UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF NEW YORK

Rapid Relief Team (RRT) Ltd.,	:	
	:	
Plaintiff and Counterclaim-Defendant,	:	Civil Action No. 1:26-cv-07423-GHW
	:	
vs.	:	
	:	
Cheryl Bawtinheimer,	:	
	:	
Defendant and Counterclaim-Plaintiff,	:	
	:	
vs.	:	
	:	
Brown Rudnick LLP, Katy-Jade Church, and Michael Graif,	:	
	:	
Counterclaim-Defendants.	:	

CHERYL BAWTINHEIMER'S MEMORANDUM OF LAW REGARDING FAIR USE IN THE SECOND CIRCUIT, COPYRIGHT STRIKES, AND IRREPARABLE HARM, WITH ALTERNATIVE REQUEST FOR JUDGMENT ON COUNT II OF THE COUNTERCLAIM

TABLE OF CONTENTS

PRELIMINARY STATEMENT 1

MEMORANDUM OF LAW 2

1.0 FAIR USE 2

1.1 Second Circuit Law Overview 2

1.2 Factor Four: The Secondary Use Does Not Usurp the Market for the Logo 3

1.3 Factor One: Use of the Logo in Criticism 4

1.4 Factor Two: Nature of the Work 8

1.5 Factor Three: Amount and Substantiality of Use 8

2.0 WHAT A DMCA STRIKE DOES TO A YOUTUBE USER 9

3.0 THE HARM IS IRREPARABLE, THE EQUITIES FAVOR MS. BAWTINHEIMER, AND THE NOTICES SHOULD BE WITHDRAWN 11

3.1 Irreparable Harm 11

3.2 Balance of Hardships 14

3.3 Public Interest 15

3.4 The Requested Relief 15

4.0 PRELIMINARY INJUNCTIONS ISSUE IN DECLARATORY JUDGMENT CLAIMS 16

5.0 EFFICIENCY WOULD BE SERVED BY ADVANCEMENT OF THE MERITS 17

CONCLUSION 18

CERTIFICATE OF SERVICE 20

TABLE OF AUTHORITIES

CASES

Able v. United States,
44 F.3d 128 (2d Cir. 1995)..... 18

Abraham Zion Corp. v. Lebow,
761 F.2d 93 (2d Cir. 1985)..... 17, 18

Andy Warhol Found. for the Visual Arts, Inc. v. Goldsmith,
598 U.S. 508 (2023)..... 2, 5, 6

Authors Guild v. Google, Inc.,
804 F.3d 202 (2d Cir. 2015)..... 8

Bery v. City of New York,
97 F.3d 689 (2d Cir. 1996)..... 11

Bill Graham Archives v. Dorling Kindersley Ltd.,
448 F.3d 605 (2d Cir. 2006)..... 4, 7, 8

Biosafe-One, Inc. v. Hawks,
524 F. Supp. 2d 452 (S.D.N.Y. 2007)..... 12, 14

Bouchat v. Baltimore Ravens Ltd. P'ship,
737 F.3d 932 (4th Cir. 2013) 8

Bridgeway Corp. v. Citibank,
201 F.3d 134 (2d Cir. 2000)..... 17

Campbell v. Acuff-Rose Music, Inc.,
510 U.S. 569 (1994)..... 2, 6, 8

Cariou v. Prince,
714 F.3d 694 (2d Cir. 2013)..... 7

Citigroup Glob. Mkts. Inc. v. VCG Special Opportunities Master Fund Ltd.,
598 F.3d 30 (2d Cir. 2010)..... 14, 16

Corning Inc. v. PicVue Elecs., Ltd.,
365 F.3d 156 (2d Cir. 2004)..... 15

Doctor's Assocs., Inc. v. Stuart,
85 F.3d 975 (2d Cir. 1996)..... 15

Elrod v. Burns,
427 U.S. 347 (1976) 11

Excelled Sheepskin & Leather Coat Corp. v. Or. Brewing Co.,
2014 U.S. Dist. LEXIS 109226 (S.D.N.Y. Aug. 5, 2014) 16

Fox News Network, LLC v. TVEyes, Inc.,
883 F.3d 169 (2d Cir. 2018) 3

Freedom Holdings, Inc. v. Spitzer,
408 F.3d 112 (2d Cir. 2005) 12

Google LLC v. Oracle Am., Inc.,
593 U.S. 1 (2021) 17

Hachette Book Grp., Inc. v. Internet Archive,
115 F.4th 163 (2d Cir. 2024) 2

Hosseinzadeh v. Klein,
276 F. Supp. 3d 34 (S.D.N.Y. 2017) 3, 7, 9

Hughes v. Benjamin,
437 F. Supp. 3d 382 (S.D.N.Y. 2020) 3, 7

Hustler Magazine, Inc. v. Falwell,
485 U.S. 46 (1988) 7

Hustler Magazine, Inc. v. Moral Majority, Inc.,
796 F.2d 1148 (9th Cir. 1986) 7

Kelley v. Morning Bee, Inc.,
No. 1:21-cv-8420-GHW, 2023 U.S. Dist. LEXIS 171734 (S.D.N.Y. Sept. 26, 2023) ..... passim

Michael Grecco Prods., Inc. v. Valuewalk, LLC,
345 F. Supp. 3d 482 (S.D.N.Y. 2018) 5

MMS Trading Co. PTY Ltd. v. Hutton Toys, LLC,
2021 U.S. Dist. LEXIS 60376 (E.D.N.Y. Mar. 29, 2021) 16

N.Y. Progress & Prot. PAC v. Walsh,
733 F.3d 483 (2d Cir. 2013) 11

NXIVM Corp. v. Ross Institute,
364 F.3d 471 (2d Cir. 2004) 2, 6, 8

Otto v. Hearst Commc'ns, Inc.,
345 F. Supp. 3d 412 (S.D.N.Y. 2018) 5, 7, 8

Rag & Bone Holdings, LLC v. Miramar Brands Grp., Inc.,
2025 U.S. Dist. LEXIS 249922 (S.D.N.Y. Dec. 3, 2025) 12, 16

Register.com, Inc. v. Verio, Inc.,
356 F.3d 393 (2d Cir. 2004)..... 12

Richardson v. Townsquare Media, Inc.,
174 F.4th 299 (2d Cir. 2026) 2, 8

Romanova v. Amilus Inc.,
138 F.4th 104 (2d Cir. 2025) 2, 4, 6, 7

Salinger v. Colting,
607 F.3d 68 (2d Cir. 2010)..... 11, 15

Santos v. Kimmel,
154 F.4th 30 (2d Cir. 2025) 2, 7, 8, 9

Sound Around Inc. v. Shenzhen Keenray Innovations Ltd.,
No. 22-cv-6943 (HG), 2022 U.S. Dist. LEXIS 227247 (E.D.N.Y. Dec. 18, 2022) 12, 16

Swatch Grp. Mgmt. Servs. Ltd. v. Bloomberg L.P.,
756 F.3d 73 (2d Cir. 2014)..... 7, 8

TCA Television Corp. v. McCollum,
839 F.3d 168 (2d Cir. 2016)..... 2

Tom Doherty Assocs., Inc. v. Saban Entm't, Inc.,
60 F.3d 27 (2d Cir. 1995)..... 11, 14

Univ. of Tex. v. Camenisch,
451 U.S. 390 (1981)..... 17

Weight Watchers Int'l, Inc. v. Luigino's, Inc.,
423 F.3d 137 (2d Cir. 2005)..... 14

Yang v. Mic Network Inc.,
2022 U.S. App. LEXIS 8195 (2d Cir. Mar. 29, 2022)..... 6

Yang v. Mic Network Inc.,
405 F. Supp. 3d 537 (S.D.N.Y. 2019)..... 6

STATUTES

17 U.S.C. § 107..... 4, 7, 8, 9

17 U.S.C. § 502..... 14

17 U.S.C. § 504..... 14

17 U.S.C. § 512 ..... 9, 14, 15

28 U.S.C. § 2202 16

RULES

Fed. R. Civ. P. 1 1

Fed. R. Civ. P. 12 3

Fed. R. Civ. P. 56 ..... 17, 18

Fed. R. Civ. P. 65 ..... passim

PRELIMINARY STATEMENT

The Court asked the parties to brief Second Circuit law that governs, *inter alia*, Bawtinheimer's Motion for a Preliminary Injunction (ECF No. 27), including Second Circuit law on fair use and irreparable harm, and permitted record supplementation on how YouTube treats copyright strikes.[1] Part I addresses fair use. Part II answers the Court's factual question about strikes. Part III addresses irreparable harm and the remaining factors. Part IV addresses a further apparent distinction in that in this Circuit a declaratory judgment claim supports preliminary relief. Part V was unsolicited, but asks the Court to decide the fair use question once, under Rule 65(a)(2), consistent with Rule 1 and the Court's inclination to resolve this matter efficiently. Preliminary and/or permanent injunctive relief should issue on Count II of the counterclaim, and the motion to dismiss (ECF No. 33) should be denied.

[1] It appears that this was based on a misapprehension of the record; this information is in the record. Thus, the discussion largely relies on the existing record rather than *supplementing*.

MEMORANDUM OF LAW

1.0 FAIR USE

1.1 Second Circuit Law Overview

Both the Second and Ninth Circuits apply *Campbell v. Acuff-Rose Music, Inc.,* 510 U.S. 569 (1994), and *Andy Warhol Found. for the Visual Arts, Inc. v. Goldsmith*, 598 U.S. 508 (2023). But, as a circuit that confronts fair use more often, the Second Circuit has five relevant refinements.

First, the fourth factor is "the most important," and it asks only whether the secondary work "usurps the market for the first by offering a competing substitute," not whether it damages the owner "by, for example, devaluing it through parody or criticism." *Richardson v. Townsquare Media, Inc.*, 174 F.4th 299, 310 (2d Cir. 2026); *Santos v. Kimmel*, 154 F.4th 30, 35 (2d Cir. 2025); *Hachette Book Grp., Inc. v. Internet Archive*, 115 F.4th 163, 189 (2d Cir. 2024).

Second, a use is fair use if it serves "to critique, or otherwise comment on, the original, *or its author*." *Romanova v. Amilus Inc.*, 138 F.4th 104, 119 (2d Cir. 2025) (emphasis added).

Third, commercial use is not an issue "where the link between the defendant's commercial gain and its copying is attenuated." *Richardson*, 174 F.4th at 308.

Fourth, the user's motivation is not dispositive: "copyright is not a privilege reserved for the well-behaved." *Santos*, 154 F.4th at 34 & n.1; *see NXIVM Corp. v. Ross Inst.*, 364 F.3d 471, 478–79 (2d Cir. 2004) (assumed bad faith did not defeat fair use).

Fifth, fair use is decided on the works themselves, because the court "need only consider 'the original version of the videos and the . . . segments at issue.'" *Santos*, at 35; *TCA Television Corp. v. McCollum*, 839 F.3d 168, 178-79 (2d Cir. 2016). Where transformativeness can be judged "by doing a side-by-side comparison . . . discovery would not provide any additional relevant information." *Kelley v. Morning Bee, Inc.*, No. 1:21-cv-8420-GHW, 2023 U.S. Dist. LEXIS 171734, at *36 (S.D.N.Y. Sept. 26, 2023) (Woods, J.); *see Hughes v. Benjamin*, 437 F. Supp. 3d

382 (S.D.N.Y. 2020) (granting Rule 12(b)(6) on fair use grounds as to YouTube criticism); *Hosseinzadeh v. Klein*, 276 F. Supp. 3d 34 (S.D.N.Y. 2017) (same at summary judgment).

The works are in the record, namely RRT's logo (ECF No. 7-1) and Ms. Bawtinheimer's five videos (ECF Nos. 26-15, 26-16, 26-20, 26-21, 26-22). Ms. Bawtinheimer asks the Court to watch those videos. If it does not have time, RRT's own screen captures in their Complaint make it clear that this is fair use. ECF No. 7 ¶¶ 20–33: The logo is shown on RRT's website, tents, vans, and food boxes on screen while former members of the Plymouth Brethren Christian Church ("PBCC") discuss what the RRT public relations campaign conceals about the PBCC.

1.2 Factor Four: The Secondary Use Does Not Usurp the Market for the Logo

A logo serves one purpose: it identifies its owner's goods and services. RRT's lawsuit is really a mislabeled trademark claim. When a copyrighted work is pirated, the end user gets a copy of it and uses it just as if they obtained it legitimately. If they illegally reproduce a movie, end users watch the movie and don't pay the studio. Or if someone infringes on a song, while they pass it off as their own, they misappropriate the underlying creative content. Those are proper copyright infringement scenarios.

But a logo doesn't work that way. Nobody watches a podcast about the PBCC and then gets to use the logo in its own right, enjoying the fact that they got to look at it without paying the ticket price. There is no secondary market where RRT licenses the logo to approved critics. A rights holder "has no right to demand that users take a license unless the use that would be made is one that would otherwise infringe." *Kelley*, 2023 U.S. Dist. LEXIS 171734 at *47 (quoting *Fox News Network, LLC v. TVEyes, Inc.*, 883 F.3d 169, 180 (2d Cir. 2018)). The only harm RRT hypothetically claims is to donations "by appearing in connection with GAL's continued criticism of RRT." ECF No. 31-6 at 3. That is harm from criticism, not piracy of a copyrighted work.

RRT has demanded (apparently as a face-saving measure) that Bawtinheimer should be required to blur the logo as if it were genitalia or the identity of a mob witness who wishes to maintain their anonymity. Their counsel argued that the only thing Ms. Bawtinheimer loses by blurring the logo is "their inability to display the bird logo," and "that is not harm." Transcript of October 8, 2026, hearing ("Oct. 8 Tr."), attached as **Exhibit 1**, at 18:21–24.

First, that *is harm* to Bawtinheimer. If she wants to criticize RRT, displaying its logo on *its* public relations material is not merely *incidental* to her speech; *those materials are what her speech is about*. Further, RRT tells on itself with this argument. If showing the logo were really of no consequence to *her*, it should also be of no consequence to RRT's *market for the original*. *See Bill Graham Archives v. Dorling Kindersley Ltd.*, 448 F.3d 605, 614–15 (2d Cir. 2006) (no market harm from whole-work reproduction for a transformative purpose; "a copyright holder cannot prevent others from entering fair use markets"). This is what *Romanova* described: an owner whose interest "is not to exploit the value of the copyright through public dissemination, but to suppress the revelation of matters of public importance that are displeasing to the rights holder." 138 F.4th at 117 n.9. This is a use of copyright law "to undermine, rather than to promote," its objective. *Id*.

1.3 Factor One: Use of the Logo in Criticism

RRT would have us believe that one can only use a work to criticize *that precise work*, and since Bawtinheimer does not directly critique the logo itself, her use is not fair use. Oct. 8 Tr. at 3:8–18. Wrong. The Court asked for the source of that rule, *id.* at 4:9–19. There is none. Section 107 protects "criticism" and "comment" with no limitation on their object. *Romanova* said the obvious, that § 107 applies to commentary on the work "or its author." 138 F.4th at 119. RRT conceded the point: an organization's logo "could be displayed incidentally" while criticizing the organization, and such display may be fair use "regardless of whether you are criticizing" the logo

itself. Oct. 8 Tr. at 4:20–5:4. They then fell back to an argument, that the logo was displayed *for too long*. *Id*. at 5:4–11. That goes to the third factor, but it has no validity in this case.

This Circuit asks whether a work was used "for the precise reason it was created." *Otto v. Hearst Commc'ns, Inc.*, 345 F. Supp. 3d 412, 427 (S.D.N.Y. 2018) (Woods, J.); *Michael Grecco Prods., Inc. v. Valuewalk, LLC*, 345 F. Supp. 3d 482, 505 (S.D.N.Y. 2018) (Woods, J.). In *Otto* and *Grecco*, a photo the artist took to illustrate a subject was also used to illustrate the same subject. In *Kelley*, fine-art photographs appeared in a documentary with "a purpose separate and distinct from the original artistic and promotional purpose for which the images were created," and the Court found fair use on a motion to dismiss. 2023 U.S. Dist. LEXIS 171734, at *39, 49–50.

RRT's logo is for self-promotion. ECF No. 7 ¶ 12; ECF No. 31-6 at 3. Bawtinheimer displayed it in context while she has RRT's self-promotion on screen and she accuses RRT of wrongdoing and hypocrisy. Criticism of an organization is "separate and distinct from" its "promotional purpose," *Kelley*, 2023 U.S. Dist. LEXIS 171734, at *39. RRT claims that *Warhol* changed things. Wrong. *Warhol* reinforced it by clarifying that a use that "targets" an original "needs to mimic an original to make its point." Warhol's use of the Campbell's Soup logo is fair use because the purpose is "orthogonal to advertising soup." 598 U.S. at 530–32, 539.

Counterclaim-Defendants attempt to manipulate *Warhol* to hold that because both sides use the logo "to identify RRT," the purposes are the same and thus there is no fair use. ECF No. 31 at 19–20; Oct. 8 Tr. at 3:19–25. *Warhol* was not such a revolution as RRT would try to have us believe. Their argument describes the mechanism for the use, but not the purpose of it. *Warhol* held that licensing a print to illustrate a story about Prince served the same purpose as an original photo of Prince to illustrate stories about Prince.

RRT would have this Court believe that *Warhol* overturned *Campbell*, which held that "the same copying may be fair when used for one purpose but not another." *Warhol*, 598 U.S. at 511, 530–34 (citing *Campbell*, 510 U.S. at 585). If *Warhol* means what RRT says, then no critic could show the logo of a company being discussed, because every such use "identifies" its subject. A story about Tom Brady playing in his first Super Bowl would need to blur out the Patriots' logo on his helmet, and archival footage about Enron would need to be remastered to blur out the Enron logo. NBC would be before this Court weekly as the "Weekend Update" sketch of Saturday Night Live routinely shows corporate logos in commentary about brands and companies.

This Circuit will not abide that interpretation. "[I]t is transformative to take a photograph initially used to simply identify someone or show them in a positive light and use it in a critical manner." *Yang v. Mic Network Inc.*, 405 F. Supp. 3d 537, 544–45 (S.D.N.Y. 2019) (collecting cases), *aff'd*, 2022 U.S. App. LEXIS 8195 (2d Cir. Mar. 29, 2022). A logo identifies an organization as a headshot identifies a person. And this Circuit has even addressed the exact factual scenario of a cult trying to use copyright to censor people who left it. In *NXIVM*, 364 F.3d 471 (2d Cir. 2004), a cult owned copyrights to its seminar materials. It sought a preliminary injunction against critics – a cult-awareness organization and the experts it engaged – who had obtained the materials from a former participant and quoted them to criticize it. The Second Circuit affirmed denial of that injunction because it was fair to use the cult's materials to critique it, even assuming the critics acted in bad faith. *Id*. at 477–78, 482–83. This case is *NXIVM* without bad faith.

Romanova holds that the test is whether the copying "communicates a message that differs from the message of the original — not whether the copier separately declares such a message."

138 F.4th at 119. Bawtinheimer did not use the logo to solicit charitable donations.[2] Bawtinheimer showed RRT's logo as it appeared on RRT's website and other promotional materials while former members of the PBCC criticized the organization. The display of the promotional materials is evidence of criticism of the promotion. This is the same scenario as in *Bill Graham*, 448 F.3d at 609–11 (whole posters as "historical artifacts"), and *Santos*, 154 F.4th at 34 (videos aired in full "to comment on the willingness of Santos ... to say absurd things for money").

This Court agrees that commentary on the work itself "is not necessary to the fair use defense," and reproduction is fair where the altered purpose is "evidenced by surrounding commentary or criticism." *Otto*, 345 F. Supp. 3d at 427 (quoting *Cariou v. Prince*, 714 F.3d 694, 706 (2d Cir. 2013), and *Swatch Grp. Mgmt. Servs. Ltd. v. Bloomberg L.P.*, 756 F.3d 73, 84 (2d Cir. 2014) (finding unaltered dissemination of recording of earnings call for news reporting purposes was fair use)). Here, RRT's branding is the story. RRT's own counsel agrees that a newspaper's reproduction of the identical logo, to illustrate a story about this dispute, "constitutes fair use." ECF No. 31-6 at 2. A television report on this suit displayed the logo five separate times. ECF No. 36-7. Neither commented on the bird. Why didn't RRT sue them? Perhaps because they are not Ms. Bawtinheimer, who has devoted her life to helping people escape the PBCC cult.

RRT then reaches for "monetization," because Bawtinheimer admits that she made "tens of dollars" from the videos. ECF No. 31 at 25. But monetization is not dispositive. *Kelley*, 2023 U.S. Dist. LEXIS 171734 at *37. *Hughes* and *Hosseinzadeh* found fair use in monetized YouTube channels. Nothing in § 107 requires that criticism be distributed pro bono. "Many of the most

[2] However, even if it was, that would be fair use. *Hustler Magazine, Inc. v. Moral Majority, Inc.*, 796 F.2d 1148 (9th Cir. 1986). In that case, Jerry Falwell copied Hustler's entire copyrighted work, which was itself a parody of a Campari advertisement – the same parody later at issue in *Hustler Magazine, Inc. v. Falwell*, 485 U.S. 46 (1988). Falwell reproduced the whole work in mass mailings seeking donations to the Moral Majority. This was fair use.

universally accepted forms of fair use, such as news reporting and commentary ... are all normally done commercially for profit," *Authors Guild v. Google, Inc*., 804 F.3d 202, 219 (2d Cir. 2015), and a rule that presumed otherwise "would swallow nearly all of the illustrative uses listed in the preamble paragraph of § 107," *Campbell*, 510 U.S. at 584 (citations omitted).

1.4 Factor Two: Nature of the Work

This factor "is rarely found to be determinative," *Otto*, 345 F. Supp. 3d at 430, and is of limited usefulness in transformative use cases. *Kelley*, 2023 U.S. Dist. LEXIS 171734 at *42. Thus, we will not waste time with it unless in the Reply it becomes necessary.

1.5 Factor Three: Amount and Substantiality of Use

The third factor asks "whether the quantity and value of the materials used are reasonable in relation to the purpose of the copying." *NXIVM*, 364 F.3d at 480; *Richardson*, 174 F.4th at 309; *Kelley*, 2023 U.S. Dist. LEXIS 171734 at *44. Copying the whole thing is fair use if the purpose requires it: whole posters (*Bill Graham*, 448 F.3d at 613), an entire earnings call (*Swatch*, 756 F.3d at 89–90), and entire videos aired to criticize their author (*Santos*, 154 F.4th at 35). A logo is an indivisible item; a cropped logo would not make any sense. *Bouchat v. Baltimore Ravens Ltd. P'ship*, 737 F.3d 932 (4th Cir. 2013)[3] found fair use of the complete Baltimore Ravens' logo for exactly that reason. 737 F.3d at 943–44. Because you can't tell a story about the Baltimore Ravens while blurring out the logo in the films.

RRT has a novel argument on this factor: In Episode 144, which was a two-hour conversation among three former cult members, they say Bawtinheimer used the logo for too many seconds. The RRT logo is on screen during the episode for about 621 aggregate seconds. ECF No.

[3] While the assignment the Court gave was to provide Second Circuit law, *Bouchat* should be addressed even in a perfunctory manner, because when RRT was pressed at the last hearing for their best case, *Bouchat* was it.

31 at 9 & n.4. But that is not how this factor works. This factor looks at the amount used "in relation to the copyrighted work as a whole," 17 U.S.C. § 107(3), not how many seconds the work is shown. The "amount used" is one complete logo, whether it is on the screen for ten seconds or ten minutes. The work is not used more by being gazed upon for longer. If it was in a leaflet with the logo on it, no one would suggest the reader had to avert her eyes after a set interval to keep the fair use defense intact. The 621 seconds reflects how long the speakers criticized RRT's self-promotion. ECF No. 26 ¶¶ 49–50. *Hosseinzadeh* found fair use where the plaintiff's clips ran throughout the defendants' video, 276 F. Supp. 3d at 43–47, and *Santos* made the same finding where the videos were aired in full, because the material was what the commentary was all about.

2.0 WHAT A DMCA STRIKE DOES TO A YOUTUBE USER

Wrongful DMCA strikes, as discussed below, create irreparable harm. The first thing the DMCA notices did was censor Bawtinheimer's speech by removing five videos criticizing RRT. They have been down since then, and under YouTube's policies, they will stay down until this Court says otherwise. Under YouTube's policies, if the claimant answers a counter-notification by suing, "the content at issue will not be reinstated." ECF No. 26-19 at 2. That is the main harm Ms. Bawtinheimer suffers without relief. Ms. Bawtinheimer wants the videos back up, and only an order establishing fair use and/or requiring RRT to withdraw the notices will restore them.

The second harm that these strikes visit upon Ms. Bawtinheimer is that they place strikes on her account. A *facially valid* DMCA notice is not one that is meritorious in its allegation of copyright infringement, but rather one that ticks the boxes of 17 U.S.C. § 512(c)(3). YouTube does not adjudicate fair use. ECF No. 36-4. If it did, we would not be here. Once the notice is accepted, "a copyright strike is applied to the uploader's channel." ECF No. 31-4 at 2 (submitted by RRT). If an account receives three strikes within 90 days, the "account, along with any associated channels, is subject to termination," every uploaded video becomes "inaccessible," and the user

"can't create new YouTube channels." ECF No. 36-5 at 2–4. That is what RRT wants – Bawtinheimer silenced.

When a DMCA claimant sues, the account strike stays but "*may* be reassessed after a court decision has been issued." ECF No. 26-19 at 2. Each of Counterclaim-Defendants' notices warned that "[i]f you get multiple copyright strikes, we'll have to terminate your channel." ECF No. 27-1 at 2, 4, 12. As of today, one of Bawtinheimer's channels has one strike and the other has two. ECF No. 36-2 ¶¶ 10–12; ECF No. 36-6; Supplemental Declaration ("Bawtinheimer Supp. Dec."), attached as **Exhibit 2**, at ¶¶ 4–5 & Exhibit A. One more strike and, per YouTube's published policies, her channels will be gone, along with every video on them; because termination reaches the "account, along with any associated channels" (ECF No. 36-5 at 2). Even if she were able to get a new channel and repost the videos, RRT would *still* have destroyed her speech, because re-posting the videos would not restore the URLs, backlinks, views, or comments. Further, the strikes lock the videos against editing, so RRT's suggestion of blurring the logo was never an alternative. ECF No. 36-2 ¶¶ 13–16; ECF No. 72 at 2–3 & Fig. 1 all discuss this.

Counterclaim-Defendants keep claiming otherwise: in June they argued that "YouTube will not assess another strike until the issue of copyright infringement is decided," ECF No. 73 at 15, and in October, that YouTube "hold[s] those strikes in abeyance, which they have," Oct. 8 Tr. at 19:14–19. Nothing supports either statement. They are just making that up. Keenly, the Court observed that YouTube's strikes policy "does not describe the protocol" counsel described. *Id.* at 24:11–17. The policy says the strike is applied when the notice arrives and "*may* be reassessed" after judgment. ECF No. 31-4 at 2; ECF No. 26-19 at 2 (italics added). The accompanying declaration of Cheryl Bawtinheimer, limited to this topic, attaches the current strike pages for both channels. Bawtinheimer Supp. Dec., at ¶¶ 4–5 & Exhibit A. And even according to RRT, the risk

of account termination is real: counsel said RRT's hands should not be "tied" if Ms. Bawtinheimer "happens to infringe" in some other video, Oct. 8 Tr. at 19:22–20:2, but a channel carrying two strikes caused by Counterclaim-Defendants will be terminated by a third strike from anyone about anything, not just another RRT swipe at fair use. She is the one bound and gagged here.

Further, nobody asks to tie RRT's hands. They should be kept out of the cookie jar. If Bawtinheimer happens to commit even egregious copyright infringement, RRT should be free to come to this court seeking a TRO stating "your honor, even in the face of a federal lawsuit, she is infringing again." The only thing preventing RRT from doing this is that the same rule applied in *NXIVM* would require RRT to actually *show* infringement rather than wrongfully *claim* it so that RRT could censor her with no due process.

3.0 THE HARM IS IRREPARABLE, THE EQUITIES FAVOR MS. BAWTINHEIMER, AND THE NOTICES SHOULD BE WITHDRAWN

3.1 Irreparable Harm

In this Circuit, irreparable harm is "injury that is not remote or speculative, but actual and imminent, and 'for which a monetary award cannot be adequate compensation.'" *Tom Doherty Assocs., Inc. v. Saban Entm't, Inc.*, 60 F.3d 27, 37 (2d Cir. 1995); *Salinger v. Colting*, 607 F.3d 68, 79–81 (2d Cir. 2010). The record shows three injuries that fit this description.

Silenced speech is continuing harm. Five videos criticizing RRT and the cult behind it are offline due to RRT's DMCA takedown notices targeting clear fair use. People who have escaped from the PBCC rely on these videos. ECF No. 36-2 ¶¶ 8, 17–19; ECF Nos. 36-3, 36-9. Everyone knows *Elrod* and its holding that "[t]he loss of First Amendment freedoms, for even minimal periods of time, unquestionably constitutes irreparable injury." *Elrod v. Burns*, 427 U.S. 347, 373 (1976). And this Circuit takes that to heart. *N.Y. Progress & Prot. PAC v. Walsh*, 733 F.3d 483, 486 (2d Cir. 2013); *Bery v. City of New York*, 97 F.3d 689, 693 (2d Cir. 1996); *see Salinger*, 607

F.3d at 81–82. An audience that does not hear the speech now will not have lack of knowledge restored by a judgment later. *Freedom Holdings, Inc. v. Spitzer*, 408 F.3d 112, 114–15 (2d Cir. 2005). Someone considering joining this cult needs that information now; they cannot rewind the clock to see the criticism later. And Bawtinheimer speaking later instead of now does not restore her free speech. *The censorship is the harm*.

Imminent loss of her channels. As discussed above, the DMCA notices by RRT increase the imminent loss of Bawtinheimer's YouTube channels. Termination of Bawtinheimer's YouTube account will take down every one of her videos. It will scatter her years-in-the-making audience to the Internet winds. It will cost Bawtinheimer the ability to post on YouTube at all. ECF No. 36-2 ¶¶ 11–16. Courts in this Circuit treat even *the threat* of the loss of a platform account, and the goodwill built up in it, as irreparable harm. *Sound Around Inc. v. Shenzhen Keenray Innovations Ltd.*, No. 22-cv-6943 (HG), 2022 U.S. Dist. LEXIS 227247, at *6-9 (E.D.N.Y. Dec. 18, 2022) (Amazon threat of account termination); *Rag & Bone Holdings, LLC v. Miramar Brands Grp., Inc.*, 2025 U.S. Dist. LEXIS 249922, at *4–5 (S.D.N.Y. Dec. 3, 2025); *Register.com, Inc. v. Verio, Inc.*, 356 F.3d 393, 404 (2d Cir. 2004) (loss of goodwill).

This District has found irreparable harm in exactly this circumstance: DMCA notices that shut down a website, where an injunction was "*necessary to return defendants to the position they occupied before plaintiffs filed the DMCA notices*" because the claimant had "demonstrated twice that they will submit notices even when defendants' website is not infringing." *Biosafe-One, Inc. v. Hawks*, 524 F. Supp. 2d 452, 468 (S.D.N.Y. 2007). That is this very case. RRT re-DMCA'ed two videos after YouTube reinstated them following Bawtinheimer filing a counter-notification. ECF Nos. 26-17, 26-18; ECF No. 7 ¶¶ 24, 31. RRT cannot be trusted to simply promise that it

won't send more notices on non-infringing content. Bawtinheimer has self-censored when talking about RRT to avoid more notices and the loss of her account. Bawtinheimer Supp. Dec. ¶¶ 6–9.

Bawtinheimer cannot risk losing her platform, but it is a very real possibility: "I also fear that any future videos regarding RRT will be subjected to a takedown request, regardless of whether there is any good-faith basis," and that another strike "could result in the channel being disabled entirely." ECF No. 27-3 ¶ 19; *see* ECF No. 26-8 ¶ 19. RRT's position that its hands "should not be tied" is one that suggests that it is waiting for its moment to issue more meritless DMCA notices. And let us not forget that even if Bawtinheimer did commit flagrant copyright infringement in the future, unlike speakers not critical of RRT, she would lose her channels on the basis of only a single valid copyright strike and not three, because the rest should not be there in the first place. Bawtinheimer is not blazing new Second Circuit legal ground in claiming that she has suffered, and will continue to suffer, irreparable harm.

The harm is not self-inflicted. RRT keeps claiming that Bawtinheimer could just re-post edited videos with a blurred logo. ECF No. 31 at 13, 18. It is not uncommon for the censor to say "just dull your criticism and we will leave you alone." Bawtinheimer should not have to blind her audience in one eye in order to continue to speak. However, even if she chose to, she cannot: YouTube will not reinstate her videos while this case is pending. The strikes disabled editing. ECF No. 72 at 2–3 & Fig. 1. And a re-posted video would lose the original's URL, backlinks, views and comments. A re-post would draw another DMCA notice, which Counterclaim-Defendants have reserved the right to issue. ECF No. 26-19 at 2; ECF No. 72 at 2–3; ECF No. 36-2 ¶¶ 15–16.

Delay. Counterclaim-Defendants claim Bawtinheimer waited 118 days to seek injunctive relief. ECF No. 31 at 14; ECF No. 96 at 3. That is not much of a delay, but in this Circuit, delay is excused if it can be explained. *Weight Watchers Int'l, Inc. v. Luigino's, Inc.*, 423 F.3d 137, 144

(2d Cir. 2005). Bawtinheimer is a foreign defendant who could never afford representation, got sued before she found an attorney willing to take her case on principle, and sought relief as soon as counsel was in place. ECF No. 36-2 ¶¶ 22–23; ECF No. 31-6. Any delay since April 27 is not her doing, but rather a function of the Northern District of California's calendar. And the harm continues: her audience continues to erode each day the videos stay down, and the channels remain under the threat of a DMCA notice of Damocles. The harm is real and compounding daily.

3.2 Balance of Hardships

Ms. Bawtinheimer asks that the Court return the parties to the *status quo ante*, like the *Biosafe-One* court did. 524 F. Supp. 2d at 468. She asks the Court to order the Counterclaim-Defendants to withdraw the abusive notices they sent, to enjoin them from sending more DMCA notices of the kind described in Section 3.4, *infra*, pending resolution of the fair use question, and to direct that, if they believe some new use infringes, they bring that claim to this Court, where there is due process. ECF No. 27-4 at 4–5. These requests do not cost RRT anything. It has sued Bawtinheimer, and if its cause is actually just, then damages and injunctive relief broader than what a DMCA notice could ever provide are on the table. 17 U.S.C. §§ 502, 504. All RRT loses from the relief requested is the power to get censorship without due process.

The balance of hardships "tips decidedly" in Bawtinheimer's favor, *Citigroup Glob. Mkts. Inc. v. VCG Special Opportunities Master Fund Ltd.*, 598 F.3d 30, 35 (2d Cir. 2010), and the courts cited in Section 3.1, *supra*, entered the same relief on the same imbalance of equities. *Rag & Bone*, 2025 U.S. Dist. LEXIS 249922, at *5; *Sound Around*, 2022 U.S. Dist. LEXIS 227247, at *11–12 (E.D.N.Y. Dec. 18, 2022); *Biosafe-One*, 524 F. Supp. 2d at 468–69. To the extent the Court considers withdrawal of the DMCA notices to be mandatory injunctive relief, Section 1.0, *supra*, supplies the "clear or substantial likelihood of success" required. *Tom Doherty*, 60 F.3d at 34.

3.3 Public Interest

"The public's interest in free expression . . . is significant and is distinct from the parties' speech interests." *Salinger*, 607 F.3d at 82. The public is served when criticism of a massive, rich, and politically influential cult and its associated entities can be heard while a court decides whether that criticism is unlawful. The Plymouth Brethren has a right to seek new members. But the public should have a right to hear criticism of them before they join this hard-to-leave group.

It also benefits the public when a censor abusing copyright law cannot engage in self-help via the DMCA takedown process while that question is pending before a federal court. Fair use is a public benefit, and if it dies because it means nothing, then the public is deprived of commentary and criticism, which are *only* there as public interests.

3.4 The Requested Relief

Bawtinheimer asks the Court to order that (1) within 24 hours of the order being issued, Counterclaim-Defendants notify YouTube in writing that they withdraw each request under 17 U.S.C. § 512(c) for removal of the five videos at issue in this case and file proof of that notice; (2) pending resolution of the fair use question, Counterclaim-Defendants are barred from sending § 512(c) requests to YouTube directed at any Bawtinheimer video in which the RRT logo appears as it appears in RRT's own published materials, in the course of commentary on RRT or the PBCC; and (3) if Counterclaim-Defendants contend that some other use is infringing, they seek relief from this Court by motion, not by notice to a service provider. ECF No. 27-4 at 4–5.[4] In the alternative, if this Honorable Court declines, Bawtinheimer specifically and respectfully requests that the Court issue an injunction pending emergency appeal to the Second Circuit.

[4] Security under Rule 65(c) is committed to the Court's discretion and may be dispensed with where there is no realistic likelihood of harm to the enjoined party. *Doctor's Assocs., Inc. v. Stuart*, 85 F.3d 975, 985 (2d Cir. 1996); *see Corning Inc. v. PicVue Elecs., Ltd.*, 365 F.3d 156, 158 (2d Cir. 2004). An order restoring the position RRT occupied before it sent the notices cannot harm RRT. If the Court requires security, $100 is sufficient.

4.0 PRELIMINARY INJUNCTIONS ISSUE IN DECLARATORY JUDGMENT CLAIMS

The tentative ruling in the Northern District of California questioned whether a claim for declaratory relief could support a preliminary injunction because a declaratory judgment "is a form of relief rather than a cause of action." ECF No. 66-1 at 12 n.4. Assuming *arguendo* that this is actually the law in the Ninth Circuit, or it is murky there, in this Circuit the law explicitly favors Bawtinheimer. The Second Circuit affirms preliminary injunctions in actions whose only claims are for a declaration and an injunction, *Citigroup Glob. Mkts. Inc. v. VCG Special Opportunities Master Fund Ltd.*, 598 F.3d 30, 33–39 (2d Cir. 2010). Nothing in this Circuit requires a damages claim, and the Second Circuit rejected the narrower reading of *Winter* on which the Ninth Circuit's cases rely. *Id.* at 38 n.9 ("We think the Fourth and Ninth Circuits have misread *Winter*'s import"). The merits of a claim for a declaration of non-infringement are identical to the merits of an infringement claim. *MMS Trading Co. PTY Ltd. v. Hutton Toys, LLC*, 2021 U.S. Dist. LEXIS 60376, at *8 (E.D.N.Y. Mar. 29, 2021) (copyright; Amazon takedown). And "[f]urther necessary or proper relief based on a declaratory judgment" may be granted, 28 U.S.C. § 2202; a court that issues an injunction as part of its judgment may preserve the status quo or restore the status quo ante under Rule 65.

Courts in this Circuit have granted the same relief Bawtinheimer requests here in the context of declaratory actions of non-infringement. *Rag & Bone*, 2025 U.S. Dist. LEXIS 249922, at *2–5 (Schofield, J.) (restraining further takedown demands to Amazon, Meta, Nordstrom, and Saks and ordering remedial notices on "serious questions on the merits of Plaintiffs' declaratory judgment claim"); *Sound Around*, 2022 U.S. Dist. LEXIS 227247, at *6 (Gonzalez, J.) (enjoining patentee from "communicating any allegations of infringement by Plaintiff to any third party"); *Excelled Sheepskin & Leather Coat Corp. v. Or. Brewing Co.*, 2014 U.S. Dist. LEXIS 109226, at *1, *18 & n.20 (S.D.N.Y. Aug. 5, 2014) (Daniels, J.).

5.0 EFFICIENCY WOULD BE SERVED BY ADVANCEMENT OF THE MERITS

Fed. R. Civ. P. 65(a)(2) permits the Court to "advance the trial on the merits and consolidate it with the hearing" on this motion, and, similarly, Rule 56(f)(3) permits summary judgment on its own initiative, so long as it gives notice and a reasonable time to respond. *See Univ. of Tex. v. Camenisch*, 451 U.S. 390, 395 (1981); *Abraham Zion Corp. v. Lebow*, 761 F.2d 93, 101 (2d Cir. 1985); *Bridgeway Corp. v. Citibank*, 201 F.3d 134, 139–40 (2d Cir. 2000). Bawtinheimer respectfully requests that the Court provide that notice, and that judgment in Bawtinheimer's favor on her declaratory judgment claim enter, along with a permanent injunction. Fair use is a mixed question of law and fact, but where, as here, the relevant facts are undisputed, the Court can resolve it as a matter of law, and the record requires nothing more. *See Google LLC v. Oracle Am., Inc.,* 593 U.S. 1, 24-25 (2021). The works are already in the record, such that "discovery would not provide any additional relevant information," *Kelley*, 2023 U.S. Dist. LEXIS 171734 at *36. Counterclaim-Defendants actually agree. They told the Northern District of California that deciding likelihood of success on this claim "would be one and the same as summary judgment," ECF No. 73 at 9, argued the merits on the existing record without identifying any fact they needed discovery to develop, *id.* at 10–11, and told this Court the motion is fully briefed, and they will not call any witnesses, Oct. 8 Tr. at 20:7–12, 25:11–14. The only step left is to watch the videos and decide fair use, which would obviate the need for a preliminary injunction altogether. As the Court put it, "at core, we are litigating the question of these videos being posted on YouTube and the propriety of the conduct when submitting the notices." Oct. 8 Tr. at 29:1–8. A ruling that this is fair use would resolve the primary question in this case, and RRT should be estopped from resisting this efficient road to finality, given their prior positions in this case.

This request for efficient resolution of the case arose from the briefing the Court directed on the differences between the circuits. The proceedings in California were on the Ninth Circuit's

framework for preliminary relief. *See* ECF No. 31 at 6–9. It is not common in that Circuit for a court to collapse a preliminary injunction hearing into a trial on the merits. On the other hand, this Circuit does so regularly. *See Abraham Zion*, 761 F.2d at 101; *Able v. United States*, 44 F.3d 128, 132 (2d Cir. 1995). Ms. Bawtinheimer asks, without delaying the motion for a preliminary injunction, that the Court consolidate the hearing on this motion with summary judgment on Count Two of the Counterclaim and her fair use defense, or give notice under Rule 56(f)(3). No further briefing is needed. November 5 can serve as a consolidated hearing. Should the Court wish to delay that hearing, Ms. Bawtinheimer's counsel can be available any day from November 9–13. If those dates are unavailable, another convenient date, but she seeks relief as quickly as possible.

CONCLUSION

The Court should grant Defendant's Motion for a Preliminary Injunction (ECF No. 27), order the DMCA notices withdrawn within 24 hours, bar further § 512(c) notices directed at Bawtinheimer's videos that display the RRT logo as it appears in RRT's own published materials, in the course of commentary on RRT or the PBCC, pending resolution of the fair use question, direct that any future claim of infringement be brought here, and consolidate the hearing on that motion with a trial on the merits under Rule 65(a)(2), or enter summary judgment under Rule 56(f)(3), and deny Counterclaim-Defendants' Motion to Dismiss (ECF No. 33), and, if the Court declines to grant preliminary relief, issue an injunction pending appeal to the Second Circuit.

Dated: October 22, 2026.

Respectfully Submitted,

/s/ Marc J. Randazza

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Civil Action No. 1:26-cv-07423-GHW

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on October 22, 2026, I electronically filed the foregoing document with the Clerk of the Court using CM/ECF. I also certify that a true and correct copy of the foregoing document is being served on all appearing parties via transmission of Notices of Electronic Filing generated by CM/ECF.

Respectfully Submitted,

/s/ Marc J. Randazza
Marc J. Randazza

Exhibit 1

October 8, 2026, Status Conference
Transcript Excerpts

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK
----------x

RAPID RELIEF TEAM LTD.,

Plaintiffs and Counterclaim-Defendants,

v. 26 Cv. 7423 (GHW)

CHERYL BAWTINHEIMER,

Conference

Defendant and Counterclaim-Plaintiff,

v.

BROWN RUDNICK LLP, *et al*.

Counterclaim-Defendants.

----------x

New York, N.Y.
October 8, 2026
3:00 p.m.

Before:

HON. GREGORY H. WOODS,

District Judge

APPEARANCES

BROWN RUDNICK LLP
Attorneys for Plaintiffs/Counterclaim-Defendants Rapid Relief Team, Rudnick, Church, Graif
BY: MICHAEL R. GRAIF
KATHERINE DEARING

RANDAZZA LAW GROUP
Attorneys for Defendant/Counterclaim-Plaintiff Bawtinheimer
BY: MARC J. RANDAZZA

(Case called)

MR. GRAIF: This is Michael Graif, your Honor, for plaintiff and counterclaim defendants.

MS. DEARING: Katherine Dearing, also for plaintiff and counterclaim defendants.

THE COURT: Thank you.

MR. RANDAZZA: Mark John Randazza for Cheryl Bawtinheimer.

THE COURT: Very good. Thank you very much.

So, counsel, first, thank you all for being here. We are here for a status conference for this case which was transferred to me. First off, let me thank you for your letter setting forth the backdrop of the case and the parties' views regarding appropriate next steps. That's helpful.

I will now give each of the parties the opportunity to tell me anything that you would like about the case as a whole as I begin to orient myself to the case. I read your letter and looked at a substantial number of documents that were filed on the docket in the Northern District of California as well as the materials that have been filed here to date, but let me hear from each of you in turn.

Is there anything you would like to tell me about the case as a whole before we begin a discussion of the appropriate next steps? Counsel first for plaintiff.

MR. GRAIF: Yes. Thank you, your Honor. If I can

address the merits of the case briefly. Sure. Thank you. So this is a case about the unauthorized use of plaintiff's copyrighted logo. And as a starting point, there's no right to use or display a copyrighted work, which is what defendants have done, and defendants don't dispute they had no authority to display the logo. What they are relying on is fair use, fair use based in criticism.

Under Section 107 of the Copyright Act, what is allowed, a limited right to display a copyrighted work for the purposes of criticizing it to the extent necessary to criticize that work. The problem here is that defendant never criticizes the copyrighted work. The copyrighted work simply appears gratuitously. It's never mentioned. Instead, the plaintiff is criticizing -- I'm sorry, the defendant is criticizing plaintiff and plaintiff's parent, the Plymouth Brethren Church. So not once is there any critical purpose with respect to display of the copyrighted logo. So there's no real transformative purpose in their use of the logo.

In fact, the defendant is using the logo for the exact same purpose as plaintiff. Plaintiff uses it to identify plaintiff, and defendant is using it to identify plaintiff. And under the recently or in the last fair use case decided by the United States Supreme Court, *Warhol v. Goldsmith*, if the defendant has the same purpose of use of the copyrighted work as the plaintiff, then it's not transformative. And that's

even when the defendant changes the appearance of the copyrighted work, as happened in *Warhol v. Goldsmith*. It was still found by the Supreme Court not to be transformative.

Here, it's even more compelling because the defendant did not change the appearance. They used the exact same logo and never even attempted to apply any transformative use to it. In fact, they were just criticizing the church and RRT but never ever the logo.

THE COURT: Just to pause you briefly.

What's the source for the law that you are pointing me to to the effect that the use of the copyrighted artwork can only be used as fair use to criticize the artwork itself rather than the thing that it symbolizes?

So assume that McDonald's has the copyright of the golden arches, I can't put up the golden arches to say that McDonald's did something bad whatever that may be. You are saying it's only fair use if I say that the golden arches are ugly or to critique the emblem itself.

What's the legal support for that argument?

MR. GRAIF: Fair enough. What I would say about that is that the golden arches could be displayed incidentally in the background incidentally. But just another fact here to distinguish that from your example — and I will answer your question in a minute — which is in one of the videos, they display the copyrighted work for six and a half minutes.

So displaying the golden arches when criticizing McDonald's for a short period of time may or may not fall within that fair use regardless of whether you are criticizing the golden arches, but the third factor of Section 107 is extremely important, right, it's the amount of substantiality of the use. And what that says is that you can display a copyrighted work to the extent necessary to criticize it. And in no world, as far as plaintiff is concerned, is six and a half minutes of use of a logo that you are not even criticizing conforming or fit within the amount of substantiality factor of fair use.

So there is case law. I don't think we have the case now, but what's the name of the case?

(Counsel conferred)

MR. GRAIF: There is a case called *Bouchat* in the Fourth Circuit where the Baltimore Ravens' logo was displayed in the background. And in that case, although certain uses were found to be fair use, uses that went on too long or that were not at all related to the criticism or the transformative point that the defendant was attempting were found not to be fair use. So the incidental use of the logo may be OK, but if it's used for too long or not related to the purpose for which you are using it, it would not qualify as fair.

THE COURT: Thank you.

MR. GRAIF: All right. So that's number one. I'm

THE COURT: Thank you.

MR. RANDAZZA: I think it's fully briefed.

THE COURT: Thank you. And is there any material distinction in the fair use law between the Ninth Circuit and the Second that you would like to highlight for me or that you think would be necessary for me to appreciate the parties' arguments?

MR. RANDAZZA: I think fair use is a little stronger here, but I don't think we need to reach that level of horsepower. I think the Ninth Circuit's -- what we have briefed already is sufficient.

THE COURT: Thank you.

Counsel for plaintiff/counterclaim defendant, what's your view?

MR. GRAIF: May I respond to -- yes, thank you. So there's two elements to a preliminary injunction motion, and the first is irreparable harm. About six months ago before we served the complaint, we offered defendant a chance to repost their videos and blur the logo, that is, have all of their criticism, have everything, and they did not do that. They kept the videos down. And so really the only harm that they are alleging before this Court when it's distilled down to it is their inability to display the bird logo. I submit, your Honor, that is not harm, even much less irreparable harm.

Second of all, we did that six months ago. Two and a

half months later, they filed this preliminary injunction motion. And then during the pendency of the case in California, in response to one of our motions to dismiss on the bases of lack of personal jurisdiction, it is defendants who requested transfer in their papers of the case here, which delayed this case -- or, well, which extended this case by three, three and a half more months.

So if defendant was really suffering irreparable harm such that that should warrant a preliminary injunction and it couldn't live without the preliminary injunction, which was *pendente lite* before the Court when it asked for that transfer, then why did it ask for that transfer instead of having relief on its supposed irreparable harm?

Second point I would like to address, which is defendants' counsel has spoken of strikes. YouTube's rule once a case is commenced as it has been here, pursuant to the DMCA, is to told those strikes in abeyance, which they have. They have not assessed those strikes until the outcome of the case on the merits is determined. There is no risk whatsoever right now based on the strikes, based on the takedowns that RRT plaintiff has brought that Ms. Bawtinheimer will get another strike or that any strikes were imposed by YouTube. If she happens to infringe copyright and we submit another takedown notice that is completely unrelated to this, I submit that that should not -- our hands should not in any way be tied because

of what has happened here, where YouTube has, in fact, held those strikes in abeyance. They are completely unrelated, and they have nothing to do with irreparable harm, which is the standard for preliminary injunction. So that's my say on that.

Procedurally, if I may?

THE COURT: Please.

MR. GRAIF: Yes. I tend to agree that the case is fully briefed. I'm just wondering if it might not be helpful — we would probably have to look at papers again — to have minimal supplemental briefing with respect to the Second Circuit standard on irreparable harm because we feel that's a very important point here.

THE COURT: Thank you. Part of the parties' submissions in connection with the PI hearing that I have not yet reviewed are the exhibits. I've looked at the briefing, but I haven't been through the full factual record. Both parties commented on, for example, YouTube's policies and YouTube's policies' impact on the Court's assessment of irreparable harm here. I don't know to what extent the representations of counsel here are part of the existing record or whether they are things that should be on the record for the Court to consider in connection with the application. Let me just pose that as a question for the parties.

Counsel first for defendant?

MR. RANDAZZA: These issues are fully briefed, so I

future. My client has five videos that criticize RRT, which came down. They went back up because she filed a counter-notification, and now they are back down. Her speech remains suppressed in the absence of injunctive relief.

So I think that just to have additional briefing on what might happen in the future, it might be a detail, but right now, we want to have our speech taken out from under this censorship that they are currently suffering from.

MR. GRAIF: May I respond to that, your Honor?

THE COURT: Yes. Bear with me for just a moment.

Thank you. I was just looking at the three exhibits to which counsel for defendant referred me. Exhibit 5 is the exhibit which is a document from YouTube, understand copyright strikes. It does not describe the protocol that you described, counsel for plaintiff, with the process in which a strike would be suspended pending litigation, at least that I identified in a very quick read.

Go ahead counsel for plaintiff.

MR. GRAIF: Yes. Thank you. With respect to what counsel for defendant just said. This is making our exact paint, which is they are coming to the Court and asking for the Court to remedy the harm that they could remedy themselves. It is fundamental law that Court's do not have to -- it isn't the Court's job to remedy harm they can remedy themselves.

They could put their speech that counsel is saying is

suppressed back up tomorrow and just obscure the bird, but they are not doing that. Instead, they are asking the Court to come in and order some injunction. The harm that they are alleging is occurring is harm that it is fully within their control to eliminate. And that brings me back to the point that I made originally, which is that the only harm that they are suffering is the inability to use the copyrighted logo in connection with that criticism that they can remedy themselves.

As far as your Honor's question on whether -- what was it, procedural question on --

THE COURT: Yes. Whether you expect to call any live witnesses to testify in support of your opposition to the application for injunctive relief.

MR. GRAIF: We do not, your Honor.

THE COURT: Thank you. Good. Let's talk about a schedule now. I'm going to set a schedule for the filing of a motion on the part of Ms. Church. We will start with that. I heard counsel for defendants' comments about that, but I will come back to that at the end. I'm going to start with that assuming that that motion must be filed. Then, we are going to set a schedule for each side to present a supplemental briefing on the motion to dismiss and the PI hearing, understanding that that supplemental briefing will be limited to the identification of Second Circuit precedent that will inform the Court's resolution of those motions. It is not a plenary

I know there's a lot going on in the air around the issue that we are actually litigating, but at core, we are litigating the question of these videos being posted on YouTube and the propriety of the conduct when submitting the notices. If we focus on those issues, my hope is that the parties might be able to reach a resolution on what I would describe as a commercial basis. So I just want to encourage the parties to keep on doing that work and to talk about it after I step down.

I want to comment on counsel for defendants' remarks about the motion as to Ms. Church in particular. I cannot ascertain what the incremental remedial benefit there is to pursuing the claims against Ms. Church. I just don't know, and I can't evaluate that. To the extent that the relief sought can be obtained from people over whom the Court clearly has jurisdiction and which might obviate the need for this kind of motion practice, it may be that the parties could talk about whether the case could proceed without her, but I don't know whether that's an issue.

MR. RANDAZZA: I have been waiting for an opportune moment. I think I'd like to simplify it by withdrawing the claims against Ms. Church now, making everything easier for everybody.

THE COURT: Thank you. That's much appreciated. Let me ask you, if you would -- I accept that as a stipulation.

MR. RANDAZZA: Yes.

Exhibit 2

Supplemental Declaration
Cheryl Bawtinheimer

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

Rapid Relief Team (RRT) Ltd., Plaintiff and Counterclaim-Defendant, vs. Cheryl Bawtinheimer, Defendant and Counterclaim-Plaintiff, vs. Brown Rudnick LLP, Katy-Jade Church, and Michael Graif, Counterclaim-Defendants.	:	Civil Action No. 1:26-cv-07423-GHW **SUPPLEMENTAL DECLARATION OF CHERYL BAWTINHEIMER**

I, Cheryl Bawtinheimer, declare as follows:

1. I am the Defendant and Counterclaim-Plaintiff in the above-captioned matter.

2. I have first-hand knowledge of the matters set forth herein, and if called upon as a witness, could and would testify completely thereto.

3. I submit this declaration in support of the Memorandum of Law Regarding Fair Use in the Second Circuit, Copyright Strikes, and Irreparable Harm, with Alternative Request for Judgment (the "Memo").

4. My YouTube channels, "Get A Life Podcast" (@getalifepodcast) and "Rapid Relief Team – Exposed" (@rapidreliefteam-exposed) currently have copyright strikes because of RRT's abusive and false DMCA Notices.

5. A true and correct copy of the YouTube strike page for @getalifepodcast and @rapidreliefteam-exposed is attached hereto as **Exhibit A**.

Doc ID: 5328591fdf635a058efb69a6eb2337266f4bfe9d

6. RRT re-noticed two of my videos after YouTube reinstated them following my filing of counter-notifications.

7. I do not trust that RRT won't send more notices to YouTube on my non-infringing content.

8. I am afraid to do anything to risk losing my platform, so I have been forced to censor myself when talking about RRT.

9. I fear that if I don't censor myself, RRT will continue to retaliate against me.

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

Executed on: 10 / 21 / 2026.

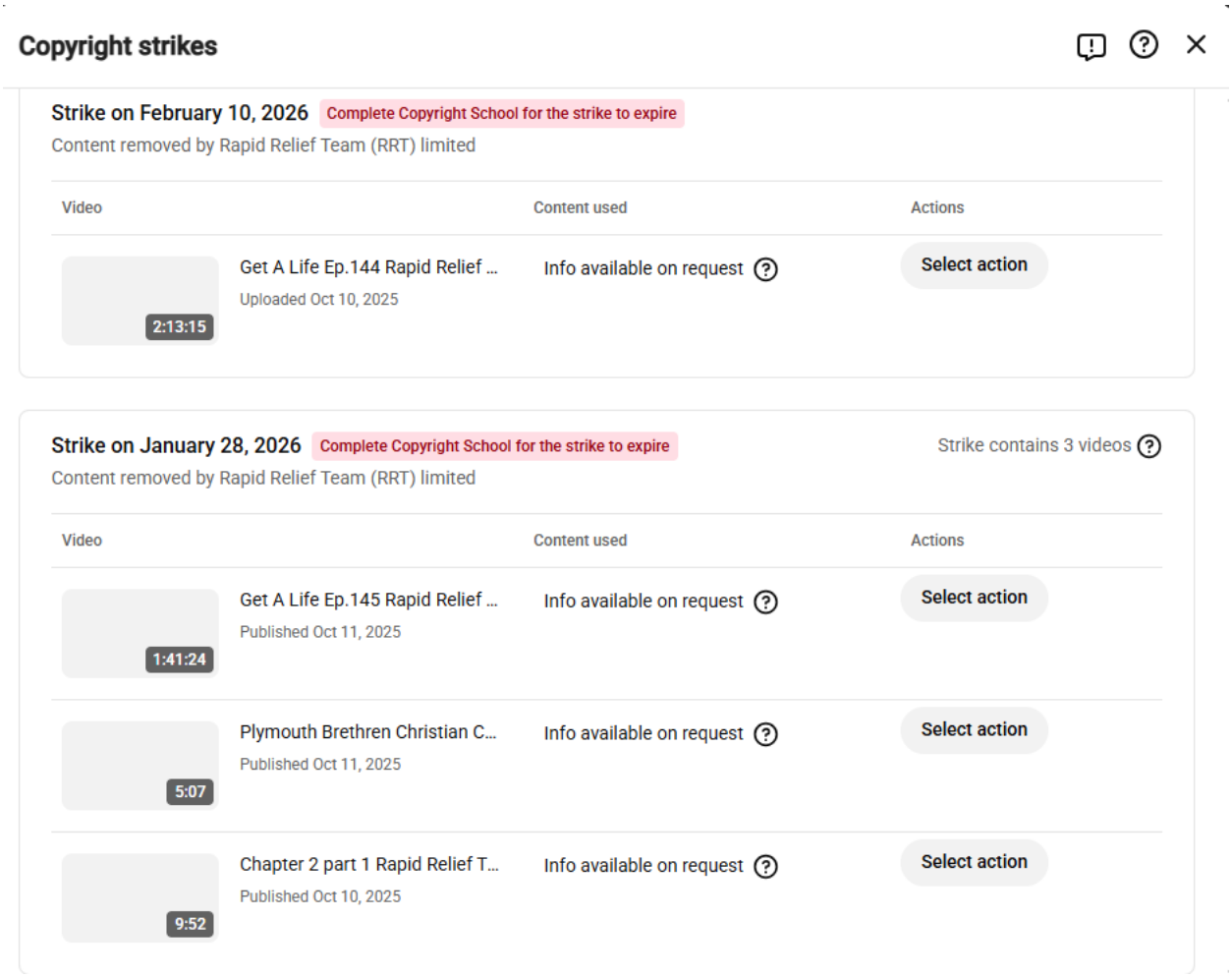
Cheryl Bawtinheimer

Cheryl Bawtinheimer

Doc ID: 5328591fdf635a058efb69a6eb2337266f4bfe9d

Exhibit A

YouTube Strikes



Copyright strikes

Strike on February 10, 2026 Complete Copyright School for the strike to expire

Content removed by Rapid Relief Team (RRT) limited

Video	Content used	Actions
2:13:15 Get A Life Ep.144 Rapid Relief ... Uploaded Oct 10, 2025	Info available on request	Select action

Strike on January 28, 2026 Complete Copyright School for the strike to expire

Strike contains 3 videos

Content removed by Rapid Relief Team (RRT) limited

Video	Content used	Actions
1:41:24 Get A Life Ep.145 Rapid Relief ... Published Oct 11, 2025	Info available on request	Select action
5:07 Plymouth Brethren Christian C... Published Oct 11, 2025	Info available on request	Select action
9:52 Chapter 2 part 1 Rapid Relief T... Published Oct 10, 2025	Info available on request	Select action