

EXHIBIT 66

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9 **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-MAA

**PLAINTIFF BREAKING CODE
SILENCE’S SECOND AMENDED
RESPONSES TO DEFENDANT
KATHERINE MCNAMARA’S
FIRST SET OF
INTERROGATORIES**

1 Pursuant to Federal Rule of Civil Procedure 33, Plaintiff Breaking Code
2 Silence (“Plaintiff”) hereby provides its second amended responses to Defendant
3 Katherine McNamara’s First Set of Interrogatories (the “Interrogatories”) as
4 follows:

5 **GENERAL STATEMENT AND OBJECTIONS**

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

13 1. Plaintiff objects to these Interrogatories to the extent they are
14 overbroad, unduly burdensome, and seek information and documents that are not
15 reasonably calculated to lead to the discovery of admissible evidence.

16 2. Plaintiff objects to these Interrogatories to the extent that they are
17 vague, ambiguous, overbroad, or oppressive, or seek information for which the
18 burden or expense of the proposed discovery outweighs the likely benefit. Any
19 response or production by Plaintiff is not an admission by Plaintiff of the relevance
20 or admissibility of the documents or information produced, and all objections to the
21 further use of any information or documents or to further production are specifically
22 preserved.

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

27 4. Plaintiff objects to these Interrogatories to the extent that they seek
28 information and documents that are protected from discovery by the attorney-client

1 privilege and/or attorney work-product doctrine, protected by the right to privacy, or
2 protected by any other applicable privilege or protection. Any inadvertent
3 production of privileged or protected information or documents shall not constitute,
4 or be deemed, a waiver of any applicable statutory, regulatory, common law, or
5 other privilege. Plaintiff reserves the right to demand the return or destruction of
6 any privileged or protected document, copies thereof, and any materials containing
7 information derived therefrom.

8 5. Plaintiff objects to these Interrogatories to the extent that they seek the
9 disclosure of information or documents that contain private, proprietary,
10 confidential, trade secret, sensitive financial, or otherwise protected information.

11 6. Plaintiff objects to these Interrogatories to the extent that they call for
12 speculation because Plaintiff lacks sufficient foundation to provide a response.

13 7. Plaintiff objects to these Interrogatories to the extent that they seek
14 information or documents that: (i) are already in the possession of, or equally
15 available to, Defendants; (ii) are more easily and efficiently obtained from other
16 sources, including from other federal agencies or regulatory bodies; or (iii) are not in
17 the possession, custody, or control of Plaintiff.

18 8. Plaintiff objects to these Interrogatories to the extent that Defendants
19 purport to impose on Plaintiff any obligation different from, or greater than, those
20 set forth in the Federal Rules of Civil Procedure, the Local Rules of the Central
21 District of California, or other applicable rules or standing orders of the Court.
22 Plaintiff is not obligated to, and declines to, comply with any instructions or
23 directions that conflict with the Federal Rules of Civil Procedure, the Local Rules of
24 the Central District of California, or other applicable rules or standing orders of the
25 Court.

26 9. Plaintiff objects to these Interrogatories to the extent that they seek the
27 disclosure of information that calls for an expert witness opinion.

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1 10. Plaintiff objects to these Interrogatories to the extent that they seek
2 information that addresses purely legal issues, contains legal conclusions, implies or
3 assumes facts or circumstances which do not or did not exist, or seeks an admission
4 of liability.

5 11. Plaintiff's responses shall not be deemed to constitute incidental or
6 implied admissions. Plaintiff's response to all or any part of a Request should not
7 be taken as an admission that: (i) any particular document or thing exists, is in
8 Plaintiff's possession, custody, or control, is relevant, non-privileged, or admissible
9 in evidence; (ii) any statement or characterization in the Interrogatories is accurate
10 or complete; (iii) Plaintiff's response constitutes admissible evidence; or (iv)
11 Defendant accepts or admits the existence of any alleged fact(s) set forth or assumed
12 by the Interrogatory.

13 12. Plaintiff objects to these Interrogatories to the extent they seek to
14 restrict the facts on which Plaintiff may rely at summary judgment, trial, or any
15 other proceeding in this matter. Discovery has yet to be completed in this case. By
16 responding and objecting to these Interrogatories, Plaintiff does not intend to, and
17 does not, limit the evidence upon which it may rely to support its contentions,
18 denials, and defenses, or to rebut or impeach contentions, assertions, and evidence
19 presented by Defendants. Further, Plaintiff reserves the right to supplement or
20 amend its responses.

21 These General Objections are explicitly incorporated into each of the
22 responses hereinafter provided as if the same were fully set forth therein at length.

23 **RESPONSES TO INTERROGATORIES**

24 **INTERROGATORY NO. 8:**

25 If YOU contend that a malicious TXT record was attached to BCS's website
26 by DEFENDANTS, or either of them:

- 27 (a) State all facts that support YOUR contention;
28 (b) IDENTIFY all PERSONS with knowledge of YOUR contention; and

1 (c) IDENTIFY all DOCUMENTS, including ESI and
2 COMMUNICATIONS, that support YOUR contention.

3 **RESPONSE TO INTERROGATORY NO. 8:**

4 In addition to the General Objections set forth above and incorporated herein,
5 Plaintiff objects to this Interrogatory on the ground that it is compound because
6 subparts (a) (facts), (b) (persons), and (c) (documents) constitute three discrete
7 subparts. Plaintiff further objects to this Interrogatory on the ground that it violates
8 Fed. R. Civ. P. 33(a) because, together with the preceding Interrogatories in this set,
9 it is “more than 25 written interrogatories, including all discrete subparts.”

10 Plaintiff further objects to this Interrogatory on the ground that it is overbroad
11 and unduly burdensome because it requires Plaintiff to compile a list of all
12 documents and communications in connection with its response.

13 Subject to and without waiving the foregoing objections, Plaintiff will not
14 respond to this Interrogatory because it is beyond the limits set forth in the Federal
15 Rules of Civil Procedure.

16 **AMENDED RESPONSE TO INTERROGATORY NO. 8:**

17 In addition to the General Objections set forth above and incorporated herein,
18 Plaintiff objects to this Interrogatory on the ground that it is compound because
19 subparts (a) (facts), (b) (persons), and (c) (documents) constitute three discrete
20 subparts. Plaintiff further objects to this Interrogatory on the ground that it violates
21 Fed. R. Civ. P. 33(a) because, together with the preceding Interrogatories in this set,
22 it is “more than 25 written interrogatories, including all discrete subparts.” Plaintiff
23 further objects to this Interrogatory on the ground that it is overbroad and unduly
24 burdensome because it requires Plaintiff to compile a list of all documents and
25 communications in connection with its response. Pursuant to an informal resolution
26 reached by counsel, to avoid a further dispute related to these Interrogatories,
27 Plaintiff agreed to respond to Interrogatory No. 8(a); however, Plaintiff does not
28 waive its position that many of Defendant’s Interrogatories contain discrete subparts

1 and therefore violate Fed. R. Civ. P. 33(a).

2 Subject to and without waiving the foregoing objections, Plaintiff responds to
3 Interrogatory No. 8(a) as follows:

4 On or around March 11, 2022, soon after Plaintiff became aware that its
5 website was deindexed from Google without Plaintiff’s knowledge and/or consent,
6 Plaintiff began an investigation into the source of the deindexing. As part of this
7 investigation, Plaintiff enlisted several of Plaintiff’s officers, representatives, and/or
8 volunteers, including but not limited to Jesse Jensen and Noelle Beauregard, to
9 review the Google Search Console data for the relevant period. After reviewing this
10 information, the investigative team reported back to Plaintiff’s leadership team,
11 including but not limited to Bobby Cook, Jenny Magill, and Vanessa Hughes, on
12 their results.

13 Ultimately, this investigation revealed that two accounts,
14 “jeremy@medtexter.com” and “iristheangel@gmail.com”, were responsible for
15 deindexing Plaintiff’s website. This investigation also further revealed that the
16 “jeremy@medtexter.com” account was associated with Defendant Jeremy Whitley
17 and that the “iristheangel@gmail.com” account was associated with Defendant
18 Katherine McNamara. Additionally, this investigation further revealed that to
19 obtain access to the Google Search Console for Plaintiff’s website, the two accounts,
20 “jeremy@medtexter.com” and “iristheangel@gmail.com” used malicious TXT
21 records in connection with their validation for Google. Plaintiff reserves its right to
22 further amend its responses to this and other Interrogatories as discovery is ongoing.

23 **INTERROGATORY NO. 9:**

24 If YOU contend that YOU have suffered harm or damages as a result of
25 DEFENDANTS’ conduct:

- 26 (a) Describe the nature and amount of such harm or damages;
27 (b) State all facts that support YOUR contention that DEFENDANTS were
28 responsible for the harm or damage;

1 (c) IDENTIFY all PERSONS with knowledge of the harm or damages and
2 their cause; and

3 (d) IDENTIFY all DOCUMENTS, including ESI and
4 COMMUNICATIONS, that support the harm or damages and YOUR
5 contention that DEFENDANTS were responsible.

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

7 In addition to the General Objections set forth above and incorporated herein,
8 Plaintiff objects to this Interrogatory on the ground that it is compound because
9 subparts (b) (facts), (c) (persons), and (d) (documents) constitute three discrete
10 subparts. Plaintiff further objects to this Interrogatory on the ground that it violates
11 Fed. R. Civ. P. 33(a) because, together with the preceding Interrogatories in this set,
12 it is “more than 25 written interrogatories, including all discrete subparts.”

13 Plaintiff further objects to this Interrogatory on the ground that it is overbroad
14 and unduly burdensome because it requires Plaintiff to compile a list of all
15 documents and communications in connection with its response.

16 Subject to and without waiving the foregoing objections, Plaintiff will not
17 respond to this Interrogatory because it is beyond the limits set forth in the Federal
18 Rules of Civil Procedure.

19 **AMENDED RESPONSE TO INTERROGATORY NO. 9:**

20 In addition to the General Objections set forth above and incorporated herein,
21 Plaintiff objects to this Interrogatory on the ground that it is compound because
22 subparts (b) (facts), (c) (persons), and (d) (documents) constitute three discrete
23 subparts. Plaintiff further objects to this Interrogatory on the ground that it violates
24 Fed. R. Civ. P. 33(a) because, together with the preceding Interrogatories in this set,
25 it is “more than 25 written interrogatories, including all discrete subparts.” Plaintiff
26 further objects to this Interrogatory on the ground that it is overbroad and unduly
27 burdensome because it requires Plaintiff to compile a list of all documents and
28 communications in connection with its response. Pursuant to an informal resolution

1 reached by counsel, to avoid a further dispute related to these Interrogatories,
2 Plaintiff agreed to respond through Interrogatory No. 9(a); however, Plaintiff does
3 not waive its position that many of Defendant’s Interrogatories contain discrete
4 subparts and therefore violate Fed. R. Civ. P. 33(a).

5 Subject to and without waiving the foregoing objections, Plaintiff responds to
6 Interrogatory No. 9(a) as follows:

7 Defendants’ actions, as described in the Complaint, caused Plaintiff to incur
8 the following category of damages:

- 9 • (1) Time spent by Plaintiff’s employees/volunteers/agents investigating
10 Defendant’s actions, determining the extent to which they caused Plaintiff
11 harm, and/or developing a response:
- 12 ○ Dr. Vanessa Hughes – 324 hours.
 - 13 ○ Jenny Magill – 368 hours.
 - 14 ○ Jesse Jensen – 112 hours.
- 15 • (2) Time incurred by Plaintiff’s lawyers:
- 16 ○ Tamany Vinson Bentz – 101.6 hours.
 - 17 ○ Jason Lueddeke – 188.1 hours.
 - 18 ○ Benjamin Grush – 121.1 hours.
 - 19 ○ Michael Patrick Brown – 22.9 hours.
 - 20 ○ Jonathan Kintzele– 90.2 hours.
 - 21 ○ Hector Corea – 13.7 hours.
 - 22 ○ Nima Adabi– 17.1 hours.
 - 23 ○ Dennis Kiker– 7.8 hours.

24 Plaintiff is a charitable organization classified as a 501(c)(3) that is run by
25 volunteers. As a result, Plaintiff is unable to quantify the monetary value of the
26 amount of time Plaintiff’s employees and/or representatives, including Plaintiff’s
27 lawyers, incurred as a result of categories nos. 1 and 2.

- 28 • (3) Defendants’ actions which led to the de-indexing Plaintiff’s website

1 (which includes both the www.breakingcodesilence.org and
2 www.breakingcodesilence.com domains) caused Plaintiff to lose substantial
3 amounts of web traffic, that would have otherwise occurred, to both sites. As
4 a result of Defendants' actions in the de-indexing, Plaintiff lost potential
5 donations and the spread of its message. Further amplifying the negative
6 impact that Defendants' de-indexing actions had, these actions took place at
7 the same time that Plaintiff was featured on a TV show called *The Doctors*
8 and when Lifetime was promoting a made-for-TV film based on stories
9 similar to those in the message that Plaintiff amplified which would be
10 premiering the same week.

11 Plaintiff contends that the damages incurred in category 3 are the subject of
12 expert opinion, and neither party has designated an expert yet. As a result, Plaintiff
13 is not yet able to estimate the monetary value of the damages in category 3.

14 **SECOND AMENDED RESPONSE TO INTERROGATORY NO. 9:**

15 In addition to the General Objections set forth above and incorporated herein,
16 Plaintiff objects to this Interrogatory on the ground that it is compound because
17 subparts (b) (facts), (c) (persons), and (d) (documents) constitute three discrete
18 subparts. Plaintiff further objects to this Interrogatory on the ground that it violates
19 Fed. R. Civ. P. 33(a) because, together with the preceding Interrogatories in this set,
20 it is "more than 25 written interrogatories, including all discrete subparts." Plaintiff
21 further objects to this Interrogatory on the ground that it is overbroad and unduly
22 burdensome because it requires Plaintiff to compile a list of all documents and
23 communications in connection with its response. Pursuant to an informal resolution
24 reached by counsel, to avoid a further dispute related to these Interrogatories,
25 Plaintiff agreed to respond through Interrogatory No. 9(b); however, Plaintiff does
26 not waive its position that many of Defendant's Interrogatories contain discrete
27 subparts and therefore violate Fed. R. Civ. P. 33(a).

28 Subject to and without waiving the foregoing objections, Plaintiff responds to

1 Interrogatory No. 9(b) as follows:

2 The facts that support Plaintiff's contention that Defendants are responsible
3 for the harm or damage Plaintiff suffered, as is set forth in Plaintiff's Complaint, are
4 as follows:

5 Beginning in or around January 2022, Plaintiff became aware of various
6 actions that Defendants undertook which interfered with Plaintiff's ability to operate
7 its non-profit organization and spread its message to the broader public. Among
8 others, these actions by Defendants included the following:

- 9 • Gaining Access to and Ultimately Deleting @BreakingCodeSi1 Twitter
10 Account: @BreakingCodeSi1 was a Twitter account that was associated with
11 Plaintiff, that was operated by Plaintiff and its representatives, and which
12 Plaintiff used to spread its message. However, Plaintiff understands that
13 Defendant McNamara gained access to the @BreakingCodeSi1 Twitter
14 account on or around January 9, 2022, changed the account name to
15 "@GoACCA", and listed the associated website as "UnSilenced.org" with
16 associated UnSilenced logos, before deleting the account in its entirety.
17 Thereafter, Defendant McNamara reopened a new Twitter account under the
18 now-available handle "@BreakingCodeSi1" and named it "Just Another
19 Twitter Account."
20 • Refusing to Return Administrative Credentials to Plaintiff's YouTube
21 Account: After departing from Plaintiff, Defendant McNamara refused to
22 return her primary administrative credentials to Plaintiff's YouTube channel
23 and actively denied Plaintiff access to this account. Defendant McNamara
24 further represented to Plaintiff that she did not have administrative privileges
25 on Plaintiff's YouTube Account. However, upon further review, Plaintiff
26 discovered that YouTube's administrative information listed Defendant
27 McNamara as the "Primary Account Owner" of the YouTube account and
28 that the account was registered to "iristheangel@gmail.com", which Plaintiff

1 understands to be Defendant McNamara’s personal email account. While
2 Defendant McNamara returned this one account to Plaintiff, she only did so
3 after several weeks and after multiple requests by Plaintiff.

- 4 • Refusing to Return Administrative Credentials to Plaintiff’s TikTok Account:
5 Plaintiff repeatedly requested that Defendant McNamara return administrative
6 credentials for Plaintiff’s TikTok account back to Plaintiff, but Defendant
7 McNamara has not done so. Defendant McNamara represented that after she
8 left Plaintiff, she had no control over Plaintiff’s TikTok account because it
9 was registered to Defendant McNamara’s email account with Plaintiff
10 (kmcnamara@breakingcodesilence.org), but Plaintiff later confirmed this was
11 not true. As a result, based on information and belief, Defendant McNamara
12 still controls Plaintiff’s TikTok account and refuses to return access to
13 Plaintiff.
- 14 • Causing www.breakingcodesilence.org and www.breakingcodesilence.com
15 Domains to be Deindexed on Google: As is set forth above in greater detail in
16 response to Interrogatory No. 8(a), after Plaintiff discovered that its websites
17 were deindexed on Google, Plaintiff’s investigation revealed that two
18 accounts, “jeremy@medtexter.com” and “iristheangel@gmail.com”, were
19 responsible for the deindexing. This investigation also further revealed that
20 the “jeremy@medtexter.com” account was associated with Defendant Jeremy
21 Whitley and that the “iristheangel@gmail.com” account was associated with
22 Defendant Katherine McNamara.
- 23 • Attempting to Gain Control of Plaintiff’s Google Webmaster Central
24 Permissions: Plaintiff’s investigation also revealed that on March 12, 2022,
25 Defendants repeatedly attempted to gain control of Plaintiff’s website and
26 corresponding Google Webmaster Central permissions.
- 27 • Changing Content of Plaintiff’s Website: In addition to causing Plaintiff’s
28 website to be deindexed, Defendants changed the content of the website.

1 Defendants' actions, as set forth above, directly caused Plaintiff harm.
2 Plaintiff had to conduct an investigation into the source of the improper access to
3 their social media accounts and to the source of the de-indexing, requiring Plaintiff
4 to commit its executives' and volunteers' times to the investigation and forcing
5 Plaintiff to divert its time away from spreading the organization's message and
6 conducting normal organizational business. Moreover, Defendants' locking
7 Plaintiff out of its social media account meant that Plaintiff was unable to access its
8 social media accounts for several weeks, losing a valuable opportunity to spread its
9 message. Further, Defendants' deindexing Plaintiff's websites
10 (www.breakingcodesilence.org and www.breakingcodesilence.com) caused a
11 significant and dramatic drop in traffic, as the dates of March 10 and 11, 2022 show
12 zero user traffic. Amplifying the harms Plaintiff suffered from Defendants'
13 deindexing, Defendants actions occurred during the critical period of early March
14 2022; during this period, Plaintiff expected a significant increase in web traffic
15 during that period, as Plaintiff had recently been featured on a TV show, *The*
16 *Doctors*, and was to be highlighted in a made-for-TV film on Lifetime premiering
17 that same week. However, because of Defendants' deindexing, Plaintiff missed out
18 on this potential increase in traffic and any associated benefits. Plaintiff reserves its
19 right to further amend its responses to this and other Interrogatories as discovery is
20 ongoing.

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Dated: January 13, 2023

DLA PIPER LLP (US)

By: 

TAMANY J. VINSON BENTZ
JASON LUEDDEKE
BENJAMIN GRUSH

Attorneys for Plaintiff
BREAKING CODE SILENCE


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VERIFICATION

I, Jennifer Magill, 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 January 12, 2023 at Centennial, Colorado.



Jennifer Magill
CEO, Breaking Code Silence

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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 SECOND AMENDED
RESPONSES TO DEFENDANT KATHERINE MCNAMARA’S
FIRST SET OF INTERROGATORIES**


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:

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I declare under penalty of perjury that the above is true and correct. Executed at Los Angeles, California, this 13th day of January, 2023.

Kara Race-Moore
(typed)



(signature)