

# **EXHIBIT 50**

UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

BREAKING CODE SILENCE, a )  
California 501(c)(3) nonprofit, )  
 )  
Plaintiff, )  
 )  
v. )  
 )  
KATHERINE MCNAMARA, an )  
individual, JEREMY WHITELEY, an )  
individual, and DOES 1 through )  
50, inclusive, )  
 )  
Defendants. )  
\_\_\_\_\_ )

*Certified Copy*

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

(PORTIONS OF THIS TRANSCRIPT ARE DEEMED CONFIDENTIAL)

VIDEOTAPED VIDEOCONFERENCE OF CHELSEA FILER

Date and Time: Tuesday, July 18, 2023  
9:03 a.m. - 6:20 p.m.

Location: Remotely  
(Via Videoconference)

Reported by: Christianne Lee Fong  
CSR No. 7559, CCRR

Job No. 27313

1 I'm going to turn my phone off so we don't get --

2 Q Of course.

3 A Thank you.

4 Okay, I'm sorry. Go ahead with your

09:19 5 question.

6 Q Did you understand that one of the

7 allegations that BCS was making against you was that

8 each one of these properties -- the Google Suite,

9 the Squarespace, the website, and the Twitter

09:20 10 account -- were all created in 2019 or 2020 for the

11 benefit of BCS?

12 (Reporter requests clarification.)

13 BY MR. TATE:

14 Q For the benefit of BCS.

09:20 15 A I am aware that that was their claim, yes.

16 Q Do you agree with that claim?

17 A At the time I would say that was not

18 accurate. No, I do not agree with that.

19 Q Why do you not agree with that?

09:20 20 A Because we, as a fledgling organization,

21 the shall we call it original Breaking Code Silence,

22 or you can call it the Breaking Code Silence working

23 group, which is what we were, you know, referred to

24 in this prior litigation, we created a lot of these

09:21 25 accounts merely for the betterment of the movement

1 and not necessarily for the organization itself. It  
2 was for raising awareness. It was for sharing  
3 survivor stories.

4 Now, I will say we had definitely had  
09:21 5 discussions, serious discussions, and it was our  
6 intention to file for 501(c)(3) status. We did  
7 intend to use those same accounts had we become  
8 501(c)(3). So, honestly, that's -- it's a pretty  
9 convoluted question with a very convoluted answer.  
09:21 10 Because not only were our intentions different back  
11 then, and then a lot of things happened since then  
12 that we did not expect that I don't -- I don't know  
13 that that was correct at the time that they filed  
14 this lawsuit.

09:22 15 I think that they were misled to believe  
16 something that was not accurate, and that was that  
17 we were going to -- to name ourselves Breaking Code  
18 Silence. We were not going to name ourselves  
19 Breaking Code Silence. Breaking Code Silence was  
09:22 20 the hashtag. It was the campaign.

21 We were going to name ourselves Breaking  
22 Code Silence Action Network or Breaking Code Silence  
23 Advocacy Network. We went between the two. That  
24 was what was on our 501(c)(3) paperwork.

09:22 25 So, no. There were -- there was a -- very

1 much a different intention at the time that they  
2 were created.

3 Q Let me break that down a little bit. I  
4 appreciate the answer.

09:23 5 You mentioned a working group.

6 Who was a part of that working group?

7 A Well, it originally began with Jenna Bulis.  
8 She contacted me in 2019. I believe it was towards  
9 the end of 2019. I don't have a specific date. But

09:23 10 she did contact me and told me that she found the  
11 Breaking Code Silence campaign that I had originally  
12 posted in 2014, and she really liked the idea. And  
13 she wanted to revamp it and recreate kind of a new  
14 social push for, you know, using it as a hashtag.

09:23 15 And she did so with my permission.

16 At that time I was not fully involved. I  
17 was more of an advisor, in an advisor role.

18 Now, she came to me out of respect, being  
19 as my group, WWASP Survivors, as well as my website,  
09:24 20 was the first to publish and utilize the  
21 BreakingCodeSilence hashtag as a campaign. So she  
22 did get my permission to use it.

23 And, you know, at the time, obviously I  
24 wasn't expecting it to become a subject of  
09:24 25 litigation, so I was happy to share without having

1 to protect my original use and creation. I  
2 didn't -- I didn't think that it was going to be  
3 stolen, so I was happy to share.

4 Now, that being said, I was not aware -- I  
09:25 5 didn't know all of the people that were brought in.  
6 I can't say that I trusted them all. But I did  
7 trust Jenna. So I gave Jenna permission to use it.  
8 I didn't necessarily give Katherine McNamara  
9 permission to take everything.

09:25 10 Q Okay. So sounds like sometime in 2019  
11 Jenna Bulis reached out to you and the two of you  
12 started collaborating.

13 Other than yourself and Ms. Bulis, were  
14 there any other persons that you believe were part  
09:25 15 of this working group?

16 A There were people under Jenna that were  
17 brought in to help. Plenty of people. At one time  
18 there were, like, a hundred volunteers. So I don't  
19 know that I could go through and count everyone.

09:25 20 Q Okay. So, turning your attention back to  
21 the second amended complaint, do you recall that  
22 your attorney filed a motion to dismiss the second  
23 amended complaint?

24 A Yes.

09:26 25 Q And do you recall that in the context of

1 Q And the same that goes with the Twitter  
2 account; correct? The Twitter account was created  
3 for this working group and not for the New BCS;  
4 correct?

09:52 5 A Correct.

6 Q Who -- who created the Twitter account?

7 A I believe that was Rebecca Moorman.

8 Q The domain name breakingcodesilence.net,  
9 you were the person that registered that domain;

09:52 10 correct?

11 A No. Jen Walker. Or Jen Robison was the  
12 one that registered the domain and built the  
13 website.

14 Q And was it your understanding that she  
09:52 15 registered that domain for the benefit of this  
16 working group and not for New BCS?

17 A Yes, that is my understanding.

18 Q And then you understand that Katherine  
19 McNamara was the one that purchased the  
09:52 20 breakingcodesilence.org website; correct? Or  
21 domain?

22 A I did instruct her, yes, to buy it.

23 Q And it's your belief, at least, that, when  
24 Katherine McNamara did so, she wasn't doing so for  
09:53 25 the benefit of New BCS; correct?

1           A     Correct.   We had no idea New BCS would  
2 exist.

3           Q     In fact, your position is that all the work  
4 that the six of you original collaborating partners  
09:53 5 did, that none of that was for the benefit of BCS,  
6 the California nonprofit entity; is that correct?

7           A     Correct.

8           Q     I'm going to go back.  We're going to dive  
9 a little bit more deeply into your declaration.  So,  
09:53 10 if you can go back to page 2.  I don't want to dive  
11 deeply into your experience with the TTI program,  
12 but your declaration states that you're a survivor  
13 of institutional child abuse and since then you've  
14 dedicated the last two decades to save others from  
09:54 15 child abuse.

16                     Is that a fair statement?

17           A     Yes.

18           Q     Again, I don't need to know all the  
19 details, but can you tell me when it was that you  
09:54 20 went to the TTI program?

21           A     In 2001.

22           Q     And were you released in 2021?

23           A     No.  I was released in 2003.

24           Q     Okay.  2003.

09:54 25                     And have you been advocating to reform --



1 I was, you know, happy to be working with her. And  
2 I was glad to see that finally come into fruition.  
3 Because, I mean, it had been since 2006 that we've  
4 been talking about this and trying to get it built,  
10:24 5 but didn't actually have, you know, all of the  
6 resources. So she did bring quite a bit of  
7 resources to the table in that -- in that aspect.

8 Q Okay, thanks for that explanation. I don't  
9 want to get sidetracked too much.

10:24 10 When you refer to "Zetero," is that the  
11 same thing as Zotero?

12 A Yeah. Yeah.

13 Q Are you aware that Ms. McNamara had already  
14 had a Zotero account as early as 2017?

10:25 15 A I'm -- no, I wasn't aware of that.

16 Q I'm just trying to understand what you told  
17 me.

18 Are you claiming that you told Katherine  
19 McNamara to create a Zotero account?

10:25 20 A No. It was my understanding that she had  
21 inherited the Zotero account from Marshall DuVal.

22 Q Gotcha, gotcha. Okay.

23 So, understanding that you collaborated

24 with Ms. McNamara regarding the Zotero account, when

10:25 25 did Ms. McNamara start working with the

1 collaborating group?

2 A I believe that was around 2019. She  
3 separately was called to be part of the production  
4 of "This Is Paris" with Paris Hilton. And she --  
10:26 5 you know, obviously we were friends at the time, so  
6 she told me about it. She brought me in to speak  
7 with the production crew, the director.

8 And she -- basically, as they went on  
9 filming, it got to the point where they really  
10:26 10 wanted something for Paris to get behind; right?

11 And so the question was what do we do to give her  
12 something to get behind? Do we give her WWASP  
13 Survivors and she can support that? Because, I  
14 mean, technically TTI and WWASP are very similar.

10:26 15 Or do we create something new? Do we bring in an  
16 established organization like SIA or CAFETY, or do  
17 we -- and then eventually we settled on giving her  
18 the BreakingCodeSilence hashtag campaign to get  
19 behind.

10:27 20 So that was essentially part of -- I guess  
21 you could say part -- well, okay, no.

22 Jenna was already working on the  
23 BreakingCodeSilence campaign before it was ever  
24 pitched to Paris. But it was a part of the birth  
10:27 25 of, like, Breaking Code Silence just breaking out

1 and becoming, you know, widely known is Paris's  
2 involvement.

3 Q Gotcha.

4 So you started to summarize that you  
10:27 5 started working with Katherine McNamara about the  
6 time that Paris Hilton documentary is being created;  
7 correct?

8 A No. We were working together before that.

9 Q I'm sorry, Katherine McNamara started  
10:28 10 working with the collaborating group at about the  
11 time of the documentary; is that fair?

12 A I would say so, yes. Around the time  
13 that -- because originally we were -- when she was  
14 doing the -- when she was doing the production, when  
10:28 15 she was filming, she was not with Breaking Code  
16 Silence; right? She was not working with Breaking  
17 Code Silence.

18 It wasn't, I guess, until we had really  
19 pitched Paris on the use of the #BreakingCodeSilence  
10:28 20 that she then decided she would want to get involved  
21 with the working group, which at the time the  
22 working group was really only Jenna, Emily Carter,  
23 Rebecca Moorman, myself, and some volunteers.

24 So Katherine kind of came in a little bit  
10:28 25 later. As did I, honestly. Katherine and I joined

1 in as, like, official -- I was somewhat of an  
2 advisor before, but then we actually came in as  
3 official volunteers after the -- after we pitched it  
4 to Paris.

10:29 5 Q When you are saying "pitch it to Paris,"  
6 can you explain what the pitch consisted of?

7 A Yes. So Jenna Bulis had established the  
8 main imagery of the revamped BreakingCodeSilence  
9 campaign. And that was a poster board where you  
10:29 10 wrote the name of the place that you went, the name  
11 of the place of the school that you were sent to,  
12 and more to it -- what negative things happened to  
13 you and, you know, if it left you with PTSD and that  
14 kind of thing.

10:29 15 So she provided examples of that campaign  
16 to Paris and said -- basically said, "This is what  
17 the campaign is about. We're sharing our stories.  
18 We're raising awareness. So all you have to do is  
19 take a photo with the tape over your mouth. You can  
10:30 20 pull off the  
21 tape however you want," and then the poster board in  
22 the same way.

23 And Paris decided that she would go ahead  
24 and do that, and she did that on film. They filmed  
10:30 25 the creation of those boards and the taking those

1 photos.

2 Q Was this at or about the time that your  
3 group created the Facebook page?

4 A I'm not sure. I don't -- I don't know. I  
10:30 5 think there was definitely -- there was already some  
6 things that were -- that were created before we  
7 pitched to Paris. But then we decided to beef up  
8 our marketing after we pitched to Paris, just  
9 knowing that it was going to blow up.

10:31 10 So I would say yeah. I guess it makes  
11 sense that it would be around the same time.

12 Q Was it also around the same time that you  
13 guys created the Twitter account?

14 A Correct. Yes.

10:31 15 Q Was it also around the same time that you  
16 guys created the Instagram account?

17 A Yes. I believe that was around  
18 January 2020, if I'm not mistaken.

19 Q When did you purchase the domain  
10:31 20 breakingcode- -- not you. When did the group --  
21 let's start all over.

22 I know you told me, but I have forgotten.  
23 Who was it who purchased the breakingcodesilence.net  
24 domain?

10:31 25 A Jennifer Walker, a.k.a. Jennifer Robison.

1 Q When did she do that?

2 A I don't have it right in front of me. I  
3 know it was in 2019. I don't have the exact date in  
4 front of me.

10:32 5 Q Was that before you guys were revamping  
6 your social media in conjunction with working with  
7 Paris Hilton?

8 A It was.

9 Q I don't have it right in front of me, but I  
10:32 10 remember that your declaration states that Jennifer  
11 Walker was elected to be president and the CEO of  
12 BCS, the collaborating group, not the nonprofit  
13 entity.

14 How did you guys go about voting her to be  
10:32 15 the president and CEO?

16 A There was no vote. Basically what happened  
17 is Katherine McNamara interfered with Jenna's  
18 personal life quite a bit, and determined based on  
19 that that she was no longer eligible to be the  
10:33 20 leader of Breaking Code Silence. So she kind of  
21 unilaterally elected Jen Robison.

22 And at the time I didn't really think to  
23 object. So, yeah. There wasn't really a vote; it  
24 was more of just a -- an agreement.

10:33 25 Q Gotcha.

1           And so that was her role, essentially, is  
2 to secure these resources for the use of the  
3 organization.

4           And, now, like I said, I asked for access  
10:43 5 to the dot-org multiple times, and she was either,  
6 like, too busy or didn't feel like it. And that --  
7 she never actually followed my directions and put it  
8 on a dedicated server for Breaking Code Silence.  
9 She kind of just kept it for herself.

10:43 10           Q       So let me see if I can break that down.

11                   Are you aware of anything in writing  
12 wherein Ms. McNamara stated that she would be buying  
13 the dot-org domain for the working group?

14           A       I would have to say that's more of an  
10:44 15 implied -- it was implied that, anything that we  
16 did, it was for the working group. None of us would  
17 have bought any of these things for ourselves  
18 individually. That would be quite selfish.

19           Q       Right. So my question is just a little bit  
10:44 20 more finer of a point than that.

21                   Are you aware of any writing in which  
22 Ms. McNamara stated that she would be buying the  
23 dot-org domain for the working group?

24           A       I am aware of her saying that she did, that  
10:44 25 she bought it. That's pretty much was her words:

1 "Yes, I bought it." Did not specify specifically in  
2 writing that she did it for the working group.

3 Those were not her words. Her words were, "I just  
4 bought the domain. You guys build it."

10:45 5 Q So, with an understanding that she didn't  
6 state it in writing, did she ever orally tell you  
7 that she bought the dot-org domain for the working  
8 group?

9 A Not that I can -- not that I can recall  
10:45 10 specifically.

11 Q Do you ever specifically recall telling her  
12 that the domain was for the working group?

13 A Yes.

14 Q What do you recall with respect to that?

10:45 15 A I remember we had a meeting -- I think it  
16 was one of our very first founders groups meeting.  
17 I remember where I was; I don't remember the date.  
18 But in my role as the advisor, that was what I had  
19 said to the group. I said, "Okay, first things  
10:45 20 first. We need to secure all of our assets in the  
21 name of Breaking Code Silence, including trademarks,  
22 including any and all domains."

23 And that was, again, part of my  
24 conversation, was this -- everything needs to be on  
10:46 25 a dedicated server. So I was trying to let everyone



1 log or from a different chat?

2 Q I don't know. I was actually hoping you  
3 could tell me where this chat came from.

4 A Let me read through it. I might be able to  
10:51 5 tell.

6 Q Thank you.

7 A (Witness reviews exhibit.)

8 Okay, I do think that this was in Gifted  
9 Women.

10:51 10 And I am saying here I'm happy to set it up  
11 but I can't afford it.

12 And she said, "I just bought the domains."

13 Q You'll see in there I highlighted two  
14 different statements which appear to be made by you.

10:52 15 First was on March 11, 2020, at 1:25 a.m.,  
16 in which you state (as read):

17 Hey, while I have you here did  
18 you buy the breakingcodesilence.org?

19 A Uh-huh. Uh-huh.

10:52 20 Q Is that a question that you asked  
21 Ms. McNamara?

22 A Correct, it is.

23 Q And then, if you go up onto the preceding  
24 page, you tell Ms. McNamara (as read):

10:52 25 Buy that domain before someone

1 else does.

2 Do you see that?

3 A Yes.

4 Q Why -- were you concerned that somebody

10:52 5 else would buy the Breaking Code Silence.org domain?

6 A Yes.

7 Q Why?

8 A Because we were about to be on national

9 television, and it just seemed prudent to me that we

10:53 10 would secure any and all domains that were available

11 under the name Breaking Code Silence.

12 Q So the purpose -- not trying to put words

13 in your mouth, but the purpose of buying the dot-org

14 domain was to just get it off the market so that

10:53 15 nobody else could grab it?

16 A No. Actually -- well, I guess initially

17 that was the thought. But the real reason was

18 because we wanted to build a new website on the

19 dot-org.

10:53 20 Q Maybe I'm missing something.

21 At the time you had the

22 breakingcodesilence.net -- the working group had

23 access to the breakingcodesilence.net website;

24 correct?

10:53 25 A Correct.

1 Q And am I understanding correctly it was  
2 your understanding that you wanted Ms. McNamara to  
3 buy the dot-org domain initially so that nobody else  
4 could get it?

10:53 5 A I would say that could be accurate, yeah.

6 Q At some point down the road you developed  
7 the idea that you wanted to build out the dot-org  
8 domain instead of the dot-net domain; is that fair?

9 A Correct, correct.

10:54 10 Q How far down the road was it where you  
11 decided that you wanted to build out the dot-org  
12 domain as opposed to the dot-net domain?

13 A Very soon after this. I remember actually  
14 -- so we were in the Gifted Women chat, which was  
10:54 15 just myself and Katherine and Jenna. And this was  
16 me giving them kind of a heads-up about everything,  
17 my advice on how to set things up.

18 And then quickly after this Jenna added  
19 Katherine and I both to the ongoing Breaking Code  
10:54 20 Silence chat with Jen Walker, Emily Carter, and  
21 Rebecca Moorman. And I kind of resaid the same  
22 things to them, but then quickly started asking  
23 questions about the dot-net. Like, "Who built the  
24 dot-net?" And then I let her know that, you know,  
10:55 25 as soon as the documentary comes out, we're going to

1 the recipient of the grant, and we did not want to  
2 have any -- even the appearance of conflict of  
3 interest.

4 So, you know, I just said no. And I said,  
11:20 5 "If you guys want to leave and if you want to go  
6 create an organization with Katie and Vanessa,  
7 please do so. We will support that."

8 This did not have to be as messy as it was.  
9 They could have just gone and made Unsilenced and  
11:20 10 everything would have been fine and our community  
11 would still be together, as would Breaking Code  
12 Silence.

13 So that's what I called the split. It was  
14 an absolute chasm when she decided to take  
11:20 15 everything instead of actually letting us go on and  
16 going and making her own thing. It literally tore  
17 us apart. It tore our whole community apart.

18 And, I mean, that's something she takes  
19 absolutely no accountability for. In fact, she just  
11:21 20 laughs at the carnage that she created.

21 Q So let me see if I can really understand  
22 the split. I understand that Ms. McNamara quit the  
23 working group. And then I understand that a few  
24 days later Rebecca Moorman participated in one of  
11:21 25 your other meetings and advocated for Vanessa Hughes

1 becoming a larger role.

2 At some point you're aware that BCS, the  
3 California nonprofit organization, was formed;  
4 correct?

11:21 5 A Correct.

6 Q And you understand that Katherine McNamara  
7 and Vanessa Hughes were both a part of that  
8 organization; correct?

9 A Katherine McNamara was the sole  
11:22 10 incorporator.

11 Q Okay. But you understood that those two  
12 individuals, amongst others, were going to be  
13 working with the California BCS; correct?

14 A Correct. That was a bit later down the  
11:22 15 line though.

16 We in fact didn't understand that until --  
17 it had to have been late May, if not -- yeah. I  
18 mean, yeah, I think it was around late May that we  
19 found out that they had -- that they had  
11:22 20 incorporated and filed for 501(c)(3) and that Jenny  
21 and Vanessa were board members.

22 My initial assumption was that it was  
23 Katherine McNamara who -- who incorporated Breaking  
24 Code Silence and was the head of Breaking Code  
11:23 25 Silence.

1 Q Understood. So I'm just trying to figure  
2 out, when you say "the split," of the six original  
3 members of the working group -- that's yourself,  
4 Ms. Bulis, Ms. Walker, Ms. Moorman, Ms. Carter, and  
11:23 5 Ms. McNamara -- did anyone go with Ms. McNamara?

6 A From what I understand, Emily Carter did go  
7 with Ms. McNamara. Rebecca Moorman had a mental  
8 breakdown and pretty much just signed over  
9 everything and left. I think she checked herself  
11:23 10 into a mental hospital around that time.

11 Q So, after the split, the remaining members  
12 of the collaborating group would be yourself,  
13 Ms. Bulis, and Ms. Walker; is that correct?

14 A Correct.

11:24 15 Q Anybody else?

16 A Yes. Our CFO, Martha Thompson; our CAO,  
17 Kimberwolf Dean. We had several volunteers that  
18 were still with us, although most of the volunteers  
19 did not even know what happened. Did not  
11:24 20 understand.

21 And, when Katherine locked us out of the --  
22 the Slack, which was where we, you know,  
23 collaborated with all of our volunteers, we weren't  
24 even able to make an announcement to help anybody to  
11:24 25 understand what had happened.

1 So there was never really any -- no one  
2 ever really had the option to choose a side,  
3 essentially. It was you were either kicked out,  
4 like, just removed from the accounts, or you were  
11:25 5 not. And that was up to what Katie decided.

6 Q Gotcha.

7 So, after the split, you, Bulis, and  
8 Walker, you guys continued to maintain the  
9 breakingcodesilence.net domain; is that fair?

11:25 10 A Yes.

11 Q And the New BCS, for which Ms. McNamara,  
12 Ms. Hughes, and others were a part, that's the  
13 entity that ended up suing you guys; correct?

14 A Correct.

11:25 15 Q Have you -- have you ever been a part of  
16 the New BCS?

17 A Yeah. Technically now I am a volunteer.

18 Q Have you executed a volunteer agreement?

19 A I have.

11:25 20 Q When did you do that?

21 A I'm not exactly sure what date, but that  
22 was more recently. In fact, I did start  
23 volunteering -- not officially with Breaking Code  
24 Silence -- I'm not going to remember, but it was  
11:26 25 around the time that they had a protest in Utah to

1 essentially, and to talk to Vanessa.

2 Well, I think it was more just "Let's talk.  
3 Let's talk to Vanessa, because we might have some  
4 common ground here" that would lead to us dropping  
01:10 5 the lawsuit.

6 Q Do you recall Ms. Kolbe trying to convince  
7 you that you should team up with BCS to bring a  
8 lawsuit against Katherine McNamara?

9 A Yeah, I believe that was mentioned, yeah.

01:10 10 Q Do you recall Ms. Kolbe trying to convince  
11 you that Ms. McNamara has liability insurance that  
12 you guys can collectively recover?

13 A I don't think I remember that. I mean,  
14 possibly. It's been a long time since I've read it,  
01:10 15 but I don't -- memory is not serving me today.

16 Q Fair enough. Let me show you a document  
17 which we will mark as Exhibit Number 91.

18 (Exhibit 91 marked.)

19 THE WITNESS: Sorry, I'm not sure why it's  
01:11 20 not coming up, but I downloaded it. Maybe it's  
21 here.

22 No, hold on one second. Let me try  
23 something else.

24 Okay, there we go. All right. I have it  
01:11 25 open.



1 BY MR. TATE:

2 Q Okay. This is one of the documents that  
3 you provided to my office in response to the  
4 subpoena; correct?

01:11 5 A Uh-huh. Yeah.

6 Q Is this a Facebook -- a group of Facebook  
7 messages that you pulled from your Facebook account?

8 A Yes.

9 Q And this is also messages that you had with  
01:12 10 Ms. Kolbe; correct?

11 A Correct.

12 Q I'm going to draw your attention to  
13 page 3 --

14 A Uh-huh.

01:12 15 Q -- the second bubble, which appears to be  
16 by you. And you state (as read):

17 I mean here -- here's what it  
18 comes down to... and forgive my  
19 bluntness, but BCS cannot win this  
01:12 20 lawsuit. We are not afraid of going  
21 to court. The only option BCS right  
22 now [sic] is to cover our legal fees  
23 and to drop the lawsuit or we go  
24 forward, they lose and they will pay  
01:12 25 our fees (and potentially damages)

1 when we win.

2 The lawsuit that you're referring to here  
3 is the lawsuit that BCS filed against you for  
4 trademark infringement; correct?

01:12 5 A Correct.

6 Q And what you're trying to communicate to  
7 Ms. Kolbe was that BCS was going to lose that  
8 lawsuit and end up having to pay your attorneys'  
9 fees; correct?

01:13 10 A Correct.

11 Q If you go onto the next page -- well, if  
12 you start reading Ms. Athena -- Ms. Kolbe's  
13 response, but if you go specifically onto the next  
14 page, Ms. Kolbe says (as read):

01:13 15 But that's why I'm saying I think  
16 that you guys should work together  
17 to sue Katie because Katie does have  
18 money and you both have a good suit  
19 against her, and what she did was  
01:13 20 wrong. She destroyed everything.

21 And together if you take the  
22 evidence you have any evidence BCS  
23 has, you guys can win a good case  
24 against her. And then she would

01:13 25 have to pay for everybody's legal

1 fees because she's the one that  
2 created this problem to begin with.

3 Do you see that?

4 A I do.

01:13 5 Q What was -- how did you understand what  
6 Ms. Kolbe was telling you?

7 A Exactly how she wrote it there, I  
8 understood it.

9 Q So you understood that she was suggesting  
01:14 10 that you work with BCS to sue Ms. McNamara so that  
11 Ms. McNamara would have to pay for everybody's legal  
12 fees; correct?

13 A I understand that that was her suggestion.

14 Q How did you respond to that suggestion?

01:14 15 A I said that I would give Vanessa the  
16 opportunity to speak. We could talk. I allowed  
17 that conversation to be started.

18 Q Did she say specifically -- Ms. Kolbe  
19 state, whether in this message or any other message,  
01:14 20 specifically what the -- you would be suing  
21 Ms. McNamara for?

22 A No.

23 Q At any point was there a conversation of  
24 what you would be suing Ms. McNamara for?

01:14 25 A With Athena or other persons?

1 to pay us within one year our attorneys' fees back.

2 And whether they recovered it from  
3 Katherine or if they got some big donation or  
4 whatever, it didn't matter; there's only a grace  
01:27 5 period of a year.

6 But, ultimately, again, we weren't able to  
7 come to an agreement.

8 BY MR. TATE:

9 Q Did Ms. Hughes ever tell you that she was  
01:27 10 willing to share -- to pay for your attorneys' fees  
11 out of her recovery from the lawsuit against  
12 Ms. McNamara?

13 A The only thing that she's ever said that  
14 she wanted to do, whether she was able to or not, is  
01:27 15 to pay for it out of her own pocket. That's what  
16 I've heard her say to me.

17 Q I'll show you the next document in order.  
18 We'll mark it as Exhibit Number 92.

19 THE REPORTER: I think 93.

01:28 20 MR. TATE: 93. Thank you.

21 (Exhibit 93 marked.)

22 BY MR. TATE:

23 Q Go ahead and let me know when you have it  
24 open.

01:28 25 A Okay. I have it.

1 Q Do you recognize this email chain?

2 A Yes.

3 Q Is this an email that you received?

4 A I think. (Witness reviews exhibit.)

01:28 5 I don't know. It says -- it says that it's  
6 Jenna Bulis. And I was on there cc'd. Yeah.

7 I mean, that's the thing. You ask me what

8 I remember. I don't remember what I had for lunch

9 yesterday. So an email that was sent to me, you

01:29 10 know, years ago -- but, I mean, it's here. It's in  
11 front of me, so it definitely exists.

12 Q Do you have any reason to doubt that you  
13 received this email?

14 A No, I don't.

01:29 15 Q In the very top portion of this chain, it  
16 appears that Ms. Magill says (as read):

17 Hi again.

18 We set up a Slack channel for the

19 four of us to continue discussions

01:29 20 and collaborate on things like this.

21 I sent you both an invite to join,

22 so that should hopefully be in your

23 inbox. There's also a shared Google

24 Drive pinned at the top of the

01:29 25 channel for file sharing. Please

1 let me know if you have any  
2 questions or if that works for you.

3 Thanks.

4 Do you recall Ms. Magill setting up a Slack  
01:30 5 channel for you to communicate with her and other  
6 BCS members with?

7 A I do, yes.

8 Q Did you participate in that Slack channel?

9 A I believe so, yeah.

01:30 10 Q Who else was a participant in that Slack  
11 channel?

12 A Jenny Magill, Vanessa Hughes, and Jenna  
13 Bulis.

14 Q And what can you recall being discussed in  
01:30 15 that Slack channel?

16 A I mean, I guess just more ongoing  
17 conversations about potential settlement. You know,  
18 I did agree to help them with their -- you know,  
19 strategizing this new lawsuit by giving them  
01:30 20 evidence that they were asking for.

21 You know, if -- let's say Jenny asked me,  
22 "Hey, do you have anything from RISE? Like any RISE  
23 contracts? Or what role did Katie play in RISE," I  
24 was able to go into my RISE folder and take  
01:31 25 screenshots or just go ahead and, you know, send it

1 to her. So I think there was some collaboration  
2 based on that.

3 I don't really have any, like, clear  
4 recollection of what we talked about, and,  
01:31 5 unfortunately, I wasn't able to get into that  
6 account in order to view that and to collect that  
7 record. So, I mean, just going by memory here,  
8 generally we were talking about the terms of our  
9 settlement and answering questions about evidence  
01:31 10 that related to the lawsuit.

11 Q When you say "the lawsuit," which lawsuit?

12 A The one that they were planning to start  
13 against Katie.

14 Q So was it your understanding that as of  
01:31 15 February 20- -- February 11, 2012 [verbatim], that  
16 BCS was planning on bringing a lawsuit against  
17 Ms. McNamara?

18 A It is.

19 Q In those conversations did they mention  
01:32 20 also suing Jeremy Whiteley?

21 A No.

22 Q When is the first time you heard that BCS  
23 was planning to sue Jeremy Whiteley?

24 MS. BENTZ: Objection. Lacks foundation  
01:32 25 and assumes facts not in evidence.

1 A Again, I don't make the decisions myself.  
2 We had one attorney for three co-defendants. We had  
3 a meeting with our attorney, and we agreed to go  
4 forward with filing the fees.

03:47 5 Q Focusing on Exhibit 109, on the second page  
6 you make the statement (as read):

7 Martha still doesn't trust but  
8 Jenna says working with you to get  
9 our fees from Katie is a better  
03:47 10 option.

11 So, as of April 1, 2022, were you still  
12 hoping to get fees from BCS that BCS was going to  
13 obtain from Katie McNamara?

14 A Well, I think at that time the conversation  
03:48 15 was that we would give them a grace period. That  
16 was, you know, the offer on the table, is that we  
17 would give them a one-year grace period. Whether  
18 they got that from Katherine McNamara or other  
19 sources, it was a one-year grace period to pay our  
03:48 20 attorneys' fees.

21 Q And of course Ms. Hughes didn't -- didn't  
22 combat or disagree with the notion that BCS would  
23 pay from the money that it recovered from Katie;  
24 correct?

03:48 25 A It was a possibility.



1 Q By this point you were aware that BCS had  
2 already filed a lawsuit against my clients; correct?

3 A Let's see. April 1. Yeah. Yeah, I think  
4 so. Yeah, I was already aware.

03:49 5 Q And at some point after the lawsuit was  
6 filed did Vanessa Hughes tell you that she was going  
7 to recover funds and give them to you?

8 A I think that was still the hope, yeah.

9 Q And she told you that that was her hope;  
03:49 10 correct?

11 A We had already had our discussions, and  
12 that was the assumption that I was working on, was  
13 we would be able to recover some of our funds one  
14 way or another, whether that had to do with getting  
03:49 15 them from Katherine or getting them from other  
16 sources.

17 Either way, the point was to end the  
18 lawsuit and not -- not apply for fees because we  
19 came to a settlement agreement. But ultimately we  
03:49 20 did not come to a settlement agreement and we filed  
21 for our fees.

22 Q Did Vanessa Hughes tell you that  
23 Ms. McNamara had an insurance policy that you could  
24 go after?

03:50 25 A I think I've heard that. I don't know if

1 it was from Vanessa. But, yeah, I have -- I have  
2 heard that -- that, you know, the whole board was  
3 told to get -- to get insurance. Yeah.

4 Q I could pull it back up, but you recall  
03:50 5 Athena Kolbe also telling you that, that if you sue  
6 Katie McNamara, you could trigger her insurance?

7 A I don't remember -- I mean, perhaps I got  
8 it from Athena. I don't remember specifically who  
9 told me that.

03:50 10 Q Was it ever communicated to you how much  
11 BCS was hoping to get from my clients?

12 A No.

13 Q Let me show you the next document in order.  
14 We'll mark it Exhibit 110.

03:50 15 (Exhibit 110 marked.)

16 THE WITNESS: Okay, it's open.

17 BY MR. TATE:

18 Q Do you recognize this document?

19 A Did this come from Jenny? Jenny Magill?  
03:51 20 Or Vanessa?

21 Q It came from BCS. I don't know who.

22 A Okay. Yeah, I think this was Vanessa  
23 Hughes.

24 Q On June 10 did you send your messages with  
03:52 25 Vanessa Hughes such that your messages would

1 A Correct.

2 Q Moving to breakingcodesilence.org, that  
3 domain name was purchased by Katherine McNamara;  
4 correct?

04:39 5 A Correct.

6 Q It's your position that Ms. McNamara  
7 purchased it on behalf of the working group, not  
8 BCS, the nonprofit entity; is that correct?

9 A It is correct.

04:39 10 Q And you're unaware of any assignment of  
11 that domain name from Ms. McNamara or the working  
12 group to BCS, the nonprofit entity; is that correct?

13 A Correct.

14 Q Okay. The original trademark applications,  
04:39 15 those have -- well, let me ask.

16 Have those been assigned to BCS, the  
17 nonprofit entity?

18 A No. They were abandoned.

19 Q So BCS, the nonprofit entity, was never  
04:40 20 assigned those trademark applications as far as  
21 you're aware; correct?

22 A As far as I'm aware.

23 Q And those trademark applications were  
24 originally done while you were working for the  
04:40 25 collaborating group; correct?

1 STATE OF CALIFORNIA )  
 ) SS.

2 COUNTY OF LOS ANGELES )

3 I, Christianne Lee Fong, CSR Number 7559,  
4 CRRR, Certified Shorthand Reporter, hereby certify  
5 that:

6 I am authorized to administer oaths or  
7 affirmations (Cal. Code of Civ. P. Sec. 2093(b) and  
8 Fed. R. Civ. P. 28(a)).

9 The foregoing proceedings were taken before  
10 me at the time and place therein set forth, at which  
11 time the witness was duly sworn by me (Cal. Code  
12 Civ. Proc. 2025.330(a), 2025.540(a) and Fed. R. Civ.  
13 P. 30(f)(1)).


14 The foregoing pages contain a full, true  
15 and accurate record of all proceedings and testimony  
16 (Cal. Code Civ. Proc. 2025.540(a) and Fed. R. Civ.  
17 P. 30(f)(1)).

18 I am not a relative or employee of the  
19 parties, nor financially interested in the action  
20 (Cal. Code Civ. Proc. 2025.320(a)).

21 Before completion of the proceedings,  
22 review of the transcript [ X ] was [ ] was not  
23 requested. If requested, any changes made by the  
24 witness (and provided to the reporter) during the  
25 period allowed, are appended hereto (Fed. R. Civ. P.  
30(e)).

I declare under penalty of perjury under  
the laws of California that the foregoing is true  
and correct.

Dated July 30, 2023.

  
CERTIFIED SHORTHAND REPORTER  
IN AND FOR THE COUNTY OF  
LOS ANGELES  
STATE OF CALIFORNIA