

EXHIBIT 59

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 8 **BREAKING CODE SILENCE**

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**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.

Case No. 2:22-cv-02052-SB-MAA

**PLAINTIFF BREAKING CODE
 SILENCE’S RESPONSES TO
 DEFENDANT JEREMY
 WHITELEY’S THIRD SET OF
 INTERROGATORIES**

Judge: Hon. Maria A. Audero
 Complaint Filed: March 28, 2022
 Trial Date: October 17, 2023

PROPOUNDING PARTY: Defendant JEREMY WHITELEY
 RESPONDING PARTY: Plaintiff BREAKING CODE SILENCE
 SET NO.: Three

1 Pursuant to Federal Rule of Civil Procedure 36, Plaintiff Breaking Code
2 Silence (“Plaintiff”) hereby responds as follows to Defendant Jeremy Whiteley’s
3 Third Set of Interrogatories (the “Requests”) as follows:

4 **GENERAL STATEMENT AND OBJECTIONS**

5 Plaintiff’s responses are subject to the General Objections set forth below.
6 These General Objections form a part of each response to each Request and are set
7 forth here to avoid the duplication and repetition that would follow from restating
8 them in each response. The General Objections may be specifically referred to in
9 response to the Requests for the purpose of clarity; however, the failure to
10 specifically reference a General Objection in a response should not be construed as a
11 waiver of the objection in connection therewith.

12 1. Plaintiff objects to these Requests to the extent that they seek
13 information neither relevant to this litigation, nor reasonably calculated to lead to
14 the discovery of admissible evidence, nor proportional to the needs of the case, in
15 violation of Fed. R. Civ. P. 26(b)(1).

16 2. Plaintiff objects to these Requests to the extent that they seek
17 information already in Defendants’ possession, or information that is in the public
18 domain or otherwise equally available to Plaintiff.

19 3. Plaintiff objects to these Requests to the extent that they are vague,
20 ambiguous, overbroad, oppressive, or seek information for which the burden or
21 expense of the proposed discovery outweighs the likely benefit.

22 4. Plaintiff objects to these Requests to the extent that they are not limited
23 to a reasonable time period and are therefore overbroad, seek information for which
24 the burden or expense of the proposed discovery outweighs the likely benefit, and
25 seek information beyond the scope of permissible discovery.

26 5. Plaintiff objects to these Requests to the extent that they seek
27 information that is protected from discovery by the attorney-client privilege and/or
28 attorney work-product doctrine, protected by the right to privacy, or protected by

1 any other applicable privilege or protection. Any inadvertent production of
2 privileged or protected information shall not constitute, or be deemed, a waiver of
3 any applicable statutory, regulatory, common law, or other privilege.

4 6. Plaintiff objects to these Requests to the extent that they seek the
5 disclosure of information that contain private, proprietary, confidential, trade secret,
6 sensitive financial, or otherwise protected information.

7 7. Plaintiff objects to these Requests to the extent that they call for
8 speculation because Plaintiff lacks sufficient foundation to provide a response.

9 8. Plaintiff objects to these Requests to the extent that Defendants purport
10 to impose on Plaintiff any obligation different from, or greater than, those set forth
11 in the Federal Rules of Civil Procedure, the Local Rules of the Central District of
12 California, or other applicable rules or standing orders of the Court. Plaintiff is not
13 obligated to, and declines to, comply with any instructions or directions that conflict
14 with the Federal Rules of Civil Procedure, the Local Rules of the Central District of
15 California, or other applicable rules or standing orders of the Court.

16 9. Plaintiff objects to these Requests to the extent that they seek the
17 disclosure of information that calls for an expert witness opinion.

18 10. Plaintiff objects to these Requests to the extent that they seek
19 information that addresses purely legal issues, contains legal conclusions, implies or
20 assumes facts or circumstances which do not or did not exist, or seeks an admission
21 of liability.

22 11. Plaintiff objects to these Requests to the extent they seek to restrict the
23 facts on which Plaintiff may rely at summary judgment, trial, or any other
24 proceeding in this matter. Discovery has yet to be completed in this case. By
25 responding and objecting to these Requests, Plaintiff does not intend to, and does
26 not, limit the evidence upon which it may rely to support its contentions, denials,
27 and defenses, or to rebut or impeach contentions, assertions, and evidence presented
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1 by Defendants. Further, Plaintiff reserves the right to supplement or amend its
2 responses.

3 These General Objections are incorporated into each of the responses
4 hereinafter provided as if the same were fully set forth therein.

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RESPONSES TO INTERROGATORIES

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INTERROGATORY NO. 13:

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Please DESCRIBE IN DETAIL YOUR INVESTIGATION into the soft 404
error depicted in BCS_0221052, attached hereto as **Exhibit 1**.

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RESPONSE TO INTERROGATORY NO. 13:

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In addition to the General Objections set forth above and incorporated herein,
Plaintiff objects to this Interrogatory on the ground that it seeks information
protected by attorney-client privilege or the work product doctrine.

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Subject to and without waiving the foregoing objections, Plaintiff responds
that no investigation was done.

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INTERROGATORY NO. 14:

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Please DESCRIBE IN DETAIL YOUR INVESTIGATION into the redirect
error depicted in BCS_0221052, attached hereto as **Exhibit 1**.

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RESPONSE TO INTERROGATORY NO. 14:

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In addition to the General Objections set forth above and incorporated herein,
Plaintiff objects to this Interrogatory on the ground that it seeks information
protected by attorney-client privilege or the work product doctrine.

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Subject to and without waiving the foregoing objections, Plaintiff responds
that no investigation was done.

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INTERROGATORY NO. 15:

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Please DESCRIBE IN DETAIL YOUR INVESTIGATION into the
“submitted URL marked noindex” error depicted in BCS_0221052, attached hereto
as **Exhibit 1**.

1 **RESPONSE TO INTERROGATORY NO. 15:**

2 In addition to the General Objections set forth above and incorporated herein,
3 Plaintiff objects to this Interrogatory on the ground that it seeks information
4 protected by attorney-client privilege or the work product doctrine.

5 Subject to and without waiving the foregoing objections, Plaintiff responds
6 that no investigation was done.

7 **INTERROGATORY NO. 16:**

8 Please DESCRIBE IN DETAIL YOUR INVESTIGATION into the causes
9 and effects of the errors reflected in BCS_0221052 (attached hereto as **Exhibit 1**) on
10 Google's indexing and/or de-indexing of the breakingcodesilence.org domain.

11 **RESPONSE TO INTERROGATORY NO. 16:**

12 In addition to the General Objections set forth above and incorporated herein,
13 Plaintiff objects to this Interrogatory on the ground that it seeks information
14 protected by attorney-client privilege or the work product doctrine.

15 Subject to and without waiving the foregoing objections, Plaintiff responds
16 that it does not know if the errors relate to the indexing and/or de-indexing of the
17 breakingcodesilence.org domain. No investigation into these errors was done.

18 **INTERROGATORY NO. 17:**

19 Please DESCRIBE IN DETAIL all changes made between March 6, 2022 and
20 March 12, 2022 to any visual appearance, content, and/or functionality of YOUR
21 website RELATED TO the breakingcodesilence.org domain.

22 **RESPONSE TO INTERROGATORY NO. 17:**

23 In addition to the General Objections set forth above and incorporated herein,
24 Plaintiff objects to this Interrogatory on the ground that it seeks information
25 protected by attorney-client privilege or the work product doctrine. Plaintiff objects
26 to this Interrogatory as over broad and unduly burdensome because it seeks
27 information unrelated to the claims or defenses in this case. Plaintiff also objects to
28 this Interrogatory on the grounds that it seeks information out of the possession,

1 custody or control of Plaintiff.

2 Subject to and without waiving the foregoing objections, Plaintiff responds it
3 disabled a SEO plug-in and added a verification file to give Plaintiff control of the
4 Google Search Console account associated with its website.

5 **INTERROGATORY NO. 18:**

6 Please DESCRIBE IN DETAIL all sitemaps submitted by YOU between
7 March 6, 2022 and March 12, 2022 RELATED TO YOUR website that is
8 RELATED TO the breakingcodesilence.org domain.

9 **RESPONSE TO INTERROGATORY NO. 18:**

10 In addition to the General Objections set forth above and incorporated herein,
11 Plaintiff objects to this Interrogatory on the ground that it seeks information
12 protected by attorney-client privilege or the work product doctrine.

13 Subject to and without waiving the foregoing objections, Plaintiff responds
14 that it does not believe that it submitted a sitemap in this time frame.

15 **INTERROGATORY NO. 19:**

16 Please DESCRIBE IN DETAIL YOUR INVESTIGATION into the causes
17 and effects of the temporary removal request depicted in the DOCUMENT attached
18 hereto as **Exhibit 2** including, but not limited to, whether the removal request was
19 made by Google.

20 **RESPONSE TO INTERROGATORY NO. 19:**

21 In addition to the General Objections set forth above and incorporated herein,
22 Plaintiff objects to this Interrogatory on the ground that it seeks information
23 protected by attorney-client privilege or the work product doctrine.

24 Subject to and without waiving the foregoing objections, Plaintiff responds
25 that the request was not made by Google. Its investigation into this matter is
26 described in Plaintiff's response to Whiteley Interrogatories Nos. 2, 3 and 4.
27 Specifically, on March 11, 2022, Jesse Jensen, a BCS volunteer, was notified that
28 <www.breakingcodesilence.org> had been deindexed on Google. Mr. Jensen

1 worked into the night and much of the following day with several other BCS
2 volunteers evaluating the site and situation. These efforts included an extensive
3 review of the server content and configuration as well as Google search console and
4 a call to domain registrar Hover to confirm that the domain was still held by
5 defendant McNamara in an account to which BCS did not have access.

6 BCS learned through these efforts that the Defendants had control of the
7 domain name and were using Google DNS validation to control the Google account
8 and had made a de-indexing request. This meant it was not possible to secure the
9 site without gaining control of the domain via legal or ICANN action. As a stop-gap,
10 Mr. Jensen gained a different level of control via Google file validation - by placing
11 a file specified by Google on the server. This allowed Mr. Jensen to remove the
12 malicious de-index request, but not to gain control of the domain name or
13 permanently remove Defendants' access to Google Search Console. As BCS
14 continued to take efforts to remove Defendants' privileges over the next several
15 days, Defendants continued adding them back eventually adding odd and
16 unexpected email addresses like "president@whitehouse.gov". As of this date,
17 defendant Whiteley still has access via the email address "jeremy@medtexter.com"

18 Dated: May 30, 2023

DLA PIPER LLP (US)

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By: /s/ Tamany Vinson Bentz

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TAMANY J. VINSON BENTZ

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JASON T. LUEDDEKE

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BENJAMIN GRUSH

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Attorneys for Plaintiff

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BREAKING CODE SILENCE

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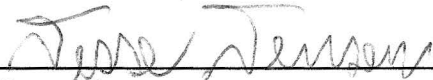
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VERIFICATION

I, Jesse Jensen, certify and declare that I have been authorized to make this verification by Plaintiff Breaking Code Silence. I have read the foregoing document and know the contents thereof. To the extent that I have personal knowledge of the factual information contained therein, the same is true and correct. Insofar as said facts are based on a composite of information from documents or information obtained from representatives of Plaintiff Breaking Code Silence, I do not have personal knowledge concerning all of the information contained in said responses, but I am informed and believe that the information set forth therein for which I lack personal knowledge is true and correct.

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

Executed on May 30, 2023 at _____.



Jesse Jensen

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PROOF OF SERVICE BY MAIL
(Fed. R. Civ. Proc. rule 5(b))

I declare that I am employed with the law firm of DLA Piper LLP (US), whose address is 2000 Avenue of the Stars, Suite 400 North Tower, Los Angeles, California 90067-4704; I am not a party to the within cause; I am over the age of eighteen years and I am readily familiar with DLA Piper’s practice for collection and processing of correspondence for mailing with the United States Postal Service and know that in the ordinary course of DLA Piper’s business practice the document described below will be deposited with the United States Postal Service on the same date that it is placed at DLA Piper with postage thereon fully prepaid for collection and mailing.

I further declare that on the date hereof I served a copy of:

**PLAINTIFF BREAKING CODE SILENCE’S RESPONSES TO
DEFENDANT KATHERINE MCNAMARA’S THIRD SET OF
REQUESTS FOR ADMISSION**

on the following by placing a true copy thereof enclosed in a sealed envelope addressed as follows for collection and mailing at 2000 Avenue of the Stars, Suite 400 North Tower, Los Angeles, California 90067-4704, in accordance with DLA Piper’s ordinary business practices:

Catherine A. Close
JULANDER BROWN BOLLARD
9110 Irvine Center Drive
Irvine, CA 92618
Tel: (949) 477-2100
Fax: (949) 477-6355
Email: cac@jbblaw.com

I declare under penalty of perjury that the above is true and correct. Executed at Los Angeles, California, **May 30, 2023.**

Tamany Vinson Bentz

(typed)

/s/Tamany Vinson Bentz

(signature)