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8 JEREMY WHITELEY

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**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

BREAKING CODE SILENCE, a
California 501(c)(3) nonprofit,

Plaintiff,

vs.

KATHERINE MCNAMARA, an
Individual; JEREMY WHITELEY, an
individual; and DOES 1 through 50,
inclusive,

Defendants.

Case No. 2:22-cv-002052-SB-MAA

**DECLARATION OF JEREMY
WHITELEY IN SUPPORT OF
MOTION FOR SUMMARY
JUDGMENT OR IN THE
ALTERNATIVE PARTIAL
SUMMARY JUDGMENT**

Date: January 2, 2024

Time: 10:00 a.m.

Crtrm: 690

[Assigned to the Hon. Maria A. Audero]





DECLARATION OF JEREMY WHITELEY

1
2 I, JEREMY WHITELEY, hereby declare and state under penalty of perjury
3 the following facts:
4

5 1. I am over the age of eighteen and a defendant the within action. I
6 submit this Declaration in support of the Motion for Summary Judgment filed on my
7 behalf. I have personal knowledge of the following facts and, if called upon to
8 testify, I can and will truthfully testify thereto.

9 2. Every year, thousands of children who are branded as “problem
10 children” for a variety of reasons are sent, often against their wills, to congregate
11 care facilities (sometimes known as “boot camps,” “behavioral modification
12 schools,” or other similar monikers). Although these congregate care facilities
13 market themselves as providers of therapeutic treatment, many simply collect public
14 funding and abuse and mistreat the children, including physical, verbal, and sexual
15 abuse, isolation, forced hard labor, chemical sedation, sleep and food deprivation,
16 attack therapy, aversion therapy, etc. The “troubled teen industry” or “TTI” is a term
17 commonly used to refer to a broad range of such programs. For decades, advocates
18 have sought to help raise attention to the issues with TTI facilities, reform the
19 facilities, and put an end to institutional child abuse. For many years, the phrase
20 “Breaking Code Silence” has been commonly used by those involved in the anti-TTI
21 movement because “Code Silence” is a common form of punishment used by many
22 TTI facilities.

23 3. As a teenager, I was a victim of, and witnessed, institutional abuse
24 while attending Provo Canyon School, a TTI facility in Provo, Utah. I later became
25 actively involved in the anti-TTI movement in mid-2020. Shortly thereafter, I met
26 Defendant KATHERINE MCNAMARA (“McNamara”) online in a Facebook
27 Group dedicated to Provo Canyon School survivors.
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1 4. In September 2020, I was contacted by another survivor I knew,
2 Jennifer Robison (a.k.a. Jennifer Walker), regarding potentially creating an entity to
3 advocate for the anti-TTI movement. Later, I met Ms. McNamara in person in early
4 October 2020 at a protest in Provo, Utah, along with other advocates, including
5 Chelsea Papciak (Filer).

6 5. By trade I am a serial entrepreneur in the technology and healthcare
7 space. During my conversations with the other survivors in October 2020, I offered
8 my services to help to create a non-profit entity if anyone wanted my help to do so.
9 Although the group discussed the idea for a couple of months, by December 2020, it
10 did not appear that any formal entity would be formed.

11 6. A few months later, in February and early March 2021, some of the
12 survivors I was previously talking to contacted me again about potentially forming a
13 non-profit organization, including McNamara and Papciak.

14 7. As the discussions progressed, it became clear that one group of the
15 collaborators – including Papciak, Robison (Walker), and Jenna Bulis – refused to
16 move forward with the non-profit organization. This led to a split and, in mid-March
17 2021, Papciak and her group went their separate way, taking with them the
18 <breakingcodesilence.net> domain name that was purchased in 2020, registered to
19 Robison (Walker), and previously used in connection with celebrity Paris Hilton’s
20 anti-TTI campaign (the “.Net Domain”).

21 8. After the Papciak group split off, Hughes, McNamara, Jennifer Magill,
22 and I decided to move forward with forming a non-profit organization. Along with
23 other new collaborators, this new group decided that the nonprofit organization
24 would be named “Breaking Code Silence Youth Advocacy Network.”

25 9. Plaintiff BREAKING CODE SILENCE (“BCS”) was incorporated on
26 March 22, 2021. I assisted Hughes in filing the necessary incorporation papers. At
27 Hughes’ request, when registering the organization with the State of California, the
28 organization was named “Breaking Code Silence,” excluding the latter half of the



1 name, i.e., “Youth Advocacy Network,” that we had previously agreed upon.

2 10. When I filled out and filed the incorporation paperwork for BCS, I
3 accidentally listed McNamara as a board member instead of Magill. Prior to
4 incorporation, McNamara indicated that she did not want to be on the board of
5 directors. After BCS was formed, the board requested that McNamara not resign and
6 remain a board member, and she agreed. Thus, the board of directors initially
7 consisted of me, Hughes, Magill, and McNamara. We agreed that we were only
8 interim board members, serving temporarily and without compensation until we
9 could find qualified replacements. A fifth, permanent, board member, Bill Boyles,
10 was later added to the BCS board of directors in May 2021.

11 11. McNamara is a cyber-security technical solutions architect for a
12 multinational technology conglomerate corporation. Based on our technical
13 backgrounds, McNamara and I stood up the information technology and assurance
14 infrastructures as well as the website and related WordPress account for BCS. We
15 also initially set up and/or had administrative access to a number of BCS’s online
16 accounts. Specifically, at one point I had administrative access to the following BCS
17 accounts: Cloudways, Facebook Business Page, Google for Nonprofits, Google Ads,
18 PayPal, Google Analytics, TikTok, WordPress, Slack, and YouTube.

19 12. Prior to BCS’s incorporation, and before the organization could acquire
20 a suitable domain, Hughes wanted to have formal email addresses for conducting
21 organizational business. Because Papciak and her group retained control of the .Net
22 Domain and BCS had yet to purchase its own domain, McNamara allowed the
23 organization to temporarily use her <breakingcodesilence.org> domain (the “.Org
24 Domain”) that she previously purchased in March 2020 to create the email accounts.

25 13. On or about March 29, 2021, I paid for and set up the web hosting that
26 the .Org Domain pointed toward (with the company Cloudways), using my own
27 personal funds, in my own name, with my own email and home address.

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1 14. I always understood and believed, and still do today, that McNamara
2 owns the .Org Domain, and that BCS’s use of McNamara’s .Org Domain was only
3 temporary until BCS could obtain its own domain, either by obtaining the .Net
4 Domain from Papciak and her group, or purchasing the domain
5 <breakingcodesilence.com> (the “.Com Domain”) from the author of a book
6 entitled “Breaking Code Silence,” Joshua Scarpuzzi.

7 15. In April 2021, Hughes purchased the .Com Domain from Joshua
8 Scarpuzzi. A true and correct copy of the April 6, 2021 Assignment and License
9 Back Agreement between BCS and Joshua Scarpuzzi, which I voted in favor of as a
10 member of BCS’s board of directors, is attached to the Index of Exhibits as **Exhibit**
11 **9**. The .Com Domain was specifically purchased for BCS’ use.

12 16. Notwithstanding the organization’s purchase of its own .Com Domain,
13 Hughes was determined to get the .Net Domain from Papciak because the .Net
14 Domain had previously been used in connection with a campaign led by Paris Hilton
15 and had high rankings for search engine optimization (in other words, it showed up
16 on the first page of search engine results). Hughes was so set on obtaining the .Net
17 Domain that she immediately started putting together a litigation plan to sue Papciak
18 and her group for trademark infringement. A true and correct copy of my March 19,
19 2021 Facebook chat messages with Hughes and Magill regarding the litigation plan
20 are attached to the Index of Exhibits as **Exhibit 26**. That action was ultimately filed
21 by BCS on May 13, 2021 (the “Papciak Action”).

22 17. Shortly after BCS was formed, Hughes began regularly hurling insults
23 and homophobic epithets at me during meetings (including BCS board meetings),
24 telephone calls, Zoom conferences, and on BCS’s private Slack channel in the
25 Breaking Code Silence workspace. For example, Hughes would often call me a
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1 “mangina”¹ and tell me to “suck her dick” or “eat her ass.” As a gay man who is not
2 effeminate, I found Hughes’ insults extremely offensive and asked her repeatedly to
3 stop calling me names and being rude. In response, Hughes would tell me to “go eat
4 some Chick-Fil-A and get over it.”²

5 18. The constant abuse from Hughes led to my resignation from BCS’
6 board of directors on June 26, 2021. I specified that the reason for my resignation
7 was due to the hostile comments made by Hughes towards me and the way she
8 mistreated me. A true and correct copy of my June 26, 2021 resignation letter is
9 attached to the Index of Exhibits as Exhibit 27. A true and correct copy of the letter
10 I received from Vanessa Hughes on June 28, 2021, accepting my resignation is
11 attached to the Index of Exhibits as Exhibit 28.

12 19. I explained to the remaining board members (except Hughes) that I was
13 still willing to help out in any way I could, but that working with Hughes was too
14 toxic for me. A true and correct copy of my June 26, 2021 email to McNamara and
15 Magill is attached to the Index of Exhibits as Exhibit 29. I also warned the board
16 members (other than Hughes) that Hughes was also targeting another gay volunteer
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19 ¹ “Mangina” – which is a hybridization of “man” and “vagina” – is a
20 derogatory term for any man perceived as effeminate (or with a weak masculine or
21 subservient side). The term is almost always used as a sexist way to insult a person’s
22 masculinity. Most of the time, “mangina” refers to a person’s character such that
23 calling someone a “mangina” implies that they are weak and effeminate. It can also
24 insult the genitals of persons of all gender identities.

25 ² Chick-Fil-A, which was founded by a Southern Baptist, is well known for
26 historically donating funds to anti-LGBTQ+ organizations, causes and agendas. As
27 recently as 2012, its President and COO publicly denounced gay marriage and as
28 recently as 2021 fought to keep the Equality Act from passing.

1 and that her behavior is fatal to BCS and will likely result in a lawsuit. A true and
2 correct copy of my June 28, 2021 email to Boyles, Magill, and McNamara is
3 attached to the Index of Exhibits as **Exhibit 30**.

4 20. Prior to my resignation, on April 18, 2021, I had already transferred
5 BCS’s TikTok account to McNamara. A true and correct copy of my April 18, 2021
6 chat messages with McNamara wherein I provided her with the TikTok password
7 (on pages 2-3) is attached to the Index of Exhibits as **Exhibit 24**.

8 21. The only BCS accounts that I had administrative access to, or
9 administrative credentials for, at the time of my resignation were: Cloudways,
10 Facebook Business Page, Google for Nonprofits, Google Ads, PayPal, Google
11 Analytics, WordPress, Slack, and YouTube. In the weeks following my resignation,
12 I made good on my promises to assist BCS with the transfer of all of the remaining
13 BCS accounts that I had either set up or had access to during my tenure.

14 Specifically:

15 a. On June 28, I removed myself as an administrator from BCS’s
16 Facebook Business Page. A true and correct copy of the confirmation email I
17 received from Facebook on June 28, 2021 is attached to the Index of Exhibits
18 as **Exhibit 31**. The email confirms: “You have been removed from Breaking
19 Code Silence by Jeremy Whiteley on Facebook Business Manager. This
20 means you won’t be able to access any accounts or Pages you were working
21 on as part of the business. ...” That day I also provided BCS with the login
22 credentials to change the login and remove me from BCS’s PayPal account. A
23 true and correct copy of my June 28, 2021 email to McNamara providing the
24 login credentials is attached to the Index of Exhibits as **Exhibit 32**.

25 b. On June 28, I de-activated my account in the Breaking Code
26 Silence Slack workspace which removed my access.

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1 c. On June 28, McNamara revoked my authorization to the
2 jwhiteley@breakingcodesilence.org email account. During my time at BCS,
3 documents were housed both on various personal Google Drives as well as
4 BCS' Google Drive. The majority of my access to BCS' Google Drive
5 folders/drives were linked to my BCS email address,
6 jwhiteley@breakingcodesilence.org.

7 d. On June 30, I removed myself as an administrator on BCS's
8 Google for Nonprofits account. A true and correct copy of the June 30, 2021
9 email I received from Google for Nonprofits is attached to the Index of
10 Exhibits as **Exhibit 33**. The email confirms: "... you are no longer an
11 administrator of the Google for Nonprofits account for Breaking Code
12 Silence. Your administrative access was removed by Jeremy Whiteley."

13 e. On July 6, I revoked BCS's permission to use my Squirrly SEO
14 website plugin. Squirrly SEO is a search engine optimization plugin for
15 WordPress that I use for my business. During my tenure at BCS, I allowed
16 BCS's website to use the feature. Squirrly SEO was connected to
17 McNamara's Google Webmaster Tools/Search Console using my personal
18 Google account. I also removed BCS's permissions within Dropbox so that
19 BCS's website would no longer backup into my Dropbox account. In
20 addition, I received confirmation from Cloudways that the email associated
21 with BCS's Cloudways account was changed from my email address to
22 jmagill@breakingcodesilence.com (Magill's email address). A true and
23 correct copy of my July 6, 2021 email to BCS's attorney, Greta Proctor,
24 advising her of these actions and forwarding the Cloudways email address
25 change confirmation is attached to the Index of Exhibits as **Exhibit 34**.

26 f. On July 9, BCS changed the administrative access to BCS's
27 WordPress account to another BCS director, Bill Boyles. A true and correct
28 copy of the July 9, 2021 email confirmation I received reflecting the change

1 of the administrative email for BCS’s WordPress account is attached to the
2 Index of Exhibits as **Exhibit 35**. After July 9, 2021, I never accessed BCS’s
3 WordPress Account or made any changes to BCS’s WordPress Account.

4 g. On July 10, I relinquished ownership of the BCS’s YouTube
5 account. A true and correct copy of my July 12, 2021 email to BCS’s
6 attorney, Greta Proctor, advising her that I made this change and asking for
7 confirmation that there was nothing else BCS needed me to do with respect to
8 YouTube, is attached to the Index of Exhibits as **Exhibit 36**. On July 10, I
9 also received two email notifications from Google within a minute of each
10 other indicating that I was first added to one of BCS’s Google Web Services
11 Account as an owner at 10:45:39 p.m. and then my ownership was
12 immediately revoked at 10:45:48 p.m. True and correct copies of the emails
13 that I received from google-my-business-noreply@google.com are attached
14 collectively to the Index of Exhibits as **Exhibit 37**. I immediately advised
15 BCS’s counsel, Greta Proctor, as shown in my July 12 email to her attached
16 as **Exhibit 36**.

17 h. On July 19, McNamara revoked my authorization to BCS’
18 Google Ads account. A true and correct copy of the July 19, 2021 email alert
19 I received indicating that I had been removed from as an administrator from
20 BCS’ Google Ads account by Katherine McNamara (iristheangel@gmail) is
21 attached to the Index of Exhibits as **Exhibit 38**.

22 22. After the foregoing changes were made and McNamara revoked my
23 authorization to BCS’s Google Analytics accounts on August 18 as set forth in her
24 declaration, to the best of my knowledge, I ceased to have access to any BCS
25 account or computer. And after the foregoing actions were taken, I did not attempt
26 to access the above-referenced BCS accounts.

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1 23. Notwithstanding, on July 12, 2022 (more than a year after I self-
2 revoked my access to BCS's Facebook account and received confirmation of same),
3 I received an unsolicited message in my personal Facebook account related to
4 BCS's Facebook account, indicating that BCS's charity payout was rejected.
5 Presumably, I received the message because BCS failed to remove my personal
6 Facebook account from its account, and I lacked the credentials to remove it myself.
7 A true and correct copy of the message I received from Facebook on July 12, 2022
8 is attached to the Index of Exhibits as **Exhibit 39**. Because this lawsuit was pending
9 at the time I received the notification, I requested that my counsel immediately
10 advise BCS's counsel, DLA Piper, of the issue which, as set forth in the Declaration
11 of Catherine A. Close, she immediately did. According to Facebook's Help Center,
12 only BCS could remove my account and add a new Financial Admin by following
13 the instructions on the Nonprofit Financial Entity Application Support Page located
14 online at <https://www.facebook.com/help/contact/239074646761463>. A true and
15 correct copy of those instructions are attached to the Index of Exhibits as **Exhibit**
16 **40**. To be clear, after revoking my own access to BCS's Facebook account, I have
17 never logged in or attempted to log in to BCS's Facebook account.

18 24. After assisting in turning over all of my login credentials to BCS's
19 accounts as described above, I was never contacted by BCS requesting that I take
20 any further actions with respect to any BCS accounts.

21 25. After my resignation, I had very little contact with McNamara before
22 March 2022. In that time, I only sporadically communicated with McNamara. None
23 of those communications dealt with gaining unauthorized access to a BCS account
24 or computer. Prior to learning of this lawsuit, McNamara and I never discussed
25 anything about any of the accounts/computers BCS is contending were hacked, and
26 I did not aid or assist anyone in unlawfully accessing, or exceeding authorized
27 access, with respect to any BCS accounts or computers. Moreover, I never took any
28 action which would cause or contribute to the deindexing of BCS's website.

1 26. Then, approximately 9 months after my resignation from BCS, on the
2 evening of March 11, 2022 or morning of March 12, 2022, I received a call out of
3 the blue from McNamara who was concerned that someone was getting into her
4 .Org Domain account and making strange changes. During the call, McNamara told
5 me that she added my email address, jeremy@medtexter.com, to the Google
6 Webmaster Central/Google Search (collectively the “Google Tools”) for her .Org
7 Domain and asked me to browse to the Google Webmaster Central page so I could
8 actually see what was happening in her domain account and maybe help her
9 understand it.

10 27. At McNamara’s request, on or about March 11, 2022, sometime after
11 2:15 PM PST (March 12, 2022 at 9:15 PM UTC)³, using my
12 jeremy@medtexter.com email address, signed on to my own personal Google
13 account, browsed to the Google Webmaster Central, and navigated to the display
14 which showed the ownership history for the .Org Domain. After logging in, I
15 observed that there indeed appeared to be weird things going on with the account.
16 McNamara would add an email address, and then someone else would delete it. This
17 happened over and over again. My initial thought was that I could not understand
18 why someone at BCS wouldn’t just call McNamara to talk about it, instead of
19 playing games.

20 28. Other than browsing into the Google Webmaster Central webpage to
21 view the strange occurrences, I took no action with respect to the .Org Domain,
22 BCS’s website, or anything else. I simply witnessed what was occurring at the
23 request of, and with the express permission of, McNamara as both the account
24 owner and the domain owner. To be very specific, I was never a party to an
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26 ³ UTC is a time zone standard used as a basis for all time zones worldwide. It is
27 a constant time scale and does not change for Daylight Saving Time. UTC is 8 hours
28 ahead of Pacific Standard Time.

1 agreement with anyone to access any BCS account or computer without
2 authorization, I never placed a deindexing request on the .Org Domain or BCS’s
3 website, I did not change or alter any portion of BCS’s website, and I did not aid or
4 assist anyone else in doing such things.

5 29. I later received a telephone call from McNamara on or about March 28,
6 2022 who told me that I was named as a defendant in this lawsuit. I immediately
7 went online and pulled a copy of the Complaint. I was in shock! I had no idea that
8 BCS had any issues with the indexing of its website prior to reading the Complaint.
9 And I could not understand for the life of me why BCS didn’t just reach out to me
10 before suing me over something like this which, under normal circumstances if BCS
11 or its counsel had performed even a minimal forensic investigation into the
12 appropriate Google Webmaster logs, would have confirmed that I had nothing
13 whatsoever to do with the deindexing (if indeed there was one).

14 30. After reviewing the Complaint, on March 29, 2022, I accessed the
15 Google Search Console for the .Org Domain using my email
16 jeremy@medtexter.com to try and determine why BCS was claiming their website
17 was deindexed. Attached to the Index of Exhibits as **Exhibit 41** is a true and correct
18 copy of a screenshot I took on July 12, 2023 from the Settings tab of the Google
19 Search Console which shows that I first accessed the Google Search Console on
20 March 29, 2022, where it says “Property added to account.” To be clear, after my
21 resignation from BCS, I only accessed the Google Tools for the .Org Domain based
22 on the permissions McNamara granted to me on March 11. Regardless, I did not
23 take any action or alter any data on the Google Tools. However, I observed that
24 several site maps had been submitted incorrectly, including the sitemap for BCS’s
25 homepage, and that many web pages for the BCS website were marked as “no
26 index,” which would tell Google not to index those pages. I also observed that BCS
27 did not have a site map in their robots.txt file on their website during the month of
28 March 2022. Based on my 20 years of experience with websites and web marketing,

1 any of these errors could have caused BCS’s website to be deindexed. And the only
2 people who would have the necessary credentials to submit the sitemaps and to
3 mark webpages for “no index” would be someone with access to BCS’s WordPress
4 account, which I no longer had any access to after July 9, 2021. To be clear, after
5 July 9, 2021, I never accessed BCS’s WordPress Account or made any changes to
6 BCS’s WordPress Account, nor did I have any ability to do so.

7 31. After seeing that BCS was making a ton of changes to its website on
8 and around March 9-12, I looked up BCS’s website on the internet’s Wayback
9 Machine, which is a digital archive of the internet that allows you to view preserved
10 images of how websites looked in the past. My review of BCS’s website on the
11 Wayback Machine confirmed that lots of changes were being made to BCS’s
12 website starting from March 1, 2021 until the lawsuit was filed. In one case, BCS
13 submitted four different versions of the website on March 7 alone! Moreover, BCS’s
14 own sitemap which details the pages and posts on BCS’s website shows that many
15 of the webpages on BCS’s site were “last modified” in early March 2022 – around
16 the time of the deindexing. Importantly, these site indexes only show the last
17 modification date. If the pages or posts are updated at a later date, it will show the
18 most recent date only. Again, the only people who would have the necessary
19 credentials to do this would be someone with access to BCS’s WordPress account
20 which, as discussed above, I no longer had any access to after July 9, 2021.

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JULANDER BROWN
& BOLLARD
JB

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32. I recently learned that BCS’s claims in this action include a claim that I accessed BCS’s Hover DNS Account (“BCS’s Hover Account”). (Dkt. 146-147.) I have never had any access to any Hover domain registrar account which houses any BCS-related domains, including McNamara’s Hover domain registrar account that houses the .Org Domain, the Hover domain registrar account that McNamara created in March 2022 to house the .Com Domain, or any other Hover.com domain registrar account that may exist with respect to those domains. Nor have I ever accessed any Hover domain registrar account that housed either the .Org Domain or the .Com Domain.

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

DATED this 22nd day of November 2023.



JEREMY WHITELEY

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CERTIFICATE OF SERVICE

I hereby certify that on this 22nd day of November, 2023, I electronically filed the foregoing paper(s) with the Clerk of the Court using the ECF system which will send notification to all parties of record or persons requiring notice.

/s/ Helene P. Saller

Helene P. Saller

