

5:22-CV-5033-TLB

IN THE UNITED STATES DISTRICT COURT OF WESTERN ARKANSAS
FAYETTEVILLE DIVISION

The Satanic Temple, Inc.
Plaintiff

v.

Lamar Media Corp., Lamar Advantage GP Company, LLC;
Lamar Advantage Holding Company; and
Lamar Advertising Company,
Defendants.

APPENDIX OF EXHIBITS



Matt Kezhaya

Ark. # 2014161

Minn. # 0402193

matt@crown.law

direct: (479) 431-6112

general: (612) 276-2216

100 S. Fifth St., Ste 1900, Minneapolis, MN 55402

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From: Hal Kilshaw
Date: June 09, 2020 10:47:24 AM (-05)
To: Rick Zitkovic
Cc: Dave Peacock
Bcc: AMcAlpin@lamar.com
Subject: **Re: Proposed Billboard Copy.**

Attachments:

Rick,

We have some problems with this copy. The artwork as presented is not clearly about abortion and could be construed to be about infanticide or vaccination also. And abortion is not a pandemic as that relates to disease. Please discuss these issues with the advertiser and see if we can come up with acceptable copy. If we do agree on copy we will need a disclaimer.

Thanks,
Hal

On Mon, Jun 8, 2020 at 11:12 AM Rick Zitkovic <RZitkovic@lamar.com> wrote:

Hi Hal,

Please see below a piece of creative that we are hoping you can provide direction on as far as it being acceptable to post and if / so what we need in addition IE - disclaimer details

Thanks !

Rick Zitkovic
Sales Manager
Lamar Advertising

Philadelphia Office
4801 S. Broad St.
Building 100, Suite 100
Philadelphia, PA 19112
O: 215. 644-3300
Direct: 215-644-3301

[CHECK OUT THIS VIDEO!](#)

[Why Advertise with Lamar | Philadelphia, PA](#)
[Learn more about what we can do with OOH + Mobile](#)



----- Forwarded message -----
From: **Rick Zitkovic** <RZitkovic@lamar.com>
Date: Mon, Jun 8, 2020 at 11:32 AM
Subject: Fwd: Proposed Billboard Copy.
To: Dave Peacock <dpeacock@lamar.com>

 [Pandemic_Womb_Banner_CMYK.tif](#)

Dave,

I spoke with Mike on Friday, he explained he wanted to run a "Pro-Life" billboard campaign in Philly and the ad copy was controversial.

I explained for him to send the ad copy over and we would review the content and provide an answer back if it was appropriate.

I assume this will need to go to Hal, do you want me to send to him?

Thanks



Rick Zitkovic
Sales Manager
Lamar Advertising

Philadelphia Office
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Building 100, Suite 100
Philadelphia, PA 19112
O: 215. 644-3300
Direct: 215-644-3301

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[Why Advertise with Lamar | Philadelphia, PA](#)
[Learn more about what we can do with OOH + Mobile](#)

----- Forwarded message -----

From: **Mike McMonagle** <prolifeeducationalfoundation@gmail.com>

Date: Fri, Jun 5, 2020 at 4:26 PM

Subject: Proposed Billboard Copy.

To: Rick Zitkovic <rzitkovic@lamar.com>

Dear Rick:

Thank you for speaking with me today. I am attaching proposed billboard copy. If acceptable, we would add the local crisis pregnancy number of 610-626-4006 and "Pro-Life Educational Foundation."

Best wishes,

Mike McMonagle
President
Pro-Life Educational Foundation
215-393-3610

 [Pandemic_Womb_Banner_CMYK.tif](#)

--

Hal P. Kilshaw
Vice President of Governmental Relations
Lamar Advertising
5321 Corporate Blvd.
Baton Rouge, LA 70808
225-237-1047
Fax 225-923-0658

From: Hal Kilshaw
Date: August 03, 2020 9:26:53 AM (-05)
To: deron@andrelawoffices.com
Subject: **Re: Verum Vitae 365 Inc.**

Attachments:

O. K. to post.

>

On Sat, Aug 1, 2020 at 11:06 AM <deron@andrelawoffices.com> wrote:
Hal,

We revised the second paragraph again and I trust this version will address your concerns:

We believe that Planned Parenthood is a blight on our communities. Its founder pursued and promoted a eugenics-based strategy primarily focused on abortions in minority communities. Planned Parenthood continues to perform high numbers of abortions and studies have shown abortions may have a negative impact on the economy of nearly \$5 billion each year in addition to negative effects on the nuclear family.

Thanks.

Deron J. Andre

PLEASE NOTE OUR NEW ADDRESS EFFECTIVE 12/10/2018.

[1255 Scheuring Road, Suite A](#)
[De Pere, WI 54115](#)

Phone: (920) 632-4461

Fax: (920) 632-4594

www.andrelawoffices.com

The information contained herein is intended only for the PERSONAL AND CONFIDENTIAL use of the designated recipient named above. The preceding e-mail message (including any attachments) contains information that may be confidential, be protected by the attorney-client or other applicable privileges, or constitute non-public information. It is intended to be conveyed only to the designated recipient(s). If you are not an intended recipient of this message, please notify the sender by replying to this message and then delete it from your system. Use, dissemination, distribution, or reproduction of this message by unintended recipients is not authorized and may be unlawful.

----- Original Message -----

Subject: Re: Verum Vitae 365 Inc.

From: Hal Kilshaw <hkilshaw@lamar.com>

Date: Fri, Jul 31, 2020 8:40 am

To: deron@andrelawoffices.com

Deron,

That the founder pursued eugenics does not mean PP is currently pursuing eugenics which would be necessary for sentence two to be acceptable. And "destroying economies and families" is still not substantiated by what you have submitted. Also, please provide evidence that abortion is PP's number one product.

Thanks,
Hal

>

On Fri, Jul 31, 2020 at 8:31 AM <deron@andrelawoffices.com> wrote:
Hal,

Here is what we propose for the revised second paragraph:

Appendix 6

LADV000920

"We believe Planned Parenthood is a blight upon our communities. Their founder pursued a eugenics-based mission that destroys economies and families through their number one product: abortion."

I have also attached a fact sheet supporting the second sentence.

I trust this will be acceptable but if you have any other issues please let me know asap.

Thanks.

Deron J. Andre

PLEASE NOTE OUR NEW ADDRESS EFFECTIVE 12/10/2018.

Andre Law Offices llc

Attorneys • Counselors • Advocates

1255 Scheuring Road, Suite A
De Pere, WI 54115

Phone: (920) 632-4461

Fax: (920) 632-4594

www.andrelawoffices.com

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--

Hal P. Kilshaw
Vice President of Governmental Relations
Lamar Advertising
5321 Corporate Blvd.
Baton Rouge, LA 70808
225-237-1047
Fax 225-923-0658

--

Hal P. Kilshaw
Vice President of Governmental Relations
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From: Hal Kilshaw
Date: August 12, 2020 3:43:51 PM (-05)
To: Allie McAlpin
Cc: Buster Kantrow; Wendi Loup
Subject: **Re: Reproductive Right Artwork**

Attachments:

The obvious issue is that if we publicize taking down copy because of threats that it could encourage more threats.

On Wed, Aug 12, 2020 at 3:41 PM Allie McAlpin <AMcAlpin@lamar.com> wrote:

I had the same thought. I'm looking for the statement that we used, but I believe we removed it because it was becoming a public safety issue.



Allie McAlpin / Communications Director
amcalpin@lamar.com

Lamar Advertising Company
225.926.1000 ext. 6412
[5321 Corporate Blvd, Baton Rouge, LA 70808](https://www.lamar.com)
www.lamar.com



On Wed, Aug 12, 2020 at 3:38 PM Wendi Loup <wloup@lamar.com> wrote:

We could remove on same grounds we removed "The most dangerous place for African Americans is in the Womb" copy

On Aug 12, 2020, at 3:15 PM, Hal Kilshaw <hkilshaw@lamar.com> wrote:

Please let me know what you think.

----- Forwarded message -----

From: **Dan Noyes** <dnoyes@lamar.com>
Date: Wed, Aug 12, 2020 at 2:44 PM
Subject: Re: Reproductive Right Artwork
To: Hal Kilshaw <hkilshaw@lamar.com>
CC: Don Riley - #263 <driley@lamar.com>

Hi Hal:

One of the locations posted today and within 3 hrs I received 3 calls, one of which the caller indicated he and several concerned citizens from Rusk (the town where it posted) would take their torches to the sign if it wasn't removed in short order. Based on the nature of this call I propose we remove the copy in order to avoid potential vandalism/damage to the structure. Please let me know.

Thanks,
Dan

On Tue, Aug 11, 2020 at 9:30 AM Hal Kilshaw <hkilshaw@lamar.com> wrote:

Allie,

Would you please send Dan your standard message on copy acceptance issues?

Dan,

It is extremely rare for us to remove copy once posted. But we can discuss if there is a huge issue.

----- Forwarded message -----

From: **Dan Noyes** <dnoyes@lamar.com>
Date: Tue, Aug 11, 2020 at 8:30 AM
Subject: Re: Reproductive Right Artwork
To: Hal Kilshaw <hkilshaw@lamar.com>

Hi Hal:

This copy will begin to post this week and I anticipate some type of negative attention. I saw last week in Spokane, we installed some copy and ended up removing it (albeit, not abortion related). I want to be prepared to respond in the event we are pressed on this copy, at what point do we act on removing something? (Believe it or not, I've not ever had any copy posted I believe to have been as sensitive as this may become).

Thanks,
Dan

On Tue, Jul 28, 2020 at 9:08 AM Hal Kilshaw <hkilshaw@lamar.com> wrote:
We take reasonable pro-life and pro-choice copy. So O. K. to post.

On Tue, Jul 28, 2020 at 8:57 AM Dan Noyes <dnoyes@lamar.com> wrote:
Hi Hal:

One of our Account Executives has been provided the attached creative (I am also of the impression Co 072/Shreveport is also involved). I wanted to pass along to you for review and feedback. I know the panels for Co 268 are located in two small communities in the event that is of any consequence. Please let us know if this is copy that can be approved.

Thanks,
Dan

----- Forwarded message -----

From: **Katy Lanmon** <klanmon@lamar.com>
Date: Tue, Jul 28, 2020 at 8:48 AM
Subject: Reproductive Right Artwork
To: Dan Noyes <dnoyes@lamar.com>, Kevin King <KEKing@lamar.com>

Attached.

--

Katy Lanmon // Sales Account Executive

Lamar Advertising Company of Tyler (#268)
Office: 936.564.1495 // Mobile: 936.371.9438
Live Pitch Link: <http://view.lamar.com/klanmon>
lamar.com

— — — — —
You can now pay your invoices online <http://payments.lamar.com>

--

Dan Noyes | General Manager

Lamar Advertising Company of Tyler

2301 E. Erwin St.
Tyler, TX 75702

O: 903.592.3889 ext.14
C: 903.316.0603
F: 903.592.6975
W: lamar.com/tyler-longview

--

Hal P. Kilshaw
Vice President of Governmental Relations
Lamar Advertising
5321 Corporate Blvd.
Baton Rouge, LA 70808
225-237-1047
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Fax 225-923-0658

From: knott@lamar.com
Date: August 22, 2020 4:13:29 PM (-05)
To: Tom Hill
Subject: **Fwd: Billboard Inquiry: Indiana**

Attachments:

Tom

Please reach out...

Sent from my iPhone

Begin forwarded message:

From: Arif Afsheen <arif@seedx.us>
Date: August 22, 2020 at 4:50:20 PM EDT
To: knott@lamar.com
Cc: Jacqueline Basulto <jacqueline@seedx.us>
Subject: Billboard Inquiry: Indiana

Hi,

I hope this email finds you well.

I am writing to inquire regarding placing a commercial ad on the billboards.

We are a fast growing media company, [Seedx.us](https://seedx.us), and we are interested in buying ad space for some of our clients. We have an interest from several fortune 500 companies and funded startups.

I have a few questions and if you can possibly let me know the following:

1. We would place 4-6 billboards near each other (on the same highway, etc.) in Indiana – is this possible?
2. What is the availability like? We would like to place them by the 15th of September to 15th October.
3. What would be the cost of each billboard space?
4. Are there different sizes and what are they?
5. Do you also provide the entire process of having the logo and design to be set out on these billboards? If so, what are the costs?
6. What is the market like in Indiana? Is it heavily populated as we would be interested to know which areas are more occupied to compare.
7. Is there a pricing difference in each area or is it standard pricing for all the billboards?
8. What is the process to get it placed?

Let me know the above and hopefully we can find a suitable time early next week to hop on a call to discuss this further.

Looking forward to hearing back from you soon.

Thank you.

Best,
Arif

From: Tom Hill
Date: September 03, 2020 6:47:37 AM (-05)
To: Colleen Baird
Subject: **Fwd: Lamar Advertising**

Attachments: Lamar - Little Rock, AK Locations.png; Lamar - Indiana Locations.png;

Hey Colleen, took a call with Jaqueline yesterday.....see below for info she shared after our call regarding NE inventory

>

----- Forwarded message -----

From: **Jacqueline Basulto** <jacqueline@seedx.us>
Date: Wed, Sep 2, 2020 at 10:58 PM
Subject: Re: Lamar Advertising
To: Tom Hill <thill@lamar.com>
CC: Arif Afsheen <arif@seedx.us>, Justin Rashidi <justin@seedx.us>

Hi Tom,

Hope all is well! As promised, here are the areas we are interested in in both the Indianapolis-area and Little Rock-area markets. I'd like to get an estimate for 4 billboards on the highway paths I highlighted in the screenshots. Perhaps we can talk again or you can help me figure out which ones and the price?

I am also attaching our past campaign with Lamar to show you what creative looked like in the past.

Look forward to hearing from you!

Best wishes,
Jacqueline



>
On Wed, Sep 2, 2020 at 9:58 AM Tom Hill <thill@lamar.com> wrote:
style="font-family:georgia,serif;font-size:small;color:rgb(0,0,0)">Hey Jacqueline, I'm actually free now if you are

>
On Tue, Sep 1, 2020 at 5:58 PM Jacqueline Basulto <jacqueline@seedx.us> wrote:
Sure!! My number is +16464003071

Sent from my iPhone: please excuse any brevity or grammatical error on my part.

From: Tom Hill
 Date: September 09, 2020 3:38:05 PM (-05)
 To: Jacqueline Basulto
 Subject: **Re: Proposal for SeedX**

Attachments:

style="font-family:georgia,serif;font-size:small;color:#000000">If it's all one design, you can send me a file and we can resize.

style="font-family:georgia,serif;font-size:small;color:#000000">

style="font-family:georgia,serif;font-size:small;color:#000000">The design you sent me last wk was approved

>

On Wed, Sep 9, 2020 at 3:37 PM Jacqueline Basulto <jacqueline@seedx.us> wrote:

Okay!

I do not think the artwork will be finalized tomorrow... can we send the samples for approval first? What do you think?

>

On Wed, Sep 9, 2020 at 3:18 PM Tom Hill <thill@lamar.com> wrote:

style="font-family:georgia,serif;font-size:small;color:rgb(0,0,0)">That is preferred

>

On Wed, Sep 9, 2020 at 3:16 PM Jacqueline Basulto <jacqueline@seedx.us> wrote:

Thank you! So the full amount is due 9/21? Just making sure I understand correctly.

>

On Wed, Sep 9, 2020 at 3:13 PM Tom Hill <thill@lamar.com> wrote:

style="font-family:georgia,serif;font-size:small;color:rgb(0,0,0)">Sending the contract your way now for electronic signature.

style="font-family:georgia,serif;font-size:small;color:rgb(0,0,0)">

style="font-family:georgia,serif;font-size:small;color:rgb(0,0,0)">Thank You!

>

On Wed, Sep 9, 2020 at 11:19 AM Jacqueline Basulto <jacqueline@seedx.us> wrote:

We're ready to move forward! What is the next step?

>

On Tue, Sep 8, 2020 at 3:14 PM Jacqueline Basulto <jacqueline@seedx.us> wrote:

Thank you Tom! Sending these to the client for approval

>

On Tue, Sep 8, 2020 at 3:00 PM Tom Hill <thill@lamar.com> wrote:

style="font-family:georgia,serif;font-size:small;color:rgb(0,0,0)">Hey Jacqueline, see below for Arkansas and let us know if these look good on your end.

style="font-family:georgia,serif;font-size:small;color:rgb(0,0,0)">

style="font-family:georgia,serif;font-size:small;color:rgb(0,0,0)">Note the Indiana quotes I gave you do include production costs

>

----- Forwarded message -----

From: **Colleen Baird** <COMJohnson@lamar.com>

Date: Tue, Sep 8, 2020 at 2:58 PM

Subject: Proposal for SeedX

To: Thomas Hill <thill@lamar.com>

Please see attached for my recommendation. Cost for the 4 week and 8 week campaign would be:

- 1) Interstate 440 North Little Rock #2364 weekly impressions 404,309
- 2) Highways 67/167 Jacksonville #60006 weekly impressions 532,958
- 3) Interstate 49 Springdale #68412 weekly impressions 519,391
- 4) Interstate 30 Little Rock #70218 weekly impressions 531,846

Cost of 4 week campaign: \$ 7,687

Cost of 8 week campaign: \$12,412

From: Jacqueline Basulto
 Date: September 11, 2020 12:05:31 PM (-05)
 To: Tom Hill
 Subject: **Re: Proposal for SeedX**

Attachments:

Thank you so much

>
 On Fri, Sep 11, 2020 at 12:02 PM Tom Hill <thill@lamar.com> wrote:
 style="font-family:georgia,serif;font-size:small;color:rgb(0,0,0)">Literally was just changing our start date to 9/28 :-) I'll resend shortly

>
 On Fri, Sep 11, 2020 at 11:59 AM Jacqueline Basulto <jacqueline@seedx.us> wrote:
 Hi Tom,

I have no problem signing, I am just waiting to hear on creative approval from the client now. I'm worried that it'll push the timeline back. Should I still sign even so?

>
 On Fri, Sep 11, 2020 at 6:38 AM Tom Hill <thill@lamar.com> wrote:
 style="font-family:georgia,serif;font-size:small;color:rgb(0,0,0)">Hey Jacqueline, could you sign the contract this morning and let me know how I can help on the designs?

>
 On Wed, Sep 9, 2020 at 3:38 PM Tom Hill <thill@lamar.com> wrote:
 style="font-family:georgia,serif;font-size:small;color:rgb(0,0,0)">If it's all one design, you can send me a file and we can resize.
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- 4) Interstate 30 Little Rock #70218 weekly impressions 531,846

Cost of 4 week campaign: \$ 7,687

Cost of 8 week campaign: \$12,412

(includes production)



[Proposal for Tom - SeedX](#)

--

Colleen M Johnson

Account Executive

501-412-8635 cell

“Make it simple. Make it memorable. Make it inviting to look at” – Leo Burnett

--

Tom Hill

Senior Account Executive

m: 812.208.1239

| INDIANAPOLIS

Make Online Payments @ Payments.Lamar.com

--

Tom Hill

Senior Account Executive

m: 812.208.1239

| INDIANAPOLIS

Make Online Payments @ Payments.Lamar.com

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Tom Hill

Senior Account Executive

m: 812.208.1239

| INDIANAPOLIS

Make Online Payments @ Payments.Lamar.com

Indianapolis
5711 W. Minnesota St
Indianapolis, IN 46241
Phone: 317-484-0396
Fax: 317-484-1522



CONTRACT # 3482055

Date: 9/9/2020
New/Renewal: NEW
Account Executive: THOMAS HILL
Phone: 317-484-0396

CONTRACTED DIRECTLY BY ADVERTISER	
Customer #	759005-1
Name	SEEDX
Address	1420 S FIGUEROA ST #204
City/State/Zip	LOS ANGELES, CA 90015
Contact	
Email Address	
Phone #	
Fax #	
P.O./ Reference #	
Advertiser/Product	THE SATANIC TEMPLE
Campaign	Indiana & Arkansas

Production/Other Services							
Department	Plant	Production Type	Misc	Service Dates	# Billing Periods	Invest Per Period	Cost
Vinyl	286 Little Rock, AR	Printing & Installation of (4) vinyls for Arkansas		09/21/20	1	\$2,962.00	\$2,962.00
Vinyl	405 Indianapolis, IN	Printing & Installation of (4) vinyls for Indiana		09/21/20	1	\$4,400.00	\$4,400.00
Total Production/Other Services Costs:							\$7,362.00

Space										
# of Panels: 8								Billing Cycle: Every 4 weeks		
Panel # TAB ID	Market	Location	Illum	Media Type	Size	Misc	Service Dates	# Billing Periods	Invest Per Period	Cost
2364 364291	286-NORTH LITTLE ROCK, AR	I-40 N/S 1.2 MI E/O I-440 P3-EFT	Yes	Perm Bulletin	12' 0" x 48' 0"		09/28/20-10/25/20	1	\$925.00	\$925.00
60006 364483	286-JACKSONVILLE, AR	US 67/167 E/S 0.6 MI N/O I-440 JCT P1-NF	Yes	Perm Bulletin	10' 6" x 36' 0"		09/28/20-10/25/20	1	\$800.00	\$800.00
70218 364588	286-LITTLE ROCK, AR	I-30 S/S 0.4 MI E/O S HAMILTON P1-EF	Yes	Perm Bulletin	14' 0" x 48' 0"		09/28/20-10/25/20	1	\$1,500.00	\$1,500.00
1399 264319	405-BOONE CO, IN	I-65, 1.5 MI N/O SR 334 W/S	Yes	Perm Bulletin	14' 0" x 48' 0"		09/28/20-10/25/20	1	\$1,500.00	\$1,500.00
1597 264481	405-JASPER, IN	I-65, 1.5 MI S/O SR 114	No	Perm Bulletin	12' 0" x 34' 0"		09/28/20-10/25/20	1	\$1,000.00	\$1,000.00
5070 14925260	405-MORGAN CO, IN	E/S SR 67 1/4 MI S/O SR 144	Yes	Perm Bulletin	10' 6" x 36' 0"		09/28/20-10/25/20	1	\$1,200.00	\$1,200.00
9003 570856	405-DECATUR CO, IN	I-74 1680' E/O HWY 3	Yes	Perm Bulletin	10' 0" x 30' 0"		09/28/20-10/25/20	1	\$600.00	\$600.00
68412 30970109	434-SPRINGDALE, AR	I-49 W/S, 0.30 mi S/O Wagon Wheel Rd, Springdale, AR, NB, S/F-2	Yes	Perm Bulletin	10' 0" x 40' 0"		09/28/20-10/25/20	1	\$1,500.00	\$1,500.00
Total Space Costs:										\$9,025.00
Total Costs:										\$16,387.00

Special Considerations:

Advertiser authorizes and instructs The Lamar Companies (Lamar) to display in good and workmanlike manner, and to maintain for the terms set forth above, outdoor advertising displays described above or on the attached list. In consideration thereof, Advertiser agrees to pay Lamar all contracted amounts within thirty (30) days after the date of billing. Advertiser acknowledges and agrees to be bound by the terms and conditions on all pages of this contract.

The Agency representing this Advertiser in the contract executes this contract as an agent for a disclosed principal, but hereby expressly agrees to be liable jointly and severally and in solido with Advertiser for the full and faithful performance of Advertiser's obligations hereunder. Agency waives notice of default and consents to all extensions of payment.

The undersigned representative or agent of Advertiser hereby warrants to Lamar that he/she is the Partner

(Officer/Title)

of the Advertiser and is authorized to execute this contract on behalf of the Advertiser.



Indianapolis
5711 W. Minnesota St
Indianapolis, IN 46241
Phone: 317-484-0396
Fax: 317-484-1522



CONTRACT # 3482055

Date: 9/9/2020
New/Renewal: NEW
Account Executive: THOMAS HILL
Phone: 317-484-0396

Customer:	SEEDX
Signature:	<i>Jacqueline Basulto</i> (signature above)
Name:	Jacqueline Basulto (print name above)
Date:	Sep 14, 2020 (date above)

THE LAMAR COMPANIES

This contract is NOT BINDING UNTIL ACCEPTED by a Lamar General Manager.

TH
ACCOUNT EXECUTIVE: THOMAS HILL

Jason Graham
GENERAL MANAGER

Sep 15, 2020
DATE

STANDARD CONDITIONS

- 1. Late Artwork:** The Advertiser must provide or approve art work, materials and installation instructions ten (10) days prior to the initial Service Date. In the case of default in furnishing or approval of art work by Advertiser, billing will occur on the initial Service Date.
- 2. Copyright/Trademark:** Advertiser warrants that all approved designs do not infringe upon any trademark or copyright, state or federal. Advertiser agrees to defend, indemnify and hold Lamar free and harmless from any and all loss, liability, claims and demands, including attorney's fees arising out of the character contents or subject matter of any copy displayed or produced pursuant to this contract.
- 3. Payment Terms:** Lamar will, from time to time at intervals following commencement of service, bill Advertiser at the address on the face hereof. Advertiser will pay Lamar within thirty (30) days after the date of invoice. If Advertiser fails to pay any invoice when it is due, in addition to amounts payable thereunder, Advertiser will promptly reimburse collection costs, including reasonable attorney's fees plus a monthly service charge at the rate of 1.5% of the outstanding balance of the invoice to the extent permitted by applicable law. Delinquent payment will be considered a breach of this contract. Payments will be applied as designated by the Advertiser; non designated payments will be applied to the oldest invoices outstanding.
- 4. Service Interruptions:** If Lamar is prevented from posting or maintaining any of the spaces by causes beyond its control of whatever nature, including but not limited to acts of God, strikes, work stoppages or picketing, or in the event of damage or destruction of any of the spaces, or in the event Lamar is unable to deliver any portion of the service required in this contract, including buses in repair, or maintenance, this contract shall not terminate. Credit shall be allowed to Advertiser at the standard rates of Lamar for such space or service for the period that such space or service shall not be furnished or shall be discontinued or suspended. In the case of illumination, should there be more than a 50% loss of illumination, a 20% pro-rata credit based on four week billing will be given. If this contract requires illumination, it will be provided from dusk until 11:00p.m. Lamar may discharge this credit, at its option, by furnishing advertising service on substitute space, to be reasonably approved by Advertiser, or by extending the term of the advertising service on the same space for a period beyond the expiration date. The substituted or extended service shall be of a value equal to the amount of such credit.
- 5. Entire Agreement:** This contract, all pages, constitutes the entire agreement between Lamar and Advertiser. Lamar shall not be bound by any stipulations, conditions, or agreements not set forth in this contract. Waiver by Lamar of any breach of any provision shall not constitute a waiver of any other breach of that provision or any other provision.
- 6. Copy Acceptance:** Lamar reserves the right to determine if copy and design are in good taste and within the moral standards of the individual communities in which it is to be displayed. Lamar reserves the right to reject or remove any copy either before or after installation, including immediate termination of this contract.
- 7. Termination:** All contracts are non-cancellable by Advertiser without the written consent of Lamar. Breach of any provisions contained in this contract may result in cancellation of this contract by Lamar.
- 8. Materials/Storage:** Production materials will be held at customer's written request. Storage fees may apply.
- 9. Installation Lead Time:** A leeway of five (5) working days from the initial Service Date is required to complete the installation of all non-digital displays.
- 10. Customer Provided Production:** The Advertiser is responsible for producing and shipping copy production. Advertiser is responsible for all space costs involved in the event production does not reach Lamar by the established Service Dates. These materials must be produced in compliance with Lamar production specifications and must come with a 60 day warranty against fading and tearing.



11. Bulletin Enhancements: Cutouts/extensions, where allowed, are limited in size to 5 feet above, and 2 feet to the sides and 1 foot below normal display area. The basic fabrication charge is for a maximum 12 months.

12. Assignment: Advertiser shall not sublet, resell, transfer, donate or assign any advertising space without the prior written consent of Lamar.



From: Thomas Gibbens
Date: September 15, 2020 9:56:35 AM (-05)
To: Hal Kilshaw
Subject: **Fwd: Satanic Temple Creative**

Attachments:

New copy files attached for review.

Thx
Tom Gibbens
VP/TM/GM
Lamar Advertising
www.lamar.com
Little Rock, AR
501-562-2476 off
501-568-0085 fx

----- Forwarded message -----

From: **Tom Hill** <thill@lamar.com>
Date: Tue, Sep 15, 2020 at 9:54 AM
Subject: Satanic Temple Creative
To: Jason Graham <jgraham@lamar.com>, Thomas Gibbens <tgibbens@lamar.com>

Jason, can you have Hal review the designs below? Totally different content from what they originally provided. She says these designs were previously approved by Lamar but best we double check.

Thanks

----- Forwarded message -----

From: **Jacqueline Basulto** <jacqueline@seedx.us>
Date: Tue, Sep 15, 2020 at 9:41 AM
Subject: Re: Lamar Advertising
To: Tom Hill <thill@lamar.com>

Hi Tom,

Thank you so much. Here is the creative I am trying to push to get approved ASAP!

Design option 1: <https://marvelapp.com/prototype/69ac76h/screen/72654929>
Design option 2: <https://marvelapp.com/prototype/69ac76h/screen/72594823>
Design option 3: <https://marvelapp.com/prototype/69ac76h/screen/72525916>
Design option 4: <https://marvelapp.com/prototype/69ac76h/screen/72494110>
Design option 5: <https://marvelapp.com/prototype/69ac76h/screen/72469144>

--
Tom Hill
m: 812.208.1239

From: Tom Hill
Date: September 15, 2020 9:51:37 AM (-05)
To: Jacqueline Basulto
Bcc: pitch.5f44192e628ba211c8c49a13.f3126bc5fa6a42dfb72504bcaf71414b@email.highspot.com
Subject: **Re: Lamar Advertising**

Attachments:

Gotcha

On Tue, Sep 15, 2020 at 9:52 AM Jacqueline Basulto <jacqueline@seedx.us> wrote:
The others were previously approved billboards that we ran in the past... I'm sorry for the difficulty

On Tue, Sep 15, 2020 at 9:51 AM Tom Hill <thill@lamar.com> wrote:
I'll have to get these approved on my end..... the content is totally different than what we had originally approved.

On Tue, Sep 15, 2020 at 9:41 AM Jacqueline Basulto <jacqueline@seedx.us> wrote:
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Design option 3: <https://marvelapp.com/prototype/69ac76h/screen/72525916>
Design option 4: <https://marvelapp.com/prototype/69ac76h/screen/72494110>
Design option 5: <https://marvelapp.com/prototype/69ac76h/screen/72469144>

On Tue, Sep 15, 2020 at 9:28 AM Tom Hill <thill@lamar.com> wrote:
Thanks for signing the contract Jacqueline!

Any change you can share the creative that is awaiting approval?

On Fri, Sep 4, 2020 at 1:26 PM Jacqueline Basulto <jacqueline@seedx.us> wrote:
Sounds good. Let's talk at 4pm? Can you give me a call at 646-400-3071

On Fri, Sep 4, 2020 at 1:18 PM Tom Hill <thill@lamar.com> wrote:
I'm available. After 4 would be best

On Fri, Sep 4, 2020 at 12:44 PM Jacqueline Basulto <jacqueline@seedx.us> wrote:
Are you working today or Monday? I'd love to talk again

On Fri, Sep 4, 2020 at 7:33 AM Tom Hill <thill@lamar.com> wrote:
And finally, locations in NE

----- Forwarded message -----

From: **Colleen Baird** <COMJohnson@lamar.com>
Date: Thu, Sep 3, 2020 at 7:53 AM
Subject: Re: Lamar Advertising
To: Tom Hill <thill@lamar.com>

From: Hal Kilshaw
Date: September 15, 2020 9:51:51 AM (-05)
To: Thomas Gibbens
Subject: **Re: Lamar Advertising**

Attachments:

I approved the copy on 9/8. We run thousands of church ads and have to post the occasional atheist, satanic, etc. submissions we receive.

On Tue, Sep 15, 2020 at 9:38 AM Thomas Gibbens <tgibbens@lamar.com> wrote:
Hal -

Can you buzz me about the satanic temple. We just found out this buy is coming through an agency. The contract originated from the Indianapolis office. I do not have the final artwork yet. Can we reject this based on not meeting the moral standards of our community? I would include Springdale AR as well.

I'll send you the contract in the next e-mail

Thx
Tom Gibbens

VP/TM/GM

Lamar Advertising

www.lamar.com

Little Rock, AR

501-562-2476 off

501-568-0085 fx

----- Forwarded message -----

From: **Tom Hill** <thill@lamar.com>
Date: Tue, Sep 15, 2020 at 9:21 AM
Subject: Fwd: Lamar Advertising
To: Thomas Gibbens <tgibbens@lamar.com>

See below copy

----- Forwarded message -----

From: **Jacqueline Basulto** <jacqueline@seedx.us>
Date: Wed, Sep 2, 2020 at 9:58 PM
Subject: Re: Lamar Advertising
To: Tom Hill <thill@lamar.com>
Cc: Arif Afsheen <arif@seedx.us>, Justin Rashidi <justin@seedx.us>

Hi Tom,

Hope all is well! As promised, here are the areas we are interested in in both the Indianapolis-area and Little Rock-area

Appendix 23

LADV000633

From: Thomas Gibbens
Date: September 15, 2020 10:59:53 AM (-05)
To: Whit Weeks; Sam Cooper; Colleen Baird
Subject: **Fwd: Satanic Temple Creative**

Attachments:

fyi

Tom Gibbens
VP/TM/GM
Lamar Advertising
www.lamar.com
Little Rock, AR
501-562-2476 off
501-568-0085 fx

----- Forwarded message -----

From: **Hal Kilshaw** <hkilshaw@lamar.com>
Date: Tue, Sep 15, 2020 at 10:58 AM
Subject: Re: Satanic Temple Creative
To: Jason Graham <jgraham@lamar.com>
Cc: Thomas Gibbens <tgibbens@lamar.com>

Jason,

All of these are misleading and offensive so no on all of them.

On Tue, Sep 15, 2020 at 10:02 AM Jason Graham <jgraham@lamar.com> wrote:
Hal,

This client has more copies they want approved. I don't see the paid for disclaimer so I know they need that. But how else do you feel about these copies?

Jason Graham

Vice President / General Manager

Lamar Advertising of Indianapolis / Terre Haute IN

cell 646-379-2246

office 317-484-0396

----- Forwarded message -----

From: **Tom Hill** <thill@lamar.com>
Date: Tue, Sep 15, 2020 at 10:54 AM
Subject: Satanic Temple Creative
To: Jason Graham <jgraham@lamar.com>, Thomas Gibbens <tgibbens@lamar.com>

Jason, can you have Hal review the designs below? Totally different content from what they originally provided. She says these designs were previously approved by Lamar but best we double check.

Thanks

From: Whit Weeks
Date: September 15, 2020 10:44:15 AM (-05)
To: Alex Neal; Brent McCord; Lacey Nast; Sheridan Mercer; Sonja Barnett; Steve Jackson; Tiffany Case
Subject: **Agency Requests without Customer**

Attachments: TST Billboard – TST-NewVersionBillboard-v2.jpg.html; TST Billboard – st1.jpg.html; TST Billboard – satanic-temple's-2.html; TST Billboard – satanic-temple's-1.jpg.html; TST Billboard – ST-VallaPublicitaria1-Boceto.png.html;

Good Morning.

One of these pieces of creative that will be running in NW Arkansas starting at the end of the month.

This is why we shouldn't respond to agency requests listed as "Client X" or without gaining knowledge of the customer. This will be running in our market and below rate.

I'm embarrassed that this will represent us.

Whit Weeks | General Manager
wwEEKS@lamar.com

Lamar Advertising Company
(o)479-442-0300 | (c) 479-200-9387
Office: 1855 Shelby Lane, Fayetteville, AR 72704
Mailing: PO Box 10352, Fayetteville, AR 72703
www.lamar.com

From: Whit Weeks
Date: September 15, 2020 10:46:59 AM (-05)
To: Thomas Gibbens
Subject: **Re: Satanic Temple Creative**

Attachments:

This is ridiculous.

Whit Weeks | General Manager
wwEEKS@lamar.com

Lamar Advertising Company
(o)479-442-0300 | (c) 479-200-9387
Office: 1855 Shelby Lane, Fayetteville, AR 72704
Mailing: PO Box 10352, Fayetteville, AR 72703
www.lamar.com

On Tue, Sep 15, 2020 at 10:00 AM Thomas Gibbens <tgibbens@lamar.com> wrote:

fyi
Tom Gibbens
VP/TM/GM
Lamar Advertising
www.lamar.com
Little Rock, AR
501-562-2476 off
501-568-0085 fx

----- Forwarded message -----
From: **Hal Kilshaw** <hkilshaw@lamar.com>
Date: Tue, Sep 15, 2020 at 9:58 AM
Subject: Re: Satanic Temple Creative
To: Thomas Gibbens <tgibbens@lamar.com>

I have not approved any of those. It'll take awhile to review.

On Tue, Sep 15, 2020 at 9:57 AM Thomas Gibbens <tgibbens@lamar.com> wrote:
New copy files attached for review.

Thx
Tom Gibbens

VP/TM/GM

Lamar Advertising

www.lamar.com

Little Rock, AR

501-562-2476 off

501-568-0085 fx

----- Forwarded message -----

From: **Tom Hill** <thill@lamar.com>

Date: Tue, Sep 15, 2020 at 9:54 AM

Subject: Satanic Temple Creative

To: Jason Graham <jgraham@lamar.com>, Thomas Gibbens <tgibbens@lamar.com>

Jason, can you have Hal review the designs below? Totally different content from what they originally provided. She says these designs were previously approved by Lamar but best we double check.

Thanks

----- Forwarded message -----

From: **Jacqueline Basulto** <jacqueline@seedx.us>

Date: Tue, Sep 15, 2020 at 9:41 AM

Subject: Re: Lamar Advertising

To: Tom Hill <thill@lamar.com>

Hi Tom,

Thank you so much. Here is the creative I am trying to push to get approved ASAP!

Design option 1: <https://marvelapp.com/prototype/69ac76h/screen/72654929>

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Design option 3: <https://marvelapp.com/prototype/69ac76h/screen/72525916>

Design option 4: <https://marvelapp.com/prototype/69ac76h/screen/72494110>

Design option 5: <https://marvelapp.com/prototype/69ac76h/screen/72469144>

--

Tom Hill

m: 812.208.1239

--

Hal P. Kilshaw

Vice President of Governmental Relations

Lamar Advertising

5321 Corporate Blvd.

Baton Rouge, LA 70808

225-237-1047

Fax 225-923-0658

From: Tom Hill
Date: September 22, 2020 12:12:57 PM (-05)
To: Hal Kilshaw; Jason Graham; Thomas Gibbens
Subject: **Re: Satanic Temple Creative**

Attachments:

Hal, could you review the below questions I received. Thank You!



Jacqueline Basulto

12:05 PM (4 minutes ago)

to me, Justin

In order to revise the designs, we need more specific information about what is misleading or offensive. The messaging and content is in line with the beliefs of the Satanic Temple and their religious beliefs, so we can't move forward without an understanding of what characteristics are specifically off-base

On Mon, Sep 21, 2020 at 10:58 AM Thomas Gibbens <tgibbens@lamar.com> wrote:
This was the last I heard where Hal rejected all the copy?

See below
Tom Gibbens

VP/TM/GM

Lamar Advertising

www.lamar.com

Little Rock, AR

501-562-2476 off

501-568-0085 fx

----- Forwarded message -----

From: **Thomas Gibbens** <tgibbens@lamar.com>

Date: Tue, Sep 15, 2020 at 10:59 AM

Subject: Fwd: Satanic Temple Creative

To: Whit Weeks <wwEEKS@lamar.com>, Sam Cooper <scooper@lamar.com>, Colleen Baird <COMJohnson@lamar.com>

fyi
Tom Gibbens

VP/TM/GM

Lamar Advertising

www.lamar.com

Little Rock, AR

501-562-2476 off

501-568-0085 fx

----- Forwarded message -----

From: **Hal Kilshaw** <hkilshaw@lamar.com>
Date: Tue, Sep 15, 2020 at 10:58 AM
Subject: Re: Satanic Temple Creative
To: Jason Graham <jgraham@lamar.com>
Cc: Thomas Gibbens <tgibbens@lamar.com>

Jason,

All of these are misleading and offensive so no on all of them.

On Tue, Sep 15, 2020 at 10:02 AM Jason Graham <jgraham@lamar.com> wrote:
Hal,

This client has more copies they want approved. I don't see the paid for disclaimer so I know they need that. But how else do you feel about these copies?

Jason Graham

Vice President / General Manager

Lamar Advertising of Indianapolis / Terre Haute IN

cell 646-379-2246

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----- Forwarded message -----

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To: Jason Graham <jgraham@lamar.com>, Thomas Gibbens <tgibbens@lamar.com>

Jason, can you have Hal review the designs below? Totally different content from what they originally provided. She says these designs were previously approved by Lamar but best we double check.

Thanks

----- Forwarded message -----

From: **Jacqueline Basulto** <jacqueline@seedx.us>
Date: Tue, Sep 15, 2020 at 9:41 AM
Subject: Re: Lamar Advertising
To: Tom Hill <thill@lamar.com>

Hi Tom,

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Design option 5: <https://marvelapp.com/prototype/69ac76h/screen/72469144>

--
Tom Hill
m: 812.208.1239

--
Hal P. Kilshaw

Vice President of Governmental Relations
Lamar Advertising

[5321 Corporate Blvd.](#)

Baton Rouge, LA 70808

225-237-1047

Fax 225-923-0658

From: Tom Hill
 Date: September 22, 2020 12:12:07 PM (-05)
 To: Jacqueline Basulto
 Cc: Justin Rashidi
 Bcc: pitch.5f44192e628ba211c8c49a13.5440d70ac24044cf87a736b67f4bfd44@email.highspot.com
 Subject: **Re: Lamar Advertising**

Attachments:

I'll see if I can get more details.

Can we not use the original design you'd sent?

On Tue, Sep 22, 2020 at 12:05 PM Jacqueline Basulto <jacqueline@seedx.us> wrote:

In order to revise the designs, we need more specific information about what is misleading or offensive. The messaging and content is in line with the beliefs of the Satanic Temple and their religious beliefs, so we can't move forward without an understanding of what characteristics are specifically off-base.

On Tue, Sep 22, 2020 at 12:01 PM Tom Hill <thill@lamar.com> wrote:
 All of the content

On Tue, Sep 22, 2020 at 12:59 PM Jacqueline Basulto <jacqueline@seedx.us> wrote:
 All of the content? In what ways is it misleading and in what ways is it offensive? Can you clarify?

On Tue, Sep 22, 2020 at 11:57 AM Tom Hill <thill@lamar.com> wrote:
 I was the content is misleading and offensive.

On Tue, Sep 22, 2020 at 12:54 PM Jacqueline Basulto <jacqueline@seedx.us> wrote:
 Hi Tom,

We are working to understand how we can accommodate Lamar's policy.

Is there anything specific about the messaging or imagery that we should focus on?

On Tue, Sep 22, 2020 at 9:16 AM Tom Hill <thill@lamar.com> wrote:
 Hey Jacqueline, can we expect revised/updated designs today?

On Mon, Sep 21, 2020 at 10:33 AM Tom Hill <thill@lamar.com> wrote:
 Hey Jacqueline, these designs were rejected. See below Copy Acceptance policy included on our contracts.

6. Copy Acceptance: Lamar reserves the right to determine if copy and design are in good taste and within the moral standards of the individual communities in which it is to be displayed. Lamar reserves the right to reject or remove any copy either before or after installation, including immediate termination of this contract.

On Mon, Sep 21, 2020 at 10:16 AM Jacqueline Basulto <jacqueline@seedx.us> wrote:
 Hi Tom,

Thanks for the update. Here are the designs that our client would like to place on the billboards. Please let me know if any of them are approvable.

Design #1: <https://marvelapp.com/prototype/69ac76h/screen/72876931>

Design #2: <https://marvelapp.com/prototype/6aa2gj3/screen/72917196>

Design #3: <https://marvelapp.com/prototype/b87hei8/screen/72919634>

Design #4: <https://marvelapp.com/prototype/6aa2gj3/screen/72922240>

What is Lamar's criteria for approving billboard messaging? The Satanic Temple is a registered religious group in the

United States.

Best wishes,
Jacqueline

On Mon, Sep 21, 2020 at 10:01 AM Tom Hill <thill@lamar.com> wrote:
Hey Jacqueline, our corporate office has rejected all copy pending approval.

The original design you shared was approved but not the newest versions.

On Fri, Sep 18, 2020 at 7:47 AM Tom Hill <thill@lamar.com> wrote:
I can't push it out anymore.

On Thu, Sep 17, 2020 at 5:52 PM Jacqueline Basulto <jacqueline@seedx.us> wrote:
I know... it's been impossible, I'm so sorry to make this process bad for you.

Is it possible for us to push it out? Maybe even more this time to avoid any issues?

Sent from my iPhone: please excuse any brevity or grammatical error on my part.

On Sep 17, 2020, at 3:36 PM, Tom Hill <thill@lamar.com> wrote:

Hey Jacqueline, checking in on approvals

Cutting things close here

On Tue, Sep 15, 2020 at 10:51 AM Tom Hill <thill@lamar.com> wrote:
Gotcha

On Tue, Sep 15, 2020 at 9:52 AM Jacqueline Basulto <jacqueline@seedx.us> wrote:
The others were previously approved billboards that we ran in the past... I'm sorry for the difficulty

On Tue, Sep 15, 2020 at 9:51 AM Tom Hill <thill@lamar.com> wrote:
I'll have to get these approved on my end..... the content is totally different than what we had originally approved.

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Design option 4: <https://marvelapp.com/prototype/69ac76h/screen/72494110>

Design option 5: <https://marvelapp.com/prototype/69ac76h/screen/72469144>

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Thanks for signing the contract Jacqueline!

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Sounds good. Let's talk at 4pm? Can you give me a call at 646-400-3071

On Fri, Sep 4, 2020 at 1:18 PM Tom Hill <thill@lamar.com> wrote:
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Are you working today or Monday? I'd love to talk again

On Fri, Sep 4, 2020 at 7:33 AM Tom Hill <thill@lamar.com> wrote:

And finally, locations in NE

----- Forwarded message -----

From: **Colleen Baird** <COMJohnson@lamar.com>

Date: Thu, Sep 3, 2020 at 7:53 AM

Subject: Re: Lamar Advertising

To: Tom Hill <thill@lamar.com>



[Revise for Selected Interstates Seedx Arkansas](#)

On Thu, Sep 3, 2020 at 8:52 AM Colleen Baird <COMJohnson@lamar.com> wrote:

Please see this proposal with the available panels for 8 weeks in the areas she has circled. I sent them these areas, along with others, but I have removed the additional markets that she is no longer interested in and have just given the panel photo sheets, map, and pricing for the ones in the map you sent. There is one panel that we do not have in the system yet (it is new) and I will send that today.

If you have any questions, please let me know. I can work up the actual cost for each of the vinyl and install for the bulletins but I wanted to get this over to you right away to give them time to select. I wasn't sure if they were still on a quick turnaround or not.

Thank you-

On Thu, Sep 3, 2020 at 7:47 AM Tom Hill <thill@lamar.com> wrote:

Hey Colleen, took a call with Jaqueline yesterday.....see below for info she shared after our call regarding NE inventory

----- Forwarded message -----

From: **Jacqueline Basulto** <jacqueline@seedx.us>

Date: Wed, Sep 2, 2020 at 10:58 PM

Subject: Re: Lamar Advertising

To: Tom Hill <thill@lamar.com>

CC: Arif Afsheen <arif@seedx.us>, Justin Rashidi <justin@seedx.us>

Hi Tom,

Hope all is well! As promised, here are the areas we are interested in in both the Indianapolis-area and Little Rock-area markets. I'd like to get an estimate for 4 billboards on the highway paths I highlighted in the screenshots. Perhaps we can talk again or you can help me figure out which ones and the price?

I am also attaching our past campaign with Lamar to show you what creative looked like in the past.

Look forward to hearing from you!

Best wishes,
Jacqueline

<The_Satanic_Temple_Protect_Children.jpg>

On Wed, Sep 2, 2020 at 9:58 AM Tom Hill <thill@lamar.com> wrote:
Hey Jacqueline, I'm actually free now if you are

On Tue, Sep 1, 2020 at 5:58 PM Jacqueline Basulto <jacqueline@seedx.us> wrote:
Sure!! My number is +16464003071

Sent from my iPhone: please excuse any brevity or grammatical error on my part.

On Sep 1, 2020, at 5:19 PM, Tom Hill <thill@lamar.com> wrote:

Absolutely. Would 1pm est work?

On Tue, Sep 1, 2020 at 5:39 PM Jacqueline Basulto <jacqueline@seedx.us> wrote:
Hi Tom,

Can we set up a time to talk through this tomorrow? Let me know when you're available!

Sent from my iPhone: please excuse any brevity or grammatical error on my part.

On Sep 1, 2020, at 3:02 PM, Tom Hill <thill@lamar.com> wrote:

Good afternoon Arif,

I wanted to circle back with you and see if any questions have come up that I can help answer. If you see any locations of interest, please let me know and I'd be glad to check and confirm availability.

Thank You!

On Wed, Aug 26, 2020 at 8:14 AM Tom Hill <thill@lamar.com> wrote:
Good morning,

The links below will provide additional inventory across the state of Indiana. Wanted to point a few quick things....

- The maps can be zoomed in/out to get a better idea of where the locations are
- Top right corner of each map is a 'traffic' tab.... that provides real time traffic conditions
- Each photo will show a 'Weekly Impressions' figure. That number is the amount of impressions each location will provide each week

Upon your review, I'd love the opportunity to connect briefly over the phone to answer any questions and discuss details further.

[I74 between Indy & Cincinnati](#)

[I80/90 East of South Bend](#)

[I69 & SR67 Bloomington](#)

[I69 Between Anderson & Ft Wayne](#)

[I65 Between Crown Point & Lebanon](#)

[I70 Between Terre Haute & Indy](#)

On Tue, Aug 25, 2020 at 4:04 PM Arif Afsheen
<arif@seedx.us> wrote:

Good afternoon to you as well,

Thank you Tom for responding back promptly and providing us
some material to cross check!

Looking forward to more Indiana markets.

We will take a look and get back to you.

Best Regards,

A Arif

On Tue, Aug 25, 2020 at 3:52 PM Tom Hill
<thill@lamar.com> wrote:

Good afternoon Arif & team,

The link below will provide some available locations in the
Indianapolis area. Please review and let me know if you see
any locations of interest.

[Indianapolis](#)

Please note that on the digital locations (orange dots) there are
no production costs. On our bulletins, you're looking \$1000 to
print & install each board.

I'll share a few more Indiana markets here shortly. If you see
any locations of interest, please let me know so I can confirm
availability.

Thank You!

On Tue, Aug 25, 2020 at 7:26 AM Tom Hill
<thill@lamar.com> wrote:

Good morning Arif, I have added poster & bulletin specs for
both our static & digital boards.

[Static Poster Retro Spec Sheet \(and 4 more\)](#)

Stay tuned for available inventory. Do we have a specific advertiser on this potential campaign?

On Mon, Aug 24, 2020 at 6:58 PM Arif Afsheen

<arif@seedx.us> wrote:

Thank you Tom! We are looking specifically for Indiana and Arkansas. Can you send us the specs required for a poster and/or bulletin board design?

On Mon, Aug 24, 2020 at 2:47 PM Tom Hill

<thill@lamar.com> wrote:

Good afternoon Arif! Thank You for reaching out. See below answers to your questions. If you're available, I'd like to try and connect briefly tomorrow to see what areas are of most interest to you. The link below will provide some general information for review in the meantime.

Thank You for the opportunity!

[OOH Quick Facts \(and 3 more\)](#)

1. We would place 4-6 billboards near each other (on the same highway, etc.) in Indiana – is this possible? Yes, we have coverage on all major interstates across Indiana. Are you specifically focused on Indianapolis? We can also cover Terre Haute, Lafayette, Ft Wayne, Evansville, NW Indiana (Lake Co) & Bloomington, IN
2. What is the availability like? We would like to place them by the 15th of September to 15th October. We're running over 90% in September. Will share available locations for consideration.
3. What would be the cost of each billboard space? Varies based on location & Impressions delivered
4. Are there different sizes and what are they? Standard sized are 14x48 & 10.6x36
5. Do you also provide the entire process of having the logo and design to be set out on these billboards? If so, what are the costs? We can design. Cost per board ranges from \$800-\$1200 each. Digital billboards have \$0 production costs
6. What is the market like in Indiana? Is it heavily populated as we would be interested to know which areas are more occupied to compare. Indianapolis and surrounding counties are highest populated. Ft Wayne, Evansville, Bloomington, Lafayette, Terre Haute & Hammond are next in line
7. Is there a pricing difference in each area or is it standard pricing for all the billboards? Prices vary based on Impressions Delivered & availability

8. What is the process to get it placed? We will share available locations for your review. Once we have locations contracted, it takes about 2wks to get materials ordered, shipped and installed. If we use any digital locations, we can start as soon as the design (s) are approved.

--

Tom Hill
Senior Account Executive
m: 812.208.1239
[REDACTED] | INDIANAPOLIS
Make Online Payments @ Payments.Lamar.com

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Sent from Gmail Mobile



Colleen M Johnson
Account Executive
501-412-8635 cell

[REDACTED]
"Make it simple. Make it memorable. Make it inviting to look at" – Leo Burnett



Colleen M Johnson

Account Executive

501-412-8635 cell

[REDACTED]

"Make it simple. Make it memorable. Make it inviting to look at" – Leo Burnett

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Sent from Gmail Mobile

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Sent from Gmail Mobile

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Sent from Gmail Mobile

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Tom Hill
Senior Account Executive
m: 812.208.1239

| INDIANAPOLIS
Make Online Payments @ Payments.Lamar.com

From: Tom Hill
Date: September 23, 2020 5:04:39 PM (-05)
To: Hal Kilshaw; Jason Graham; Thomas Gibbens
Subject: **Fwd: TST v. Lamar Advertising Company -- demand letter and preservation notice**

Attachments: 2020 09 23 demand letter and preservation notice.pdf;

Just received the below & attached.

----- Forwarded message -----

From: **Matthew A. Kezhaya** <matt@kezhaya.law>
Date: Wed, Sep 23, 2020 at 5:59 PM
Subject: TST v. Lamar Advertising Company -- demand letter and preservation notice
To: <thill@lamar.com>

Please see attached for a demand letter and preservation notice in the above case. Please advise how your organization plans to proceed by September 24 at 5:00 pm.

Matthew A. Kezhaya

Arkansas office:
Kezhaya Law PLC
[1202 NE McClain Rd](#)
[Bentonville, AR 72712](#)
p: (479) 431-6112
f: (479) 282-2892
e: matt@kezhaya.law

Minnesota office (MN license pending):
Kezhaya Law PLC
[100 S. Fifth Street, 19th Floor](#)
[Minneapolis, MN 55402](#)
p: (479) 431-6112
f: (479) 282-2892
e: matt@kezhaya.law

This message may contain confidential or privileged information and was intended for a particular recipient. If it appears that I sent this to you in error, please inform me and delete this message.

--

Sent from Gmail Mobile

KEZHAYA LAW PLC

MATTHEW A. KEZHAYA
1202 NE MCCLAIN RD
BENTONVILLE, AR 72712



P: (479) 431-6112
F: (479) 282-2892
MATT@KEZHAYA.LAW

September 23, 2020

Lamar Advertising Company
c/o Mr. Tom Hill
by email only to: thill@lamar.com

Re: TST v. Lamar Advertising Company – demand letter and preservation notice

Good afternoon,

I represent The Satanic Temple (“**TST**”) in its efforts to place billboards advertising the news of the recently-unveiled abortion ritual. My client is working through a marketing firm called SeedX Inc., who I understand you have been directly communicating with. Near as I can tell, your organization owns all of the billboards in the suitable area for my client’s advertisements. My client and your organization have a contract to display several billboards throughout Arkansas and Indiana for a period beginning September 28, 2020 and ending October 25, 2020.

The problem is that someone in your organization is declining to adhere to the terms of the deal. Ostensibly, the issue is that my client’s designs are not “in good taste and within the moral standards of the individual communities in which it is to be displayed.” See Agreement at ¶ 6. But you have refused to indicate what, exactly, is wrong with the designs so the problem can be remediated.

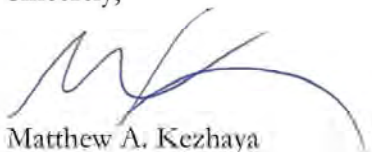
It appears that one of two things are going on. Your organization could be discriminating against my client on the basis of its religious tenets, which would violate the Arkansas Civil Rights Act. See ACA § 16-123-107(a)(4)(prohibiting discrimination because of religion in contractual transactions).

Or, your organization could simply be running afoul of the implied warranty of good faith and fair dealing. E.g. W. Memphis Adolescent Residential, LLC v. Compton, 2010 Ark. App. 450, 5, 374 S.W.3d 922, 925 (2010) (“Every contract imposes upon each party a duty of good faith and fair dealing in its performance and its enforcement.”)

In any event, your organization is bound in contract to put up billboards advertising TST’s abortion ritual by September 28. You can provide meaningful feedback in a timely manner to permit corrections to the designs, or you can put up the designs that have been put forward. You cannot reject them without comment. Not without incurring substantial legal expenses, at least.

Time is a critical factor on this matter. Please advise how your organization plans to proceed by **September 24, 2020** at 5:00 pm central time. Regardless, this letter is your notice to preserve all internal correspondence on this matter as it will be valuable evidence in the ensuing litigation.

Sincerely,



Matthew A. Kezhaya

construction of an advertising billboard on the above-described real property in the City of Phoenix, County of Maricopa, State of Arizona.

NOW, THEREFORE, in consideration of the sum of EIGHTY THOUSAND DOLLARS AND NO CENTS (\$80,000.00), paid by Assignee to Assignor, and other good and valuable consideration, the receipt and adequacy of which is hereby acknowledged, Assignor and Assignee hereby covenant and agree as follows:

1. Assignor hereby assigns to Assignee, as of the date of this Assignment (the "Effective Date"), all of Assignor's right, title and interest in and to the Lease, together with all rights and obligations arising from the Lease, and any renewals, and together with all rights and obligations arising for the use and occupation of the premises described in the Lease and, at the option of Assignee, from all leases of similar nature which may be executed in the future. A copy of the Lease is attached hereto as Exhibit "A" and made a part hereof.

2. To the extent permitted by Arizona law, Assignor hereby assigns to Assignee any and all security rights and/or liens granted to it under documents executed by Assignor, as lessee for security interests under the Uniform Commercial Code. More specifically, but not by way of limitation, all rights given to Assignor under security agreements securing the payment of rent under the Lease with the lessor (which may or may not have been filed with Maricopa County or the State of Arizona) are hereby assigned to Assignee.

3. Assignor covenants that neither the lessor nor the lessee are in default under the Lease, that the Lease is not encumbered by any prior transfer, assignment, mortgage or other encumbrances which will not be released or subordinated in order to accomplish this Assignment and that Assignor has full and lawful authority to assign the Lease.

4. Assignor warrants that the attached Lease is an unaltered true and accurate copy of the original Lease which is presently in effect and that no other documents exist which supplement, amend or revise the terms of the Lease. Assignor further warrants that the Lease fully and fairly represents the true status of the business relationship between the lessor and the lessee.

5. Assignee hereby assumes the Lease as of the Effective Date, and will perform and observe all of the covenants, conditions and obligations of Assignor contained therein which are to be performed and observed and which shall accrue from and after said Effective Date.

6. Assignor shall have no further liability for the performance and observance of the covenants, conditions and obligations contained in the Lease from and after the Effective Date.

A handwritten signature in black ink, appearing to be "J. O.", is written over the page number.

Signature of FOIA Coordinator

7. There is no security deposit held in connection with the Lease.
8. Assignor covenants that it is not in default under the Permits, that the Permits are not encumbered by any prior transfer, assignment, mortgage or other encumbrances which will not be released or subordinated in order to accomplish this Assignment and that Assignor has full and lawful authority to assign the Permits.
9. Assignee hereby assumes the Permits as of the Effective Date, and will perform and observe all of the covenants, conditions and obligations of Assignor contained therein which are to be performed and observed and which shall accrue from and after said Effective Date.
10. Assignee shall indemnify and hold Assignor harmless for all of the covenants, conditions and obligations of Assignor contained therein which are to be performed and observed and which shall accrue from and after said Effective Date.
11. This Assignment shall be binding upon the parties hereto and their respective successors and assigns.
12. This Assignment shall be governed by and construed in accordance with the laws of the State of Arizona.
13. If any provision of this Assignment or the application thereof to any party or circumstances shall, to any extent, be invalid or unenforceable, the remainder of this Assignment shall not be affected thereby and each provision of the Assignment shall be valid and enforceable.
14. This Assignment sets forth all of the covenants, promises, agreements, conditions and understandings between the parties and there are no covenants, promises, conditions and understandings, either oral or written, between the parties other than as set forth herein.
15. No alteration, amendment, change or addition to this Assignment shall be binding upon the parties unless set forth in writing and signed by the authorized representative of both of the parties hereto.

A handwritten signature in black ink, appearing to be 'J. D.', is located at the bottom center of the page.

IN WITNESS WHEREOF, the parties have executed this Agreement the day and year first above written.

ASSIGNOR:

VIP MEDIA INC.,
A Michigan corporation

By: 

JOSEPH Z. ORAM

Its: President

ASSIGNEE:

UNITED FEDERATION OF CHURCHES,
LLC, A Massachusetts limited liability
company

By: _____

MALCOLM JARRY

Its: Authorized Signor

[Notarizations on succeeding page]

STATE OF MICHIGAN

COUNTY OF OAKLAND

)
)SS.
)

On December 16th, 2020, before me personally appeared **JOSEPH Z. ORAM**, to me personally known or proven to me, who, being duly sworn, did acknowledge before me that he executed this instrument as his free act and deed as the President of VIP MEDIA INC., a Michigan corporation.



Rachel Askar

Notary Public
Oakland County, Michigan
Acting in Oakland County

My commission expires: Apr 10, 2023

COMMONWEALTH OF MASSACHUSETTS

COUNTY OF ESSEX

)
)SS.
)

On December _____, 2020, before me personally appeared **Malcolm Jarry**, to me personally known or proven to me, who, being duly sworn, did acknowledge before me that he executed this instrument as his free act and deed as an authorized signor on behalf of UNITED FEDERATION OF CHURCHES, LLC., a Massachusetts limited liability company.

Notary Public
Essex County, Massachusetts
My commission expires: _____

Drafted by:
Jeffrey C. Stearns, Esq.
2979 Cedar Key Drive
Lake Orion, MI 48360

BILL OF SALE

(Billboard Sign Structure, Permits and Contracts for
3210 W. Broadway, Phoenix, Arizona)

VIP MEDIA INC., a Michigan corporation ("Seller"), in consideration of the sum of EIGHTY THOUSAND DOLLARS AND NO CENTS (US\$80,000.00) and other valuable consideration, in hand paid, the receipt of which is hereby acknowledged, hereby sells, transfers, assigns and delivers to UNITED FEDERATION OF CHURCHES, LLC, a Massachusetts limited liability company, all of Seller's right, title, and interest in and to and as well as, (i) all of the fixtures and articles of tangible personal property, including but not limited to the billboard sign structure attached to or appurtenant to the property at 3210 W. Broadway, Phoenix, Arizona 85041-1806 and (ii) all associated sign permits and advertising contracts. This Bill of Sale does not convey any title to the property at the above-mentioned address.

**SELLER WARRANTS THAT IT IS THE OWNER, FREE AND CLEAR
OF ANY ENCUMBRANCE, OF THE ABOVE SIGN STRUCTURE,
ASSOCIATED SIGN PERMITS AND ADVERTISING CONTRACTS SOLD
HEREBY.**

VIP MEDIA INC.,
A Michigan Corporation

By: 

JOSEPH Z. ORAM
President

Dated: December 16, 2020

Drafted by:
Jeffrey C. Stearns, Esq.
2979 Cedar Key Drive
Lake Orion, MI 48360

App000039

BILL OF SALE

(Billboard Sign Structure, Permits and Contracts for
3210 W. Broadway, Phoenix, Arizona)

VIP MEDIA INC., a Michigan corporation ("Seller"), in consideration of the sum of EIGHTY THOUSAND DOLLARS AND NO CENTS (US\$80,000.00) and other valuable consideration, in hand paid, the receipt of which is hereby acknowledged, hereby sells, transfers, assigns and delivers to UNITED FEDERATION OF CHURCHES, LLC, a Massachusetts limited liability company, all of Seller's right, title, and interest in and to and as well as, (i) all of the fixtures and articles of tangible personal property, including but not limited to the billboard sign structure attached to or appurtenant to the property at 3210 W. Broadway, Phoenix, Arizona 85041-1806 and (ii) all associated sign permits and advertising contracts. This Bill of Sale does not convey any title to the property at the above-mentioned address.

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OF ANY ENCUMBRANCE, OF THE ABOVE SIGN STRUCTURE,
ASSOCIATED SIGN PERMITS AND ADVERTISING CONTRACTS SOLD
HEREBY.**

VIP MEDIA INC.,
A Michigan Corporation

By: 

JOSEPH Z. ORAM
President

Dated: December 16, 2020

Drafted by:
Jeffrey C. Stearns, Esq.
2979 Cedar Key Drive
Lake Orion, MI 48360

App000038

construction of an advertising billboard on the above-described real property in the City of Phoenix, County of Maricopa, State of Arizona.

NOW, THEREFORE, in consideration of the sum of EIGHTY THOUSAND DOLLARS AND NO CENTS (\$80,000.00), paid by Assignee to Assignor, and other good and valuable consideration, the receipt and adequacy of which is hereby acknowledged, Assignor and Assignee hereby covenant and agree as follows:

1. Assignor hereby assigns to Assignee, as of the date of this Assignment (the "Effective Date"), all of Assignor's right, title and interest in and to the Lease, together with all rights and obligations arising from the Lease, and any renewals, and together with all rights and obligations arising for the use and occupation of the premises described in the Lease and, at the option of Assignee, from all leases of similar nature which may be executed in the future. A copy of the Lease is attached hereto as Exhibit "A" and made a part hereof.

2. To the extent permitted by Arizona law, Assignor hereby assigns to Assignee any and all security rights and/or liens granted to it under documents executed by Assignor, as lessee for security interests under the Uniform Commercial Code. More specifically, but not by way of limitation, all rights given to Assignor under security agreements securing the payment of rent under the Lease with the lessor (which may or may not have been filed with Maricopa County or the State of Arizona) are hereby assigned to Assignee.

3. Assignor covenants that neither the lessor nor the lessee are in default under the Lease, that the Lease is not encumbered by any prior transfer, assignment, mortgage or other encumbrances which will not be released or subordinated in order to accomplish this Assignment and that Assignor has full and lawful authority to assign the Lease.

4. Assignor warrants that the attached Lease is an unaltered true and accurate copy of the original Lease which is presently in effect and that no other documents exist which supplement, amend or revise the terms of the Lease. Assignor further warrants that the Lease fully and fairly represents the true status of the business relationship between the lessor and the lessee.


5. Assignee hereby assumes the Lease as of the Effective Date, and will perform and observe all of the covenants, conditions and obligations of Assignor contained therein which are to be performed and observed and which shall accrue from and after said Effective Date.

6. Assignor shall have no further liability for the performance and observance of the covenants, conditions and obligations contained in the Lease from and after the Effective Date.

A handwritten signature in black ink, appearing to be "J. O.", is written over the page number.

Signature of FOIA Coordinator

7. There is no security deposit held in connection with the Lease.
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10. Assignee shall indemnify and hold Assignor harmless for all of the covenants, conditions and obligations of Assignor contained therein which are to be performed and observed and which shall accrue from and after said Effective Date.
11. This Assignment shall be binding upon the parties hereto and their respective successors and assigns.
12. This Assignment shall be governed by and construed in accordance with the laws of the State of Arizona.
13. If any provision of this Assignment or the application thereof to any party or circumstances shall, to any extent, be invalid or unenforceable, the remainder of this Assignment shall not be affected thereby and each provision of the Assignment shall be valid and enforceable.
14. This Assignment sets forth all of the covenants, promises, agreements, conditions and understandings between the parties and there are no covenants, promises, conditions and understandings, either oral or written, between the parties other than as set forth herein.
15. No alteration, amendment, change or addition to this Assignment shall be binding upon the parties unless set forth in writing and signed by the authorized representative of both of the parties hereto.

A handwritten signature in black ink, appearing to be 'J. D.', is located at the bottom center of the page.

IN WITNESS WHEREOF, the parties have executed this Agreement the day and year first above written.

ASSIGNOR:

VIP MEDIA INC.,
A Michigan corporation

By: 

JOSEPH Z. ORAM

Its: President

ASSIGNEE:

UNITED FEDERATION OF CHURCHES,
LLC, A Massachusetts limited liability
company

By: _____

MALCOLM JARRY

Its: Authorized Signor

[Notarizations on succeeding page]

STATE OF MICHIGAN

COUNTY OF OAKLAND

)
)SS.
)

On December 16th, 2020, before me personally appeared **JOSEPH Z. ORAM**, to me personally known or proven to me, who, being duly sworn, did acknowledge before me that he executed this instrument as his free act and deed as the President of VIP MEDIA INC., a Michigan corporation.



Rachel Askar

Notary Public
Oakland County, Michigan
Acting in Oakland County

My commission expires: Apr 10, 2023

COMMONWEALTH OF MASSACHUSETTS

COUNTY OF ESSEX

)
)SS.
)

On December _____, 2020, before me personally appeared **Malcolm Jarry**, to me personally known or proven to me, who, being duly sworn, did acknowledge before me that he executed this instrument as his free act and deed as an authorized signor on behalf of UNITED FEDERATION OF CHURCHES, LLC., a Massachusetts limited liability company.

Notary Public
Essex County, Massachusetts
My commission expires: _____

Drafted by:
Jeffrey C. Stearns, Esq.
2979 Cedar Key Drive
Lake Orion, MI 48360

WHITE MEDIA GROUP

SIGN LOCATION LEASE AGREEMENT

Lopez Jose Alfredo/Emma, the owner of hereinafter described real property ("Lessor").

Hereby leases to White Media Group LLC, a Limited Liability Company ("Lessee"), a site outline and described on Exhibit A to this lease (the "Leased Premises"), for the purpose of operating an outdoor advertising sign ("The Sign"), and under the following terms and conditions (lease will begin on date of installation of sign) _____:

1. This lease is for a term of 180 Months (15) years commencing on the date of execution. At Lessee's sole option, Lessee may renew this lease for an additional term of 180 Months (15) years by written notice to Lessor not later than thirty (30) days before the expiration of the initial term and the same terms and conditions.
2. The rent to be paid for the first six (6) months will be \$175.00 per advertising display paid to lessor for a total of \$350.00 per month or if electricity is set up to the above listed property within the initial six (6) monthly payments of lease agreement will increase to \$200.00 per display per month. The rent to be paid for the next (54) months will be \$200.00 per display per month to be paid to lessor for a total of \$400.00 per month. After initial five (5) years lessee will pay \$225.00 per display per month paid to lessor for a total of \$450.00 per month for the remaining ten (10) years of initial agreement.
3. Lessee agrees to work with City of Phoenix to set up electricity on "said property" in the first (6) six months of lease agreement. If Lessee does not set up electricity on "said property" Lessee will pay Lessor full amount of \$400.00 per month after the initial (6) six months of the contract. If electricity is set up within the first six months of the lease agreement Lessee will pay Lessor full amount of \$400.00 per month. Lessor agrees to pay for all necessary costs of applying and acquiring permit for electricity through the City of Phoenix. Lessor will pay all cost associated with setting up electricity to said property.

1-5- 400
5-15- \$450

4. Lessor agrees not to permit any obstruction located on any property owned by him/her to partially or completely obscure the normal arterial street and/or highway view of the sign. Lessee is hereby authorized at its option to remove any such obstruction.
5. Lessee agrees to maintain the Sign in a clean and clear sightly condition.
6. Lessee agrees to defend, indemnify, and hold Lessor harmless from and against any and all actions, cost, claims, losses, expenses, or damages made against or suffered by Lessor attributable to or arising out of the negligent operation of the Sign by Lessee. Lessee agrees to procure and keep in effect during the term of this Lease bodily injury and property damage liability insurance, with liability limits of \$500,000 per person and \$1,000,000 per occurrence. Lessor shall have no responsibility to Lessee for the security, installation, maintenance, or removal of the Sign or its appurtenances, except in the event of his or his agent's or employee's willful, reckless, negligent, or grossly negligent conduct. Lessor should be responsible for any and all incidents/accidents on real property due to negligence on part of lessor.
- ✓ 7. Lessor represents and warrants that he has the authority to execute and deliver this lease and that this lease does not violate or cause a default under any deed of trust, mortgage, other lease, or any other agreement or instrument.
- ✓ 8. Lessor represents and warrants that he has fee simple title to the Leased Premises, free and clear of all liens, encumbrances, and other leases.
9. Any notice required or permitted by the Lessee shall be given in writing and shall be deemed to be delivered if given in person or, whether or not actually received, when deposited in the United States mail, postage prepaid, certified mail, return receipt requested, addresses as set forth below or to such other address as the party to whom notice is to be sent has given ten (10) days' advance written notice.

10. In the event either party defaults in the performance of any of its obligations under this Lease and fails to cure such default within fifteen (30) days after notice of default has been delivered by the non-defaulting party shall have the right to terminate this Lessee and/or pursue any other rights or remedies he or it may have against the defaulting party.
11. This lease shall bind and insure to the benefit of the parties and their respective assigns, heirs, executors, representatives, and successors, including any subsequent owner of the Lease Premises. This Lease shall be fully assignable by either party without the consent of the other part. In the sale of real property this lease shall bind as per agreement without any changes or restrictions.

EXECUTED this 10th day of October, 2008.

Lopez Jose Alfredo

Emma Lopez

Jose C. Lopez
Emma Lopez

Lessor

Address: 3210 W. Broadway Rd.

Phoenix, AZ 85041



Lessee

By: Joseph White

President

Address: 4111 E. Chambers St.

Phoenix, AZ 85040

STATE OF Arizona

This instrument was acknowledged before me on 10, October, by





Notary Public in and for the State of

STATE OF

This instrument was acknowledged before on 10, October, by

Joseph White, Vice-President of White Lodia Group, LLC

A Limited Liability Company, on behalf of said Limited Liability Company.





Notary Public in and for the State of

Arizona

WHITE MEDIA GROUP

SIGN LOCATION LEASE AGREEMENT "AMENDMENT"

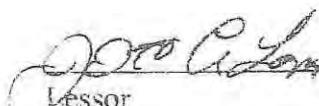
Lopez Jose Alfredo/Emma, the owner of hereinafter described real property ("Lessor").

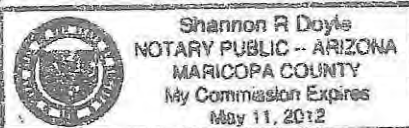

Hereby leases to White Media Group LLC, a Limited Liability Company ("Lessee"), a site outline and described on Exhibit A to this lease (the "Leased Premises"), for the purpose of operating an outdoor advertising sign ("The Sign"), and under the following terms and conditions:


1. This lease is for a term of 180 Months (15) years commencing on the date of execution. At Lessee's sole option, Lessee may renew this lease for an additional term of 180 Months (15) years by written notice to Lessor not later than thirty (30) days before the expiration of the initial term and the same terms and conditions.
2. The rent to be paid for the first five (5) years will be \$250.00 per month paid to lessor. At the expiration of the initial five (5) years the monthly payments will increase to \$400.00 per month paid to lessor for the next five (5) years. At the expiration of year ten (10) the monthly payments will increase to \$450.00 per month paid to lessor for the next five (5) years.
3. Section three (3) in lease agreement will be null and void
4. Lessee agrees to work with landowner to set up electricity on property for both the "sign" and to power the rest of landowner's property. All utilities used by lessee will be paid separately and in full by lessee.

Lopez Jose Alfredo

Joseph White


Lessor



Notary Public
July 22, 2009


Lessee

STATE OF INDIANA)	IN THE MARION SUPERIOR COURT
)	
COUNTY OF MARION)	CAUSE NO. 49D01-2209-PL-031056

ANONYMOUS PLAINTIFF 1, <i>et al.</i> ,)
)
Plaintiffs,)
)
v.)
)
THE INDIVIDUAL MEMBERS OF THE)
MEDICAL LICENSING BOARD OF)
INDIANA, <i>et al.</i> ,)
)
Defendants.)

ORDER GRANTING PLAINTIFFS' MOTION FOR PRELIMINARY INJUNCTION

I. Procedural History

On September 8, 2022, Plaintiffs, Anonymous Plaintiffs 1-5 on their own behalf and on behalf of those similarly situated; Hoosier Jews for Choice ("Plaintiffs") filed a Complaint challenging Senate Enrolled Act No. 1(ss) ("S.E.A. 1") under Indiana's Religious Freedom Restoration Act ("RFRA") and a Motion for Preliminary Injunction. On September 12, 2022, the Plaintiffs filed a Memorandum in Support of their Motion for Preliminary Injunction and initial evidentiary submission.

On October 3, 2022, the Defendants, The Individual Members of the Medical Licensing Board of Indiana, and the Marion County Prosecutor, Lake County Prosecutor, Monroe County Prosecutor, St. Joseph County Prosecutor, and Tippecanoe County Prosecutor ("Defendants") filed their Objection to Plaintiffs Motion for Preliminary Injunction. On October 11, 2022, the Plaintiffs filed their Reply in Support of their Motion for Preliminary Injunction. On October 14, 2022, the Court heard oral argument on the

above motions from counsel for the Plaintiffs and Defendants.¹ The Plaintiffs and Defendants' attorneys submitted proposed findings of fact and conclusions of law to the Court on October 28, 2022.

The Complaint alleges that S.E.A. 1 violates RFRA because it “burdens the plaintiffs’ sincere religious beliefs, and those of a putative class of those similarly situated,” by prohibiting abortion in circumstances where Plaintiffs’ religion “direct[s]” them to obtain an abortion. Compl. ¶¶ 2, 11. The complaint also requested “a preliminary injunction, later to be made permanent, enjoining defendants from taking any action that would prevent or otherwise interfere with the ability of the individual plaintiffs, the class members, and Hoosier Jews for Choice’s members obtaining abortions as directed by their sincere religious beliefs.” Compl. at 26. The Plaintiffs move for a preliminary injunction enjoining enforcement of S.E.A. 1. Plaintiffs argue that S.E.A. 1—which prohibits abortion except where a pregnancy seriously endangers a mother’s health or life, a pregnancy is the result of rape or incest, or the unborn child has a lethal anomaly—violates their rights under Indiana’s RFRA.

The Defendants argue that the Plaintiffs’ claims are not ripe and also fail on the merits. Furthermore, the Defendants argue that at this early stage of the case that the Plaintiffs have failed to demonstrate that S.E.A. 1 substantially burdens their exercise of religion, and that S.E.A. 1 is the least restrictive means to further a compelling government interest.

¹ The Court recognizes and appreciates the excellent advocacy and arguments by both counsel for Plaintiffs and counsel for Defendants at the hearing on this matter, as well as in their briefs.

Plaintiffs also seek relief on behalf of a putative class and have filed a motion for class certification. The parties agreed to postpone briefing on the motion for class certification while the preliminary-injunction motion is pending. No class has been certified. Plaintiffs are five individuals and one organization.

II. Propriety of injunctive relief

The Defendants argue in a footnote that because another Indiana court has issued an injunction as to S.E.A. 1, the plaintiffs do not have standing to raise a claim or seek a preliminary injunction. (State's Br. at 5). See *Planned Parenthood Great Northwest, Hawai'i, Alaska, Indiana, Kentucky, Inc., et al. v. Member of the Medical Licensing Board of Indiana, et al.*, No. 53C06-2208-PL-001756 (Mon. Circ. Ct. Sept. 22, 2022), *petition to transfer granted*, 22A-PL-2260.

The Court takes judicial notice of the fact that the State sought a stay of the above preliminary injunction. The stay request was denied by the Indiana Supreme Court and the case has been set for oral argument in the Indiana Supreme Court on January 19, 2023.

The State is pursuing its defense of S.E.A. 1 in that litigation, and a resolution of that matter will not resolve the issues raised in this case, as the cases are based on entirely different legal claims and sources of rights. See *Northwest Immigrant Rights Project v. USCIS*, 496 F. Supp. 3d 31 (D.D.C. 2020) (finding that plaintiffs were suffering irreparable harm and entitled to a preliminary injunction despite the fact that the challenged rule had been enjoined in a parallel proceeding in a different court).

III. Findings of Fact²

A. The History of Indiana's abortion law

1. Prior to the effective date of S.E.A. 1, abortions were generally lawful in Indiana (with some exceptions) up to the earlier of fetal viability or 20 weeks post fertilization. Indiana Code 16-34-2-1(a).

2. However, this was altered by S.E.A. 1, which prohibits all abortions in Indiana, with only three limited exceptions, listed below in paragraphs 3 through 5.

3. An abortion may be performed if a physician determines that an "abortion is necessary when reasonable medical judgment dictates that performing the abortion is necessary to prevent any serious health risk to the pregnant woman or to save the pregnant woman's life." Ind. Code § 16-34-3-1(1)(A)(i), (3)(A) (eff. Sept. 15, 2022). "Serious health risk" means "a condition exists that has complicated the mother's medical condition and necessitates an abortion to prevent death or a serious risk of substantial and irreversible physical impairment of a major bodily function." Ind. Code § 16-18-2-327.9. The term expressly excludes "psychological or emotional conditions." *Id.*

4. An abortion may be performed if a physician determines that the fetus has a "lethal fetal anomaly," before the earlier of viability or twenty (20) weeks of postfertilization age. Ind. Code § 16-34-2-1(a)(1)(A)(ii) (eff. Sept. 15, 2022). A "lethal fatal anomaly," as defined as "a fetal condition diagnosed before birth that, if the pregnancy results in a live birth, will with reasonable certainty result in the death of the child not more than three (3) months after the child's birth." Ind. Code § 16-25-4.5-2.

² Citations to the record include the filings made by the parties accompanying their briefing, the consideration of which was stipulated to by the parties at the hearing held on October 14, 2022.

5. An abortion may be performed “during the first ten (10) weeks of postfertilization age of the fetus” if the pregnancy is the result of rape or incest. Ind. Code § 16-34-2-1(a)(2) (eff. Sept. 15, 2022).³

6. Physicians who violate the prohibitions in S.E.A. 1 face criminal penalties, Ind. Code § 16-34-2-7 (amended eff. Sept. 15, 2022), and revocation of their licenses to practice medicine, Ind. Code § 25-22.5-8-6(b)(2).

7. “At common law, abortion was criminal in at least some stages of pregnancy and was regarded as unlawful and could have very serious consequences at all stages.” *Dobbs v. Jackson Women’s Health Org.*, 142 S. Ct. 2228, 2248 (2022). Indiana incorporated the common law’s criminal prohibitions “without exception or limitation” into its own laws as early as 1807 while it was still a territory. *Ledgerwood v. State*, 33 N.E. 631, 633 (Ind. 1893); see Act of Sept. 17, 1807, ch. 24, in Francis B. Philbin, *Laws of the Indiana Territory 1801–1809*, at 323 (1930); 1818 Indiana Laws ch. LII, p. 308.

8. Indiana, like “the vast majority of the States” in early America, also “enacted statutes criminalizing abortion at all stages of pregnancy.” *Dobbs*, 142 S. Ct. at 2252. Indiana’s first statute dates from 1835. That statute imposed criminal penalties on “every

³ S.E.A. 1 also amends preexisting prohibitions on abortion because of disability or other status, so that, effective September 15, 2022:

a. A person may not intentionally perform or attempt to perform an abortion allowed under IC 16-34-2 if the person knows that the pregnant woman is seeking the abortion solely because the fetus has been diagnosed with Down syndrome or has a potential diagnosis of Down syndrome. Ind. Code § 16-34-4-6(a) (eff. Sept. 15, 2022).

b. A person may not intentionally perform or attempt to perform an abortion allowed under IC 16-34-2 if the person knows that the pregnant woman is seeking the abortion solely because the fetus has been diagnosed with any other disability or has a potential diagnosis of any other disability. Ind. Code § 16-34-4-7(a) (eff. Sept. 15, 2022).

person” who administered “to any pregnant woman[] any medicine, drug, substance or thing whatever . . . with intent thereby to procure the miscarriage of any such woman, unless the same shall have been necessary to preserve the life of such woman.” 1835 Ind. Laws ch. XLVII, p. 66 § 3. Amendments adopted after the 1851 Constitution’s adoption expanded the statute to prohibit a “druggist, apothecary, physician, or other person selling medicine” from selling any “medicine . . . known to be capable of producing abortion or miscarriage, with intent to produce abortion.” 1859 Ind. Laws ch. LXXXVI, p. 469, § 2. In 1881, the penalty for violating the law was raised from a misdemeanor to a felony. 1881 Ind. Acts, ch. 37, §§ 22–23, p. 177. And in 1905 the legislature made it a crime to “so-licit” an abortion or miscarriage. 1905 Ind. Acts ch. 169, §§ 367–368, pp. 663–64.

9. The United States Supreme Court held that abortion was a fundamental right in 1973, *see Roe v. Wade*, 410 U.S. 113, 93 (1973), and the Indiana General Assembly amended Indiana law to permit abortion under some circumstances, *see* 1973 Ind. Acts, P.L. No. 322 (codified at Ind. Code § 35-1-58.5-1 to -8 (1973)); 1977 Ind. Acts, ch. 335, § 21.

10. In 1992, Indiana acquired additional authority to enact abortion regulations when the U.S. Supreme Court upheld Pennsylvania’s parental consent, informed consent, and 24-hour waiting period requirements. *See Planned Parenthood of Southeast Pennsylvania v. Casey*, 505 U.S. 833 (1992). Following *Casey*, Indiana adopted its own requirements for performing abortions, including informed consent and 18-hour waiting period requirements. *See* 1995 Ind. Acts, P.L. 187-1995, pp. 3327–29; *see also* 2014 Ind. Acts, P.L. 98-2014, pp. 1119–24 (requiring hospital admitting privileges, requiring

ultrasounds, and regulating abortion clinic licensing and inspections); 2016 Ind. Acts, P.L. 213-2016, pp. 3099–125 (banning abortions sought solely because of race, sex, or disability; regulating disposition of fetal remains, and imposing other requirements).

11. In June 2022, the U.S. Supreme Court held that the federal Constitution does not confer a right to abortion, reversing *Roe* and *Casey*, and “returned to the people” of Indiana and “their elected representatives” the “authority to regulate abortion.” *Dobbs*, 142 S. Ct. at 2279. Shortly thereafter, in August 2022, the Indiana General Assembly enacted S.E.A. 1, which makes performing an “abortion” a “criminal act” unless one of the following three statutory exceptions apply. Ind. Code § 16-34-2-1(a) (as amended by S.E.A. 1).

12. Indiana Code § 16-34-2-1(a)(1) permits abortions “before the earlier of viability of the fetus or twenty (20) weeks postfertilization age of the fetus” where (i) “reasonable medical judgment dictates that performing the abortion is necessary to prevent any serious health risk to the pregnant woman or to save the pregnant woman’s life” or (ii) “the fetus is diagnosed with a lethal fetal anomaly.” A “serious health risk” is one “that has complicated the mother’s medical condition and necessitates an abortion to prevent death or a serious risk of substantial and irreversible physical impairment of a major bodily function,” but “does not include psychological or emotional conditions.” Ind. Code § 16-18-2-327.9. Only hospitals and ambulatory surgical centers majority owned by hospitals may perform abortions under subsection (a)(1). Ind. Code § 16-34-2-1(a)(1)(B).

13. Indiana Code § 16-34-2-1(a)(3) permits abortions “at the earlier of viability of the fetus or twenty (20) weeks of postfertilization age and any time after” where “necessary to prevent any serious health risk to the pregnant woman or to save the pregnant woman’s

life.” Because subsection (a)(3) permits abortions later in the pregnancy than subsection (a)(1), it imposes some additional requirements. Those include that the abortion be “performed in a hospital” and be “performed in compliance with” Indiana Code § 16-34-2-3. Ind. Code § 16-34-2-1(a)(3)(C)–(D). Indiana Code § 16-34-2-3—which governs “abortions performed on or after the earlier” of viability twenty (20) weeks postfertilization age—in turn requires the presence of a second physician who is prepared to provide care for any “child born alive as a result of the abortion.” Ind. Code § 16-34-2-3(b); see also Ind. Code § 16-34-2-3(a), (c)–(d) (imposing additional requirements).

14. Indiana Code § 16-34-2-1(a)(2) permits abortions “during the first ten (10) weeks of postfertilization age” where the pregnancy arose from rape or incest. Only hospitals and ambulatory surgical centers majority owned by hospitals may perform abortions under subsection (a)(2). Ind. Code § 16-34-2-1(a)(2)(C).

15. Physicians who violate the prohibitions in S.E.A. 1 face criminal penalties, Ind. Code § 16-34-2-7 (amended September 15, 2022), and revocation of their licenses to practice medicine, Ind. Code § 25-22.5-8-6(b)(2).

B. Abortion and Religious Practice

i. Judaism

16. Under Jewish law, a fetus attains the status of a living person only at birth, when the greater part emerges from the mother. (Declaration of Rabbis Dennis and Sandy Sasso [“Sassos”] ¶ 9; Declaration of Rabbi Brett Krichiver [“Krichiver”] ¶ 6). Prior to that time, the fetus is considered as part of the woman’s body, not having a life of its own or independent rights. (Sassos ¶ 9; Krichiver ¶ 6). Rabbinic sources note that prior to the 40th day of gestation, the embryo is considered to be “mere water.” (Sassos ¶ 9).

17. In order to protect the woman, Jewish law recognizes that there are circumstances in which abortion should occur and is mandated even if there is not a physical health risk that is likely to cause death or the substantial and irreversible physical impairment to a woman's major bodily function. (Krichiver ¶ 8). An abortion is mandated to stop a pregnancy that may cause serious consequences to the woman's physical or mental health. (*Id.*; Sassos ¶ 10). For example, Judaism recognizes that an abortion should be allowed if necessary to prevent the mother's mental anguish that could arise from severe physical or mental health issues, even if there is not a physical health risk that is likely to cause substantial and irreversible physical impairments of a major bodily function. (Sassos ¶ 10). Judaism allows for and requires that an abortion be provided if the pregnancy threatens the woman's mental health, for instance if the pregnancy would aggravate psychological problems or cause such problems. (Krichiver ¶ 8).

18. Rabbinic law requires the alleviation of the pain and suffering of the woman if the fetus endangers her physical or mental health. (*Id.* ¶ 8). Jewish law therefore stresses the necessity of protecting the physical and mental health of the mother prior to birth as the fetus is not considered a person. (Sassos ¶ 11; Krichiver ¶ 7).

ii. Islam

19. Islam also does not believe that a fetus is ensouled at the moment of fertilization or conception. (Declaration of Rima Shahid ¶ 7).

20. Although, as in any religion, there are different Islamic schools and views, some Muslim scholars take the position that the fetus does not possess a soul until 120 days after conception. (*Id.* ¶¶ 5, 7). This is based on a tradition in which the Prophet (SAW) mentions that an angel breathes the soul into a fetus by 120 days. (*Id.* ¶ 7).

21. Muslim scholars indicate that within 40 days of conception, it is proper and appropriate to seek an abortion for any reason, including reasons not authorized by S.E.A. 1. (*Id.* ¶ 8).

22. Once the fetus reaches 40 days from conception, conservative Muslim scholars believe that an abortion must be available if there is a pressing need that justifies it in the eyes of Islamic law. (*Id.* ¶ 9). This pressing need includes the physical or mental health of the mother, even if the physical health risk does not involve death or the potential substantial impairment of a major bodily function, and therefore Islam allows abortions, even in situations prohibited by S.E.A. 1 (*Id.*). Thus, in a number of Muslim-majority nations, e.g., Kuwait, Jordan, Qatar, Bahrain, and the United Arab Emirates, abortions are allowed in cases of a risk to woman's mental or physical health. They may also occur in these countries in cases of fetal impairment. (*Id.* ¶ 10).

iii. Unitarian Universalism

23. The Unitarian Universalist community has long supported reproductive justice. (Declaration of Reverend Catherine Josephine Romano Griffin ¶ 7). A core belief of Unitarian Universalists is that every human being has inherent worth and dignity, which is an endowed right bestowed by the Creator. (*Id.* ¶ 8).

24. Denying a pregnant person, the ability to obtain an abortion impinges on this endowed right. (*Id.* ¶ 10). Therefore, being denied the ability to obtain an abortion when a Unitarian Universalist believes the abortion is necessary breaks the covenant that adherents have to honor their own inherent worth and dignity. (*Id.* ¶ 11). In this situation, a Unitarian Universalist is directed to obtain an abortion to maintain the covenant. (*Id.*).

iv. Paganism

25. Paganism is not a specific religious belief, but is an umbrella term that comprises many spiritual belief systems that are polytheistic in nature. (Declaration of J.D. Grove ¶ 4).

26. These spiritual belief systems play similar roles in the lives of Pagans as do monotheistic religions for believers in those religious traditions. (*Id.* ¶ 5).

27. Many Pagans recognize that there are Gods and Goddesses and stress the feminine face of divinity. (*Id.* ¶ 6). Creation and life-giving are seen as feminine acts, and Pagans emphasize the importance of women being free and autonomous as representations of the Goddesses in their many forms. (*Id.* ¶ 7).

28. Because of this, most Pagans demand, as part of their religious and spiritual tradition, that women exercise control over their bodies, free from interference by others. (*Id.* ¶ 8). As part of their religious and spiritual beliefs, therefore, many Pagans believe that in recognition of women's autonomy demanded by their sincere beliefs, women must be allowed to obtain abortions. (*Id.* ¶ 9).

v. Episcopalianism

29. The Episcopal Church also affirms that abortions may occur under situations not allowed by S.E.A. 1. (Declaration of Reverend Julia Whitworth ¶ 5). Specifically, if a pregnant person is in a situation where continuing a pregnancy will cause serious problems to her mental or physical health, even if the health problems are not severe enough to fall within the limited exceptions to the ban on abortions erected by S.E.A. 1, it is religiously permissible for the woman to obtain an abortion and it should be obtained. (*Id.* ¶¶ 5, 8).

30. This is because the wellbeing of the pregnant person is of primary importance. (*Id.*).

31. This is part of the Episcopal Church's recognition that "equitable access to women's health care, including women's reproductive health care, is an integral part of a woman's struggle to assert her dignity and worth as a human being." (*Id.* ¶ 6).

C. The Plaintiffs

i. Anonymous Plaintiff 1

32. Anonymous Plaintiff ("Anon.") 1 is a 39-year-old married woman with one child who resides in Monroe County. (Declaration of Anon. 1 ["Anon. 1 Dec."] ¶¶ 1-3). She is Jewish and her religious beliefs inform her life, including her lifestyle, moral and ethical decision-making, family life, and observance of holidays. (*Id.* ¶ 4). She is active in her synagogue and observes Jewish traditions. (*Id.* ¶ 5-8).

33. Anon. 1's Jewish beliefs include the belief that life begins for the child at its birth. (*Id.* ¶ 9). She also believes, according to Jewish law and teachings, that the life of a pregnant woman, including her physical and mental health and wellbeing, must take precedence over the potential life. (*Id.* ¶ 10). Therefore, according to her Jewish beliefs, if her health or wellbeing—physical, mental, or emotional—were endangered by a pregnancy, pregnancy-related condition, or fetal abnormality, she must terminate the pregnancy. (*Id.*).

34. Anon. 1's first pregnancy resulted in a live birth, but she experienced a variety of pregnancy-related and post-partum complications and health conditions. (*Id.* ¶¶ 14-16).

35. Genetic testing of Anon. 1's subsequent pregnancy revealed that the fetus had a severe non-hereditary chromosomal defect that generally results in the fetus being either

miscarried or stillborn or, if a live birth occurs, results in the child being severely disabled with no more than 10% of the children surviving beyond 12 months. (*Id.* ¶¶ 23-24). The pregnancy put Anon. 1's physical, mental, and emotional health at risk and would have continued to do so even though (1) it would not have resulted in her death or caused a serious risk of substantial and irreversible physical impairment to a major bodily function and (2) may not have resulted in the child dying within three months of birth. (*Id.* ¶¶ 25-26). She obtained an abortion in March of 2022 in accordance with her religious belief that the abortion was required to protect her physical and mental health. (*Id.* ¶¶ 27-28).

36. Anon. 1 would like to have another child. (*Id.* ¶ 31; Deposition of Anonymous Plaintiff 1 ["Anon. 1 Dep."] at 50:5-6). She understands that she is of advanced maternal age and therefore any pregnancy carries with it heightened risk both to herself and to the fetus, including increased occurrence of certain pregnancy-related health conditions and non-hereditary chromosomal fetal abnormalities. (Anon. 1 Dec. ¶ 31). Because of her age, any pregnancy would be high risk, and Anon. 1 is aware that a pregnancy might seriously endanger her health, without necessarily causing death or a serious risk of substantial and irreversible physical impairment of a major bodily function. (*Id.* ¶¶ 12-13). For example, during any pregnancy she would be prone to serious health effects such as high blood pressure that could lead to pre-eclampsia and gestational diabetes. (*Id.* ¶¶ 12, 14, 15, 31, 32).

37. There are many scenarios under which Anon. 1's physical or mental health would be at risk in the pregnancy, such that her religious beliefs would direct her to terminate the pregnancy, but where such a termination would not be permitted by the newly enacted statute. (*Id.* ¶ 33).

38. Individuals of Jewish ancestry also face heightened risks of passing on certain genetic disorders to children, many of which are severe and will result in profound physical and cognitive disabilities and which will result in death prior to adulthood, although they may not do so within the three months following birth. (*Id.* ¶ 13).

39. Anon. 1 is also aware that in other states, where abortion bans have already taken effect, some women have experienced extreme and emergent risks to their physical health because physicians delayed providing necessary medical care, for fear of violating similar statutes. (*Id.* ¶ 34). She believes that her religion instructs her that she cannot imperil her life in that way given that Jewish law instructs her that a fetus is not a life. (*Id.* ¶¶ 34-35).

40. Anon. 1 has ceased having sex with her husband due to her fear of getting pregnant. (Anon. 1 Dep. at 52:2-25).

41. Anon. 1's religious beliefs are sincerely held.

42. Although Anon. 1 and her husband wish to try to have another child, she is unwilling to become pregnant unless she is able to obtain an abortion consistent with her religious beliefs, and she is refraining from becoming pregnant due exclusively to the enactment of S.E.A. 1. (Anon. 1 Dec. ¶ 36; Anon. 1 Dep. at 50:10-16).

43. If S.E.A. 1 were preliminarily enjoined, Anon. 1 imagines that she would resume sexual relations with her husband. (Anon. 1 Dep. at 52:16-17).

ii. Anonymous Plaintiff 2

43. Anonymous Plaintiff 2 is a 30-year-old woman who resides in Allen County and is married with two children. (Declaration of Anon. 2 ["Anon. 2 Dec."] ¶¶ 1-3).

44. She does not belong to a specific religious denomination, but has personal religious and spiritual beliefs that guide her moral and ethical practice and life. (*Id.* ¶ 4). She does not believe in a single, theistic god, but believes that there is within the universe a supernatural force or power that connects all humans and is larger than any individual person. (*Id.* ¶¶ 6-7).

45. Central to her spiritual beliefs is the belief that persons are endowed with bodily autonomy and that the bodily integrity of others should not be infringed upon. (*Id.* ¶¶ 8-9). To do so constitutes a spiritual and moral wrong and inhibits the full expression of a person's humanity. (*Id.* ¶ 9).

46. Anon. 2 believes that, at least prior to viability, a fetus is a part of the body of the mother. (*Id.* ¶¶ 10-11).

47. Central to her religious beliefs is that she maintains spiritual and physical autonomy over her own body, including a fetus, and it is her spiritual obligation to determine whether to remain pregnant. (*Id.* ¶ 12).

48. She believes that if a pregnancy or the birth of another child would not allow her to fully realize her humanity and inherent dignity, she should terminate that pregnancy, and this is so in circumstances which would not be permitted under S.E.A. 1. (*Id.* ¶ 13). Anon. 2 has terminated a pregnancy for precisely this reason in the past. (*Id.* ¶ 14).

49. Anon. 2's religious beliefs are sincerely held.

50. Anon. 2 may in the future become pregnant, and there are therefore circumstances in which her beliefs would require her to terminate a pregnancy, but such termination would not be allowed by S.E.A. 1. (*Id.* ¶ 15).

51. The passage of S.E.A. has caused Anon. 2 significant anxiety about the possibility of an unintended pregnancy and her inability to terminate such a pregnancy under S.E.A. 1. (*Id.* ¶ 16). This anxiety has resulted in a reduction in physical intimacy between Anon. 2 and her husband and in Anon. 2 using birth control methods that she otherwise would not. (Deposition of Anonymous Plaintiff 2 [“Anon. 2 Dep.”] at 55:13-56:16).

52. If S.E.A. 1 were preliminarily enjoined, Anon. 2 would go back to her normal behavior. (Anon. 2 Dep. at 58:23-59:2).

iii. Anonymous Plaintiff 3

53. Anonymous Plaintiff 3 is an unmarried 24-year-old woman who lives in Marion County. (Declaration of Anon. 3 [“Anon. 3 Dec.”] ¶¶ 1-3). She does not have children and does not wish to have children at any time in the near future. (*Id.* ¶ 3).

54. She is Muslim and her understanding of Islam influences many aspects of her life, including her daily activities such as diet and wardrobe. (*Id.* ¶¶ 4-5).

55. She believes, consistent with her understanding of Islam, that life does not begin at conception and that the life of a pregnant woman, including her overall wellbeing, takes precedence over a fetus. (*Id.* ¶¶ 9-10).

56. She holds this belief, among other reasons, because she understands that even among Islam’s strongest beliefs and practices, a person’s physical health and wellbeing is always the priority. (*Id.* ¶ 11).

57. For example, during the holy month of Ramadan, when individuals are commanded to fast between sunrise and sunset, an individual may eat if fasting would harm their health or wellbeing. (*Id.* ¶ 11). This harm need not take the form of a risk of

death or the permanent impairment of a major bodily function—it may take the form of pain or other discomfort. (*Id.* ¶ 12).

58. Therefore, according to her Islamic beliefs, if her health or wellbeing—physical, mental, or emotional—were harmed by a pregnancy or a pregnancy-related condition, she should terminate the pregnancy. (*Id.* ¶ 13).

59. Anon. 3's religious beliefs are sincerely held.

60. There are many circumstances in which such a need might arise, where an abortion would be directed by her religious beliefs but prohibited by the statute, involving risks to her physical or mental health, since the statute only allows for abortion in limited circumstances. (*Id.* ¶¶ 14-15).

61. Anon. 3 has Crohn's disease for which she continuously takes a prescribed immunosuppressant medication and intermittently takes a steroid medication when she has flare-ups. (*Id.* ¶ 16). She understands that women with active Crohn's disease, including herself, have a higher risk of miscarriage and stillbirth, which themselves pose risks to the women's health. (*Id.* ¶¶ 17-18). This disease, in combination with a pregnancy, would also result in significant related risks to her health. (*Id.* ¶ 19). When she has Crohn's flare-ups, it is almost impossible for her to eat, and in the midst of these episodes, she sometimes has to receive intravenous nutrition supplements. (*Id.* ¶ 20). As a result of past flare-ups, she has lost 70-80 pounds over the past three years. (*Id.*). And although steroids are a necessary medication for her during flare-ups, she understands that steroids are not advised during pregnancy. (*Id.* ¶ 21).

62. She is at risk of becoming pregnant, and if she did, she would seek to terminate a pregnancy under circumstances not permitted by S.E.A. 1. (*Id.* ¶ 22). She does not want

to start hormonal birth control, because she is concerned about the potential side effects, particularly in light of her Crohn's disease. (*Id.* ¶ 23).

63. She is therefore abstaining from sexual intercourse, as that is the only way she can ensure that she will not need an abortion that would be prohibited by S.E.A. 1. (*Id.* ¶ 24). She is making this decision solely because of the application of S.E.A. 1. (*Id.* ¶ 25).

64. Without the operation of S.E.A. 1, and if it were preliminarily enjoined, Anon. 3 would once again be able to be intimate. (Deposition of Anonymous Plaintiff 3 ["Anon. 3 Dep."] at 68:9-12).

iv. Anonymous Plaintiffs 4 and 5

65. Anonymous Plaintiffs 4 and 5 are women who live in Monroe County and are married to each other. (Declaration of Anons. 4 and 5 ["Anons. 4 and 5 Dec."] ¶¶ 1-2). They are Jewish and their understanding of Judaism impacts and informs their lives. (*Id.* ¶ 3).

66. They believe, according to Jewish law and teachings, that the life of a pregnant woman, including her physical and mental health and wellbeing, takes precedence over the potential for life embodied in a fetus. (*Id.* ¶ 10). The fetus is not a life. (*Id.* ¶ 9). Therefore, according to their Jewish beliefs, if their health or wellbeing—physical, mental, or emotional—were endangered by a pregnancy, pregnancy-related condition, or fetal abnormality, they would be directed by those beliefs to terminate the pregnancy. (*Id.* ¶ 12).

67. Prior to the passage of S.E.A. 1, Anons. 4 and 5 were planning to use assisted reproductive technologies in order try to become pregnant. (*Id.* ¶ 11). Either individual

could become pregnant, depending on the outcome of the medical tests and procedures required to facilitate such a pregnancy. (*Id.* ¶ 11).

68. If either Anons. 4 or 5 become pregnant, there are circumstances in which their religious beliefs would direct whoever was pregnant to terminate that pregnancy, but where such a termination would be prohibited by S.E.A. 1. (*Id.* ¶ 12). This includes circumstances in which the pregnant person's physical or mental health would be harmed by a pregnancy, but where the pregnancy did not put them at risk of death or permanent impairment of a major bodily function. (*Id.* ¶ 13). It would also include circumstances of a non-fatal fetal anomaly or a fetal anomaly that would be fatal, but not within three months of birth. (*Id.* ¶ 13).

69. Anons. 4 and 5 are also aware that in other states, where abortion bans have already taken effect, some women have experienced extreme and emergent risks to their physical health because physicians were delayed in providing necessary medical care, for fear of violating similar statutes. (*Id.* ¶ 14). They believe that their religion instructs them that they cannot imperil their life in that way. (*Id.* ¶ 14).

70. The religious beliefs of Anons. 4 and 5 are sincerely held.

71. Although Anons. 4 and 5 wish to try to have a child, neither is willing to become pregnant unless they would be able to obtain an abortion consistent with their religious beliefs, and they are therefore refraining from becoming pregnant due exclusively to the enactment of S.E.A. 1. (*Id.* ¶ 16).

72. If the statute was preliminarily enjoined Anon. 5 would feel more secure in being able to use assisted reproductive technologies to attempt to become, or for Anon. 4 to

attempt to become pregnant. (Deposition of Anonymous Plaintiff 5 [“Anon. 5 Dep.”] at 48:17-49:2).

v. Hoosier Jews for Choice

73. Hoosier Jews for Choice is a membership organization comprised of Jewish persons, and it exists to take action within the Jewish community and beyond to advance reproductive justice, support abortion access, and promote bodily autonomy for all people across the state of Indiana. (Declaration of Rabbi Leon Olenick [“Olenick Dec.”] ¶ 3).

74. The organization is made up of persons who believe that under Jewish law and religious doctrine, life does not begin at conception, and that a fetus is considered a physical part of the woman’s body, not having a life of its own or independent right. (*Id.* ¶ 4). The organization endorses this belief. (*Id.* ¶ 5).

75. The organization and its members believe that under Jewish law an abortion is directed to occur if it is necessary to prevent physical or emotional harm to a pregnant person, even if there is not a physical health risk that is likely to cause substantial and irreversible physical impairment of a major bodily function. (*Id.* ¶ 6).

76. Some members of the organization are capable of becoming pregnant and if they became pregnant, could require an abortion that would be prohibited by S.E.A. 1. (*Id.* ¶ 7). Under those circumstances, they would not be permitted to act as directed by their religious beliefs. (*Id.* ¶ 7). Hoosier Jews for Choice has about 128 members. Exhibit 9, HJ4C Membership Demographics. It avers that some members—around 45, Defendants’ Exhibit 10, 30(B)(6) Deposition of Hoosier Jews for Choice Through Amalia Shiffriss (Hoosier Jews Dep.) 53:19—“are capable of becoming pregnant and if they became pregnant, could require an abortion that would be prohibited” by S.E.A. 1. Pltfs.’ Ex. 5,

Hoosier Jews Decl. ¶ 7. A few such members—perhaps six—have “alter[ed] their sexual practices, birth control practices, and family planning as a result of the law and their fear of becoming pregnant.” *Id.* Specifically, according to Hoosier Jews for Choice Steering Committee Chair Amalia Shiffriss, “[a] couple people are having their husbands get vasectomies” while “several” others opted for “arm implants or IUDs.” Defs.’ Ex. 10, Hoosier Jews Dep. 53:7, 8; 10–12. Shiffriss “doubt[s]” these members would alter their efforts at birth control—i.e., reverse vasectomies or remove implants and IUDs—should the Court grant a preliminary injunction, even concluding that she “do[esn’t] think” that they would. *Id.* at 55:9–10. She stressed twice on cross examination that her own “behavior would not change because the preliminary injunction is temporary.” *Id.* at 58:34. Hoosier Jews for Choice believes that “a person’s right to . . . have an abortion . . . should just be between that person and their doctor,” and when asked whether the State has a “role to play in the regulation of abortion,” answered “[w]e don’t believe it should.” *See id.* at 27:8–10; 29:2–11. Shiffriss allowed that a woman pregnant after the point of viability who seeks to terminate her pregnancy to preserve her physical or mental well-being might do so through induction of labor, which may save the child’s life. *Id.* at 61:2–15. Yet she also answered “yes” when asked whether “there be a circumstance where even if induction is available, a woman might, consistent with Jewish law and tradition, want to have an abortion.” *Id.* at 61:10–15.

77. The religious beliefs of the members of Hoosier Jews for Choice are sincerely held, as are the beliefs of the organization.

78. Members are currently altering their sexual practices, birth control practices, and family planning as a result of the law and their fear of becoming pregnant. (*Id.* ¶ 7; Deposition of Hoosier Jews for Choice [“HJ4C Dep.”] at 53:5-22).

D. Beliefs about when life begins are theological or philosophical in nature

79. Facts about the process of human zygotic, embryonic, and fetal development do not answer the question of when life begins. See Declaration of Dr. Peter Schwartz.

80. The “personhood” status of a zygote, embryo, or fetus cannot be stated as matters of fact. See *Id.*

81. For many individuals, such as the Plaintiffs, questions such as the beginning of life or when personhood begins cannot be stated without reference to moral, ethical, spiritual, and religious beliefs. (See *Id.*; Anon. 1 Dec. ¶ 9; Anon. 2 Dec. ¶¶ 10-11; Anon. 3 Dec. ¶ 9; Anons. 4 and 5 Dec. ¶ 9; HJ4C Dec. ¶ 5).

E. Summary of findings of fact

82. The plaintiffs’ religious beliefs are sincerely held and mandate that they receive abortions in circumstances that are prohibited by S.E.A. 1. The plaintiffs are currently altering their sexual and/or reproductive behaviors as a direct consequence of S.E.A. 1 and their behaviors would be different but-for the operation of the statute and would be different if a preliminary injunction of the statute issued.

IV. Conclusions of Law

A. Standing as to Hoosier Jews for Choice

1. The State has challenged whether Hoosier Jews for Choice has standing to bring its claim, conceding that RFRA specifically confers standing on religious organizations, but argues that principles of standing in the federal or abortion context preempt this.

(State's Br. at 28-29). The Plaintiffs argue that RFRA clearly provides Hoosier Jews for Choice have standing.

2. The text of RFRA is states: "a group organized and operated primarily for religious purposes" is a "person" who may raise a RFRA claim. It is undisputed that Hoosier Jews for Choice exists for a religious purpose, and the evidence establishes that this religious purpose is the sole reason for its existence. Ind. Code § 34-13-9-7. Furthermore, the Indiana Court of Appeals has recognized third-party standing specifically in the abortion context. See, e.g., *Planned Parenthood v. Carter*, 854 N.E.2d 853, 870 (Ind. Ct. App. 2006) (allowing Planned Parenthood to raise the interests of its patients); *In re Indiana Newspapers v. Junior Achievement of Central Indiana*, 963 N.E.2d 534, 549 (Ind. Ct. Ap. 2013) (allowing the *Indianapolis Star* to raise the First Amendment interests of an anonymous commentator who made online comments to a news article).

3. The doctrine of standing "asks whether the plaintiff is the proper person to invoke a court's authority". *Horner v. Curry*, 125 N.E.3d 584, 589 (Ind. 2019). "The party challenging the law must show adequate injury or the immediate danger of sustaining some injury." *Id.* The Indiana Supreme Court has held that "the purpose of standing—along with the corollary doctrines of mootness and ripeness—is to ensure the resolution of real issues through vigorous litigation, not to engage in academic debate or mere abstract speculation. *Id.* "Standing implicates the constitutional foundations on which our system of government lies. By requiring a party to show a specific injury, the doctrine limits the judiciary to resolving concrete disputes between private litigants while leaving questions of public policy to the legislature and the executive". *Id.* Indeed, standing "precludes courts from becoming involved ... too far into the provinces of the other

branches.” Jon Laramore, *Indiana Constitutional Developments*, 37 Ind. L. Rev. 929, 930 (2004).

4. This Court finds that Hoosier Jews for Choice has standing to raise its claim under Indiana law caselaw and RFRA.

B. This matter is ripe for adjudication

5. The doctrine of ripeness “asks whether [a] claim is sufficiently developed to merit judicial review.” *Holcomb v. Bray*, 187 N.E.3d 1268, 1285 (Ind. 2022). “There must exist not merely a theoretical question or controversy but a real or actual controversy, or at least the ripening seeds of such a controversy.” *Id.* at 1287 (internal citation omitted).

The issues presented in the case must be “based on actual facts rather than abstract possibilities,” and there must be an adequately developed record on which such issues might be decided. *Id.* In *Holcomb v. Bray*, the Indiana Supreme Court specifically held that Governor Holcomb had demonstrated the controversy was ripe for determination by the Court because he questioned the validity of several statutes. *Id.*

6. The Plaintiffs in this case are doing as did the Governor in *Holcomb v. Bray* and merely challenging the validity of a statute.

7. The undisputed evidence demonstrates, based on actual facts, that the Plaintiffs are suffering injury and altering their behavior at the current time solely because of S.E.A.

1. Anons. 1, 4, and 5 are currently not attempting to become pregnant when—absent the statute—they would. Anon. 3 is currently abstinent when she otherwise would not be. And Anon. 2 has severely decreased her sexual intimacy with her husband and has been required to use birth control measures that she otherwise would not. Members of Hoosier Jews for Choice are altering their sexual and reproductive practices due to S.E.A. 1.

8. The undisputed evidence shows why the Plaintiffs have taken these measures because their only alternative is the unacceptable risk of needing a termination of a pregnancy that would be required by their religious beliefs but prohibited by Indiana law under S.E.A. 1.

9. The Plaintiffs will change their behavior if a preliminary injunction is granted.

10. The Plaintiffs are all experiencing actual and present harm. The Court finds Indiana law does not require the Plaintiffs to become pregnant before they may challenge the law, and this matter is sufficiently ripe for review.

C. The preliminary injunction standard

11. To obtain a preliminary injunction, the moving party must demonstrate by the greater weight of the evidence that: (1) its remedies at law are inadequate, thus causing irreparable harm pending resolution of the substantive action; (2) there exists a reasonable likelihood of success at trial; (3) the threatened injury to the movant outweighs the potential harm to the nonmovant from the granting of an injunction; and (4) the public interest would not be disserved. If the movant fails to prove any of these requirements, the trial court should deny a request for a preliminary injunction. *B&S of Fort Wayne, Inc. v. City of Fort Wayne*, 159 N.E.3d 67, 73 (Ind. Ct. App. 2020) (internal citations omitted). A preliminary injunction is “an extraordinary equitable remedy that should be granted in rare instances” only. *State v. Econ. Freedom Fund*, 959 N.E.2d 794, 801 (Ind. 2011) (internal quotation marks omitted).

D. The plaintiffs have established a likelihood of success on the merits

12. In order to meet their burden to show a likelihood of success on the merits of their claim, Plaintiffs must “establish[] a prima facie case.” *Coates v. Heat Wagons, Inc.*, 942 N.E.2d 905, 911 (Ind. Ct. App. 2011). Plaintiffs are not required to show that they

are entitled to relief as a matter of law in order to obtain preliminary injunctive relief.

Abercrombie & Fitch Stores, Inc. v. Simon Prop. Grp., L.P., 160 N.E.3d 1103, 1109 (Ind. Ct. App. 2020).

i. RFRA

13. Indiana's RFRA provides that:

- (a) Except as provided in subsection (b), a governmental entity may not substantially burden a person's exercise of religion, even if the burden results from a rule of general applicability.
- (b) A governmental entity may substantially burden a person's exercise of religion only if the governmental entity demonstrates that application of the burden to the person:
 - (1) is in furtherance of a compelling governmental interest; and
 - (2) is the least restrictive means of furthering that compelling governmental interest.

Indiana Code § 34-13-9-8. (enacted in 2015).

14. This statute “applies to all governmental entity statutes, ordinances, resolutions, executive or administrative orders, regulations, customs, and usages, including the implementation or application thereof.” Ind. Code § 34-13-9-1. “Governmental entity” includes the whole or part of any department, agency, official, or other persons acting under color of state law as part of state government, political subdivision, or other instrumentalities of government. Ind. Code § 34-13-9-6.

15. The “exercise of religion” that falls within the statute’s ambit “includes any exercise of religion, whether or not compelled by, or central to, a system of religious belief.” Ind. Code § 34-13-9-5. Under Ind. Code § 34-13-9-9, RFRA provides both a defense and private right of action for relief: “[a] person whose exercise of religion has been substantially burdened, or is likely to be substantially burdened, by a violation of this statute may assert the violation or impending violation as a claim or defense in a judicial or administrative proceeding[.]” If a violation is found, Indiana's RFRA allows for

injunctive and declaratory relief as well as damages and attorneys' fees. Ind. Code § 34-13-9-10.

16. The parties agree that there are few reported Indiana cases that have been decided under, or even discuss, Indiana's RFRA. See *Blattert v. State*, 190 N.E.3d 417 (Ind. Ct. App. 2022); *Indiana Family Institute, Inc. v. City of Carmel*, 155 N.E.3d 1209 (Ind. Ct. App. 2020); *House of Prayer Ministries, Inc. v. Rush County Bd. of Zoning Appeals*, 91 N.E.3d 1053 (Ind. Ct. App. 2018), *trans. denied*; *Doe 1 v. Boone Co. Prosecutor*, 85 N.E.3d 902 (Ind. Ct. App. 2017); *Tyms-Bey v. State*, 69 N.E.3d 488, 490-92 (Ind. Ct. App. 2017), *trans. denied*.

17. It should be noted that "[t]he relevant statutory language in Indiana's RFRA largely tracks the language in the federal RFRA statute, so federal caselaw provides some useful guidance. See 42 U.S.C.A. § 2000bb-1." *Blattert*, 190 N.E.3d at 421 n.1. And the text of the federal RFRA, 42 U.S.C. § 2000bb-1, *et seq.*, is "nearly identical" to that of the Religious Land Use and Institutionalized Persons Act ("RLUIPA"), 42 U.S.C. § 2000cc, *et seq.*, so that cases decided under the two federal statutes are used interchangeably. *Lindh v. Warden*, 2013 WL 139699, *8 (S.D. Ind. Jan. 11, 2013) ("Because of their substantial similarity, both RFRA and RLUIPA cases are relied on by the Court interchangeably.").

18. Given the similarity of all three statutes, the Indiana Court of Appeals has freely cited cases applying both RLUIPA and the federal RFRA in interpreting Indiana's RFRA. See *Blattert*, 190 N.E.3d at 421-23 (citing federal RFRA cases *Burwell v. Hobby Lobby Stores, Inc.*, 573 U.S. 682 (2014); *Gonzales v. O Centro Espirita Beneficente Uniao do Vegetal*, 546 U.S. 418 (2006); *U.S. v. Wilgus*, 638 F.3d 1274 (10th Cir. 2011), and

RLUIPA cases, *Holt v. Hobbs*, 574 U.S. 352 (2015); *Smith v. Owens*, 13 F.4th 1319 (11th Cir. 2021); *Fowler v. Crawford*, 524 F.3d 931 (8th Cir. 2008)); see also *House of Prayer Ministries*, 91 N.E.3d at 1064 (noting the similarity between Indiana’s RFRA and RLUIPA in interpreting the Indiana law in light of the United States Supreme Court’s decision in *Hobby Lobby*).

i. S.E.A. 1 imposes a substantial burden on plaintiffs’ religious exercise

19. Religious exercise is substantially burdened if the government “put[s] substantial pressure on an adherent to modify his behavior and to violate his beliefs.” *Thomas v. Bd. of Ind. Emp. Security Division*, 450 U.S. 707, 718 (1981). Under Indiana’s RFRA, “a governmental entity may not substantially burden a person’s exercise of religion, even if the burden results from a rule of general applicability,” unless it “demonstrates that application of the burden to the person” is: (1) “in furtherance of a compelling governmental interest” and (2) “the least restrictive means of furthering that compelling governmental interest.” *Blattert*, 190 N.E.3d at 421, Ind. Code § 34-13-9-8. RFRA does not exempt criminal statutes, so defendants may raise a RFRA defense in criminal prosecutions. *Blattert*, 190 N.E.3d at 421.

20. The Indiana Court of Appeals held in *Blattert* that “A party establishes a prima facie RFRA defense by showing the disputed governmental action substantially burdens a sincerely held religious belief. *Id.*, citing *Burwell v. Hobby Lobby Stores, Inc.*, 573 U.S. 682, 705, 134 S. Ct. 751, 189 L. Ed. 675 (2014). Then the burden shifts to the government to establish that a compelling governmental interest is “satisfied through application of the challenged law ‘to the person’—the particular claimant whose sincere exercise of religion is being substantially burdened.” *Blattert*, 190 N.E.3d at 421; citing

Gonzales v. O Centro Espirita Beneficente Uniao do Vegetal, 546 U.S. 418, 420, 126 S. Ct. 1211, 163 L.Ed.2d 1017 (2006). The government must also establish that the substantial burden is the least restrictive means of furthering that interest. *Blatter*, 190 N.E.3d at 421, Ind. Code § 34-13-9-8; see *Hobby Lobby*, 573 U.S. at 728, 134 S. Ct. 2751.

21. Under Ind. Code § 34-13-9-10(a), if the party asserting RFRA meets its prima facie burden, and the government does not meet its burden, then “the court ... shall allow a defense ... and shall grant appropriate relief against the governmental entity.”

22. This Court finds that the Plaintiffs have satisfied their prima facie burden that they have a defense under RFRA.

23. The State’s primary argument as to substantial burden is that the Plaintiffs’ religious exercise is not substantially burdened because abortion is not a religious practice, “but a secular means to a religious end.” (See State’s Br. at 30). The State also argues that in light of the U.S. Supreme Court’s holding in *Dobbs* “returning to [t]he people and their elected representatives the right to regulate abortion”, *Dobbs*, 142 S. Ct. 2285, and that because the State has a compelling interest in protecting the unborn that this deprives the Plaintiffs of their rights under RFRA.

24. This Court finds that the State’s arguments are nearly identical to those already rejected by the U.S. Supreme Court in *Hobby Lobby*. 573 U.S. 682. In that case, the Supreme Court held that requiring closely-held for-profit corporations to pay for employees’ health coverage, which could include payment for contraceptives that the plaintiffs considered to be abortion-inducing, compelled the owners of the company to engage in conduct that violated their religious beliefs. 573 U.S. at 720. This was so even

though the only activity engaged in by the plaintiffs was the payment of money, rejecting the government’s characterization of this behavior as too attenuated to constitute a religious practice. *Id.* at 725.

25. The Plaintiffs argue that a variety of activities, including those that may be “secular” to some, constitute religious practices, and that the Plaintiffs’ practices are as well. (See Plaintiffs’ Reply Br. at 13-18). The Supreme Court has detailed many activities that—while they may not have religious significance to some people—are religious practices for those who believe. The same is true for the Plaintiffs in this case. See *Holt v. Hobbs*, 574 U.S. 352, 369 (2015) (growth of facial hair); *Church of the Lukumi Babalu Aye, Inc. v. City of Hialeah*, 508 U.S. 520, 525, 547 (1993) (ritual slaughter of animals); *Wisconsin v. Yoder*, 406 U.S. 205, 210-12, 234 (1972) (compulsory education beyond the eighth grade).

26. This Court finds that the Plaintiffs practices regarding abortion are religious in nature: they have established that, under circumstances that would be prohibited by S.E.A. 1, their religious beliefs would compel them to have abortions.

27. The State further contends that even if the Plaintiffs have a religious obligation to obtain an abortion, S.E.A. 1 nonetheless does not burden them, because Plaintiffs are taking steps to prevent the possibility of becoming pregnant.

28. The Court also rejects this argument, as did the Supreme Court in *Sherbert v. Verner*, 374 U.S. 398 (1963), *abrogation on other grounds recognized in Holt*, 574 U.S. at 357. There, the plaintiff’s employment was terminated because she was unwilling to work on Saturday, her religion’s Sabbath. She was unable to find substitute employment due to her religious obligation, as the other available jobs would have required Saturday work. *Id.* at 401. The State denied her unemployment benefits as a result of her “fail[ing.]

without good cause, to accept suitable work when offered.” *Id.* at 401. There, the Court held that the “pressure upon her to forego” her religious practice was unmistakable,” and that the State was forcing her “to choose between following the precepts of her religion” and receiving unemployment. *Id.* at 404. “Governmental imposition of such a choice puts the same kind of burden upon the free exercise of religion as would a fine imposed against [her] for her Saturday worship.” *Id.*

29. Anons. 1, 4, and 5 are avoiding becoming pregnant, even though they would like to have children. Anon. 1 has ceased having sexual intercourse with her husband, and Anon. 2 has severely curtailed sexual activity with her husband. And Anon. 3 has become abstinent. Members of Hoosier Jews for Choice are also altering their sexual and reproductive practices. It is undisputed that all of these actions have been taken solely due to S.E.A. 1, and they are actions that the Plaintiffs do not want to take. They have adopted these practices solely to avoid placing themselves in circumstances that would require them to exercise their religious belief, but where that exercise would be prohibited by S.E.A. 1. The government’s pressure upon them to abandon their religious beliefs is clear.

30. This Court finds that the Plaintiffs have made a *prima facie* showing that they have a likelihood of success on the merits that S.E.A. 1 imposes a substantial burden on Plaintiffs’ religious exercise.

ii. The State has not established a compelling interest in enforcing S.E.A. 1 against the plaintiffs

31. RFRA requires that once a plaintiff demonstrates that the “disputed governmental action substantially burdens a sincerely held religious belief . . . the burden shifts to the government to establish that a compelling governmental interest is ‘satisfied through the

application of the challenged law “to the person”—the particular claimant whose sincere exercise of religion is being substantially burdened.” *Blatter*, 190 N.E.2d at 421 (quoting *O Centro*, 546 U.S. at 420). The government may not simply enunciate a general reason for the statute, as RFRA requires a “more focused inquiry.” *Id.* RFRA demands that there be a “case-by-case consideration of religious exemptions to generally applicable rules.” *Id.* at 436.

32. The State first argues that the interest in preventing abortion is compelling. The State argues that abortion at any gestational age beginning at fertilization “ends the life of an innocent human being” (State’s Br. at 32), and that it has a compelling interest in protecting this class of “vulnerable human beings” from being killed. (*Id.* at 33). The State’s interest is based entirely on the legislative determination that “human physical life” begins when sperm meets egg. Ind. Code § 16-34-2-1.1(a)(1)(E). The State presents as a statement of fact that “it is a simple scientific observation” that “the human fetus is a human being” (State’s Br. at 6), as are zygotes and embryos, (*Id.* at 35).

33. Of course, it is not disputed that human zygotes, embryos, and fetuses are of the human species. In making these factual assertions, the State is therefore attempting to establish as a factual matter when a human comes into being—the “being” part of the phrase “human being.” In so doing, the State seeks to establish (1) that the question of when life begins has been definitively answered by science and medicine, and therefore that any theological opinions regarding this question are either wrong or are rendered irrelevant; and (2) it has a compelling interest in prohibiting the termination of pregnancy from the moment of fertilization forward.

34. The Supreme Court already recognized in *Hobby Lobby* that the question of when life begins is a religious one that the State may not answer legislatively or as a factual matter. 573 U.S. at 720 (taking as the starting point that “the [plaintiffs] have a sincere religious belief that life begins at conception”). The nature of this enduring question and the dispute surrounding it are illustrated by the very fact of the competing affidavits filed by both sides.

35. This Court finds that the question of when life begins is a theological one not a factual question for this Court. The U.S. Supreme Court has held that “the First Amendment forbids an official purpose to disapprove of a particular religion or of religion in general” and government may not act “to benefit religion or particular religions.” *Lukumi Babalu Aye*, 508 U.S. at 532. “The First Amendment mandates governmental neutrality between religion and religion, and between religion and nonreligion.” *Epperson v. Arkansas*, 393 U.S. 97, 104 (1968).

36. In addition, the State may not dictate the parameters of what constitutes a question of religion. As the Supreme Court made clear in the context of the government’s attempt to define religion as necessarily involving belief in a “Supreme Being,” the State may not construct the confines of religious belief and place some things—such as when life begins—outside of it. *United States v. Seeger*, 380 U.S. 163, 183-84 (1965).

37. While the State may question the sincerity of a plaintiff’s religious belief, it may not question the belief’s veracity. The State ignores the fact that “courts have no business addressing whether the religious belief asserted in a RFRA case is reasonable.” *Hobby Lobby*, 573 U.S. at 724. To do so would place a court as the arbiter of the reasonableness and propriety of religious beliefs and would violate the First Amendment. *United States v.*

Ballard, 322 U.S. 78, 86 (1944) (noting that the Free Exercise Clause “embraces the right to maintain theories of life and death and of the hereafter which are rank heresy to followers of the orthodox faiths. . . . Men may believe what they cannot prove The First Amendment does not select any one group or any one type of religion for preferred treatment. It puts them all in that position.”).

38. This Court finds that Indiana, in its own statutes, does not endow zygotes, embryos, and pre-viability fetuses with the legal status of human being.

39. Indiana’s health code does not define a “human being,” but it defines a human embryo as “a human egg cell with a full genetic composition capable of differentiating and maturing into a complete human being.” Ind. Code § 16-18-2-183.5.

40. Indiana’s criminal code defines “human being” as “an individual who has been born and is alive.” Ind. Code § 35-31.5-2-160. For purposes of an action for wrongful death or injury, a “child” is defined as either a child born alive or a fetus after it has attained viability. Ind. Code § 34-23-2-1(b). The Court of Appeals has noted that there is an inherent distinction between a child born alive and a fetus as “the child who has been born has an independent existence outside the mother’s body, and the unborn fetus lives within her body.” *McVey v. Sargent*, 855 N.E.2d 324, 328 (Ind. Ct. App. 2006). In *Humphreys v. Clinic for Women, Inc.*, 796 N.E.2d 247, 255 (Ind. 2003), while the State argued that it had a “valid and compelling” interest in protecting fetal life, the Court concluded that this interest was not strong enough to allow the State to refuse to fund certain abortions.

41. The State relies primarily on *Cheaney v. State*, 285 N.E.2d 265 (Ind. 1972) to support its position that the State has a compelling interest. The *Cheaney* case does not support the State’s statement that life begins at fertilization. First, *Cheaney* was decided

prior to *Roe v. Wade*, 410 U.S. 113 (1973), *overruled by Dobbs v. Jackson Women’s Health Org.*, –U.S.–, 142 S. Ct. 2228 (2022), in which the Supreme Court recognized that a state has an “important and legitimate interest in potential life” that becomes “compelling” at viability. *Id.* at 163. And in *Planned Parenthood of Se. Pa. v. Casey*, 505 U.S. 833 (1992), *overruled by Dobbs*, the Court emphasized that the state’s interests are not compelling prior to fetal viability. 505 U.S. at 846. While *Dobbs* determined that the Constitution does not protect a fundamental liberty interest in abortion, *Dobbs* said nothing to suggest that the nature of the State’s interest has somehow changed. Moreover, no subsequent Indiana case has relied on *Cheaney’s* compelling interest language including *Humphreys*, which cited the State’s reliance on *Cheaney*. In 1972, the Indiana Supreme Court held “that a State interest in what is, at the very least, from the moment of conception a living being and potential human life, is both valid and compelling. *Cheaney*, 285 N.E.2d at 270. However, this Court and other Courts cannot select different theological or religions definitions of conception as such is prohibited under RFRA. For example, Anon. Plaintiffs 1, 4, and 5 practicing the Jewish faith have a sincerely held religious belief that conception begins a birth.

42. This Court must look at the application of the statute to those whose “exercise of religion is being substantially burdened,” *O Centro*, 546 U.S. at 430-31, has led courts applying RLUIPA and the federal RFRA to exempt persons from coverage of otherwise valid laws to allow the persons’ religious beliefs to be accommodated. For example, the Supreme Court held that exemptions should be provided so that plaintiffs could ingest otherwise-prohibited controlled substances, *O Centro*, 546 U.S. at 425-27, 439, or grow a beard that was otherwise prohibited in the prison setting, *Holt*, 574 U.S. at 369-70.

43. The undisputed evidence establishes that the Plaintiffs do not share the State's belief that life begins at fertilization or that abortion constitutes the intentional taking of a human life. To the contrary, they have different religious beliefs about when life begins, and they believe that under certain circumstances not permitted by S.E.A. 1, they would be required to receive abortions. Under the law, the Court finds these are sincere religious beliefs.

44. The State has not asserted a compelling interest in refusing to provide an exception to the Plaintiffs if the law were otherwise enforceable. Indiana has no interest in violating the sincere religious beliefs and exercise of the Plaintiffs, particularly as the Plaintiffs take no issue with the manner in which their religious exercise was accommodated under Indiana's prior abortion law.

45. This Court find that the defendants have failed to satisfy their burden under RFRA to demonstrate a compelling governmental interest, either in general or as applied specifically to Plaintiffs.

iii. The State has not established that S.E.A. 1 is the least restrictive means to achieve its stated interest

46. The Court further finds that if there were a compelling interest which there is not that the Defendants must demonstrate that S.E.A. 1 "is the least restrictive means of furthering [its] compelling governmental interest." Ind. Code § 34-13-9-8(b)(2). "The least-restrictive-means standard is exceptionally demanding and it requires the government to show that it lacks other means of achieving its desired goal without imposing a substantial burden on the exercise of religion by the objecting party." *Holt*, 574 U.S. at 364-65 (internal quotation and citation omitted).

47. The State’s position is that a human life begins at fertilization and that, as a result, it has an interest in preventing the “killing of an innocent human being.” (State’s Br. at 33).

48. A statute is not narrowly tailored if it is underinclusive in scope. *IMDb.com Inc. v. Becerra*, 962 F.3d 1111, 1125 (9th Cir. 2020) (referring to First Amendment analysis). “Underinclusiveness raises serious doubts about whether the government is in fact pursuing the interest it invokes.” *Brown v. Entertainment Merchants Ass’n*, 564 U.S. 786, 802 (2011) (referring to First Amendment analysis). Therefore, “[u]nderinclusiveness can . . . reveal that a law does not actually advance a compelling interest.” *Williams-Yulee v. Florida Bar*, 575 U.S. 433, 449 (2015) (referring to First Amendment analysis).

49. The Plaintiffs argue that S.E.A. 1 is not narrowly tailored and is underinclusive, in that it provides exceptions for some abortions—though not religious exceptions—in circumstances that directly contravene the State’s purported interest.

50. The State argues that abortion, regardless of gestational age of the zygote, embryo, or fetus, is the killing of an innocent human being, and its interest is in preventing that killing. (State’s Br. at 33).

51. However, the statute explicitly allows abortions in circumstances that the State acknowledges constitute the “killing” of an “innocent human being”: for example, where the pregnancy is the result of rape or incest and where the fetus is viable but will not live beyond three months after birth.

52. The State raises several arguments in response to the Plaintiffs’ claims of underinclusiveness. First, the State contends that “[p]ermitting these Plaintiffs—or anyone else—to abort their children in the future would necessarily require the State to forgo its interest entirely.” (State’s Br. at 37). The law explicitly allows some persons to

seek abortions, as the State itself recognizes, “where there is a compelling interest on the other side.” (State’s Br. at 35-36). The State is willing in these instances to “forgo” its interest where it deems the countervailing interest “compelling,” but not where a religious mandate rests on the other side of the balance.

53. The State’s argues to narrowly tailor a religious exemption for the Plaintiffs would “turn entirely on the subjective preferences of individual women who may wish to choose abortion for a wide variety of reasons connected to physical or mental health or even self-actualization. Such a broad exception has no limiting principle and would blow a hole in Indiana’s abortion prohibition.” (State’s Br. at 40).

54. This Court finds that there is a limiting principle, as there is in any case involving religious discrimination: the Plaintiffs’ sincerely held religious beliefs provide the limits.

55. In this case, the State’s arguments unfairly criticize the Plaintiffs’ Religious practices as subjective and minimize the importance of the Plaintiffs’ religious beliefs which are permitted under RFRA. The Plaintiffs’ religious beliefs are no more or less subjective than believing that a human being comes into existence at the moment that a sperm meets an egg or at the moment of birth. In *O Centro*, in refusing to allow the government to prohibit a religious sect from gaining access to a hallucinogen that was otherwise prohibited as a Schedule I substance by the Controlled Substances Act, the Court did not criticize the “subjective preferences” of the members of this small sect. 546 U.S. at 434. Instead, the Court noted that given that there was an exception in the Act for the use of peyote by recognized Indian Tribes, there was no reason to restrict its use to the plaintiffs who had sincere religious needs for the hallucinogen: “if any Schedule I substance is always highly dangerous in any amount no matter how used, what about the

unique relationship with the Tribes justifies allowing their use of peyote?” *Id.* (Court’s emphasis). Similarly, if an abortion always kills a human being, there is no reason not to extend the exceptions in S.E.A. 1 to persons whose sincere religious beliefs compel them to obtain abortions in light of the current exception in S.E.A. 1.

56. Finally, the State argues that the exceptions allowed under S.E.A. 1 do not “reveal sinister treatment of religion” and the law cannot be deemed to be underinclusive because it does not indicate invidious discrimination against religion. (State’s Br. at 36-37). The State does not cite any legal authority for its claim that there must be a “sinister” motive, and this Court finds no legal requirement that the State must have “sinister” motive. It is enough that the State has allowed exceptions to the law in some situations, but not in the religiously mandated situations presented by Plaintiffs. This is invidious discrimination against the religious beliefs to which the State does not subscribe but that the Plaintiffs hold. *See, e.g., Schwartz v. Bhd. of Maint. of Way Employees*, 264 F.3d 1181, 1186 (10th Cir. 2001) (“Discrimination is invidious if based upon impermissible or immutable classification such as race or other constitutionally protected categories, or arises from prejudice or animus.”) (internal quotation and citation omitted).

57. This Court does not find that S.E.A. 1 is the least restrictive means for the government to achieve that interest in light of the Plaintiffs’ sincerely held religious beliefs.

58. This Court further finds that the Plaintiffs are likely to prevail on the merits of their claims that S.E.A. 1, as applied to them, violates RFRA.

E. The other requirements for a preliminary injunction are met

- i. Because the State’s actions violate RFRA, the plaintiffs need not show irreparable harm or a balance of hardships in their favor**

59. As the Court of Appeals has held, “When a motion seeks to enjoin an action that would violate a law or statute, however, the act is considered to case *per se* irreparable harm. when the acts sought to be enjoined are unlawful, the plaintiff need not make a showing of irreparable harm or a balance of the hardship in his favor.” *Short On Cash.Net of New Castle, Inc. v. Department of Financial Institutions*, 811 N.E.2d 819, 823 (Ind. Ct. App. 2004). Should the Court find that the nonmovant has committed such an unlawful act, Indiana law deems the public interest in stopping the activity so great that “the injunction should issue regardless of whether the plaintiff has actually incurred irreparable harm or whether the plaintiff will suffer greater injury than the defendant. *Id* at 823. In other words, where a Court finds that denying a preliminary injunction would permit the nonmovant to continue committing unlawful conduct, the Court need not consider the remaining preliminary injunction factors and instead must issue the relief sought by the movant.

60. In sum, the Plaintiffs maintain that Defendants have violated RFRA with the enactment of S.E.A. 1 and that this “unlawful act[s]” which “constitute[] *per se* irreparable harm for purposes of the preliminary injunction analysis”, *Clay Twp. of Hamilton Cnty. ex rel. Hagan v. Clay Twp. Reg’l Waste Dist.*, 838 N.E.2d 1054, 1063 (Ind. Ct. App. 2005) (quoting *Short On Cash.Net of New Castle, Inc. v. Dep’t of Fin. Insts.*, 811 N.E.2d 819, 823 (Ind. Ct. App. 2004)), and thus should be found to have committed irreparable harm *per se* against them.

61. Since this Court has found that the State’s violation of Plaintiffs’ rights under RFRA occurred with the enactment of S.E.A 1, the Plaintiffs have suffered *per se* irreparable harm and that the balance of harms favors the Plaintiffs. Even though this Court has

concluded that the Plaintiffs are reasonably likely to prevail on their claims that S.E.A. 1 violates RFRA and that per se irreparable harm exists, this Court will address the additional factors necessary to grant a preliminary injunction even though caselaw does not require it.

ii. In the absence of an injunction, the plaintiffs will suffer irreparable harm for which there is no adequate remedy at law

62. Just as in the First Amendment, federal RFRA, and RLUIPA context, the loss of religious freedoms guaranteed by Indiana's RFRA constitutes irreparable harm for which damages are an inadequate remedy. *See, e.g., Opulent Life Church v. City of Holly Springs, Miss.*, 697 F.3d 279, 295 (5th Cir. 2012) (quoting *Elrod v. Burns*, 427 U.S. 347, 373 (1976)) (further citations omitted); *Christian Legal Soc'y v. Walker*, 453 F.3d 853, 859 (7th Cir. 2006); *Jolly v. Coughlin*, 76 F.3d 468, 482 (2d Cir. 1996) (referring to the federal RFRA); *Kikumura v. Hurley*, 242 F.3d 950, 963 (10th Cir. 2001) (same, citing *Jolly*).

63. The Court has concluded that the plaintiffs' religious exercise is being substantially burdened, that they are suffering irreparable harm, and that they would receive relief by the issuance of a preliminary injunction. The State argues that the Plaintiffs would need to bring their claim once they are pregnant and wish to terminate the pregnancy based on their sincere religious beliefs. For the same reasons that this Court concluded that the Plaintiffs' claims are ripe for review, the Court rejects the State's contention that any harm to the Plaintiffs is merely speculative. The Court finds that the Plaintiffs have established irreparable harm as S.E.A. 1 violates their sincerely held religious beliefs.

iii. The balance of harms favors the issuance of a preliminary injunction

64. “Preliminary injunctions are generally used to preserve the status quo as it existed before a controversy, pending a full determination on the merits of the dispute.” *Stoffel v. Daniels*, 908 N.E.2d 1260, 1272 (Ind. Ct. App. 2009) (citation omitted).

65. An injunction will prevent the violation of Plaintiffs’ rights under RFRA while maintaining the status quo that has existed in Indiana for decades regarding abortion.

66. Given that plaintiffs have established that they are likely to succeed on the merits of their claim, “no substantial harm to others can be said to inhere in” granting the injunction. *Déjà vu of Nashville, Inc., v. Metro Gov’t of Nashville*, 274 F.3d 377, 400 (6th Cir. 2001) (referring to a demonstration that a law violates the First Amendment). Instead, an injunction will only force the Defendants to conform their conduct to what is required by RFRA to protect Plaintiffs’ religious rights. The balance of harms favors the Plaintiffs.

iv. The public interest favors the grant of a preliminary injunction

67. When a statute is violated “the public interest is so great that the injunction should issue” regardless of the balance of harms between the parties and the existence of independent irreparable harm. *Short on Cash.Net*, 811 N.E.2d at 823.

68. It is in the public interest to enforce RFRA, and it is in the public interest to do so here. See *Opulent Life Church*, 697 F.3d at 298 (RLUIPA).

v. The preliminary injunction will issue without bond

69. The Defendants do not dispute that no bond should be required, and as there is no evidence that the injunction will cause any monetary damages or injury, no bond is required here. See *Kennedy v. Kennedy*, 616 N.E.2d 39, 44 (Ind. Ct. App. 1993) (internal

citation omitted); *see also*, *Crossman Communities, Inc. v. Dean*, 767 N.E.2d 1035, 1043 (Ind. Ct. App. 2002) (same).

V. Order

For all of the reasons discussed in this Order, the Court finds that S.E.A. 1 substantially burdens the religious exercise of the Plaintiffs and that S.E.A. 1 is not the least restrictive means to achieve a compelling governmental interest. The Court finds that the Plaintiffs have demonstrated by the greater weight of the evidence that the Plaintiffs have a *prima facie* likelihood of success on the merits of their claims, the Plaintiffs will suffer irreparable harm, the balance of harms is in favor of the Plaintiffs and the public interest will not be disserved by granting the Plaintiffs' Motion for Preliminary Injunction to maintain the status quo. The preliminary injunction shall issue without bond.

THEREFORE, the Court **GRANTS** the plaintiffs' Motion for Preliminary Injunction, and hereby **ENJOINS** the Defendants and their officers from enforcing the provisions of S.E.A. 1 against the Plaintiffs.

December 2, 2022

Date



Judge, Marion Superior Court

CC: Counsel of record

<p style="text-align: right;">Page 5</p> <p>1 information; is that correct?</p> <p>2 A Yes, sir.</p> <p>3 Q That was forwarded along to you for</p> <p>4 troubleshooting their issues, answering their questions,</p> <p>5 and otherwise administering the account, correct?</p> <p>6 A Yes, exactly.</p> <p>7 Q Okay. In August of 2025, we have an email</p> <p>8 provided to us through discovery, if I can share the</p> <p>9 screen. Let's see.</p> <p>10 MR. SHANNON: Matt, you said 2025.</p> <p>11 MR. KEZHAYA: Thank you.</p> <p>12 MR. SHANNON: I think you meant 2020.</p> <p>13 MR. KEZHAYA: Correct, August 25 of 2020.</p> <p>14 Q (BY MR. KEZHAYA) You sent this email, it's LADV</p> <p>15 262, in which you request of Sonja Barnett and Sam Cooper</p> <p>16 their top ten available locations in the markets or areas</p> <p>17 listed below. Is that a fair summary of this email?</p> <p>18 A Yes.</p> <p>19 Q Who is Sonja Barnett and Sam Cooper?</p> <p>20 A They would be Lamar colleagues out of the</p> <p>21 Arkansas office. I'm not exactly sure of their titles,</p> <p>22 but they would be people that I would go to to retrieve</p> <p>23 locations and proposal information for those markets</p> <p>24 listed in Arkansas.</p> <p>25 Q Okay. Do you remember how you came to these</p>	<p style="text-align: right;">Page 7</p> <p>1 Q Okay. You say you presume. Tell me a little</p> <p>2 bit more about that.</p> <p>3 A It was one phone conversation.</p> <p>4 Q Okay. So it was definitely one phone</p> <p>5 conversation. It's just that we have the three calendar</p> <p>6 invites. Presumably it just got moved around; is that</p> <p>7 fair to assume?</p> <p>8 A Yes.</p> <p>9 Q Okay. Do you remember the substance of that</p> <p>10 phone conversation?</p> <p>11 A I do not.</p> <p>12 Q So let's take you back to September 2nd. The</p> <p>13 best that we have from written discovery is this email</p> <p>14 beginning at LADV 371. Yeah, LADV 371. We have an</p> <p>15 exchange of emails, it looks like, beginning on</p> <p>16 September 1st. Let's see here. On September 1st at 3:02</p> <p>17 you ask Arif if he has any questions that you can help</p> <p>18 answer. Jacqueline responds asking if y'all could set up</p> <p>19 a time to talk through it. You say, "Would 1 p.m. Eastern</p> <p>20 time work?" And she says "Sure." And that's the best --</p> <p>21 that's the best that the written record establishes here,</p> <p>22 so it's really down to your recollection.</p> <p>23 MR. KEZHAYA: Beg your pardon?</p> <p>24 MR. SHANNON: Object to the form.</p> <p>25 MR. KEZHAYA: Okay.</p>
<p style="text-align: right;">Page 6</p> <p>1 three locations, Little Rock, Fayetteville, and Rogers?</p> <p>2 A I would -- I don't recall specifically, but it</p> <p>3 would have had to have come from somebody at SeedX.</p> <p>4 Q Okay. So did you have a phone conversation with</p> <p>5 anyone at SeedX before August 25, or was that in writing?</p> <p>6 A No.</p> <p>7 Q Well, it had to -- it had to have come from</p> <p>8 SeedX, so it was either by phone call or in writing, I</p> <p>9 presume? Is that --</p> <p>10 A It would've had to have been via email, I</p> <p>11 presume. I don't recall exactly where we got the Arkansas</p> <p>12 information from.</p> <p>13 Q That's no problem.</p> <p>14 A I didn't have (inaudible) with anybody.</p> <p>15 Q That's no problem.</p> <p>16 We have a few different calendar invites that</p> <p>17 were produced. I'm going to pull each of them up in</p> <p>18 sequence. All right, so first in time is this one for</p> <p>19 September 2nd at 11 a.m. between you and Jacqueline</p> <p>20 Basulto, Jacqueline at SeedX. This is LADV 375. The</p> <p>21 second in time is for 11:30, and that's at LADV 377, and</p> <p>22 third we have another one at 1 p.m. for 378. Do you</p> <p>23 remember how many phone calls you had with Jacqueline on</p> <p>24 September 2nd?</p> <p>25 A I would presume one.</p>	<p style="text-align: right;">Page 8</p> <p>1 Q (BY MR. KEZHAYA) So emphasizing the importance</p> <p>2 of your recollection, we know that a phone call happened</p> <p>3 on September 2nd, and it's your testimony that you do not</p> <p>4 recall what was said during that phone call?</p> <p>5 A Correct.</p> <p>6 Q Okay. Do you have any contemporaneous business</p> <p>7 records, like journal entries, time logs, anything like</p> <p>8 that that could help to refresh your recollection?</p> <p>9 A No.</p> <p>10 Q Okay. Do you in the course of your regular</p> <p>11 business keep track of prospective customers when they</p> <p>12 come in, what's disclosed or what have you?</p> <p>13 A No.</p> <p>14 Q Okay. To reiterate, importantly as it pertains</p> <p>15 to this case, you have nothing that would help to refresh</p> <p>16 your recollection as to what happened during that phone</p> <p>17 call; is that correct?</p> <p>18 A Correct.</p> <p>19 Q Okay. What we do know after September 2nd you</p> <p>20 have an email to a Colleen Baird. Who is Colleen Baird?</p> <p>21 A Colleen would be a Lamar colleague that was</p> <p>22 helping facilitate with the Arkansas information that I</p> <p>23 was presenting to SeedX.</p> <p>24 Q Okay. So on September 3rd at 6:47 a.m. you</p> <p>25 emailed her saying, "Hey, Colleen, took a call with</p>

<p style="text-align: right;">Page 9</p> <p>1 Jacqueline yesterday. See below for info that she shared</p> <p>2 after our call regarding NE inventory." What is NE in</p> <p>3 this context?</p> <p>4 A I believe that was a typo, and that would be a</p> <p>5 call regarding Arkansas inventory. I think NE would have</p> <p>6 been referring to Nebraska.</p> <p>7 Q Okay.</p> <p>8 A I think it's a typo.</p> <p>9 Q So scrolling down, we see at 10:58 p.m. the day</p> <p>10 before, Jacqueline emailed you. Let me just skim so I can</p> <p>11 summarize. I can't really summarize, so I'll just read it</p> <p>12 in full.</p> <p>13 "Hi, Tom, hope all is well. As promised here</p> <p>14 are the areas we are interested in in both the</p> <p>15 Indianapolis area and the Little Rock area markets. I'd</p> <p>16 like to get an estimate for four billboards on the highway</p> <p>17 paths I highlighted in the screenshots. Perhaps we can</p> <p>18 talk again, or you can help me figure out which ones and</p> <p>19 the price. I'm also attaching our past campaign with</p> <p>20 Lamar to show you what creative looked like in the past.</p> <p>21 Looking forward to hearing from you."</p> <p>22 She emphasizes twice that this is a past</p> <p>23 campaign. We see here this is a picture of a billboard.</p> <p>24 It says, "Never be hit in school again. Exercise your</p> <p>25 religious rights. The Satanic Temple, Protect Children</p>	<p style="text-align: right;">Page 11</p> <p>1 the record, 455, there is an email exchange between you</p> <p>2 and Jacqueline again about having a follow-up phone call.</p> <p>3 Let's see here. It says either today or Monday. You</p> <p>4 respond after four would be best. Do you remember having</p> <p>5 a phone call with Jacqueline on either September 4th or</p> <p>6 whatever the following Monday was?</p> <p>7 A September 4th I recall.</p> <p>8 Q Okay. Do you remember the subject of that</p> <p>9 discussion?</p> <p>10 A I do not.</p> <p>11 Q Okay. Do you remember the contents of that</p> <p>12 discussion?</p> <p>13 A I do not.</p> <p>14 Q Okay. But you definitely had a conversation</p> <p>15 with her on September 4th?</p> <p>16 A Yes, sir.</p> <p>17 Q Okay. Do you remember anything about that</p> <p>18 discussion at all?</p> <p>19 A No.</p> <p>20 Q Is your memory based off of looking at this</p> <p>21 email right now?</p> <p>22 A Yes.</p> <p>23 Q Okay. So removing this email from the equation,</p> <p>24 you don't have an independent recollection of a phone</p> <p>25 conversation with Jacqueline Basulto on September 4th; is</p>
<p style="text-align: right;">Page 10</p> <p>1 Project.com." Have you seen this picture before?</p> <p>2 MR. SHANNON: Object to the form.</p> <p>3 Q (BY MR. KEZHAYA) Tom, have you seen this</p> <p>4 picture before?</p> <p>5 A Yes.</p> <p>6 Q All right, first of all, did I accurately recite</p> <p>7 the language of the email and describe properly the</p> <p>8 picture?</p> <p>9 MR. SHANNON: Object to the form.</p> <p>10 Q (BY MR. KEZHAYA) Please answer the question.</p> <p>11 A Yes.</p> <p>12 Q For the benefit of a clear record, this is at</p> <p>13 LADV 407. So you have seen this picture before. Does</p> <p>14 this picture help -- does this picture and this email, do</p> <p>15 they help refresh your recollection as to the conversation</p> <p>16 on September 2nd?</p> <p>17 A I mean, I would venture to guess that</p> <p>18 conversation based on this email clarified the interest in</p> <p>19 Indianapolis and Little Rock.</p> <p>20 Q Okay. But you're basing your statement upon the</p> <p>21 email. In absence of this email, do you have a</p> <p>22 recollection, or are you just speculating based off what</p> <p>23 you're reading here?</p> <p>24 A I'm speculating based on what I'm reading.</p> <p>25 Q Okay. On September 4, this is, for benefit of</p>	<p style="text-align: right;">Page 12</p> <p>1 that correct?</p> <p>2 A I remember where I was when I got the phone</p> <p>3 call. I don't remember the contents of it.</p> <p>4 Q Okay, so you definitely had a phone call. You</p> <p>5 do distinctly recall that there was a phone call?</p> <p>6 A Yes.</p> <p>7 Q Where were you when you received the phone call?</p> <p>8 A In Plainfield, Indiana.</p> <p>9 Q I'm sorry, you were where?</p> <p>10 A In Plainfield, Indiana.</p> <p>11 Q Okay. What were you doing in Plainfield,</p> <p>12 Indiana?</p> <p>13 A That's where I live.</p> <p>14 Q Okay. So were you at your house?</p> <p>15 A I was in the car with my family.</p> <p>16 Q Okay. Do you remember how long the phone call</p> <p>17 was?</p> <p>18 A No.</p> <p>19 Q Did you take the phone call over the car</p> <p>20 speakers?</p> <p>21 A No.</p> <p>22 Q All right. At some point during all of this,</p> <p>23 Jacqueline must have informed you that this billboard is</p> <p>24 for The Satanic Temple; is that correct?</p> <p>25 A Correct.</p>

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1 Q Is that -- is that statement based solely off of
2 this email, or do you have a recollection independent of
3 the email?
4 A The email would be the best recollection of it.
5 Q So to clarify a little bit, when I'm asking you
6 about your recollection, removing the email from the
7 equation, do you have a recollection about the subject of
8 this dispute?
9 MR. SHANNON: Object to the form.
10 Q (BY MR. KEZHAYA) Please answer the question.
11 A No.
12 Q You have no recollection of the subject of this
13 dispute?
14 MR. SHANNON: Subject of the dispute, Matt,
15 that's my objection to the form.
16 MR. KEZHAYA: Okay.
17 MR. SHANNON: That could be a whole lot of
18 stuff.
19 MR. KEZHAYA: Yeah, let me rephrase.
20 Q (BY MR. KEZHAYA) Removing emails and documents
21 from the equation, do you remember the billboard matter
22 between TST and Lamar?
23 A No.
24 Q You don't remember negotiating the contract,
25 correct?

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1 A Prior to this -- I'm sorry, can you clarify the
2 question?
3 Q Do you recall negotiating the contract between
4 TST and Lamar?
5 A Yes.
6 Q Okay. Do you recall having conversations with
7 Jacqueline, not email conversations but speaking
8 conversations? Do you recall having those?
9 A I recall one phone conversation.
10 Q Okay. And that was the September 4th
11 conversation, correct?
12 A Was that Friday September 4th? Whatever one was
13 on the Friday is the one that I recall.
14 Q Yes, there was one on September 2nd.
15 A I do not recall that one. I remember the Friday
16 call.
17 Q Okay. But you don't recall the Wednesday call?
18 A Correct.
19 Q Do you recall -- well, actually you must have
20 had a Wednesday call because your email says that you
21 talked to Jacqueline the day before.
22 MR. SHANNON: Object to the form.
23 Q (BY MR. KEZHAYA) Yeah, took a call with
24 Jacqueline yesterday. This is, once again, LADV 407.
25 All right. Skipping ahead to mid-September, and

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1 we're looking at LADV 616, there's an email thread after
2 the September 4 conversation in which you ask for sharing
3 of the creative that is awaiting approval. Do you
4 remember the issue of creative awaiting approval with TST?
5 A I believe there was a prior email where
6 Jacqueline had stated that she was awaiting approval from
7 TST, which would lead me to ask, can you share what more
8 are you waiting on?
9 Q Okay. Then moving down, then, to number 576, I
10 think this is the email you're referring to, Jacqueline
11 emails you saying that she has no problem signing. Would
12 you agree with me that that's in reference to the
13 contract, she has no problem signing the contract, and
14 that she's just waiting to hear on creative approval now;
15 is that correct?
16 A Correct.
17 Q So as of September 11th, you understood that
18 creative was not final and ready for approval by Lamar; is
19 that correct?
20 A Correct.
21 Q Okay. Going back to -- yeah, this is 616. So
22 going back to 616, you asked for any updates as to sharing
23 the creative. This is four days later, correct?
24 A What was the original date of the email?
25 Q The prior email is dated September 11th, once

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1 again referencing 576. Going back to 616, this one is
2 September 15th, so four days later you're asking for an
3 update, correct?
4 A Correct.
5 Q Okay. Skipping ahead a few days, there's an
6 intervening exchange in which she says that -- or
7 actually, rather, on September 17th you're once again
8 checking in on approvals. She says, "Is it possible to
9 push it out?" You say you cannot push it out anymore; is
10 that correct?
11 A Correct.
12 Q What was the issue with pushing it out further?
13 A The contract that was signed had specific
14 service dates originally. We had already adjusted the
15 service dates because we were waiting for approvals, since
16 we had the space reserved, which would be why we wouldn't
17 be able to extend or push out the contract any further.
18 Q Okay. Was it not possible to just cancel the
19 contract and push out the contract further, or was there a
20 business reason that you couldn't push it out?
21 A I don't recall.
22 Q Okay. All right, skipping ahead now to
23 September 22, this is LADV 774, there was an intervening
24 exchange where Jacqueline provides on September 21st the
25 designs for approval. On September 21st about 15 minutes

<p>Page 17</p> <p>1 later, you say, "The designs are rejected. See attached</p> <p>2 copy acceptance policy." So far are we in agreement with</p> <p>3 the summaries of these emails?</p> <p>4 MR. SHANNON: Object to the form.</p> <p>5 Q (BY MR. KEZHAYA) Tom?</p> <p>6 A Can you repeat the question?</p> <p>7 Q Going back to September 21st, Jacqueline</p> <p>8 provides you four proposed designs, correct?</p> <p>9 A Correct.</p> <p>10 Q Okay. Actually, let's see here. Okay, backing</p> <p>11 up a little bit further, September 15th she first proposes</p> <p>12 five designs, correct?</p> <p>13 A Correct.</p> <p>14 Q I didn't hear you. Was that a correct?</p> <p>15 A Yes, that's correct. Sorry.</p> <p>16 Q To which you respond, you're going to have to</p> <p>17 get them approved on your end, correct?</p> <p>18 A Yes.</p> <p>19 Q She clarifies that these are previously a</p> <p>20 billboard -- previously approved billboards that were ran</p> <p>21 in the past, correct? Tom?</p> <p>22 MR. SHANNON: Object to the form.</p> <p>23 A We had never -- the five designs that were</p> <p>24 presented there were not approved.</p> <p>25 Q (BY MR. KEZHAYA) Correct, yes. She says the</p>	<p>Page 19</p> <p>1 correct?</p> <p>2 A Yes.</p> <p>3 Q Okay. Who at the corporate office is</p> <p>4 responsible for accepting or rejecting copy?</p> <p>5 A Hal Kilshaw.</p> <p>6 Q Okay. Did you ever have any phone conversations</p> <p>7 with Hal Kilshaw?</p> <p>8 A No.</p> <p>9 Q Did you have any phone conversations with Tom</p> <p>10 Gibbens?</p> <p>11 A No.</p> <p>12 Q Did you have any phone conversations with Whit</p> <p>13 Weeks?</p> <p>14 A No.</p> <p>15 Q And to clarify all these, you're saying no, but</p> <p>16 to be more precise, when I'm asking about phone</p> <p>17 conversations, I'm saying phone conversations with regard</p> <p>18 to this particular topic, The Satanic Temple billboards.</p> <p>19 Are we in accord with that understanding?</p> <p>20 A Yes.</p> <p>21 Q Okay. So on September 21st Jacqueline provides</p> <p>22 now four designs and asks, "What is Lamar's criteria for</p> <p>23 approving billboard messaging?" Correct?</p> <p>24 A Co.</p> <p>25 Q Okay. To which you provide the copy acceptance</p>
<p>Page 18</p> <p>1 others were previously, because you had said previously --</p> <p>2 let's back up.</p> <p>3 On the September 15th at 9:51 email, you say the</p> <p>4 content is totally different than what we had originally</p> <p>5 approved, correct?</p> <p>6 A Yes.</p> <p>7 Q To which she responds, the others, referring to</p> <p>8 the content previously, were previously approved</p> <p>9 billboards that we ran in the past, correct?</p> <p>10 A Yes.</p> <p>11 Q Okay. So then going back to September 17th, you</p> <p>12 check in on approvals, correct?</p> <p>13 A Requesting approval from her client to us since</p> <p>14 those didn't appear to be approved.</p> <p>15 Q Okay. Was there an intervening phone</p> <p>16 conversation between September 15th and September 17th?</p> <p>17 A No.</p> <p>18 Q Can you remember any other emails between y'all</p> <p>19 between September 15th and September 17th?</p> <p>20 A I don't recall.</p> <p>21 Q Okay. And then that brings us back up to the</p> <p>22 earlier conversation about we can't push it out any</p> <p>23 further, to which you respond the corporate office has</p> <p>24 rejected all copy pending approval. The original design</p> <p>25 you shared was approved but not the newest versions,</p>	<p>Page 20</p> <p>1 paragraph six in the contract, correct?</p> <p>2 A Correct.</p> <p>3 Q Okay. Did you otherwise provide her any</p> <p>4 clarification as to what the precise nature of the issue</p> <p>5 was?</p> <p>6 A Any information that I provided to her related</p> <p>7 to content was relayed from our -- from Hal.</p> <p>8 Q Let's see if I have it. So for primarily my</p> <p>9 benefit, we're looking at 774 right now. Rewinding one</p> <p>10 day to September 21st, we're now looking number 743, the</p> <p>11 first you heard that the copy was rejected was on</p> <p>12 September 21st, correct?</p> <p>13 A Correct.</p> <p>14 Q Okay. And the information that you were</p> <p>15 provided was solely these are false and misleading so no</p> <p>16 on all of them, correct?</p> <p>17 MR. SHANNON: Object to the form.</p> <p>18 Q (BY MR. KEZHAYA) Correct?</p> <p>19 A Yes.</p> <p>20 Q This comes from an email from Hal Kilshaw dated</p> <p>21 September 15th that you were not provided, correct?</p> <p>22 A Yes.</p> <p>23 Q Well, you were provided, but you weren't</p> <p>24 provided it immediately. You weren't provided it until</p> <p>25 September 21st, correct?</p>

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1 Q Any adverse employment consequence whatsoever,
2 did you receive any?
3 A No.
4 Q All right. Is there -- is there anything that
5 you want to clarify or correct about your testimony today?
6 MR. SHANNON: Object to the form.
7 A No.
8 Q (BY MR. KEZHAYA) Going back to the September 2
9 call, is it your firm testimony that you have no
10 recollection of the phone call that happened on
11 September 2 between you and Jacqueline Basulto?
12 MR. SHANNON: Object to the form.
13 A Correct.
14 MR. KEZHAYA: Give me just a second.
15 (Short pause on the record)
16 I have no further questions.
17 MR. SHANNON: This is Mike Shannon.
18 CROSS EXAMINATION
19 BY MR. SHANNON:
20 Q Tom, in your position as an account executive,
21 did you have any authority to bind Lamar to a contract?
22 A No.
23 MR. SHANNON: No more questions.
24 REDIRECT EXAMINATION
25 BY MR. KEZHAYA:

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1 Q You had no authority to bind Lamar to a
2 contract?
3 A Correct.
4 Q Is it ordinary in your business to have an
5 Indiana salesperson contract for non-Indiana billboards?
6 A Yes.
7 Q Okay. Tell me about that normal process.
8 A Internal process, if I had an inquiry for
9 Arkansas, I would reach out to their management team with
10 the details of the RFP, they would submit locations,
11 rates, photos, et cetera for me to then pass along to
12 present to the client.
13 Q The client being in this case The Satanic
14 Temple?
15 A SeedX.
16 Q For The Satanic Temple, correct?
17 A Correct.
18 Q And it was fully disclosed to you on the front
19 end that this was a marketing company that was contracting
20 for The Satanic Temple, correct?
21 A Incorrect.
22 Q Incorrect? Tell me why that's incorrect.
23 A Meaning the inquiry, the original inquiry that I
24 was forwarded from my management team just explained who
25 SeedX was and what they were looking for. It did not

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1 identify who the advertiser was.
2 Q Okay. I'm going to take you to an email from
3 you to Sandy Archer. This is number 526 in which you
4 state, "Please add advertiser to this customer number, The
5 Satanic Temple. Thanks."
6 A Uh-huh.
7 Q So it's your testimony right now that The
8 Satanic Temple was not advertising with Lamar?
9 MR. SHANNON: Object to the form.
10 Mischaracterizes his testimony.
11 MR. KEZHAYA: Mike, he can speak for himself.
12 MR. SHANNON: Okay.
13 MR. KEZHAYA: No speaking objections, all right?
14 Q (BY MR. KEZHAYA) Is it your testimony, Tom,
15 that this email right here is mischaracterizing to Sandy
16 Archer as to who is advertising with Lamar?
17 MR. SHANNON: Object to the form.
18 A The original email that we got in late August
19 from SeedX did not identify Satanic Temple as the
20 advertiser.
21 Q (BY MR. KEZHAYA) I'm not asking about the
22 original email from SeedX. My question to you was whether
23 it was disclosed to you on the front end before the
24 contract was entered into that this was for The Satanic
25 Temple, yes or no?

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1 A Yes.
2 Q And in fact, it was disclosed that it was The
3 Satanic Temple, correct?
4 A Yes.
5 Q Okay. Taking us back now to number 530,
6 Northwest Arkansas is going to be producing the billboards
7 at issue, correct?
8 A Correct.
9 Q Why was Northwest Arkansas producing billboards
10 that were going to be placed in Arkansas if you had no
11 authority to bind Lamar in contract to place those
12 billboards?
13 MR. SHANNON: Object to the form.
14 A Can you repeat the question?
15 Q (BY MR. KEZHAYA) Why was Northwest Arkansas
16 producing billboards for emplacement in Arkansas if you
17 had no authority to contract on behalf of Lamar to place
18 the billboards in Arkansas?
19 MR. SHANNON: Object to the form. Go ahead.
20 A Any account executive, we can turn in any
21 contract at any time, but until a local general manager,
22 vice president approves that contract does it become
23 binding.
24 Q (BY MR. KEZHAYA) Okay. So it's not really you
25 who's contracting, then; it's really your general manager

<div>1 CERTIFICATE</div> <div>2 STATE OF ARKANSAS)</div> <div>3) SS:</div> <div>4) COUNTY OF WASHINGTON)</div> <div>5 I, Mike Washkowiak, Certified Court Reporter</div> <div>6 within and for the State of Arkansas, do hereby certify</div> <div>7 that the above-named THOMAS HILL was by me first duly</div> <div>8 sworn to testify the truth, the whole truth, and nothing</div> <div>9 but the truth, in the case aforesaid; that the above and</div> <div>10 foregoing deposition was by me taken and transcribed</div> <div>11 pursuant to agreement, and under the stipulations</div> <div>12 hereinbefore set out; and that I am not an attorney for</div> <div>13 nor relative of any of said parties or otherwise</div> <div>14 interested in the event of said action.</div> <div>15 IN WITNESS WHEREOF, I have hereunto set my hand</div> <div>16 and official seal this 8th day of February, 2023.</div> <div>17 </div> <div>18 MIKE WASHKOWIAK, CCR</div> <div>19 State of Arkansas, No. 654</div> <div>20</div> <div>21</div> <div>22</div> <div>23</div> <div>24</div> <div>25</div>	<div>Page 37</div>

<div>Page 1</div> <div>1IN THE UNITED STATES DISTRICT COURT 2FOR THE WESTERN DISTRICT OF ARKANSAS 3FAYETTEVILLE DIVISION 4THE SATANIC TEMPLE, INC., 5Plaintiff, 6vs. No. 5:22-CV-5033 7LAMAR ADVANTAGE GP COMPANY, LLC ("LAMAR-INDIANA"); LAMAR 8ADVANTAGE HOLDING COMPANY ("LAMAR-ARKANSAS"); and LAMAR 9ADVERTISING COMPANY ("LAMAR-HQ"), 10Defendants. 11 12VIDEOTAPED DEPOSITION OF THOMAS GIBBENS 13TAKEN ON BEHALF OF THE PLAINTIFF 14ON FEBRUARY 1, 2023, BEGINNING AT 12:58 P.M. 15ALL PARTIES APPEARING REMOTELY 16REPORTED BY KERRI PIANALTO, CCR 17 18APPEARANCES: 19By videoconference on behalf of the PLAINTIFF 20Matthew A. Kezhaya 21CROWN LAW 22100 S. 5th Street, Suite 1900 23Minneapolis, Minnesota 55402 24612-276-2216 25matt@crow.n.law By videoconference on behalf of the DEFENDANTS Sarah Keith-Bolden QUATTLEBAUM, GROOMS & TULL, PLLC 111 Center Street, Suite 1900 Little Rock, Arkansas 72201 501-379-1700 sbolden@ggtlaw.com Videographer: Sean Shell</div>		<div>Page 3</div> <div>1THE VIDEOGRAPHER: This is the videotaped 2deposition of Thomas Gibbens taken on behalf of the 3plaintiff in the matter of The Satanic Temple, 4Incorporated, versus Lamar Advantage GP Company, LLC, et 5al., filed in the United States District Court for the 6Western District of Arkansas, Fayetteville Division, case 7number 5:22-CV-5033. This deposition is being held via 8web conference on Wednesday, February 1st, 2023. We're on 9the record at 12:58 p.m. 10Will counsel please state their appearances for 11the record. 12MR. KEZHAYA: This is Matt Kezhaya appearing on 13behalf of The Satanic Temple. 14MS. KEITH-BOLDEN: Sarah Keith-Bolden. 15THE WITNESS: Thomas Gibbens. 16MS. KEITH-BOLDEN: Let's go off the record for a 17minute. 18THE VIDEOGRAPHER: Yes, we're off the record at 1912:59 p.m. 20(Short break from 12:58 p.m. to 1:03 p.m.) 21THE VIDEOGRAPHER: We're back on the record at 221:03 p.m. 23The court reporter will now please swear in the 24witness. 25WHEREUPON,</div>
<div>Page 2</div> <div>1INDEX 2Page 3Direct Examination by Mr. Kezhaya 4 4 5EXHIBITS 6Number Description Page 71 Bates Numbers LADV000195 - LADV000197 8 82 Bates Numbers LADV000046 - LADV000050 7 93 Bates Numbers LADV000633 - LADV000638 9 10 11STIPULATIONS 12It is stipulated that the deposition of THOMAS 13GIBBENS may be taken pursuant to agreement and in 14accordance with the Federal Rules of Civil Procedure on 15February 1, 2023, before Kerri Pianalto, CCR. 16 17 18 19 20 21 22 23 24 25</div>		<div>Page 4</div> <div>1THOMAS GIBBENS, 2after having been first duly sworn, deposes and says in 3reply to the questions propounded as follows, to-wit: 4DIRECT EXAMINATION 5BY MR. KEZHAYA: 6Q Please state your name for the record. 7A Thomas Gibbens. 8Q And, Thomas, take me back to September of 2020, 9what was your job title? 10A 2020, I'm thinking vice president -- vice 11president and territory manager. 12Q And was that for Lamar? 13A For Lamar Advertising. 14Q Okay. Are you still at Lamar now? 15A I am. 16Q Okay. What is your job title now? 17A Senior vice president. 18Q Okay. 19A And territory manager. 20Q Okay. Is there a substantive difference between 21then and now? 22A Not really. It was just a title change. 23Q Okay. So focusing our attention then in 24September of 2020, what were your day-to-day job tasks? 25A Day to day was running the overall operation of</div>

<p style="text-align: right;">Page 5</p> <p>1 Lamar Little Rock daily is my primary responsibility and</p> <p>2 oversight to other offices in Arkansas and Louisiana.</p> <p>3 Q Okay. And in the course of this job duties --</p> <p>4 in the course of these job duties, was overseeing the copy</p> <p>5 part of your tasks?</p> <p>6 A No. The overseeing of the copy, the final</p> <p>7 overseeing of copy goes through Hal Kilshaw.</p> <p>8 Q Was Hal Kilshaw the only person who oversaw copy</p> <p>9 posted on Lamar billboards?</p> <p>10 A Any copy that we sent to him for review.</p> <p>11 Q But in terms of a group, was he part of a group</p> <p>12 or was it just him?</p> <p>13 A I'm not -- I'm not familiar once we send it to</p> <p>14 him what the process is.</p> <p>15 Q Okay. I'm going to direct your attention to a</p> <p>16 particular contract, number 3482055, if I can figure out</p> <p>17 how to share screen. Oh, I cannot share screen. There we</p> <p>18 go. All right. And for benefit of the record, this is</p> <p>19 LADV Number 195 through 197. This is a contract that</p> <p>20 my -- my computer says Zoom quit unexpectedly. Can you</p> <p>21 all still see and/or hear me?</p> <p>22 A Yeah, we can -- we can see you.</p> <p>23 Q Okay. Great. This contract says it's for --</p> <p>24 A We lost the contract.</p> <p>25 Q Okay. Let's try this again. There we go.</p>	<p style="text-align: right;">Page 7</p> <p>1 September 15, 2020. Do you see that, Tom?</p> <p>2 A I do.</p> <p>3 Q All right. And as I recall, you were a general</p> <p>4 manager for Arkansas. Is this consistent with what you</p> <p>5 would normally expect to see out of a fully executed</p> <p>6 contract?</p> <p>7 A Could you repeat that? It was a little fast.</p> <p>8 Q Is this what you would expect to see out of a</p> <p>9 normally executed contract?</p> <p>10 A From another market, yes.</p> <p>11 Q Okay. And is it out of the ordinary for other</p> <p>12 markets to sell advertisements in Arkansas from, for</p> <p>13 example, Indiana?</p> <p>14 A It happens.</p> <p>15 Q Okay. All right. When was the first time you</p> <p>16 saw this contract to the best of your recollection?</p> <p>17 A After it was signed.</p> <p>18 Q Okay.</p> <p>19 A In Indiana.</p> <p>20 Q Okay. Moving on to our now Exhibit 2, this is</p> <p>21 LADV Number 46 and following. We have an email that</p> <p>22 appears to be from you to Hal Kilshaw. Have you seen this</p> <p>23 email before?</p> <p>24 (WHEREUPON, Exhibit 2 was marked for</p> <p>25 identification.)</p>
<p style="text-align: right;">Page 6</p> <p>1 There we go. Are you still able to see the contract now?</p> <p>2 A I can.</p> <p>3 Q Okay. Great. So we have advertiser for The</p> <p>4 Satanic Temple. This is, once again, number 195. Are you</p> <p>5 familiar with this contract?</p> <p>6 A I am.</p> <p>7 Q Okay. I see that it is signed by Jacqueline</p> <p>8 Basulto for customer SEEDX?</p> <p>9 A We lost you.</p> <p>10 Q All right. I'm not sure what's going on with my</p> <p>11 -- with my Zoom. Can -- can you all still see and/or hear</p> <p>12 me?</p> <p>13 A Yeah, we see it twice.</p> <p>14 MR. KEZHAYA: Oh, you see me twice. That's not</p> <p>15 good. Well, let's go off the record and try to figure out</p> <p>16 what's going on with Zoom here.</p> <p>17 THE VIDEOGRAPHER: We're off the record at</p> <p>18 1:07 p.m.</p> <p>19 (Short break 1:07 p.m. to 1:09 p.m.)</p> <p>20 THE VIDEOGRAPHER: We are back on the record at</p> <p>21 1:09 p.m.</p> <p>22 Q (BY MR. KEZHAYA) Okay. All right. So to</p> <p>23 recap, we're looking at the contract between SEEDX or The</p> <p>24 Satanic Temple and Lamar Advertising. Importantly, we see</p> <p>25 a signature here by Jason Graham, general manager, dated</p>	<p style="text-align: right;">Page 8</p> <p>1 A I have.</p> <p>2 Q Did you write this email?</p> <p>3 A I did.</p> <p>4 Q Okay. And importantly, it says, "Can you buzz</p> <p>5 me about The Satanic Temple. We just found out this buy</p> <p>6 is coming through an agency. The contract originated from</p> <p>7 the Indianapolis office. I do not have the final artwork</p> <p>8 yet. Can we reject this based on not meeting the moral</p> <p>9 standards of our community? I would include Springdale,</p> <p>10 AR as well." Did I read that correctly?</p> <p>11 A Yes.</p> <p>12 Q And the next line says, "I'll send you the</p> <p>13 contract in the next email," correct?</p> <p>14 A Correct.</p> <p>15 Q And the contract referenced in the second line</p> <p>16 here is this Exhibit 1, the contract that we just looked</p> <p>17 at; is that correct?</p> <p>18 (WHEREUPON, Exhibit 1 was marked for</p> <p>19 identification.)</p> <p>20 A That's correct.</p> <p>21 Q Okay. I want to highlight this, you do not have</p> <p>22 the final artwork yet. Is it normal for Lamar to enter</p> <p>23 into a contract without having the final copy?</p> <p>24 A I think -- well, our contract states that copy</p> <p>25 has to be approved within a period of time.</p>

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1 Q Sure. So it's -- it's contemplated that Lamar
2 will enter into a contract with the understanding that it
3 does not have the final copy, correct?

4 A The final copy is -- in the end, is always
5 proofed through Hal if it's -- if there's anything that
6 might be perceived as negative or controversial.

7 Q Okay. You all have a copy acceptance policy
8 that explicitly states that Lamar does not accept or
9 approve -- accept or reject copy based on agreement or
10 disagreement with the views expressed, correct?

11 A We display views from all ends.

12 Q Okay. And moving forward now to Exhibit 3, Hal
13 Kilshaw responded to you stating that, "We run thousands
14 of church ads and have to post the occasional atheist,
15 satanic, et cetera submissions we receive," correct?

16 (WHEREUPON, Exhibit 3 was marked for
17 identification.)

18 A That's what he said, yes.

19 Q And that's consistent with Lamar's policy of not
20 engaging in viewpoint discrimination, correct?

21 A Again, he approves the final copy.

22 Q Yes.

23 A And I do not approve it or disapprove it.

24 Q All right. Why was it that you wanted to reject
25 copy that you had not even received yet based on not

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1 meeting the moral standards of your community?

2 A My job is if any copy is -- might be considered
3 to be sensitive, negative or controversial that I'm
4 supposed to submit it for review for approval and when I
5 saw -- when I saw the artwork and I saw that it was about
6 kids being hit in school, that is what stood out to me and
7 that's why I sent it for review. And I would like to
8 clarify when I state I do not have the final artwork, on
9 the contract we were to be paid to produce the artwork and
10 I did not have the final artwork. The final artwork has
11 to come in a proof form and that was not the final
12 artwork.

13 Q I'm not sure I understand the testimony you just
14 volunteered. You said that Lamar was supposed to produce
15 the artwork, meaning create the copy?

16 A No. At some point, no, whether it be that the
17 advertiser, the agency or Lamar, there has to be a final
18 proof. There has to be a final proof, but based on what
19 was being sent to me, it appeared that that was the copy
20 that was being reviewed and, again, I thought it looked
21 like it might be possibly negative or controversial so I
22 sent it to Hal for review and the final decision is not
23 mine, Hal reviewed it.

24 Q And returning back to the basis of your belief
25 that Hal needed to review it, was that based on the name

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1 The Satanic Temple or was it based on something else?

2 A As I stated, it was based on the fact that I saw
3 in large print about kids being hit in school.

4 Q And tell me more about that. Why is it that
5 that caused you to -- to bring it up to Hal?

6 A It might be, and again it's not my decision, but
7 in my experience it's something that might be interpreted
8 that teachers or other individuals are being hit in school
9 and it looked to be very alarming.

10 Q Well, teachers do hit kids, you understand this,
11 right?

12 A I don't have any comment on that.

13 Q Well, you don't have -- you don't have a choice
14 as to whether you have a comment. Yes or no, do you know
15 that teachers engage in corporal punishment in schools?

16 A I do not know.

17 Q Okay. And you didn't deduce that that was the
18 case from the artwork that you were being shown here?

19 A Again, it looked alarming to me about being hit
20 in school. It could be interpreted a lot of ways, which
21 is not my job, that's why I sent it to Hal for him to
22 review and give me an answer on whether or not the copy
23 was okay or not okay to post.

24 Q Do you send every piece of artwork to Hal?

25 A No, we do not.

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1 Q You only send what you consider to be
2 potentially controversial, correct?

3 A Under our copy acceptance policy if something
4 may be interpreted, might be interpreted to be sensitive,
5 controversial, negative, that's the procedure.

6 Q And did you find it to be sensitive?

7 A Again, I stated -- I stated it to be negative
8 and controversial.

9 Q Okay. So you -- you found it to be negative,
10 negative and controversial, correct?

11 A Not myself. I said it might be interpreted by
12 the public that way.

13 Q And how do you come to that determination?


14 A I don't. I send it to Hal for review and he
15 makes a determination.

16 Q I understand, but you have to delineate which
17 ones you send to Hal and which ones you don't, correct?

18 A Again, it's not my final decision. If it
19 appears -- if it might be, I send it on.

20 Q I understand, but we're talking in circles here.
21 Do you perform polling to determine what you think the
22 public will find potentially controversial or not?

23 A Again, my job is if it -- if it possibly could
24 be interpreted that way, might be, then I send it for
25 review.

<p style="text-align: right;">Page 17</p> <p>1 posted, I wouldn't post it.</p> <p>2 Q But you had an opinion on the matter, didn't</p> <p>3 you?</p> <p>4 A It's not -- it's not my decision. It doesn't</p> <p>5 matter -- it doesn't matter what my opinion is.</p> <p>6 Q I'm asking you for your testimony as to whether</p> <p>7 you had an opinion one way or the other as to whether The</p> <p>8 Satanic Temple should have a contract to place billboards</p> <p>9 in your territory?</p> <p>10 A I really did not have an opinion one way or</p> <p>11 another. Again, the copy looked negative and</p> <p>12 controversial, I sent it on for review. If I'm told, if</p> <p>13 we're asked to post it, it's approved, we post it. Like</p> <p>14 any other copy, we post it.</p> <p>15 Q And you're --</p> <p>16 A I do not have an opinion one way or another.</p> <p>17 Q And your decision was based on the artwork, not</p> <p>18 the nature of the viewpoint is your testimony today?</p> <p>19 MS. KEITH-BOLDEN: Object to the form.</p> <p>20 Q (BY MR. KEZHAYA) Correct?</p> <p>21 A I don't know if they heard.</p> <p>22 Q I heard. I heard her. She objects to form, but</p> <p>23 you still answer it.</p> <p>24 A Say that again, repeat.</p> <p>25 Q She objects to the form, but unless she says</p>	<p style="text-align: right;">Page 19</p> <p>1 A No.</p> <p>2 MR. KEZHAYA: Pass the witness.</p> <p>3 MS. KEITH-BOLDEN: No questions.</p> <p>4 MR. KEZHAYA: Great. Tom, thank you so much for</p> <p>5 your time today.</p> <p>6 THE VIDEOGRAPHER: This concludes the videotaped</p> <p>7 deposition of Thomas Gibbens. We're off the record at</p> <p>8 1:27 p.m.</p> <p>9 (DEPOSITION CONCLUDED AT 1:27 P.M.)</p>
<p style="text-align: right;">Page 18</p> <p>1 don't answer it --</p> <p>2 A Right, right, right, I get that. What was the</p> <p>3 question?</p> <p>4 Q The question posed is whether -- or the decision</p> <p>5 to send it to Hal was not based on the name The Satanic</p> <p>6 Temple or the viewpoint expressed therein, it was</p> <p>7 explicitly based on the artwork below here, that's your</p> <p>8 testimony today, correct?</p> <p>9 MS. KEITH-BOLDEN: Object to the form.</p> <p>10 A Again, I sent it on because when I saw the large</p> <p>11 copy about being hit, it appeared it might be interpreted</p> <p>12 by the public, many people, as being negative,</p> <p>13 controversial, so I sent it for review.</p> <p>14 Q (BY MR. KEZHAYA) Did it have anything to do</p> <p>15 with the large inverted pentagram with the sabbatic goat?</p> <p>16 A I didn't look at it that way at all.</p> <p>17 Q You looked at this billboard and the large</p> <p>18 inverted pentagram with the sabbatic goat on it did not</p> <p>19 factor into your analysis as to whether you wanted Hal to</p> <p>20 buzz you about The Satanic Temple, that's your testimony</p> <p>21 today?</p> <p>22 A Again, I sent it. As I said, I did not look at</p> <p>23 it that way.</p> <p>24 Q Okay. Just making sure. Is there anything you</p> <p>25 want to clarify or correct about your testimony?</p>	<p style="text-align: right;">Page 20</p> <p>1 C E R T I F I C A T E</p> <p>2 STATE OF ARKANSAS)</p> <p>3) SS:</p> <p>4 COUNTY OF WASHINGTON)</p> <p>5 I, Kerri Pianalto, Certified Court Reporter</p> <p>6 within and for the State of Arkansas, do hereby certify</p> <p>7 that the above-named THOMAS GIBBENS was by me first duly</p> <p>8 sworn to testify the truth, the whole truth, and nothing</p> <p>9 but the truth, in the case aforesaid; that the above and</p> <p>10 foregoing deposition was by me taken and transcribed</p> <p>11 pursuant to agreement, and under the stipulations</p> <p>12 hereinbefore set out; and that I am not an attorney for</p> <p>13 nor relative of any of said parties or otherwise</p> <p>14 interested in the event of said action.</p> <p>15 IN WITNESS WHEREOF, I have hereunto set my hand</p> <p>16 and official seal this 9th day of February, 2023.</p> <p>17 </p> <p>18 KERRI PIANALTO CCR</p> <p>19 State of Arkansas, No. 651</p>

<p style="text-align: right;">Page 1</p> <p>1 IN THE UNITED STATES DISTRICT COURT</p> <p>2 FOR THE WESTERN DISTRICT OF ARKANSAS</p> <p>3 FAYETTEVILLE DIVISION</p> <p>4 THE SATANIC TEMPLE, INC.,</p> <p>5 Plaintiff,</p> <p>6 vs. No. 5:22-CV-5033</p> <p>7 LAMAR ADVANTAGE GP COMPANY, LLC ("LAMAR-INDIANA"); LAMAR</p> <p>8 ADVANTAGE HOLDING COMPANY ("LAMAR-ARKANSAS"); and LAMAR</p> <p>9 ADVERTISING COMPANY ("LAMAR-HQ"),</p> <p>10 Defendants.</p> <p>11</p> <p>12 VIDEOTAPED DEPOSITION OF HAL KILSHAW</p> <p>13 TAKEN ON BEHALF OF THE PLAINTIFF</p> <p>14 ON FEBRUARY 2, 2023, BEGINNING AT 1:04 P.M.</p> <p>15 ALL PARTIES APPEARING REMOTELY</p> <p>16 REPORTED BY KERRI PIANALTO, CCR</p> <p>17</p> <p>18 APPEARANCES:</p> <p>19 By videoconference on behalf of the PLAINTIFF</p> <p>20</p> <p>21 Matthew A. Kezhaya</p> <p>22 Sonia Kezhaya</p> <p>23 CROWN LAW</p> <p>24 100 S. 5th Street, Suite 1900</p> <p>25 Minneapolis, Minnesota 55402</p> <p>612-276-2216</p> <p>matt@crow.n.law</p> <p>By videoconference on behalf of the DEFENDANTS</p> <p>Sarah Keith-Bolden</p> <p>Michael Shannon</p> <p>QUATTLEBAUM, GROOMS & TULL, PLLC</p> <p>111 Center Street, Suite 1900</p> <p>Little Rock, Arkansas 72201</p> <p>501-379-1700</p> <p>sbolden@ggtlaw.com</p>	<p style="text-align: right;">Page 3</p> <p>1 INDEX</p> <p>2</p> <p>3 Direct Examination by Mr. Kezhaya 5</p> <p>4</p> <p>5 STIPULATIONS</p> <p>6 It is stipulated that the deposition of HAL</p> <p>7 KILSHAW may be taken pursuant to agreement and in</p> <p>8 accordance with the Federal Rules of Civil Procedure on</p> <p>9 February 2, 2023, before Kerri Pianalto, CCR.</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>
<p style="text-align: right;">Page 2</p> <p>1 Also present by videoconference: Connor Eglin</p> <p>2 Videographer: Stasha Snow</p> <p>3</p> <p>4</p> <p>5</p> <p>6</p> <p>7</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p style="text-align: right;">Page 4</p> <p>1 THE VIDEOGRAPHER: This is the videotaped</p> <p>2 deposition of Hal Kilshaw taken in the matter of The</p> <p>3 Satanic Temple, Inc. versus Lamar Media Corporation, et</p> <p>4 al. Today's date is February 2nd, 2023. We are on the</p> <p>5 record at 1:04 p.m.</p> <p>6 Will counsel please state their appearances for</p> <p>7 the record.</p> <p>8 MR. KEZHAYA: This is Matt Kezhaya. I'm joined</p> <p>9 by Sonia Kezhaya, my wife and law partner, appearing for</p> <p>10 The Satanic Temple.</p> <p>11 MS. KEITH-BOLDEN: Sarah Keith-Bolden and</p> <p>12 Michael Shannon for Lamar Advantage GP Company, LLC and</p> <p>13 Lamar Advantage Holding Company.</p> <p>14 THE COURT REPORTER: I'm sorry, that background</p> <p>15 noise is very loud.</p> <p>16 MR. KEZHAYA: Whose -- where is the background</p> <p>17 noise coming from?</p> <p>18 THE COURT REPORTER: I think it was when he was</p> <p>19 moving things on the table. Sorry.</p> <p>20 MR. KEZHAYA: Oh, okay.</p> <p>21 THE VIDEOGRAPHER: The court reporter will now</p> <p>22 swear the witness.</p> <p>23 WHEREUPON,</p> <p>24 HAL KILSHAW,</p> <p>25 after having been first duly sworn, deposes and says in</p>

<p style="text-align: right;">Page 5</p> <p>1 reply to the questions propounded as follows, to-wit:</p> <p>2 DIRECT EXAMINATION</p> <p>3 BY MR. KEZHAYA:</p> <p>4 Q Please state your name for the record.</p> <p>5 A Hal Kilshaw.</p> <p>6 Q Hal, drawing your attention to September of</p> <p>7 2020, were you employed by any Lamar affiliates?</p> <p>8 A Yes.</p> <p>9 Q What was your job title?</p> <p>10 A My job title was vice president of governmental</p> <p>11 relations.</p> <p>12 Q And in the course of that job, what were your</p> <p>13 day-to-day responsibilities?</p> <p>14 A So I have responsibility for the government</p> <p>15 relations function at the corporate office, so we have</p> <p>16 offices and assets throughout the country so I head that</p> <p>17 up. I also am in charge of the company acceptance policy</p> <p>18 function.</p> <p>19 Q Okay. And in the course of accepting or</p> <p>20 rejecting copy, did you adhere to a policy called Lamar</p> <p>21 Advertising copy acceptance policy?</p> <p>22 A Yes.</p> <p>23 Q I'm going to share a screen here. We have</p> <p>24 listed here as LADV Number 1 a document entitled Lamar</p> <p>25 Advertising Copy Acceptance Policy. Are you familiar with</p>	<p style="text-align: right;">Page 7</p> <p>1 A I think I did in the first semester, but it's</p> <p>2 been a long time.</p> <p>3 Q How long ago was that?</p> <p>4 A Good grief, my undergraduate degree was '78 and</p> <p>5 it was, I don't know, five or six years later.</p> <p>6 Q Yeah. Okay. All right. And as far as --</p> <p>7 A Almost 40 years. Almost 40 years.</p> <p>8 Q All right. And in the course of the First</p> <p>9 Amendment -- well, backing up, you said you -- you did or</p> <p>10 may have studied some constitutional --</p> <p>11 A I don't remember. I mean, you know -- you know,</p> <p>12 of course just in the normal course of life you hear</p> <p>13 things about that, but I don't recall any specific studies</p> <p>14 in law school, but I don't know. I just don't remember.</p> <p>15 Q What about since then, have you studied First</p> <p>16 Amendment and its application to private companies and</p> <p>17 their -- more importantly, their free exercise or free</p> <p>18 speech rights?</p> <p>19 A I have not studied anything. I mean, it's come</p> <p>20 up, you know, in the course of my copy acceptance duties,</p> <p>21 but if there's a legal question, I would refer it to our</p> <p>22 in-house counsel.</p> <p>23 Q Okay. In terms of -- in terms of questions of</p> <p>24 law then, do you consider yourself to be a layperson?</p> <p>25 A Yes.</p>
<p style="text-align: right;">Page 6</p> <p>1 this document?</p> <p>2 A I am.</p> <p>3 Q And July of 2016 it says at the bottom here it</p> <p>4 was last revised. Is that the currently existing copy</p> <p>5 acceptance policy?</p> <p>6 A No.</p> <p>7 Q Okay. But as of September of 2020, this was the</p> <p>8 applicable one; is that correct?</p> <p>9 A Yes.</p> <p>10 Q Okay. The opening paragraph begins at, "Lamar</p> <p>11 Advertising supports the First Amendment right of</p> <p>12 advertisers to promote legal products and services." Is</p> <p>13 that correct?</p> <p>14 A Yes.</p> <p>15 Q Are you a First Amendment lawyer?</p> <p>16 A No.</p> <p>17 Q Are you a lawyer of any sort?</p> <p>18 A No.</p> <p>19 Q Do you have any background in legal training,</p> <p>20 education or any other specialized training or experience</p> <p>21 in the practice of law?</p> <p>22 A I went to law school for a semester and a half.</p> <p>23 Q All right. In the course of that semester and a</p> <p>24 half of law school, did you study constitutional law at</p> <p>25 all?</p>	<p style="text-align: right;">Page 8</p> <p>1 Q Okay. Drawing your attention now to this</p> <p>2 paragraph here, it says, "Lamar will not accept or reject</p> <p>3 copy based upon agreement or disagreement with the views</p> <p>4 expressed." Is that a correct statement in the policy?</p> <p>5 A Yes.</p> <p>6 Q Okay. Does Lamar, in fact, accept or reject</p> <p>7 policy based on agreement or disagreement with the views</p> <p>8 expressed?</p> <p>9 A We do not.</p> <p>10 MS. KEITH-BOLDEN: Object to the form.</p> <p>11 Q (BY MR. KEZHAYA) Hal, could you please answer</p> <p>12 the question?</p> <p>13 A I'm sorry, did somebody else say something?</p> <p>14 Q Sarah objected to form. I errantly stated the</p> <p>15 views expressed rather than the views presented.</p> <p>16 Reforming the question, does Lamar accept or</p> <p>17 reject copy based upon agreement or disagreement with the</p> <p>18 views presented?</p> <p>19 A We do not.</p> <p>20 Q Okay. And then further down here it says,</p> <p>21 "Lamar pledges to communicate the reason for any rejection</p> <p>22 of advertising copy and will work with advertisers to</p> <p>23 achieve acceptable copy if the originally submitted copy</p> <p>24 is not accepted." Is that a correct reading?</p> <p>25 A We do that the majority of the time but not</p>

<p style="text-align: right;">Page 17</p> <p>1 side of things.</p> <p>2 Q Okay. But in terms of discussions you may have</p> <p>3 had with Tom Hill, you don't distinctly recall looking at</p> <p>4 those emails, or I'm not sure I understand your testimony?</p> <p>5 A I know I looked at some, I'm not sure I looked</p> <p>6 at all is what I meant to say.</p> <p>7 Q Okay.</p> <p>8 A I think that's what I said, but to be clear.</p> <p>9 Q All right. I'm going to pull number 743 in</p> <p>10 which -- let's see here, misleading and offensive, you're</p> <p>11 correct. I mis-recalled myself. So you told Jason Graham</p> <p>12 and Tom Gibbens that they are misleading and offensive.</p> <p>13 That's the result that you came to in terms of why you</p> <p>14 were rejecting it; is that correct?</p> <p>15 A Yes.</p> <p>16 Q And tell me about misleading first. What was it</p> <p>17 about the billboards that were misleading?</p> <p>18 A To me, the copy would lead the reader to believe</p> <p>19 that if they accepted The Satanic Temple's view, they</p> <p>20 could violate state law.</p> <p>21 Q And you say violate state law, tell me a little</p> <p>22 bit more about your understanding of --</p> <p>23 A Just that they wouldn't have to follow the law.</p> <p>24 It's -- so it's one of the areas we're very, very</p> <p>25 sensitive about and so we don't provide as much leeway</p>	<p style="text-align: right;">Page 19</p> <p>1 if the burden results from a rule of general</p> <p>2 applicability, except that a government may substantially</p> <p>3 burden a person's exercise of religion only if it</p> <p>4 demonstrates that application of burden to the person is</p> <p>5 both in furtherance of a compelling governmental interest</p> <p>6 and the least restrictive means of furthering that</p> <p>7 compelling governmental interest."</p> <p>8 MS. KEITH-BOLDEN: Objection to the form.</p> <p>9 Q (BY MR. KEZHAYA) Are you familiar with the</p> <p>10 concept -- well, first of all, did I -- did I correctly</p> <p>11 read section 404(a) correctly?</p> <p>12 A I think you might have made an error in reading</p> <p>13 it.</p> <p>14 Q Do you recall what the error was?</p> <p>15 A I do not -- I mean, the -- just not the exact</p> <p>16 words that I'm looking at.</p> <p>17 Q Okay. But in terms of substance, can you -- can</p> <p>18 you see anything substantively different between what I</p> <p>19 read and what's stated here?</p> <p>20 MS. KEITH-BOLDEN: Object to the form.</p> <p>21 A Yeah, I do. I mean, if you want me to -- if you</p> <p>22 want to ask me a question, you know, get it right, I</p> <p>23 guess.</p> <p>24 Q (BY MR. KEZHAYA) All right. So what was the</p> <p>25 substantive difference?</p>
<p style="text-align: right;">Page 18</p> <p>1 when we think something is criminal or suggests violating</p> <p>2 law, so that was the reason for the decision in this case.</p> <p>3 Q Okay. And as we established earlier, you're not</p> <p>4 a lawyer, correct?</p> <p>5 A I am not.</p> <p>6 Q And the last time you had any form of education</p> <p>7 or training in the issue of law was approximately 40 years</p> <p>8 ago, as I recall your testimony; is that correct?</p> <p>9 A That's correct, yes.</p> <p>10 Q Are you familiar with the 1993 act -- the</p> <p>11 federal act, the Religious Freedom Restoration Act?</p> <p>12 A I am not.</p> <p>13 Q Are you familiar with the state analogs of the</p> <p>14 federal act, the Arkansas and Indiana Religious Freedom</p> <p>15 Restoration Acts?</p> <p>16 A I am not.</p> <p>17 Q Okay. I'm going to pull up the Arkansas</p> <p>18 Religious Freedom Restoration Act, the more salient of the</p> <p>19 two here. This is at Arkansas code annotated 16-123-401,</p> <p>20 subchapter shall be known and may be cited as the</p> <p>21 Religious Freedom Restoration Act. Do you see that?</p> <p>22 A I do.</p> <p>23 Q Okay. Let's take a look at this act. So</p> <p>24 Section 404 says that, "A government shall not</p> <p>25 substantially burden a person's exercise of religion even</p>	<p style="text-align: right;">Page 20</p> <p>1 A I didn't say there was a substantive difference.</p> <p>2 If you'd like read it again and it's like you say it is,</p> <p>3 then I'll say yes, but please don't ask me to say that's</p> <p>4 what it says when you made an error in the reading of it.</p> <p>5 Q What was the error?</p> <p>6 A I don't know. I just noticed while you were</p> <p>7 reading it, I noticed you said something wrong.</p> <p>8 Q Okay. So it's your testimony today that I made</p> <p>9 an error in the reading, but you don't know what that</p> <p>10 error was?</p> <p>11 A Yes.</p> <p>12 Q Thank you. All right. Let's go back to this,</p> <p>13 in furtherance of a compelling governmental interest,</p> <p>14 that's 404(a)(1). Do you see that text?</p> <p>15 A I do.</p> <p>16 Q Okay. What is the definition of a compelling</p> <p>17 governmental interest in your mind?</p> <p>18 MS. KEITH-BOLDEN: Object to the form.</p> <p>19 Q (BY MR. KEZHAYA) Go ahead and answer.</p> <p>20 A I don't know.</p> <p>21 Q You don't know. What about the least</p> <p>22 restrictive means of furthering that compelling</p> <p>23 governmental interest, do you have any idea what that</p> <p>24 means?</p> <p>25 A I do not.</p>

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1 MS. KEITH-BOLDEN: Object to the form.

2 Q (BY MR. KEZHAYA) For this next series of

3 questions, you might want to pause for a second so that --

4 A Okay.

5 Q -- Sarah can lodge her objection.

6 A I'll do it. Thank you.

7 Q Going to the question (a)(2), do you understand

8 what the text means?

9 MS. KEITH-BOLDEN: Object to the form.

10 A I do not.

11 Q (BY MR. KEZHAYA) Okay. And you were not

12 familiar with this act as of September of 2020; is that

13 correct?

14 A Yes.

15 Q Are you familiar -- prior to today's deposition,

16 were you made familiar with this act?

17 A No, I was not.

18 Q Okay. Are you under -- are you aware of the

19 meaning between a rule of general applicability and a rule

20 of not general applicability? Do you understand the

21 distinction there?

22 MS. KEITH-BOLDEN: Object to the form.

23 A I do not.

24 Q (BY MR. KEZHAYA) Okay. What about this notion

25 of substantially burdening a person's exercise of

Page 22

1 religion, do you understand any of that language?

2 MS. KEITH-BOLDEN: Object to the form.

3 A I do not.

4 Q (BY MR. KEZHAYA) Okay. In terms of a person's

5 exercise of religion, do you understand what that means?

6 MS. KEITH-BOLDEN: Object to the form.

7 A As a general concept, not as a legal concept.

8 Q (BY MR. KEZHAYA) Okay. Tell me your -- tell me

9 your lay general understanding.

10 A Well, I mean, people can practice religion, so

11 whatever they choose to do in the practice of their

12 religion is the exercise of that. I'm not -- I mean, I

13 think it defines itself by the terms.

14 Q Okay. And in terms of the satanic abortion

15 ritual, do you have an opinion as to whether that is a

16 person's exercise of religion?

17 A I do not.

18 Q You have no opinion either way?

19 A No.

20 Q Okay. And let's take a look at the Indiana

21 Religious Freedom Restoration Act. Let's see here. Okay.

22 This is Indiana code 34-13-9-8. I'll give you a second to

23 read sections A and B.

24 A Okay.

25 Q Do you recognize the text of this section to be

Page 23

1 substantively similar to the text of the Arkansas code

2 16-123-404?

3 MS. KEITH-BOLDEN: Object to the form.

4 A Yes.

5 Q (BY MR. KEZHAYA) And is it similar?

6 MS. KEITH-BOLDEN: Object to the form.

7 A Yes.

8 Q (BY MR. KEZHAYA) Okay. And were you familiar

9 with this Indiana Religious Freedom Restoration Act before

10 September of 2020?

11 A No.

12 Q Or prior to today's deposition, were you

13 familiar with this act?

14 A No.

15 Q Throughout the course of this litigation, did

16 anyone ever explain to you the existence of these

17 Religious Freedom Restoration Acts or how they apply to

18 otherwise generally applicable rules?

19 A No.

20 Q Okay. All right. Let's take a look at LADV

21 Number 473. On September 8th, is it true that Jason

22 Graham -- well, first of all, let's back up. Who is Jason

23 Graham?

24 A Jason Graham is a general manager in one of our

25 Indiana offices.

Page 24

1 Q Okay. And for sake of a clean record, I'm

2 asking who was he as of 2020. I don't necessarily care if

3 he is still that today. As of 2020, is that when you were

4 answering earlier?

5 A Yes, you can see his title that's on the email

6 that's on the screen.

7 Q Okay. In earlier testimony we talked about the

8 general manager of Arkansas. Does he oversee -- similar

9 to the general manager of Arkansas, does Jason Graham

10 oversee Indiana billboards for Lamar?

11 A Some, not all.

12 Q Some, but not at all?

13 A Right. We have multiple markets. I think in

14 Indiana we have more than one office.

15 Q Okay. So he was specifically overseeing

16 Indianapolis and Terre Haute?

17 A Yes.

18 Q Okay.

19 A And the surrounding areas.

20 Q Sure.

21 A Not just the city limits or county limits.

22 Q Yeah, as -- as defined, presumably, within

23 Lamar's interest. We don't -- we don't much care about

24 the details of where those markets are. So did you ever

25 have any phone conversations or other oral conversations

Page 25

1 with Jason about these subject billboards?

2 A I don't recall any phone conversations.

3 Q Okay. What about oral conversations?

4 A I mean, he's in Indiana, I'm in Baton Rouge. If

5 I had an oral conversation, it would have been phone.

6 Q Okay. So in other words, you don't have any

7 non-written communications with Jason to the best of your

8 recollection about this case; is that correct?

9 A Yes, that's correct.

10 Q Okay. So in September -- on September 8th of

11 2020, Jason forwards you the billboard that he received

12 from Tom Hill, correct?

13 A Yes.

14 Q Okay. Tom tells Jason that he's told that this

15 has run in other Lamar markets in the past and asks if we

16 can confirm that this is approved content. Do you see

17 that?

18 A I do.

19 Q Okay. And the text of the billboard at issue

20 is, "Never be hit in school again. Exercise your

21 religious rights. Protect Children Project.com." Do you

22 see all that language?

23 A I do.

24 Q Are you familiar with the body of laws that

25 allow school officials to hit children consistently with

Page 26

1 the law?

2 MS. KEITH-BOLDEN: Object to the form.

3 A I am not.

4 Q (BY MR. KEZHAYA) You are not familiar with

5 that?

6 A No.

7 Q Okay. So Jason asks you on September 8th if the

8 copy is acceptable to which you responded yes; is that

9 correct?

10 A It is correct.

11 Q Okay. But in context here, we can see that this

12 is a picture of the billboard, it's not proposed copy,

13 correct?

14 A It can be both. I mean, sometimes posted copy

15 -- a picture of posted copy is used as a submission for

16 copy approval, so at this point I viewed it as submission

17 to be approved.

18 Q Okay. Fast forwarding now to September 15, this

19 is Lamar Number 666, at which Jacqueline provides Tom the

20 copy that is sought to be approved. Do you see this?

21 A Yes.

22 Q Is this the first time that you saw the copy

23 that is being sought to be approved in this dispute?

24 A Go back up. Yes.

25 Q Okay. Prior to this time, did anyone confer

Page 27

1 with you about the conversations that Tom Hill had with

2 Jacqueline Basulto about this matter?

3 A I don't recall.

4 Q Okay. When you were in the course of looking at

5 the design options to be seen in these billboards, were

6 you limiting your review to what was being provided to you

7 through this email chain?

8 A Yes.

9 Q Okay. All right. This is at 9:56, shortly

10 later, Jason emails you asking, how else do you feel about

11 these copies, and in context he also says that he doesn't

12 see the paid for disclaimer so that he knows that they

13 need that. Do you see this language in the email?

14 A To the email to me or the email from John to

15 Jason -- from Tom to Jason?

16 Q I'm drawing your attention to this topmost email

17 from Jason to you dated September 15 at 10:02.

18 A I see, okay. I'm sorry, what was the question

19 again?

20 Q Specifically, you see that he's saying that they

21 need the paid for disclaimer and how else do you feel

22 about the copy, you see that, sentences two and three?

23 A I do see that.

24 Q Okay. To your knowledge, did anyone ever

25 communicate to TST that they need the disclaimer in there?

Page 28

1 A I don't know if they did or not.

2 Q Okay. And also looking at Tom Gibbens, who is

3 Tom Gibbens?

4 A He is the general manager and I think territory

5 manager also in Little Rock, Arkansas.

6 Q Okay. And we're, for the record, looking at

7 number 633 at which you state, "We run thousands of church

8 ads and have to post the occasional atheist, satanic, et

9 cetera submissions we receive in reference to this

10 statement from Tom Hill that he wants to talk about The

11 Satanic Temple billboards. Do you see that?

12 A Yes.

13 Q And Tom Gibbens asks you to give you a buzz

14 about The Satanic Temple. Is it your understanding that's

15 asking for a phone call?

16 A Yes.

17 Q Do you recall whether you had any phone calls

18 with Tom Gibbens about this matter?

19 A I don't recall speaking to Tom about this.

20 Q Okay. But going back to the thousands of church

21 ads and have to post the occasional atheist, satanic, et

22 cetera submissions, why is it that you all have to post

23 the occasional atheist, satanic, et cetera submissions

24 that you all receive?

25 A The purpose of that statement in the email from

Page 29

1 me is that we sometimes have managers who don't want to
 2 follow the policy and they only want to post what they
 3 like, so I just make it clear, we post one side, we post
 4 the other.

5 Q Okay. And was it -- was it your impression from
 6 Tom's email that he falls within that camp and he needs to
 7 be reminded to post both sides of the equation?

8 A I don't recall talking to Tom about what he
 9 thought and I don't have any idea what his views on this
 10 or on religion generally are.

11 Q Okay. But going back to your answer, you said
 12 sometimes you feel the need to emphasize that we have to
 13 post the occasional atheist, satanic, et cetera
 14 submissions, correct? You said that as a general
 15 proposition being the specific --

16 A Absolutely. You know, like I say, I do my best
 17 to follow the policy and I deal with it all day, every day
 18 and not all of our managers do and they don't always
 19 understand, so I try to make it clear to them that we take
 20 copy from both sides to the extent that we can.

21 Q I understand that, but you answered that in the
 22 general sense. I'm asking you in a specific sense as to
 23 whether --

24 A Which specific -- I don't understand the
 25 question then.

Page 30

1 Q Okay.

2 A If you could restate it, I'll try.

3 Q All right. You see here that Tom Gibbens has
 4 asked you a question about posting a billboard for The
 5 Satanic Temple, correct?

6 A Right.

7 Q And you see here also a couple sentences in, he
 8 does not have the final artwork yet. Do you see that?

9 A I do.

10 Q Okay. Have you had any prior incidences with
 11 Tom Gibbens in which he has an issue with posting atheist,
 12 satanic or otherwise submissions?

13 A None that I recall.

14 Q Okay. Other than the present one, correct?

15 MS. KEITH-BOLDEN: Object to the form.

16 A I don't know that he objected to this one. He's
 17 asking if he can based on community standards, so he
 18 hasn't said he wants to, he's saying can we. My answer
 19 is, you know, not based upon the corporal punishment copy
 20 that I had seen, that's what I was dealing with at that
 21 point. This was before I received the five new copies, I
 22 believe.

23 Q (BY MR. KEZHAYA) Okay. Earlier you stated that
 24 the two issues you took with it were that the proposed
 25 billboards were both misleading and offensive, correct?

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1 A Yes.

2 Q Okay. Why were they offensive?

3 A They were offensive because they were sending
 4 the message out to readers of the billboard that it's okay
 5 to violate the law if you agree with the satanic ritual.

6 Q Okay. And, in fact, that's not in violation of
 7 law as we saw earlier. We saw the Arkansas and Indiana
 8 Religious Freedom Restoration Acts, correct?

9 MS. KEITH-BOLDEN: Object to the form.

10 A Yeah, I don't agree with that at all, what you
 11 just said.

12 Q (BY MR. KEZHAYA) You don't agree with the
 13 statutory text?

14 MS. KEITH-BOLDEN: Object to the form.

15 A I don't agree with your interpretation of the
 16 statutory text.

17 Q (BY MR. KEZHAYA) I see. Please explain to me
 18 why you don't agree with it.

19 A Lamar is not a government.

20 Q Uh-huh.

21 A That's it.

22 Q That's just sole -- that's your sole basis?

23 A I don't even understand where you're going, so I
 24 don't know how to answer your question.

25 Q Well, you said that you disagree that the

Page 32

1 proposition of law that the satanic abortion ritual can
 2 avert many state exemptions, correct? You find that that
 3 is misleading, correct?

4 A Yes.

5 Q And your statement then is in the negative, in
 6 fact, the abortion ritual cannot avoid many state
 7 restrictions, correct?

8 MS. KEITH-BOLDEN: Object to the form.

9 A That's what I think, yes.

10 Q (BY MR. KEZHAYA) Okay. As -- and, you know,
 11 again, bearing the caveat that you're a layperson, you're
 12 not a lawyer, correct?

13 A Yeah. For example, at the time I remember
 14 thinking I'm not a lawyer, we don't submit every copy
 15 submission to legal, it's very rare, but I do remember
 16 examples of things that were part of the practice of
 17 religions that weren't allowed by law, polygamy, peyote,
 18 human sacrifice, those sorts of things, so as a layperson
 19 who has to deal with, you know, over 1,000 copy
 20 submissions a year, that was my thought at the time.

21 Q Okay. I want to highlight the usage of the
 22 peyote. Are you familiar with the Smith versus Employment
 23 Division case?

24 A I am not.

25 MS. KEITH-BOLDEN: Object to the form.

Page 33

1 A I am not.

2 Q (BY MR. KEZHAYA) All right. Well, I'll tell

3 you the peyote case is the employment division case, Smith

4 versus Employment Division, in which, as you point out,

5 neutral and generally applicable law is not necessarily a

6 free exercise issue even though it substantially burdens

7 religious practice. Were you previously aware of that

8 case?

9 MS. KEITH-BOLDEN: Object to the form.

10 A No.

11 Q (BY MR. KEZHAYA) Okay. And I gather you were

12 also not familiar with the fact that because of that case

13 Congress specifically passed the Religious Freedom

14 Restoration Act for the contemplated purpose of

15 overturning that case. Did you know that?

16 MS. KEITH-BOLDEN: Object to the form.

17 A No, I did not know that.

18 Q (BY MR. KEZHAYA) And are you familiar with this

19 Burwell versus Hobby Lobby case, 2014?

20 A I recall a Hobby Lobby issue. I don't recall

21 any of the specifics.

22 Q Okay. Well, I'll just tell you the -- in the

23 Hobby Lobby case, Hobby Lobby, a private company, took

24 issue with giving its employees access to abortion

25 medication, at least that's what they thought it was.

Page 34

1 It's called birth control abortifacients. Are you aware

2 of that?

3 MS. KEITH-BOLDEN: Object to the form.

4 A Am I aware of what? I didn't understand. Am I

5 aware of what?

6 Q (BY MR. KEZHAYA) The --

7 A That there was a Hobby Lobby case related to

8 abortion, I don't recall that if that's the question.

9 Q Okay. Well, more particularly it was as

10 pertains to birth control, they said that as a religious

11 matter we believe that birth control is an abortifacient.

12 Were you aware of that?

13 MS. KEITH-BOLDEN: Object to the form.

14 Q (BY MR. KEZHAYA) Were you aware of that?

15 A No.

16 MS. KEITH-BOLDEN: Same objection.

17 Q (BY MR. KEZHAYA) Okay. All right. So going

18 back to the offensive comment, did any part of the opinion

19 that you drew that it was offensive derive from the

20 satanic imagery on the subject billboards?

21 A No.

22 Q Did you include any limiting language to Tom

23 Hill to suggest to him that it was specifically that one

24 part of the content as opposed to all of the content?

25 A No.

Page 35

1 Q Would it surprise you to find that Tom Hill said

2 all of the content is misleading and offensive?

3 MS. KEITH-BOLDEN: Object to the form.

4 A I don't know what he said, so I can't comment

5 whether it would surprise me or not. I never considered

6 it at the time. The message was offensive and misleading,

7 so that was my point.

8 Q (BY MR. KEZHAYA) Okay. Let's see here, we have

9 all of the content in this. All right. Pulling up LADV

10 Number 794, we see an email from Tom Hill to Jacqueline

11 Basulto -- well, let's back up, from Jacqueline Basulto to

12 Tom Hill asking, "All the content? In what ways is it

13 misleading and in what ways is it offensive? Can you

14 clarify?" You see that language right here?

15 A I do.

16 Q Okay. To which Tom Hill responds, "All the

17 content." You see that? Right here?

18 A That -- no, that's not the response. I mean, he

19 wrote that it looks like before what Jacqueline wrote. He

20 wrote at 12:01 p.m. and she wrote at 12:59.

21 Q You see the line in this email?

22 A Which line in which email? It's not -- it's not

23 highlighted. I have an arrow.

24 Q No, no, the line right here, you see that

25 prefacing all of the content? Yeah, what you have here is

Page 36

1 two time zones. Jacqueline Basulto --

2 A Oh, time zones. Okay.

3 Q -- is in one time zone --

4 A Okay.

5 Q -- so you gotta -- you gotta deduct an hour.

6 Basically, even though it says 12:01 and 12:59, you know,

7 if we were to --

8 A I gotcha.

9 Q -- make it apples to apples, it'd be --

10 A Can you go -- can you go a little further down

11 so I can see where it started then and follow the chain?

12 Q Yeah.

13 A Okay.

14 Q Yeah, let's take a look all the way at the

15 bottom here. So beginning at, you see Tom Hill writes,

16 then Jacqueline Basulto responds, then Tom Hill writes

17 again?

18 A Gotcha.

19 Q Following up. Yada, yada, yada, going back up

20 here?


21 A Right.

22 Q Tom Hill says, "See copy acceptance policy.

23 Copy acceptance says that we can reject copy within the

24 moral standards of the individual communities in which it

25 is to be displayed." She asks what was wrong, in essence.

<p style="text-align: right;">Page 41</p> <p>1 corporal punishment copy, but I wouldn't -- I wouldn't</p> <p>2 have approved anything that implied or stated that it was</p> <p>3 okay to break the law in following the abortion ritual.</p> <p>4 Q (BY MR. KEZHAYA) Okay. And we're at an impasse</p> <p>5 as to whether the abortion ritual breaks the law or not.</p> <p>6 Is that -- is that your position?</p> <p>7 MS. KEITH-BOLDEN: Object to the form.</p> <p>8 A No.</p> <p>9 Q (BY MR. KEZHAYA) Say again?</p> <p>10 A We disagree, I guess.</p> <p>11 MR. KEZHAYA: Yeah. All right. Pass the</p> <p>12 witness.</p> <p>13 MS. KEITH-BOLDEN: No questions.</p> <p>14 MR. KEZHAYA: All right. Hal, thank you so much</p> <p>15 for your time today.</p> <p>16 THE VIDEOGRAPHER: We're off the record at</p> <p>17 1:55 p.m.</p> <p>18 (DEPOSITION CONCLUDED AT 1:55 P.M.)</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	
<p style="text-align: right;">Page 42</p> <p>1 C E R T I F I C A T E</p> <p>2 STATE OF ARKANSAS)</p> <p>3) SS:</p> <p>4 COUNTY OF WASHINGTON)</p> <p>5 I, Kerri Pianalto, Certified Court Reporter</p> <p>6 within and for the State of Arkansas, do hereby certify</p> <p>7 that the above-named HAL KILSHAW was by me first duly</p> <p>8 sworn to testify the truth, the whole truth, and nothing</p> <p>9 but the truth, in the case aforesaid; that the above and</p> <p>10 foregoing deposition was by me taken and transcribed</p> <p>11 pursuant to agreement, and under the stipulations</p> <p>12 hereinbefore set out; and that I am not an attorney for</p> <p>13 nor relative of any of said parties or otherwise</p> <p>14 interested in the event of said action.</p> <p>15 IN WITNESS WHEREOF, I have hereunto set my hand</p> <p>16 and official seal this 10th day of February, 2023.</p> <p>17 </p> <p>18 KERRI PIANALTO, CCR</p> <p>19 State of Arkansas, No. 651</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	

Matt Kezhaya

From: Sarah Keith-Bolden <Sbolden@qgtlaw.com>
Sent: Friday, March 3, 2023 1:57 PM
To: Matt Kezhaya; Nick Henry; Sonia Kezhaya; Bill Rohla
Cc: Michael N. Shannon
Subject: TST v. Lamar Advantage - LADV001899 to 1915
Attachments: Attachments.html

The unredacted billing structure audit reports (LADV001899 to 1915) are available for download below. These reports are being produced subject to the protective order.

Citrix Attachments

Expires August 30, 2023

LADV001899 - LADV001915 - UnRedacted.zip

12.9 MB

[Download Attachments](#)

Sarah Keith-Bolden uses Citrix Files to share documents securely.

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5:22-CV-5033-TLB

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF ARKANSAS
FAYETTEVILLE DIVISION

The Satanic Temple, Inc.
Plaintiff

v.

Lamar Advantage GP Company, LLC;
Lamar Advantage Holding Company; and
Lamar Advertising Company
Defendants.

TESTIMONY OF JACQUELINE BASULTO



Matt Kezhaya

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COMES NOW Jacqueline Rashidi (née Jacqueline Basulto), who testifies as follows.

1. **Identity and qualifications of witness.** I am Jacqueline Rashidi, CEO of SeedX. I am an adult of sound mind with no felonies. I make the following statements on my own personal knowledge. To aid my testimony, I have refreshed my recollection with reference to records which I regularly maintain in my business as a marketing professional, to-wit: my emails which were compiled in response to a *subpoena duces tecum* propounded by Defendants.

2. **Nature of services.** The Satanic Temple (“TST”) hired SeedX to provide marketing services in designing and procuring the advertisements of the Satanic Abortion Ritual in Arkansas and Indiana.

3. **Why billboards.** In my professional judgment, billboards best satisfied the needs of the client because they would provide the greatest number of impressions at the lowest cost, could not be easily avoided or turned off, and best furthered the client’s desires.

4. **Why Lamar.** We reached out to Lamar because Lamar has a large presence in Arkansas and Indiana. We also knew that the designs would be controversial, and Lamar has a reputation for a willingness to post controversial billboards.

5. **Telephone conversations.** I had two phone conversations with Tom Hill about this dispute: (1) on September 2, 2020 at 1:00 pm Eastern Time, and (2) on September 4, 2020, at 4:00 pm Eastern Time. During these conversations, I informed Tom Hill that:

- (a) The designs would be pro-reproductive rights;
- (b) The designs related to the religious practices of TST;
- (c) Lamar had worked with TST in the past; and
- (d) The locations were material because they faced and were on the route to “fake abortion” clinics.

6. **Subjective understanding.** Tom Hill communicated an understanding that the subject designs were about abortion. He specifically informed me that controversy was not an issue and, in context of designs about abortion: “they [Lamar] post things like this all the time.”

7. **No misrepresentations.** I never suggested to Tom Hill that the designs from the past campaign would be reused. I provided the past campaign creative materials only for context.

8. **Irregularities in rejection.** In my business as a marketer, I regularly deal with highly-regulated advertisements. With traditional placements and digital placements, we usually get guidelines ahead of time, specification as to why a design is rejected, as well as a contact person who will aid in remedying the situation. Lamar provided none of this information.

9. **Post-breach efforts for alternative placement.** On December 16 and 18, 2020, from Defendants' counsel and through TST's counsel, I received a cumulative list of 12 potential advertisers that may be suitable options for TST's billboards in Indiana and Arkansas. SeedX investigated all of them and found none of them to be suitable. The list follows:

(a) *Ashby* is an Arkansas-local billboard and outdoor advertising company that was acquired by Lamar in 2019 in the Arkansas area, so we would have had to go

through Lamar itself and would have faced the same restrictions.

(b) *Arkansas Outdoor Advertising Association* is suspended and thus has no available advertising options.

(c) *Ace* only covers a small area of Louisiana, not in our target area of Arkansas or Indiana.

(d) *Carter* only covers markets in Florida, not in our target area of Arkansas or Indiana.

(e) *Outfront* does not cover Arkansas, and rejected our billboard artwork for Indiana, where they do have some market coverage.

(f) *Lindmark* had market availability in Arkansas, but our artwork was not accepted, and there is very little availability.

(g) *Vision* had market availability in Arkansas, but we were turned away via telephone.

(h) *Custom* – same as Vision.

(i) *Ram* had market availability in Indiana, but we were turned away via telephone.

(j) *Fairway* had market coverage in Georgia and Kentucky; none in Arkansas or Indiana.

(k) *Missouri Neon* is a sign manufacturer, not a billboard company.

(l) “AAA.org” – we could not find a suitable option by this name. We found: <https://www.aaa.org/> which is an organization that hosts virtual telescope events and <https://www.aaasite.org/> (the *American Academy of Advertising*) which is an advertising trade organization, not a sign company.

10. **Marriage since the facts at issue.** In September 2021, I was known by my maiden name: Jacqueline Basulto. Since then, I married and took the name Jacqueline Rashidi. I continue to use the name “Jacqueline Basulto” in my professional life.

FURTHER AFFIANT SAYETH NOT.

Acknowledgement

I, Jacqueline Rashidi, affirm under penalty of perjury of the laws of the United States that the foregoing statements are true.

/s/Jacqueline Rashidi,
signed in Travis County, Texas on March 3, 2023.

Lamar Advertising Copy Acceptance Policy

Lamar Advertising supports the First Amendment right of advertisers to promote legal products and services. We also advocate the use of our medium for political, editorial, public service and other noncommercial messages. We believe it is in the best interest of our Company and the communities we serve to accept advertising copy openly, subject only to requirements imposed by law and reasonable standards of fairness and decency. Application of this policy for several years has made it clear there are issues that require special scrutiny before copy may be accepted. All submissions which contain negative references concerning religion, human rights, nationality (such as Israeli-Palestinian or Turkish-Armenian), abortion or similar subjects must be submitted to the Vice-President of Governmental Relations for consideration before any decision on acceptance or rejection may be made.

Lamar reserves the right to reject advertising copy for any reason, but rejects copy for the following specific reasons:

- The copy is factually inaccurate, misleading, fraudulent or deceptive.
- The copy is obscene, offensive or otherwise inconsistent with local community standards.
- The copy promotes an illegal activity.
- Advertisers who have a pattern of using provocative and critical copy to create negative impressions of other entities may be barred from posting copy.

Lamar will accept copy for a sexually-oriented business (SOB) with the following guidelines:

- Lamar's local General Manager, in consultation with the Regional Manager, will decide which areas within his/her market are appropriate for SOB ads.
- No photographs or silhouettes will be accepted except tasteful head shots.
- Written copy must not be offensive.
- No SOB copy will be accepted near churches, schools or other such places.
- Regional Managers may impose stricter guidelines on the acceptance of SOB copy.
- Less restrictive guidelines apply in Las Vegas, NV and Times Square, NY.

Text addresses are acceptable in billboard copy but should include an additional statement such as "Please do not text while driving." QR codes may not be displayed on billboards but are acceptable for transit advertising or street level media when not intended to be read by drivers.

Lamar will not accept or reject copy based upon agreement or disagreement with the views presented.

When a website address is contained in advertising copy, the content of the website will be considered in Lamar's process of deciding whether copy is acceptable.

When a local General Manager questions whether copy should be accepted, he will forward the copy to his Regional Manager. If the Regional Manager decides the copy should be accepted, he communicates that decision to the General Manager. If the Regional Manager decides the copy is unacceptable or is unsure, he will further communicate with the Vice-President of Governmental Relations. All copy which a General or Regional Manager thinks should be rejected must be forwarded. If necessary, the Chief Executive Officer and General Counsel will be consulted as well. The decision rendered in this process will be final.

Lamar pledges to communicate the reason for any rejection of advertising copy and will work with advertisers to achieve acceptable copy if the originally submitted copy is not accepted.

For copy determined to be sensitive but acceptable by Lamar, the identity of the advertiser must be clearly stated in an easily readable disclaimer with letters no smaller than 8 inches tall on billboards up to 300 square feet and in letters no smaller than 10 inches tall on billboards larger than 300 square feet (for example "Paid for by the ABC Committee").

Revised July, 2016