
10 defensive statements don't transform you to a public
11 figure.

12 But what he really did, if you look at it,
13 is this organization called HONR -- and this was an
14 online organization created to enlist volunteers to take
15 down defamatory content, to find content that violated
16 their copyrights -- people were using pictures of their
17 kids, things like that -- and get that content taken
18 down.

19 As Professor Armijo has said in his
20 declaration, this wasn't a case of Mr. Pozner trying to
21 insert himself into a controversy. It was literally the
22 opposite. He was literally trying to remove himself
23 from the controversy.

24 He did take two affirmative acts, 2015 and
25 2017. In 2015 he wrote an editorial to his local paper

1 in Florida because a frequent InfoWars guest, a
2 professor named James Tracy, had been making a bunch of
3 crazy statements and had been on his InfoWars show. And
4 they wrote a letter because they thought they could do
5 something about it because he was a Florida professor.
6 And eventually he did get fired. And then in 2017 they
7 also wrote a letter about Alex Jones saying, people, you
8 need to understand what he's putting people through,
9 here's our experience, this stuff is dangerous.

10 As the Court said in *Foretich*, there's no
11 good reason why someone dragged into a controversy
12 shouldn't be able to speak only at the expense of
13 forgoing a private person's protection from defamation.
14 You can't defame him into being a public figure. That's
15 not what happened here.

16 But in any case, defendant filed a
17 supplemental brief. And on Page 42 -- no, I'm sorry,
18 their original brief. They had said that each became
19 prominent in the public discussions and debates about
20 the circumstances relating to Sandy Hook, which didn't
21 happen. Like you have Mr. Pozner's two letters to the
22 editor and that's it. But in their supplemental brief
23 they corrected themselves. They said never mind, it's
24 not that.

25 THE COURT: And I read that. That's in

1 the middle of Page 2.

2 MR. BANKSTON: Yeah, he said --

3 THE COURT: I made a highlight of that
4 because that seems to be their last position.

5 MR. BANKSTON: Yes, is that the national
6 controversy and debate is not whether a hoax occurred.
7 That's not it. So let's just throw that aside because
8 apparently what they want the controversy to be is gun
9 rights.

10 THE COURT: Well, the controversy is gun
11 rights and whether Sandy Hook should be -- they still
12 want to kind of keep that hook --

13 MR. BANKSTON: I noticed that.

14 THE COURT: -- not to get the double
15 meaning of hook, but they still want to use that as a
16 spark or impetus.

17 MR. BANKSTON: Right.

18 THE COURT: So I'm not sure exactly what
19 that means, because the start of the sentence is that
20 it's not about the Sandy Hook hoax; it's about gun
21 control.

22 MR. BANKSTON: Yeah. Yeah, it's confusing
23 to me, Your Honor. And I do think the problem is
24 because what they want to try to do is take Mr. Jones'
25 underlying paranoia about an event and graft that onto a

1 general concern, which is gun regulation.

2 THE COURT: Well, they did get involved,
3 at least Mr. Pozner did, on the gun control issue,
4 right?

5 MR. BANKSTON: Actually --

6 THE COURT: At least I read --

7 MR. BANKSTON: I think you have that
8 backwards.

9 THE COURT: I thought I read that in the
10 motion.

11 MR. BANKSTON: They actually did say that
12 Mr. Pozner took a position, but all they say is that at
13 one point on his blog he wrote a line that said even
14 Batman couldn't stop an AR-15. So that's the only thing
15 Mr. Pozner has ever, ever done with guns.

16 THE COURT: So really the limited purpose
17 public figure will all flow or not from this HONR
18 non-profit.

19 MR. BANKSTON: If we're talking about
20 Mr. Pozner.

21 THE COURT: Yes.

22 MR. BANKSTON: Yes, exactly. It would
23 have to come from that. But, Your Honor, I mean, they
24 judicially admitted that that's not what the controversy
25 is. I mean, it's not just the Sandy Hook hoax, right?

1 So now they're saying it's this gun thing. It's a
2 little amorphous. That's kind of the problem. We're
3 getting not to a particular question. *Cummins* says it
4 can't just be a general concern. It can't just be a big
5 national concern. Also, the bigger the national issue,
6 the more likely it is that plaintiffs are going to be
7 tangential to that issue, which obviously is the case
8 here.

9 So let's talk, though, about the Second
10 Amendment, because this is where things got really
11 confusing because -- I'm just going to have to do a
12 bunch of fact checking right now. Let's talk about what
13 Mrs. De La Rosa did.

14 THE COURT: I should let you know you're
15 down to your last ten minutes.

16 MR. BANKSTON: Okay. You know what? I'm
17 going to count on that's sufficiently briefed. I think
18 if you look in there, you'll see the only two things she
19 ever did was appear before the Connecticut General
20 Assembly and give a speech on the steps. Now, a
21 legislative proceeding does not make you a public
22 figure. So she really only did one thing ever, was give
23 that speech. And that is not enough to make you not
24 tangential. And it's just not germane to any of this.
25 But again, I'm going to rely on the briefing there, but

1 she's not a public figure.

2 THE COURT: Well, if you give interviews
3 on national press, does that -- can that make you a
4 public figure?

5 MR. BANKSTON: No. And in fact, check out
6 some cases in the brief there, Your Honor, about how
7 simply being connected with a noteworthy event and
8 giving interviews does not make you a public figure. In
9 fact, there are several cases cited about people who
10 they didn't solicit media on their own; they just
11 responded to requests for media inquiry. And we do that
12 because we want people like them to speak up during
13 these tragedies. We want --

14 THE COURT: And there would probably be a
15 distinction between people who were involuntarily forced
16 into this event as opposed to people who voluntarily
17 involve themselves in the event.

18 MR. BANKSTON: Correct. But voluntary
19 thrusting means soliciting your own access. Like just
20 if CBS wants to come talk to you if your children died,
21 no, you're not a public figure. And there's really good
22 law on that. There's also -- I know you'll see it, but
23 the lawsuit stuff is equally baseless.

24 THE COURT: Oh, making a lawsuit. Yeah, I
25 understand. That's the *Time, Inc.* case.

1 MR. BANKSTON: Correct, exactly. So let's
2 go to malice, just for my last couple minutes here,
3 which is -- because the status doesn't matter because
4 we've got malice. Look, they're inherently improbable
5 and obvious dubious statements. That's what the law
6 says. If you make statements that are inherently
7 improbable -- and we give you affidavit evidence that
8 they were inherently improbable -- that's basic evidence
9 of malice. You'll find that in *Freedom Newspapers*.

10 Both the affidavit of Fredericks does it
11 from a technical standpoint, and the affidavit of Zipp
12 does it from a commonsense standpoint. Fredericks tells
13 you that anybody working in video at InfoWars would have
14 known that was a lie. And what Mr. Zipp tells you is
15 you don't even need to know video because there's
16 copious third-party evidence that he was in Newtown, and
17 there's copious evidence that this allegation makes no
18 sense.

19 Apart from that, it fundamentally just
20 makes no sense, because why is Anderson Cooper using a
21 blue screen on a location that's a 20-minute drive from
22 his office? None of it -- how does this make anybody --
23 none of it makes any sense. It is a monstrously stupid
24 allegation, and Mr. Zipp talks all about it.

25 The other element is that there's a

1 five-year campaign of these reckless lies. It wasn't
2 that he just messed up on one day. He had five years in
3 which the public was outcried, in which the public --
4 many, many people were publicly debunking these claims.
5 The only reason he could have avoided that is if he
6 wanted to. The InfoWars staff was certainly aware of
7 the public outcry against him and the things that were
8 being said to debunk these things. They didn't care.
9 And you're going to see in that section, Your Honor, of
10 our brief these were all -- all these prior statements
11 are absolutely relevant to their state of mind and to
12 their recklessness.

13 The other, Your Honor, is that InfoWars
14 drives its profits by recklessly stating that national
15 tragedies are fake and orchestrated by the government.
16 That's what it does. InfoWars has done this from the
17 beginning. Mr. Zipp's affidavit talks about that
18 Mr. Jones rose to national prominence because he said
19 9/11 was an inside job by the government. He said about
20 false flags and setups and hoaxes about Columbine,
21 Oklahoma City, the Aurora shooting, Gabby Giffords, the
22 Boston bombing, the Parkland shooting. And in almost
23 every example, he did it within hours of the event
24 happening. It's a major element of his brand and his
25 viewers expect it. And Mr. Zipp found that his pattern

1 of predictably asserting that these events are fake in
2 this way is circumstantial evidence that his statements
3 in this case were also false.

4 Another thing, Your Honor, is that their
5 attacks were motivated by personal animus against the
6 Pozner family. As part of HONR, Leonard was able to get
7 a video removed from InfoWars in 2015. It was a video
8 that had some information about his child. Mr. Jones
9 took to the air for an hour in an angry rant against
10 Pozner and said we're going to be countering this, we're
11 going to be dealing with this, we're not going to be
12 cowing down to these people, we're not going to put up
13 with their bullying.

14 He then took a call from a Sandy Hook
15 denier who said on the air, "Lenny, if you're listening,
16 your day is coming, my friend. It is coming."

17 Mr. Jones responded, "This sounds like
18 there's a war going on, and they made a major mistake
19 involving us."

20 The caller then stated, "Oh, I totally
21 agree. They don't know what they bit off. Go after
22 them, Alex. Crush them."

23 Mr. Jones responded, "I'm not somebody to
24 mess with."

25 Following the call, Mr. Jones and his

1 reporter Rob Dew started putting up on screens maps to
2 Mr. Pozner's home, his addresses where he picks up his
3 mail, and said, "I think I'm going to have to go down to
4 Florida and investigate him."

5 Mr. Pozner became a genuine threat to
6 Mr. Jones' livelihood by taking his content offline when
7 it was defaming his son, and now Mr. Jones for the next
8 two years took it out on Mr. Pozner.

9 THE COURT: Everyone's going to have to
10 maintain silence in the courtroom. Go ahead.

11 MR. BANKSTON: Within a week of that
12 broadcast, he was back on the air with a notorious
13 hoaxer named Wolfgang Halbig saying that the Sandy Hook
14 tragedy never happened. And it kept going straight
15 through 2017 to the time of these statements.

16 The last piece of evidence on recklessness
17 you're going to see, Your Honor, is the affidavit of
18 John Clayton. John Clayton worked with Alex Jones for
19 nearly ten years. A couple years before these
20 statements were made, Mr. Jones -- Mr. Clayton left,
21 stopped working with Mr. Jones, and he describes why,
22 and he describes the conversations they had and the
23 personal discussions they had in which Mr. Jones
24 expressed that he did not care about accuracy, that what
25 he wanted was views for his website, that these

1 sensationalist stories were going to make him famous,
2 and that he knew, according to Mr. Clayton, that he was
3 going on air and making claims without evidence, and
4 that he knew that he was doing that repeatedly, and that
5 he saw that it became a standard practice within
6 InfoWars to disregard all journalistic practices. All
7 of this evidence is consistent with everything else
8 we've seen. So there's multiple affidavit testimony on
9 multiple issues showing a clear issue that, if you
10 accept is true, is actual malice.

11 The last element is damages. And they
12 just put a single statement in the brief, plaintiffs
13 didn't suffer damages caused by these incidents. And
14 just read their affidavits, Your Honor. They're
15 really -- they're tough. They're tough affidavits. And
16 they talk about what has happened here. And it is
17 pecuniary. It's multiple things. It's their
18 reputation. It's their mental anguish. It's, you know,
19 the medical expenses that they're going to have to pay.
20 They talk about having to move seven times. And these
21 are things that have had to happen.

22 The last thing I want to talk to you
23 about -- I'm not going to talk to you about *respondeat*,
24 conspiracy, any of those. If you look in our brief,
25 you'll see those aren't under consideration with TCPA.

1 Those are derivative forms of action. If our underlying
2 claim survives, those claims survive as well. That's
3 fully briefed. I'm not going to talk to you about it.

4 The last thing I'm going to talk to you
5 about is attorneys' fees. And I don't really -- I'm not
6 exactly sure how to respond to this except to say -- to
7 make an objection on the record because I need to make
8 an objection. But in connection with this motion,
9 Mr. Enoch filed an affidavit seeking over \$100,000 in
10 fees against these Sandy Hook parents.

11 And my first objection is that is an
12 obscene amount of money, just absolutely obscene. I
13 know for a fact I've done more work than Mr. Enoch has
14 on this case. I've had to run across the nation
15 answering the things that have been said in that motion.
16 And there's no way I would come to this Court and ask
17 for \$100,000 for writing a motion and bringing it to
18 you. That's just -- it's shocking to me.

19 But if you do -- if there are any parts of
20 the plaintiffs' case that you feel doesn't survive on to
21 the next level, we'd obviously have to look at what
22 parts of the motion were necessary for that. We'd have
23 to prorate things like that. We'd also have to come to
24 a reasonable amount. And that amount is just simply not
25 reasonable.

1 You know, Your Honor, I really feel
2 strongly that the motion that was brought against us is
3 frivolous. I really do. I feel that there's obvious
4 evidence in support of these claims, that these
5 parents -- this jury that sits over here may not buy
6 what they're selling, really may not. This may all
7 crash and burn. But I don't think there's anybody right
8 now who can think that they don't at least have a bare
9 bones plausibility to end up in a courtroom on this
10 matter and to have it heard.

11 That being said, I didn't submit anything
12 for attorneys' fees, and the statute allows me to do
13 that. I think if you want to grant them to the
14 plaintiffs, you're perfectly entitled to, and I'll let
15 you know what our attorneys' fees are if you want to do
16 that, but I can tell you it's not going to be \$100,000.
17 So I just want to --

18 THE COURT: Well, in order to grant
19 attorneys' fees to you, I have to find that the motion
20 was brought for the purpose of delay, brought
21 frivolously, don't I?

22 MR. BANKSTON: Correct. And I do -- we do
23 argue that in our motion. Then again, if you feel like
24 a defendant who has a First Amendment right needs to
25 come in here and get a shake in a courtroom, I certainly

1 would understand. You know, I get that.

2 I do believe the motion is frivolous. I
3 don't believe they have colorable arguments. I believe
4 there are constantly places in which we point out black
5 letter law, and their only response is huh-uh; they
6 don't have law.

7 So, Your Honor, I think the motion is
8 really well briefed for you. It's a really important
9 motion. And there's little more that can be said that
10 hadn't already been said nationally right now. But all
11 I can tell you is that every single one of those
12 affidavits, the people who poured their time and soul
13 into them and really uncovered for the first time that
14 anybody's ever really gone through the entire history of
15 what has happened to these plaintiffs, it's an important
16 story, and it's a story that shows they were
17 unquestionably defamed, that they could be exposed to
18 hate and ridicule, and unfortunately that their lives
19 can be in danger.

20 And that is the reason I'm here today,
21 Your Honor, is they didn't bring a suit before. They
22 could have brought a suit at any time. They weren't
23 doing it to silence his client. That's not why they're
24 doing it. They're doing this because we cannot, we
25 cannot allow his reckless lies to continue to put their

1 lives in danger. Thank you, Your Honor.

2 THE COURT: You have 12 minutes remaining.

3 MR. ENOCH: May it please the Court,
4 Your Honor. His last statement is the statement: We
5 cannot allow him to continue putting our lives in
6 danger. That is not a defamation claim. That is a stop
7 him from talking publicly the way he talks.

8 Your Honor, his rendition of the video
9 talking about Mr. Pozner, this hour rant, or the Clayton
10 affidavit, or the conspiracy claims that all dealt with
11 *respondeat superior*, they are hyperbole themselves, just
12 as his description of vampires was of the Sandy Hook
13 parents.

14 In the brief you will see, *respondeat*
15 *superior*, their response is surely there's plausibility
16 here and maybe we'll find some discovery that'll bear it
17 out. They have no evidence of a conspiracy because our
18 objection to conspiracy is Jones is the same as InfoWars
19 and as Free Speech, and you can't conspire with
20 yourself.

21 So let's move on to the more important
22 issues. Let's talk about limited purpose public figure.
23 I dispute his rendition of the facts. I played the
24 video. I played 40 minutes, 35 minutes of video. I
25 just don't have time to play Mrs. De La Rosa's video. I

1 don't have that time. But they're marked as B-25, B-26,
2 B-34. Her lawyer giving a press conference about the
3 *Bushmaster* lawsuit is B-16. And some of Lenny Pozner's
4 videos with Anderson Cooper, B-28. Another Mrs. Pozner
5 just two years ago on ABC, Journeyman Channel,
6 "Honouring Noah," B-61, where she talks about dedicating
7 her life to making sure we get rid of these guns. This
8 isn't just with the legislature.

9 THE COURT: So you think all these things,
10 including the *Bushmaster* lawsuit, is how they've made
11 themselves limited purpose public figures?

12 MR. ENOCH: And by having their agent,
13 their lawyer, make public appearances at press
14 conferences and lobbying for it, absolutely.

15 THE COURT: And so by filing a lawsuit --
16 doesn't *Time, Inc.* stand for the proposition that filing
17 a lawsuit does not make you a limited purpose public
18 figure?

19 MR. ENOCH: And I wouldn't say anything
20 otherwise. It's different when your lawyer goes out and
21 makes statements for you, your agent goes out and has
22 press conferences.

23 THE COURT: So if they had limited it to
24 the lawsuit. But when the lawyer goes outside the
25 lawsuit and makes statements, that makes you a limited

1 purpose public figure.

2 MR. ENOCH: And you'll see it. He's
3 called up -- there's a bunch of people around and he
4 talks about how Bushmaster needs to pay for it and those
5 guns need to get off the street. It wasn't about, gosh,
6 I lost the motion; I sure think the judge would have
7 done something different. It was a political statement.

8 But beyond that, Judge -- and I need to
9 clear up something. I don't want --

10 THE COURT: But don't lawyers do that all
11 the time? I mean, when Johns Manville was sued for
12 asbestos, you know, if Fred Baron or whoever was out
13 making public statements, and they did all the time,
14 that makes every one of his clients a limited purpose
15 public figure?

16 MR. ENOCH: If they're talking about his
17 case. If I authorize my agent to go out and --

18 THE COURT: No, but if you're talking
19 about the concept of gun control generally, not about
20 that particular lawsuit, but whether that was a
21 defective production of a gun, it was unreasonably
22 dangerous as produced or designed -- right? That's what
23 the lawsuit was about, I guess. How would that convert
24 someone to a limited purpose public figure on the whole
25 broad issue of gun control --

1 MR. ENOCH: Well, it --

2 THE COURT: -- because their lawyer, be it
3 Fred Baron on asbestos or -- and I hate to pick on him;
4 he's gone, but you know who I mean -- or this lawyer on
5 the *Bushmaster* case. Lawyers do that all the time --

6 MR. ENOCH: Alone it would not.

7 THE COURT: -- for self-promotion in part.

8 MR. ENOCH: Alone it would not. The
9 response they made is she made a couple of appearances
10 in 2013; since then she's been silent.

11 THE COURT: Okay.

12 MR. ENOCH: I would suggest to you the
13 "Honouring Noah" as well as the B-63 is otherwise. I've
14 given you -- I just don't have time to play it. But let
15 me get on to limited purpose public figure.

16 THE COURT: All right.

17 MR. ENOCH: This idea that it has to
18 relate to, it did relate to her. It related to her
19 because she was in a video that was used by Alex to
20 argue that CNN was doing something wrong as mainstream
21 media. So it still relates to her.

22 Now, I'll give you this case. And let me
23 back up a second. I don't want to get in this situation
24 where I can't file anything after he files it. I filed
25 mine 45 days ago. He filed his last Wednesday or

1 Thursday, Wednesday or Thursday night. I can't
2 remember. I am not somehow precluded from bringing case
3 law to you --

4 THE COURT: No, that's okay.

5 MR. ENOCH: Sure.

6 THE COURT: You're not filing new
7 affidavits --

8 MR. ENOCH: No.

9 THE COURT: -- and new evidence.

10 MR. ENOCH: No, sir.

11 THE COURT: Okay. I think he's accepting
12 the filing on the 27th. Maybe he's not.

13 It's a yes or no question. You're
14 accepting the 27th filing?

15 MR. BANKSTON: No, Your Honor, not that
16 filing.

17 THE COURT: He's not. Okay. See, he's
18 saying you have a new affidavit filed just a few days
19 ago. He's not accepting that you can do that under
20 Chapter 27 of the CPRC.

21 MR. ENOCH: I believe he's in error, but
22 that's not for me to decide. I don't wear the robe,
23 Judge. I don't think there's any case law that supports
24 that. There is absolutely no requirement that the
25 affidavits have to be in 60 days or 40 days or 30 days

1 ahead of time, no requirement.

2 THE COURT: Just the motion.

3 MR. ENOCH: Yes, sir, just the motion.

4 And it could be a one-page motion.

5 But let's talk about the *Mohamed vs.*
6 *Center for Security Policy*. You might remember. This
7 was clock boy in Irving, Texas. He was arrested -- and
8 this just came out July 11th of this year. It's a
9 Dallas case. He sued two people for appearing on
10 national television shows with one saying the alarm
11 clock incident was a staged event with the intent to
12 create an influence operation to create a public mood
13 like somehow people in Irving were anti-Muslim. The
14 other he sued said it was a hoax and a setup.

15 Applying the *WFAA* factors, the *McLemore*
16 factors, the Court analyzed this boy's actions and
17 determined he had become a limited purpose public
18 figure. It was public. The evidence showed that he was
19 discussing it publicly during the time the
20 discussions -- the national discussions were going on,
21 that he sought publicity, has access to media, and
22 voluntarily engaged in activities.

23 Now, I agree with you, Judge. If you just
24 let your son and someone sticks a microphone in, that
25 doesn't do it. Maybe even a day later, maybe two days,

1 maybe three days. I don't know. I've never been in
2 that situation. I'm not judging people. But two years
3 later, three years later when you're talking about gun
4 rights and gun control, as I probably would be had I
5 lost my son, too -- I'm not judging that -- that's not
6 the same thing.

7 And in that *Mohamed* case, the Court found
8 that the alleged defamation was germane to his
9 participation in the controversy. This is a hoax; you
10 are -- this was a setup; it was intended to maneuver
11 public opinion. And the Dallas Court of Appeals said,
12 guess what? You were a public -- you were a limited
13 purpose public figure.

14 Judge, I want to go back to this. The
15 only way all of that other stuff that sounds so ugly --
16 by the way, you only got clips. If you want to go --

17 THE COURT: It's true that B-43 is it,
18 right?

19 MR. ENOCH: B-43 is 4-22. I haven't
20 checked it --

21 THE COURT: Yes.

22 MR. ENOCH: -- but I'm sure he's telling
23 you the truth. B-43 is not the video.

24 THE COURT: I understand. It's the
25 transcript of every word that was uttered that

1 constitutes the basis for this defamation action.

2 MR. ENOCH: Not good enough.

3 THE COURT: Tell me why that's wrong.

4 MR. ENOCH: Because you have to look at
5 the context. If it's a newspaper, you read it. If it's
6 a radio program and you have available a transcript, you
7 listen to it. If it's a television program, you watch
8 it.

9 THE COURT: I see.

10 MR. ENOCH: Because this kind of stuff --

11 THE COURT: Is B-43 an accurate transcript
12 of what was --

13 MR. ENOCH: Said.

14 THE COURT: -- orally said on the
15 videotape?

16 MR. ENOCH: Yes, sir.

17 THE COURT: Great.

18 MR. ENOCH: Yes, sir.

19 THE COURT: But somehow if I see it, I
20 would glean something different than reading it?

21 MR. ENOCH: I would not suppose, Judge,
22 what you would think. I will only tell you the law
23 requires you to do that.

24 THE COURT: No, I understand that.

25 MR. ENOCH: That's it. And then let's

1 talk about -- 4-28's gone.

2 THE COURT: Because you might be
3 telegraphing that I'm saying this, but I don't really
4 mean it.

5 MR. ENOCH: No, I --

6 THE COURT: You're winking at the same
7 time you're saying it.

8 MR. ENOCH: Oh --

9 THE COURT: So somehow if I watch it, it
10 would be different. What I would --

11 MR. ENOCH: Oh --

12 THE COURT: -- glean from it is different
13 than reading the transcript.

14 MR. ENOCH: Oh, I don't mean to be
15 winking, Judge. I wouldn't --

16 THE COURT: I don't mean you. I mean Alex
17 Jones.

18 MR. ENOCH: Oh.

19 THE COURT: In other words, seeing him say
20 what is written on B-43 conveys a different meaning than
21 reading B-43?

22 MR. ENOCH: I am not making that
23 statement.

24 THE COURT: I just wanted to be sure
25 whether you were or not.

1 MR. ENOCH: No, I'm not making that
2 statement.

3 THE COURT: Okay.

4 MR. ENOCH: I am making the statement that
5 the law requires you to see all the context and
6 circumstances and you have a video that's filed. I
7 believe it's their burden to show the video.

8 THE COURT: No, I understand that, but --
9 I see. So if the video is not in the file, they haven't
10 met their *prima facie* case by only giving me a
11 transcript?

12 MR. ENOCH: That's correct.

13 THE COURT: I see.

14 MR. ENOCH: Now, let's talk about special
15 damages. They said we didn't have anything in the case.
16 How about the case of *Bedford vs. Spassoff*, Supreme
17 Court case, June 9th, 2017, that requires the amount of
18 damages in a TCPA case to be proved up by affidavit, the
19 amount of damages. You will not see an amount in these
20 affidavits. And --

21 THE COURT: Down to the last three
22 minutes.

23 MR. ENOCH: Yes, sir.

24 THE COURT: And so because the amount, the
25 specific dollar figure is not in the affidavits, you win

1 on that technical failure on the other side of not
2 putting that in an affidavit because that's part of
3 their *prima facie* case?

4 MR. ENOCH: I wouldn't call it technical,
5 Judge. He complained during his speech that somehow I
6 hadn't brought this to his attention. I am the movant.
7 I have no burden to point out his lack of evidence. He
8 has the burden to bring forth --

9 THE COURT: I understand. Your point is
10 that on a motion to dismiss they have to go ahead and
11 put on evidence. That wasn't a motion to dismiss case,
12 was it?

13 MR. ENOCH: Yes, sir. Oh, absolutely.

14 THE COURT: The one you just cited?

15 MR. ENOCH: Yes, sir.

16 THE COURT: Great. I'll read it.

17 MR. ENOCH: Yes, sir.

18 THE COURT: Which one is that? I don't
19 know it by initials.

20 MR. ENOCH: Okay. It is 520 --

21 THE COURT: No, no, no. The other name in
22 the style.

23 MR. ENOCH: *Spasoff*. *Spasoff*, S-p --

24 THE COURT: That would be how I would
25 remember it. Thank you.

1 MR. ENOCH: *Spassoff*. Okay.

2 THE COURT: That helps me. Thank you.

3 MR. ENOCH: And that is at --

4 THE COURT: And so *Spassoff*, when I read
5 it, will tell me if they don't put an affidavit in the
6 record about a dollar amount on their special damages
7 and it's not defamation *per se*, case is over?

8 MR. ENOCH: Yes, sir. And beyond that,
9 Judge, it's not just technically on the dollar amount.
10 You can't have conclusive -- and look at the *Malouf*
11 case. Brett Shipp was sued by Malouf. That says it,
12 too. Malouf brought in this affidavit from a builder
13 saying, well, you know, I'm worried about your
14 bankruptcy, same thing. Or if you want to go to another
15 case, which is the *Barker vs. Hurst*, a Houston case,
16 where the Court holds the same thing. The cases are
17 not -- they're not few in this. They have to bring
18 forward evidence. And his statement that mental anguish
19 and loss of reputation are special damages is not true.
20 The law doesn't say that. The law says those are
21 general damages, and you can't get to general before --

22 THE COURT: No, he talked about medical
23 expenses and moving costs. Those are special damages.

24 MR. ENOCH: Those would be.

25 THE COURT: So all he had to do was give

1 me a dollar amount and he survives this argument, right?

2 MR. ENOCH: Well, I don't know about just
3 a dollar amount. He would have to say I have it
4 incurred.

5 THE COURT: I understand.

6 MR. ENOCH: I have expenses.

7 THE COURT: I understand.

8 MR. ENOCH: Even medical stuff, Judge.
9 The affidavit we got last week --

10 THE COURT: Last minute, just so you know.

11 MR. ENOCH: Last week we got the last
12 affidavit, and it says I'm thinking about getting my --
13 further therapy.

14 Last thing, Judge, is this. You can't get
15 to all the stuff he wants you to get to without
16 torturing this language. And the cases say when you
17 have to strain to figure out if this means what they
18 mean, you can't do it.

19 Finally, I've seen the press about
20 Mr. Jones asking -- suing them for \$100,000, which is
21 not true. As you know, affidavits have to be in the
22 file ahead of time, ahead of here. I did as any lawyer
23 would do and I give you that. It's in your discretion,
24 Judge. You have to award attorneys' fees, but you don't
25 have to award what's actually been incurred.

1 Mr. Jones would like to waive those fees.
2 If you get -- if you do for us what I think you ought to
3 do under the law, I think we have to take something. We
4 would accept a dollar. We would not appeal that even if
5 we lose on this deal. I don't know how to do it exactly
6 because the statute is very, very clear on that. I want
7 you to be aware of that.

8 THE COURT: Thank you, Counsel. That
9 concludes our time.

10 MR. ENOCH: Thank you very much.

11 THE COURT: I need to do some housekeeping
12 now on the record to make sure there's no dispute about
13 what the record is because -- first of all, if I grant
14 the motion -- are you with me?

15 MR. BANKSTON: Yes, Your Honor.

16 THE COURT: -- plaintiff appeals. If I
17 deny the motion, you get an interlocutory appeal,
18 correct?

19 MR. ENOCH: Yes, sir.

20 THE COURT: Yes. And so we need to make
21 sure that we know what is in the record. It happens all
22 the time, especially in this new high-tech world --
23 well, it happened in the old days when I started with
24 paper files. What we thought was in the file isn't in
25 the file. We don't know why it's not in the file. Ours

1 is not the reason why. Ours is just to fix it, okay?

2 What I want for both of you is for this
3 not to be a problem on appeal because what you thought
4 was in the file is not in the file. That's not fair to
5 anybody. It's not fair to any litigant in this state.
6 And I want the lawyers collaboratively to confer, to get
7 with the clerk's office, and to go through every jot and
8 tittle of the file and make sure that everything you
9 think is in the file is actually in the file for each of
10 you. And I need you to confirm that.

11 What I've seen so far -- and I told you
12 what I took home last night, because it's the only thing
13 I thought I could -- it was the only thing that was
14 available to me to print -- was the motion filed on
15 June 26th, the response filed on July 25th, and the
16 first supplement to the motion filed on July 27th.

17 Since then, I just had printed today by
18 Ms. Gould, who can do everything, this new register with
19 all these new things filed up until -- well, looky here,
20 two things filed today. So I don't have that. I can
21 get it now that it's in the file, but I need you to go
22 with the clerk's file, because just because it says it's
23 here doesn't mean that everything you think you attached
24 with it, with exhibits or exhibits to exhibits, are
25 actually there.

1 to that.

2 THE COURT: Okay.

3 MR. ENOCH: And that is --

4 THE COURT: Well, if there's a technical
5 problem, then I will hear post-hearing motions --

6 MR. ENOCH: Very well, sir.

7 THE COURT: -- on -- I guess it would be
8 almost a -- like setting aside a default judgment kind
9 of standard to me if it was not done, you know, with
10 some sort of --

11 MR. ENOCH: I --

12 THE COURT: -- neglect on the part of --
13 let me finish.

14 MR. ENOCH: I'm sorry.

15 THE COURT: -- neglect on the part of the
16 lawyer. I've got a big strike zone for litigants to
17 have the record they deserve, because the decision ought
18 to be made on the record that they deserve, not because
19 there was some clerical or even lawyer error that was
20 made in good faith, okay?

21 So I just want you to know that's my
22 standard, and I'm expecting you to think about that.
23 And if we have a fight about that, you'll be back here
24 in front of me and you'll need to set that very
25 promptly, and you'll understand that I will not be --

1 well, you'll understand where I'm headed with that.

2 Secondly, I need you to confirm -- I'll
3 tell you what. Until I hear this, I'm recessing this
4 hearing. I am not completing the hearing, and you know
5 why, for the very reasons I told you earlier. I'm not
6 going to have more things filed and have my 30 days
7 start to run today. The law puts me under a deadline
8 while I have other trials, other cases, everything else
9 to do. And I'm not complaining about that. It's a
10 privilege to do it. But I'm not going to start my clock
11 ticking until I know you have finished whatever you're
12 going to do about this record.

13 So once you confirm and file something
14 that says you've confirmed what's in the record,
15 identify in your joint filing everything that has been
16 filed, starting with the motion, the three things I
17 identified, and everything filed subsequently, including
18 perhaps two things filed today. Until I get that, this
19 hearing is in recess. And I will then close the hearing
20 at the time I have that joint communication, because
21 only then will I know what my record is. Does that make
22 sense?

23 MR. ENOCH: Yes, it does. May I respond
24 at your convenience?

25 THE COURT: Does it make sense to you?

1 MR. BANKSTON: Absolutely, Your Honor.

2 THE COURT: Great. Do you have any
3 objection to doing that?

4 MR. BANKSTON: None at all, Your Honor.

5 THE COURT: Great. Do you have any
6 objection to doing that?

7 MR. ENOCH: To the process that you
8 mentioned, I'd like to respond to something you said
9 earlier, Judge.

10 THE COURT: I just need to know first if
11 you have any objection to doing that.

12 MR. ENOCH: I don't have an objection to
13 work collegially between the two.

14 THE COURT: Do you have an objection to
15 recessing the hearing until I know I have closure on
16 what the record is?

17 MR. ENOCH: Judge, the law requires the
18 hearing to be --

19 THE COURT: I just need a yes or no
20 answer, then I'll let you explain your objection. Do
21 you have an objection to me recessing the hearing until
22 I get closure on the written record? I just need a yes
23 or no to that first.

24 MR. ENOCH: No. Judge, I --

25 THE COURT: No objection?

1 MR. ENOCH: No, I do have an objection.

2 THE COURT: You do have an objection. I
3 cannot recess the hearing and require that?

4 MR. ENOCH: No, Judge, you can do so, but
5 you can do so over my objection. I just don't want the
6 record to reflect that I have agreed to put off -- if
7 you want to put it off, you need to, there's more you
8 need to do, that's your prerogative.

9 THE COURT: That's not what I'm saying. I
10 want to know the last thing is in the file for me to
11 consider and I want your written confirmation of that.
12 What I hear you saying is, Judge, I want your 30 days to
13 start right now at 5:15 today and at some point we'll
14 give you written confirmation of this.

15 MR. ENOCH: No, sir.

16 THE COURT: I'm surprised by that because
17 I'm expecting kind of prompt collegial written
18 confirmation, and now your clock runs, Judge.

19 MR. ENOCH: That's not what I intend.

20 THE COURT: Okay. Then will you agree
21 that we can recess the hearing simply until I get this
22 written confirmation that the file is closed and that
23 everything is in the file that you both agree needs to
24 be in the file?

25 MR. ENOCH: My only concern, Judge, is if

1 in those discussions there's a disagreement, we're going
2 to be back down here.

3 THE COURT: That is correct.

4 MR. ENOCH: So if that's the case and we
5 can have that hearing quickly if that occurs, I don't
6 have a problem. What I can't do is let another 30 days
7 go, and I would object to that because that's what we
8 have under the statute.

9 THE COURT: No, I appreciate that. You'll
10 get a prompt hearing.

11 MR. ENOCH: Very well.

12 THE COURT: If I get communication from
13 you, Judge, we have a dispute about what is or is not in
14 the file --

15 MR. ENOCH: I agree.

16 THE COURT: -- and what you ought in
17 fairness to allow to be supplemented in the file because
18 somebody made a mistake, thought something was in the
19 file but it's not, you will agree -- all of us as
20 officers of the court collaboratively will agree that
21 I'll get you a prompt hearing once I have that written
22 communication that we have a problem?

23 MR. ENOCH: Yes, sir.

24 THE COURT: But until I say the hearing's
25 closed, it's not closed and we're in recess. Do we all

1 agree on that?

2 MR. ENOCH: Yes, sir.

3 THE COURT: Okay. Well, I appreciate
4 that. Do we agree?

5 MR. BANKSTON: We're agreed, Your Honor,
6 yes, sir.

7 THE COURT: Great. I don't think there's
8 anything else we need on the record, but it's your
9 motion. Is there anything else we need on the record
10 before we conclude the record today?

11 MR. ENOCH: Yes, sir. As you know, I got
12 some objections last night to the evidence. Usually in
13 previous TCPA hearings there's a time to actually work
14 through them with the Judge. I understand you'd like to
15 take them separately. I think ours were specific enough
16 we can do that. I have not filed a written response.

17 THE COURT: See, I heard earlier -- that's
18 why I asked the question -- there was not going to be
19 any more writings filed for me to read on the
20 objections, because surely the law doesn't allow
21 objections to come in for the next 30 days but my clock
22 is ticking and I must rule within 30 days.

23 MR. ENOCH: I anticipated responding to
24 those objections if they were made orally today, Judge.
25 That's the only -- I got my objections done. I can file

1 them today. I was going to argue my objections to you
2 today. That's the way it's --

3 THE COURT: That's okay. I only will
4 consider what's in writing.

5 MR. ENOCH: Yes, sir.

6 THE COURT: What I heard you both say was,
7 Judge, I don't need to send any more in writing and I
8 don't need to tell you anything orally. I'm willing to
9 let you read these objections and simply make a
10 decision. That's what I heard you both say earlier.

11 MR. ENOCH: I'll agree to that.

12 THE COURT: Did I understand you
13 correctly?

14 MR. ENOCH: I agree to that, Judge, yes.

15 THE COURT: Okay.

16 MR. ENOCH: Yes.

17 THE COURT: And I'm sure I heard you say
18 it, too.

19 MR. BANKSTON: Yes, Your Honor.

20 THE COURT: Okay. Great. I think we've
21 closed the record. And hopefully I'll get a letter
22 promptly from you that allows me to say the record is
23 closed and the hearing is closed. In fact, if you want
24 me to sign an order, you know, I can do that, saying
25 this concludes the hearing and this closes the record

1 for the hearing. And that way there's no dispute about
2 when the end of the hearing began --

3 MR. ENOCH: I'm okay with that.

4 THE COURT: -- and the 30 days.

5 MR. ENOCH: I'm okay with that now.

6 THE COURT: So if you want to submit a
7 joint order to me -- I like that as belt and
8 suspenders -- a joint letter and a joint order this
9 concludes the hearing. Does that make sense?

10 MR. ENOCH: I'm willing to do that now. I
11 agree.

12 THE COURT: I know you are, but I'm not,
13 and he's not because -- and you shouldn't be. You
14 shouldn't be because you need to make sure what you
15 think is in the file is in the file. You sound like
16 you're a lot more sure that you know what's in that file
17 than maybe the other side is. I don't know. But I just
18 want you in fairness to your client too --

19 MR. ENOCH: Sure.

20 THE COURT: -- to make sure that it's in
21 there.

22 MR. ENOCH: Yes, sir.

23 THE COURT: Okay?

24 MR. ENOCH: Yes, sir.

25 THE COURT: I think we've got a meeting of

1 the minds. Does that conclude our record?

2 MR. ENOCH: It does.

3 THE COURT: All right. Does that conclude
4 our record?

5 MR. BANKSTON: Yes, Your Honor.

6 THE COURT: That concludes the record for
7 today. The hearing is in recess.

8 *(Court adjourned)*

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REPORTER'S CERTIFICATE

1 THE STATE OF TEXAS)

2 COUNTY OF TRAVIS)

3 I, Chavela V. Crain, Official Court
4 Reporter in and for the 53rd District Court of Travis
5 County, State of Texas, do hereby certify that the above
6 and foregoing contains a true and correct transcription
7 of all portions of evidence and other proceedings
8 requested in writing by counsel for the parties to be
9 included in this volume of the Reporter's Record, in the
10 above-styled and numbered cause, all of which occurred
11 in open court or in chambers and were reported by me.
12

13 I further certify that this Reporter's Record of
14 the proceedings truly and correctly reflects the
15 exhibits, if any, offered in evidence by the respective
16 parties. I further certify that the total cost for the
17 preparation of this Reporter's Record is \$1,282.50 and
18 was paid by counsel for Defendants.

19 WITNESS MY OFFICIAL HAND this the 24th day of
20 September, 2018.

21 /s/ Chavela V. Crain

22 Chavela V. Crain, CSR, RDR, RMR, CRR
23 Texas CSR 3064

24 Expiration Date: 12/31/2019

25 Official Court Reporter

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