

# **EXHIBIT 77**

UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

BREAKING CODE SILENCE, a )  
California 501(c)(3) nonprofit, )  
 )  
Plaintiff, )  
 )  
vs. ) Case No.  
 ) 2:22-cv-002052-SB-MAA  
KATHERINE MCNAMARA, an )  
Individual; JEREMY WHITELEY, an )  
individual; and DOES 1 through )  
50, inclusive, )  
 )  
Defendants. )  
\_\_\_\_\_ )

*Certified Copy*

VOLUME I

VIDEOTAPED VIDEOCONFERENCE DEPOSITION OF JENNIFER MAGILL  
PERSON MOST KNOWLEDGEABLE FOR BREAKING CODE SILENCE

Date and Time: Tuesday, November 14, 2023  
9:02 a.m - 12:38 p.m.

Location: Remotely  
(Via Videoconference)

Reported By: Cailey Nelson, CSR No. 14133  
Certified Shorthand Reporter

Job No. 28156

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The videotaped deposition of Jennifer Magill, taken on behalf of the Defendants, before Cailey Nelson, Certified Shorthand Reporter 14133, for the State of California, commencing at 9:02 a.m., Tuesday, November 14, 2023, taken via remote videoconference.

1 A I've already answered.

2 Q John, control your client here.

3 MR. GIBSON: Okay. There's no need to control my  
4 client, but it is -- first, objection. Asked and  
09:10 5 answered.

6 I think the question, Ms. Magill, though is -- is --  
7 is the WordPress something you include in your  
8 understanding of the back end?

9 THE WITNESS: Yes.

09:10 10 MR. GIBSON: Okay.

11 BY MR. TATE:

12 Q I'll represent to you that Jesse Jensen, who  
13 was the PMK, testified that he looked for evidence that  
14 my clients accessed the WordPress, and he was unable to  
09:11 15 find any. Did Jesse Jensen tell you that?

16 MR. GIBSON: Objection. Again, we're going to have  
17 a running objection to the extent that your testimony  
18 would include attorney-client communications with BCS's  
19 attorneys. I want you to exclude that from your answer.

09:11 20 THE WITNESS: Absolutely.

21 MR. GIBSON: But if you can answer otherwise, you  
22 may.

23 THE WITNESS: Jesse Jensen, yes. And Mr. Gibson's  
24 question asked if it included the WordPress, not was  
09:11 25 limited to.

1 BY MR. TATE:

2 Q Okay. When did Jesse Jensen tell you that he  
3 could not find any evidence that my clients accessed the  
4 WordPress?

09:11 5 A I don't believe he used the exact language, but  
6 it would have been sometime last spring.

7 Q Before you filed the lawsuit?

8 A He provided a comprehensive summary of his  
9 understanding and his investigation before the lawsuit.

09:12 10 Q Understood. Let me be more specific in my  
11 question. Did Jesse Jensen tell you before you filed  
12 the lawsuit, that he could find no evidence that my  
13 clients accessed the WordPress?

14 A I don't remember --

09:12 15 MR. GIBSON: Objection. Attorney-client privilege.  
16 Objection. Attorney-client privilege, but again, we're  
17 into an area here, Ms. Magill, where it's running up to  
18 the lawsuit.

19 If there were conversations that involved BCS's  
09:12 20 attorneys, I'm instructing you not to answer with regard  
21 to that, but if you had a separate conversation with  
22 Mr. Jensen not involving attorneys or communications  
23 from or to attorneys, then you can answer on that.

24 Would you like to have the question again?

09:12 25 THE WITNESS: Sure.

1 BY MR. TATE:

2 Q Let me try it differently, one way that it  
3 cannot implicate the attorney-client privilege.

4 When did Mr. Jensen tell you that my clients  
09:13 5 did not access the WordPress?

6 A I do not recall the exact date last spring.

7 Q Was it before you filed the lawsuit?

8 A Yes. Anything he spoke about the WordPress,  
9 again, I don't believe he used that exact language, but  
09:13 10 yes, he provided us everything before the lawsuit.

11 Q Then -- and then you filed a complaint saying  
12 that my clients accessed the back end of the BCS  
13 website, despite what Jesse Jensen told you; correct?

14 A Correct. As I said, back end is not limited to  
09:13 15 the WordPress.

16 Q What else does it include?

17 A I'm not the technical expert on this case.

18 Q Well, you're -- you just told me it does --  
19 it's not limited to WordPress. What else does it  
09:13 20 include?

21 A I'm not the technical expert --

22 MR. GIBSON: Objection. Let me make an objection.  
23 Objection. Asked and answered. You can answer one more  
24 time.

09:13 25 THE WITNESS: I'm not the technical expert on this

1 BY MR. TATE:

2 Q Did you provide your laptop to BCS's counsel or  
3 eDiscovery vendor?

4 A Through remote access, yes.

09:22 5 Q Okay. And did they take an image of your  
6 laptop?

7 A I don't know exactly what they did. They were  
8 on it for several, several hours.

9 Q And when did you do this?

09:22 10 A I don't know the exact date.

11 Q Can you give me an estimate?

12 A No, sir.

13 Q Okay. Your declaration, for some reason, even  
14 though the court ordered to do it, does not mention  
09:22 15 Cloudways or WordPress backups. Do you know why that  
16 is?

17 MR. GIBSON: Objection. Speculation. Also, calls  
18 for attorney-client privileged communications.

19 BY MR. TATE:

09:22 20 Q Go ahead.

21 A I said no.

22 Q Okay. I'll represent to you that BCS has  
23 provided Google -- Google Drive logs to us in discovery  
24 that show you deleting backups of the website within the  
09:22 25 window of the EDO. Why were you deleting those backups?

1 A Because they were already present.

2 Q Say that one more time, they were already  
3 present?

4 A Our website is backed up in multiple locations.  
09:23 5 I keep a recent set on my Google Drive as a backup of a  
6 backup. They take up a large amount of information. So  
7 the ones that were deleted are deleted as new ones come  
8 in.

9 Q So you understood that you're under a court  
09:23 10 order not to delete documents and you deleted them  
11 anyway; correct?

12 MR. GIBSON: Objection. Misstates testimony.

13 THE REPORTER: I didn't hear the answer.

14 THE WITNESS: I deleted a copy.

09:23 15 THE REPORTER: Okay. Everyone please speak one at a  
16 time.

17 BY MR. TATE:

18 Q And at the time you deleted them, you knew that  
19 BCS was contemplating filing a lawsuit against my  
09:23 20 clients; correct?

21 A I don't know exactly when they were -- the  
22 copies were deleted.

23 Q Let me show you the next document in order.  
24 We'll mark it as Exhibit 124.

09:24 25 //



1 A Yes.

2 Q Okay. So let's try this again. BCS

3 acknowledges that McNamara registered the dot org domain  
4 a year before BCS was incorporated; is that true?

09:33 5 A Mh-hmm.

6 Q Okay. And BCS acknowledges that McNamara paid  
7 for the registration when she -- when she purchased it;  
8 correct?

9 A Correct. When she purchased it under direction  
09:33 10 from fellow BCS leadership team members.

11 Q And BCS doesn't contend that Ms. McNamara is  
12 the only one that has ever paid for the domain  
13 registration?

14 A I'm sorry, repeat the question.

09:33 15 MR. GIBSON: Objection. Vague.

16 BY MR. TATE:

17 Q Let me let me try a different way.

18 Ms. McNamara has been the one that has paid to renew the  
19 registration every year; correct?

09:34 20 A To the best of my knowledge, yes. She's also  
21 asked for reimbursement for that expense.

22 Q But she's not received it, has she?

23 A No. We've been decimated.

24 Q And you believe that Ms. McNamara has asked for  
09:34 25 reimbursement of the dot org domain?

1 A Yes.

2 Q It indicates that you signed this document on  
3 July 10th, 2021. Do you have any reason to dispute that  
4 date?

09:37 5 A No.

6 Q And do you have any reason to dispute that  
7 Ms. McNamara signed this agreement on July 4th, 2021?

8 MR. GIBSON: Objection. Speculation.

9 BY MR. TATE:

09:37 10 Q Go ahead.

11 A I said no.

12 Q So this document was signed after Jeremy  
13 Whiteley had already resigned; correct?

14 A Yes.

09:37 15 Q And it was signed more than a year after  
16 Ms. McNamara purchased the dot org domain; correct?

17 A Correct.

18 Q And what, if anything, did Ms. McNamara receive  
19 in exchange for signing this volunteer agreement?

09:38 20 MR. GIBSON: Objection. Speculation. Calls for  
21 legal conclusion. But you can answer.

22 THE WITNESS: Nothing, to my knowledge. It's a  
23 volunteer agreement.

24 BY MR. TATE:

09:38 25 Q All right. So Ms. McNamara was not paid any

1 money for signing this agreement; correct?

2 A Correct.

3 Q And you're not aware of any other consideration  
4 that she got?

09:38 5 MR. GIBSON: Objection. Legal conclusion.

6 BY MR. TATE:

7 Q Go ahead.

8 A Can you clarify? I'm not sure I understand  
9 what you're asking.

09:38 10 Q So a consideration is a legal term to indicate  
11 that she got something in return for signing this  
12 agreement. Can you think of anything?

13 MR. GIBSON: Same objection.

14 THE WITNESS: Anything? That's quite vague. Do you  
09:38 15 mean money, do you mean a position in the organization,  
16 what exactly are you referring to?

17 BY MR. TATE:

18 Q Anything.

19 A I'm really not sure where this is going, what  
09:39 20 you're asking.

21 MR. GIBSON: Yeah. Same -- same objection, and  
22 vague and ambiguous as well.

23 BY MR. TATE:

24 Q Yeah, BCS didn't give Ms. McNamara any sort of  
09:39 25 property for signing this agreement; correct?

1 A Not to the best of my knowledge.

2 Q Okay. This version of the volunteer agreement  
3 that we're looking at, was it ever voted on or approved  
4 by the board?

09:39 5 A This was two and a half years ago. I don't  
6 remember. But I would assume so.

7 Q And what are you basing that assumption on?

8 A The legal documents that we produced,  
9 developed, edited, et cetera, with our attorneys.

09:39 10 Q Okay. Do you know why there's no board member  
11 meeting -- minute meetings that were produced in this  
12 action indicating that this agreement was ever ratified?

13 MR. GIBSON: Objection. Speculation. Legal  
14 conclusion.

09:39 15 THE WITNESS: Not sure.

16 BY MR. TATE:

17 Q Okay. Did Jeremy Whiteley ever sign the  
18 volunteer agreement?

19 A Did he ever sign a volunteer agreement, or this  
09:40 20 volunteer agreement?

21 Q A volunteer agreement.

22 A He signed an agreement, the same one all of us  
23 did at the very beginning when the organization was  
24 about to incorporate and incorporated in March --

09:40 25 Q What was the title of that agreement?

1 A It appears to be so.

2 Q Okay. And you received it on or about December  
3 15th, 2021?

4 A It appears so.

10:03 5 Q And you understood that Ms. Moorman was telling  
6 BCS that she would not be signing the assignment;  
7 correct?

8 A Correct.

9 Q And you also understood that Ms. McNamara was  
10:03 10 refusing to sign the assignment; correct?

11 A Appears so.

12 Q Okay. Can you think of a specific writing in  
13 which BCS told Ms. McNamara that BCS owned the dot org  
14 domain before the complaint was filed?

10:03 15 MR. GIBSON: Objection. Ambiguous as to timeframe.  
16 Also, calls for speculation.

17 THE WITNESS: Well, I'm not sure I can point to an  
18 exact date or exact statement at this point two and a  
19 half years later.

10:04 20 BY MR. TATE:

21 Q Okay. Can you recall a specific conversation  
22 with Ms. McNamara before the complaint was filed, in  
23 which you told her the dot org domain belongs to BCS,  
24 not you?

10:04 25 A I don't believe I told her that. She said

1 not able to focus on their cases.

2 Q Okay. You said that the general organization  
3 was harmed.

4 What did you mean by that?

10:11 5 A We were not able to be contacted through the  
6 website, we were not able to have exposure to the  
7 public, as planned with the Lifetime feature.

8 Q And how much money did BCS lose as a result of  
9 that?

10:11 10 A Impossible to --

11 MR. GIBSON: Objection. I'm sorry. Objection.  
12 Speculation. And calls for a legal conclusion.

13 BY MR. TATE:

14 Q Go ahead.

10:12 15 A Impossible to give a specific number.

16 Q Okay. Let's go through the special  
17 interrogatory response. So the three things that you  
18 identified, the first one is time spent by plaintiff's  
19 employees/volunteers/agents.

10:12 20 At the time of the alleged deindexing, did BCS  
21 have any employees?

22 A No.

23 Q Okay. And then you've identified three  
24 persons. Dr. Hughes, yourself, and Jesse Jensen.

10:12 25 Do you see that?

1 A Mh-hmm.

2 Q And did BCS pay Dr. Hughes anything to  
3 investigate the alleged deindexing?

4 A Dr. Hughes herself?

10:12 5 Q Right.

6 A No.

7 Q Did BCS pay you anything to investigate the  
8 alleged deindexing?

9 A No. We are all volunteers for the  
10:13 10 organization.

11 Q Okay. Did BCS pay Jesse Jensen anything to  
12 investigate the alleged deindexing?

13 A We are all volunteers for the organization.

14 Q I appreciate that. Did you pay Jesse Jensen  
10:13 15 anything?

16 A No.

17 Q And did BCS pay anyone anything to investigate  
18 the alleged deindexing?

19 A Not at that time. To the best of my knowledge.

10:13 20 Q At some subsequent time, did BCS pay somebody  
21 to investigate the alleged deindexing?

22 A I don't believe so. However, we are in a --  
23 we're in litigation, and there's been multiple experts  
24 and outside vendors, so.

10:13 25 MR. GIBSON: Yeah, objection. Calls for a legal

1 conclusion.

2 BY MR. TATE:

3 Q Did BCS pay for any of those experts?

4 A Again, not sure.

10:13 5 Q Did BCS pay for any of those vendors?

6 A Again --

7 MR. GIBSON: Objection. Speculation.

8 BY MR. TATE:

9 Q Okay. Well, is -- you're the person most  
10:14 10 knowledgeable on BCS's damages. So speak on behalf of  
11 the organization, is BCS aware of it having to pay any  
12 of its experts?

13 A At what time for what?

14 Q At any time for anything related to the alleged  
10:14 15 deindexing.

16 A I know we've had expenses related, but I don't  
17 know exactly when and which vendors.

18 Q All right. What expenses has BCS personally  
19 paid for?

10:14 20 A I don't know exactly when and which vendors.

21 Q Can you -- can you point me to one?

22 A Not that I -- know for sure enough to speak  
23 specifically on.

24 Q Okay. So let me take you back to the week that  
10:14 25 the alleged deindexing occurred.



1 Q Okay. Put this document aside.

2 Do you recall if it was daytime or nighttime  
3 when you discovered the -- that the website was not  
4 appearing on Google Search?

10:22 5 A I don't remember.

6 Q Okay. And you don't remember the date either;  
7 correct?

8 A I don't remember the exact date, no.

9 Q Okay. I'll represent to you that Jesse Jensen  
10 testified that he was able to get the website back on  
11 Google Search by midafternoon on March 12th. Does that  
12 fit your understanding?

13 A If Jesse said that.

14 Q So as far as I can tell, at least, the website  
10:22 15 was not appearing on Google Search for less than 24  
16 hours. Do you have any reason to dispute that?

17 A I believe that it was longer than 24 hours.  
18 I'm not sure because -- (indiscernible due to  
19 cross-talk) -- we were going back and forth with the  
10:23 20 defendants to get ownership of the website.

21 Q Why do you believe it was longer than 24 hours?

22 A Because multiple days we had to take turns, and  
23 with legal search counsel trying to receive ownership  
24 that kept being designated to Mr. Whiteley, and then to  
10:23 25 e-mails at White House dot gov.

1 legal conclusion, and attorney-client privilege --  
2 attorney-client privilege and work product.

3 BY MR. TATE:

4 Q Go ahead.

10:31 5 A It's based on the data received by our  
6 attorneys.

7 Q Well, let me ask you this:

8 When you drafted this response, you were still  
9 alleging all sorts of other things against, particularly  
10:31 10 Ms. McNamara, relating to the TikTok, the Instagram, et  
11 cetera; is that correct?

12 A At the time, that's what reflected in the  
13 complaint.

14 Q Okay. And so the time -- the hours that you  
10:31 15 gave me here, 324 for Dr. Hughes, 368 for yourself, and  
16 112 for Jesse Jensen, that's not just limited to the  
17 deindexing issue, is it?

18 A I don't know for sure.

19 Q Okay. Can you tell me how much time Dr. Hughes  
10:32 20 spent investigating the deindexing issue?

21 A Already answered this.

22 MR. GIBSON: Yeah, objection. Asked and answered.

23 I think it's vague as to timeframe, is the problem.

24 BY MR. TATE:

10:32 25 Q Yeah, this -- this has no timeframe imposed on

1 it, period.

2 How much time did Dr. Hughes spend

3 investigating the alleged deindexing as opposed to the

4 other allegations that used to be in the complaint?

10:32 5 MR. GIBSON: Objection. Speculation.

6 THE WITNESS: I'm not Dr. Hughes. I don't know.

7 BY MR. TATE:

8 Q Okay. How much time did you spend

9 investigating the alleged deindexing, as opposed to the

10:32 10 other allegations in the complaint?

11 A I don't remember exactly, but I know the  
12 majority of the hours listed in the interrogatories were  
13 related to the deindexing.

14 Q Can you give me a ballpark of how many hours  
10:32 15 you spent?

16 A I don't feel comfortable doing that accurately.

17 Q Can you give me a rough ballpark?

18 A I just said no.

19 Q Okay. How many hours did Jesse Jensen spend  
10:33 20 investigating the alleged deindexing as opposed to other  
21 issues?

22 MR. GIBSON: Objection. Speculation.

23 But you can answer if you know.

24 THE WITNESS: I'm not him.

10:33 25 //

1 BY MR. TATE:

2 Q Do you know?

3 A No. I'm not him.

4 Q Okay. So we don't know how much time

10:33 5 Dr. Hughes spent alleging -- investigating the alleged  
6 deindexing, but what's the value of her time?

7 MR. GIBSON: Objection. Legal conclusion.

8 THE WITNESS: Can you rephrase?

9 BY MR. TATE:

10:33 10 Q Yeah. You're alleging that BCS should recover,  
11 as damages, Dr. Hughes's time.

12 How much per hour should my clients have to pay  
13 for her time?

14 MR. GIBSON: Objection. Speculation. Legal  
10:33 15 conclusion. Calls for expert testimony from a lay  
16 witness.

17 THE WITNESS: Yeah, I'm not the person to determine  
18 that.

19 BY MR. TATE:

10:33 20 Q You are the person most knowledgeable, and BCS  
21 does not have an expert. So if anyone's going to be  
22 able to prove this, it's you. Otherwise, you're not  
23 going to be able to prove any damages whatsoever.

24 So what's Ms. Hughes's hourly rate?

10:34 25 MR. GIBSON: Objection. Argumentative.

1 Speculation.

2 THE WITNESS: I'm not the person to determine that.

3 BY MR. TATE:

4 Q Okay. You don't know?

10:34 5 A I did not say that.

6 MR. GIBSON: Objection -- objection. Asked and  
7 answered.

8 BY MR. TATE:

9 Q Do you know?

10:34 10 A I've already answered.

11 MR. GIBSON: Same objections.

12 BY MR. TATE:

13 Q I don't believe I've got an answer to my  
14 question.

10:34 15 What -- BCS is attempting to recover damages  
16 for Dr. Hughes' time. How much money should my clients  
17 have to pay for that?

18 MR. GIBSON: Objection. Calls for a legal  
19 conclusion, and speculation.

10:34 20 BY MR. TATE:

21 Q Go ahead.

22 A Same answer. I've already answered this  
23 question.

24 Q You have not answered this question. And if  
10:34 25 you don't know, tell me you don't know.

1 A I --

2 MR. GIBSON: Objection -- hold on.

3 Objection. Argumentative. Asked and answered.

4 I'll let you answer one more time, then we're going

10:35 5 to cut it off.

6 THE WITNESS: Same answer.

7 BY MR. TATE:

8 Q You have to answer the question.

9 A I have. You just don't like my answer.

10:35 10 MR. GIBSON: Yeah, same objections.

11 MR. TATE: John, do you really want a motion to  
12 compel on this?

13 MR. GIBSON: Well, if you can ask the question one  
14 more time, cleanly, let's try it from there.

10:35 15 BY MR. TATE:

16 Q BCS is seeking to recover damages for  
17 Dr. Hughes's time.

18 What is the dollar amount of those damages?

19 MR. GIBSON: Same objections.

10:35 20 You can answer if you know.

21 THE WITNESS: I'm not the person to determine that.

22 BY MR. TATE:

23 Q Do you know?

24 MR. GIBSON: Objection. Asked and answered.

10:35 25 THE WITNESS: I'm not going to answer again.

1 MR. TATE: John, what do you want to do here?

2 MR. GIBSON: Yeah, I -- so the last question,  
3 though, is, do you know, which is a little different  
4 than what's the -- than the previous questions.

10:36 5 THE WITNESS: So.

6 MR. GIBSON: Yeah.

7 THE WITNESS: Do I know exactly what her exact rate  
8 should be? No.

9 BY MR. TATE:

10:36 10 Q So you're not going to tell me?

11 MR. GIBSON: Well, she just answered it.

12 MR. TATE: She doesn't know? Sorry, she cut out. I  
13 didn't hear the answer.

14 THE WITNESS: I cannot tell you exactly the exact  
10:36 15 number for her rate. That's not my role, my knowledge,  
16 my specialization.

17 BY MR. TATE:

18 Q For your time spent investigating the  
19 deindexing, how much do my clients need to pay BCS for  
10:36 20 your time?

21 MR. GIBSON: Same objections.

22 But you can answer.

23 THE WITNESS: It's not my specialty or expertise. I  
24 can tell you what I value my time at, but I don't know  
10:37 25 that that's legally what my time would be valued at.

1 BY MR. TATE:

2 Q Okay. What do you value your time at?

3 A At that point in my life?

4 Q Sure.

10:37 5 A Invaluable. I was at a safe house with my  
6 daughter for much of this event. I needed to be  
7 focusing on my daughter and my safety. I should not  
8 have been focusing on this, but I had to. I can't even  
9 put a price tag on that.

10:37 10 Q Understood, but you are the person most  
11 knowledgeable for damages here, and BCS is trying to  
12 recover money.

13 How much money should BCS recover for the time  
14 that you spent investigating the deindexing?

10:37 15 MR. GIBSON: Same objections.

16 But you can answer.

17 THE WITNESS: Same answer. I'm not an expert on  
18 that in a legal sense, and I've already given you my  
19 personal valuation.

10:38 20 BY MR. TATE:

21 Q Okay. Jesse Jensen, how much time -- how --  
22 what is the value of the time that Jesse Jensen spent  
23 investigating the alleged deindexing?

24 MR. GIBSON: Same objections.

10:38 25 THE WITNESS: I don't know. It's not my expertise.



1 BY MR. TATE:

2 Q Go ahead.

3 A Donations don't work like that. It's not a  
4 consistent average level. It goes up at the end of the  
11:12 5 year for year-end donations, it goes up for publicity,  
6 it goes up if Paris Hilton does a press conference. I  
7 mean, there's no way to tell you that.

8 Q Okay. Between March 9th and about 2 or 3  
9 o'clock on March 12th, do you have any idea how many --  
11:12 10 how much in donations BCS lost?

11 MR. GIBSON: Objection. Speculation. There are,  
12 you know, plenty of documents that trace the various  
13 volumes, and so it's not a memory test, but if you do  
14 remember, you can certainly answer, Ms. Magill.

11:13 15 THE WITNESS: I don't remember the specific numbers.  
16 And you're asking me about what we lost, which asks me  
17 to speculate as to what we would have gotten, which I  
18 can't do.

19 BY MR. TATE:

11:13 20 Q Isn't it true that it's not uncommon for BCS to  
21 go days without receiving a single donation?

22 MR. GIBSON: Objection. Vague as to timeframe.

23 THE WITNESS: Yeah.

24 BY MR. TATE:

11:13 25 Q Go ahead.

1 with the allegations in the complaint, we are stating  
2 not that we specifically know the exact amount of  
3 donations that we missed out on, but we're comparing,  
4 again, national publicity of one kind to a similar level  
11:15 5 of national publicity, which showed a spike in visitors  
6 to our website before, during, and after that event, and  
7 we did not see any spikes, we saw a flatline in terms of  
8 visitors for a significant amount of the time period in  
9 question.

11:16 10 BY MR. TATE:

11 Q That's not even close to responding to my  
12 question.

13 My -- my question is, how does BCS know that  
14 the lack of donations it received was caused by people  
11:16 15 not donating, as opposed to the normal variations in the  
16 donations that BCS received?

17 MR. GIBSON: Objection. Asked and answered.

18 THE WITNESS: Yeah. Same answer.

19 BY MR. TATE:

11:16 20 Q Are you -- are you going to answer my question?  
21 You gave me a completely different answer.

22 MR. GIBSON: It is responsive.

23 BY MR. TATE:

24 Q All right. Well, let me -- let me ask this:  
11:16 25 Does BCS know that the lack of donations it

1 received was caused by the alleged deindexing?

2 A I mean, I think it's hard to tell the cause and  
3 effect of anything that didn't happen.

4 Q Okay.

11:17 5 A But to the best of our knowledge, it is a very  
6 reliable conclusion.

7 Q And basically what you've done is you've looked  
8 at your web traffic and you saw a drop in web traffic;  
9 correct?

11:17 10 A That's one thing, yes.

11 Q Okay. How does BCS track its web traffic?

12 A Through analytics.

13 Q You use a Google Site plugin, don't you?

14 A That's one way, yes.

11:17 15 Q Did you know that Ms. Beauregard deactivated  
16 the Google Site plugin during that time period?

17 MR. GIBSON: Objection. Calls for speculation.  
18 Argumentative, as well.

19 THE WITNESS: Yeah. I don't know what  
11:17 20 Ms. Beauregard -- what you are alleging is true or not.

21 BY MR. TATE:

22 Q This is the first time you've heard that?

23 A There's been all sorts of wild accusations this  
24 whole entire case. I have no idea.

11:18 25 Q Well, so let me -- let me ask you differently,

1 BY MR. TATE:

2 Q Did BCS spend any donation money defending --  
3 defending BCS against other survivors?

4 A So the way this is phrased and the intention is  
11:28 5 it -- is that we did not pay attorneys to help us defend  
6 against and to hopefully regain our natural property, et  
7 cetera.

8 Q Okay.

9 A And that is true.

11:29 10 Q So let's break that down, just so we've got a  
11 nice, clean record. BCS has not paid any of its  
12 attorneys for anything related to the alleged  
13 deindexing. True?

14 MR. GIBSON: Objection. Speculation.  
11:29 15 Attorney-client privilege. And legal conclusion.

16 BY MR. TATE:

17 Q Go ahead.

18 A I'm not sure if I'm even able to discuss  
19 financial arrangements with attorneys.

11:29 20 Q You are. Has BCS paid its attorneys anything  
21 related to the investigation of the alleged deindexing?

22 A Which attorneys?

23 Q Any attorney.

24 MR. GIBSON: Yeah. You -- you're asking has BCS  
11:29 25 paid BCS's attorneys anything?

1 MR. TATE: Yep.

2 MR. GIBSON: Okay. You can answer that.

3 THE WITNESS: Related to the -- for this litigation  
4 is what you're specifically stating?

11:30 5 BY MR. TATE:

6 Q Related to the deindexing, yeah.

7 A For this litigation, no.

8 Q Has it paid its attorneys for anything related  
9 to the deindexing whether it's a part of this litigation

11:30 10 or not?

11 MR. GIBSON: Calls for speculation.

12 THE WITNESS: Not that I know of. I'm still not  
13 quite sure what all you're entailing, though.

14 BY MR. TATE:

11:30 15 Q Well, you made the -- you made the  
16 clarification I was trying to figure out, you know, you  
17 made -- you parsed that answer to suggest that maybe you  
18 had paid the attorneys for something else, so I was just  
19 trying to get to the bottom of it. But it sounds like

11:30 20 BCS has not paid its attorneys anything for anything to  
21 do with the deindexing; correct?

22 A To the best of my knowledge, yes.

23 Q Okay. Has BCS paid anybody else anything  
24 related to -- as a -- for investigating the alleged

11:31 25 deindexing?

1 that was easily fixed.

2 Q Do you know how long it was down for?

3 A I don't remember specifically.

4 Q Okay. Is BCS registered as a charity with the  
11:51 5 California attorney general's registry of charitable  
6 trusts?

7 A Yes.

8 MR. GIBSON: Objection. Vague as to timeframe.

9 THE WITNESS: Thank you.

11:51 10 BY MR. TATE:

11 Q I'm sorry, I didn't hear your answer. Is it  
12 registered with the attorney general?

13 A Right now, yes.

14 Q When did it register with the attorney general?

11:51 15 MR. GIBSON: Objection. Speculation.

16 THE WITNESS: Yeah, I don't know the exact dates.

17 They don't even tell you exactly what date your  
18 registration goes through.

19 BY MR. TATE:

11:51 20 Q Was it within the first 30 days of being  
21 incorporated?

22 A No.

23 Q Was it in 2021?

24 A It was supposed to be. The person who was  
11:52 25 supposed to do that did not do that.

1 Q Was it registered in 2022?

2 A We thought it was, because the person who was  
3 supposed to do it in 2021 was supposed to. We did not  
4 find out that it wasn't until later.

11:52 5 Q Okay. So I'm assuming that it was registered  
6 in 2023?

7 A Yes.

8 Q Okay. And was it in -- can you give me -- tell  
9 me which quarter?

11:52 10 A I don't know.

11 MR. GIBSON: Objection -- objection. Speculation.

12 BY MR. TATE:

13 Q Was it within the last few months?

14 A Sir, we sent in the documents to register  
11:52 15 multiple times that then got lost in the mail, tracking,  
16 I mean, I don't even remember which time actually went  
17 through -- or know, if they'd even tell us.

18 Q And have you got a notification that you are  
19 registered today?

11:53 20 A I'm sorry, repeat the question?

21 Q Do you know for a fact that BCS is registered  
22 with the California Attorney General's Registry of  
23 Trusts today?

24 A The most recent letter we received was from  
11:53 25 September, and as of the date of that letter from the

1 AG's Charitable Trust division, it stated that we were  
2 registered.

3 Q Did you -- how many letters did you receive in  
4 September from the attorney general's office?

11:54 5 A (Indiscernible due to cross-talk).

6 MR. GIBSON: Objection. Asked and answered, and  
7 speculation.

8 THE WITNESS: I don't remember.

9 MR. TATE: Put into the chat Exhibit No. 139.

11:54 10 Please let me know when you have it opened.

11 (Exhibit 139, Delinquency Notice, was  
12 marked for identification.)

13 THE WITNESS: Okay.

14 BY MR. TATE:

11:54 15 Q Is this the letter you're referring to?

16 A That's one of the letters, yes.

17 Q Okay. And now, this letter is dated September  
18 15th, 2023. And what it's stating is that BCS is  
19 delinquent with the registry of charitable trusts.

11:55 20 Is BCS delinquent with the -- with the registry  
21 of charitable trusts?

22 MR. GIBSON: Objection. Vague as to timeframe.

23 THE WITNESS: Can you be more specific?

24 BY MR. TATE:

11:55 25 Q Yeah, let me -- let's try this more



1 foundationally. Have you seen this letter before?

2 A Yes.

3 Q Now, what is your role at BCS?

4 A CEO.

11:55 5 Q All right. So as the CEO, documents like this  
6 come to your attention; correct?

7 A Yes.

8 Q Okay. When you received this notice, what  
9 action, if any, did you take?

11:55 10 A Contacting the attorney general's office  
11 requesting clarification, connecting the attorney  
12 general's office with representatives with the IRS that  
13 we are working with to catch up on 990s, but we have  
14 a -- the 404.

11:56 15 Q Did you ever provide the attorney general --  
16 attorney general's office with copies of your 990s?

17 A We're still in communication with the attorney  
18 general's office with required documentation. And  
19 that's not just me. That's also our board president,  
11:56 20 so.

21 Q Yeah. My question was, was -- let's do this  
22 year by year.

23 Did you give the attorney general's office the  
24 990s for 2021?

11:56 25 A For the calendar year ending, or starting in

1 2021? We have a June 30th end of the school year.

2 Q Okay. For the fiscal year ending June 30th,  
3 2021, has BCS provided those 990s to the registry of  
4 charitable trusts?

11:57 5 A I don't know specifically. Those were created  
6 by our accountant, and then mailed to various places  
7 that needed them. So.

8 Q For the fiscal year ending June 30th, 2022, has  
9 BCS provided those 990s to the registry of charitable  
11:57 10 trusts?

11 A Same thing. I don't know specifically. That's  
12 why we're in discussions with the IRS to see what  
13 they've received that we've mailed, what they -- or  
14 sorry -- what the attorney general's office to see what  
11:57 15 they received, what they still need, and what they would  
16 like, along with the understanding of the limitations  
17 with financials we have.

18 Q As the CEO of BCS, is it your understanding  
19 that BCS is delinquent with the registry of charitable  
11:58 20 trusts?

21 MR. GIBSON: Objection. Calls for a legal  
22 conclusion and speculation.

23 THE WITNESS: Yeah, I don't know today what they  
24 classify us as. Again, we've had ongoing discussions  
11:58 25 for months.

1 BY MR. TATE:

2 Q Has anybody told you that you're no longer  
3 delinquent?

4 MR. GIBSON: Objection. Speculation. It's also  
11:58 5 vague.

6 THE WITNESS: Yeah. Can you rephrase the question?

7 BY MR. TATE:

8 Q All right. You received a letter stating that  
9 BCS is delinquent with the attorney general's office;  
11:58 10 correct?

11 A Yes. The September 15th letter.

12 Q Okay. Have you -- has anybody told you that  
13 whether -- has anyone told you that BCS is no longer  
14 delinquent?

11:59 15 A No one has stated those specific words to me,  
16 no.

17 Q Why don't we go ahead -- I need to pull up a  
18 new document. Why don't we go ahead and take a  
19 five-minute break, come back at 12:05.

11:59 20 THE VIDEOGRAPHER: We are off the record at  
21 11:59 a.m.

22 (Recess.)

23 THE VIDEOGRAPHER: We are on the record at 12:08  
24 p.m.

12:08 25 MR. TATE: All right. So during the break, what I

1 did is I went onto the office attorney general's  
2 website, and I grabbed some information off that as of  
3 today.

4 So I put into the chat, Exhibit No. 140. Can you  
12:08 5 please open that when you are ready?

6 (Exhibit 140, Registrant Details, was  
7 marked for identification.)

8 THE WITNESS: Okay.

9 BY MR. TATE:

12:09 10 Q Again, I represent to you that this is what  
11 the -- the DOJ's website shows today, and as of today,  
12 Breaking Code Silence is listed as being delinquent in  
13 its registry status.

14 Are you aware of any facts that would indicate  
12:09 15 otherwise?

16 A Nope.

17 Q And as the CEO of Breaking Code Silence, you  
18 understand that delinquent organization is not allowed  
19 to receive any donations; correct?

12:09 20 MR. GIBSON: Objection. Calls for a legal  
21 conclusion and speculation. Also, invades the  
22 attorney-client privilege.

23 BY MR. TATE:

24 Q I'm just asking if you understand that or not.

12:09 25 MR. GIBSON: And just -- exclude from your answer

1 Showing you Exhibit 144. Please let me know  
2 when you have it opened.

3 (Exhibit 144, Initial Registration Form,  
4 was marked for identification.)

12:15 5 THE WITNESS: Okay.

6 BY MR. TATE:

7 Q Okay. Do you recognize this document?

8 A Yes.

9 Q Okay. These are -- is this the initial  
12:16 10 registration form that you sent to the office of the  
11 attorney general?

12 A This -- this is one of them, yes.

13 Q Okay. Why did -- in the top right-hand corner,  
14 it indicates the attorney general's office received it  
12:16 15 July 18th, 2023.

16 Why did you wait so long to submit this?

17 MR. GIBSON: Objection. Argumentative.

18 THE WITNESS: As I said, this isn't the only one  
19 that we sent. We sent multiple. They kept saying they  
12:16 20 hadn't received it, that it got lost in the mail, et  
21 cetera.

22 BY MR. TATE:

23 Q You understand that up until July 18th, 2023,  
24 BCS was not allowed to accept any donations?

12:16 25 MR. GIBSON: Objection. Calls for speculation, and

1 BY MR. TATE:

2 Q We'll move to compel.

3 Has BCS ever registered as a nonprofit  
4 organization to accept donations in Colorado?

12:24 5 MR. GIBSON: I'm sorry, can you -- I didn't quite  
6 get that.

7 BY MR. TATE:

8 Q Yeah. Has BCS registered as a nonprofit  
9 organization to accept donations in Colorado?

12:24 10 A I completed our initial registration in  
11 Colorado. I don't remember who handled subsequent  
12 registrations.

13 Q According to BCS's verified discovery  
14 responses, it has never filed, at least at the time you  
12:24 15 submitted it, it has never filed a form 990 with the  
16 IRS.

17 Has BCS subsequently filed those form 990s with  
18 the IRS?

19 A Can you restate the question?

12:25 20 Q Yeah. BCS gave me a verified discovery  
21 response saying that it has not filed any form of 990s  
22 with the IRS, but time has passed. And I'm wondering if  
23 BCS has subsequently done so?

24 A I don't know where in process our 990s are. I  
12:25 25 know they've been completed by our accountants and were

1 in processing, but I have no idea where they are in the  
2 chain.

3 Q All right. So you don't know if the IRS ever  
4 received a 990 for BCS?

12:25 5 A I cannot tell you for sure, no.

6 Q Show you a document that was marked as Exhibit  
7 No. 12.

8 A Okay.

9 Q Have you seen Exhibit No. 12 before?

12:26 10 Did you answer and I not hear?

11 A Yeah, I said yes.

12 Q Okay. When did you see this?

13 A When did I first see this document?

14 Q Yes.

12:27 15 A I can't give you a specific, but it looks like  
16 I would have seen it close to -- yeah, it's not dated,  
17 so impossible to know, but I knew it was filed.

18 Q Did -- you said you knew that it was filed.

19 How did you know it was filed?

12:27 20 A I don't remember exactly who sent it in, but --

21 Q Do you know who prepared it?

22 A Either myself or Bobby Cook. I don't see it.

23 Q Do you know if the extension was granted?

24 A Yes.

12:27 25 Q Now, do you see on the first page where Bobby

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CERTIFICATE  
OF  
CERTIFIED SHORTHAND REPORTER  
\* \* \* \* \*

The undersigned Certified Shorthand Reporter of the State of California does hereby certify:

That the foregoing Proceeding was taken before me at the time and place therein set forth.

That the testimony and all objections made at the time of the Proceeding were recorded stenographically by me and were thereafter transcribed, said transcript being a true and correct copy of the proceedings thereof.

In witness whereof, I have subscribed my name, this date: November 17, 2023.

  
CAILEY NELSON, CSR NO. 14133