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15 **UNITED STATES DISTRICT COURT**
16 **FOR THE NORTHERN DISTRICT OF CALIFORNIA**
17 **OAKLAND DIVISION**

18 RAPID RELIEF TEAM (RRT) LTD.,
19 Plaintiff and Counterclaim-
20 Defendant,

21 vs.

22 CHERYL BAWTINHEIMER,
23 Defendant and
24 Counterclaim-Plaintiff.

25 vs.

26 BROWN RUDNICK LLP, KATY-JADE
27 CHURCH, and MICHAEL GRAIF,
28 Counterclaim-Defendants.

Case No. 4:25-cv-10864-JST

HON. JON S. TIGAR

**COUNTERCLAIM-DEFENDANTS
RAPID RELIEF TEAM AND
BROWN RUDNICK LLP'S
MEMORANDUM OF POINTS AND
AUTHORITIES IN OPPOSITION
TO DEFENDANT/
COUNTERCLAIM-PLAINTIFF'S
MOTION FOR PRELIMINARY
INJUNCTION**

DATE: June 18, 2026

TIME: 2:00 P.M.

CTRM: Courtroom 6 – 2nd Floor

Action Filed: December 19, 2025
Amended Complaint Filed: January 30,
2026

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Federal Cases

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Bollea v. Gawker Media, LLC,
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Bouchat v. Baltimore Ravens,
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Bouchat v. Baltimore Ravens Ltd. P’ship,
619 F.3d 301 (4th Cir. 2010)..... 20, 21, 22, 23

Campbell v. Acuff-Rose Music, Inc.,
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Caplan v. Fellheimer Eichen Braverman & Kaskey,
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Chosen Figure LLC v. Kevin Frazier Prods., Inc.,
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Hill v. Xyquad, Inc.,
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1 *Hollister v. Sims*,
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3 *Hosseinzadeh v. Klein*,
 4 276 F.Supp.3d 34 (S.D.N.Y. 2017)..... 17

5 *Hustler Magazine, Inc. v. Moral Majority, Inc.*,
 6 796 F.2d 1148 (9th Cir. 1986)..... 23, 24

7 *In re DMCA § 512(H) Subpoena to Twitter, Inc.*,
 8 608 F. Supp. 3d 868 (N.D. Cal. 2022)*passim*

9 *Invisible Narratives v. Next Level Apps Tec.-FZCO*,
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11 *Lenz v. Universal Music Group*,
 12 815 F.3d 1145 (9th Cir. 2016).....*passim*

13 *Marlyn Nutraceuticals, Inc. v. Mucos Pharma GmbH & Co.*,
 14 571 F.3d 873 (9th Cir. 2009)..... 6, 7

15 *MG Premium Ltd. v. Does*,
 16 No. 2:21-cv-08533, 2023 WL 4681368 (C.D. Cal. June 2, 2023) 25

17 *Moonbug Entertainment Limited v. Babybus (Fujian) Network Technology Co.*,
 18 No. 21-cv-06536, 2022 WL 580788 (N.D. Cal. Feb. 25, 2022) 15, 18

19 *Oakland Tribune, Inc. v. Chronicle Pub. Co., Inc.*,
 20 762 F.2d 1374 (9th Cir. 1985)..... 14

21 *Perfect 10, Inc. v. Amazon.com, Inc.*,
 22 508 F.3d 1146 (9th Cir. 2007)..... 19

23 *Playboy Enters. v. Netscape Communs. Corp.*,
 24 55 F. Supp. 2d 1070 (C.D. Cal. 1999)..... 14

25 *Rossi v. Motion Picture Ass'n of Am. Inc.*,
 26 391 F.3d 1000 (9th Cir. 2004)..... 14, 15

27 *Savage v. Council on Am.-Islamic Rels., Inc.*,
 28 2008 U.S. Dist. LEXIS 60545 (N.D. Cal. July 25, 2008) 24

Seltzer v. Green Day, Inc.,
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Shaffer v. Kavarnos,
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Stardock Sys., Inc. v. Reiche,
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1 *Stokely-Van Camp, Inc. v. Coca-Cola Co.*,
 2 1987 WL 6300 (N.D. Ill. Jan. 30, 1987) 14

3 *Stuhlbarg Int’l Sales Co. v. John D. Brush & Co.*,
 4 240 F.3d 832 (9th Cir. 2001)..... 8

5 *Suzhou Angela Online Game Technology Co. v. Snail Games USA, Inc.*,
 6 No. 22-55137, 2022 WL 5240656 (9th Cir. Oct. 6, 2022)..... 7, 9

7 *UMG Recordings, Inc. v. Augusto*,
 8 558 F. Supp. 2d 1055 (C.D. Cal. 2008)..... 17

9 *Winter v. Natural Res. Def. Council, Inc.*,
 10 555 U.S. 7 (2008) 6, 13, 25

11 **Federal Statutes**

12 17 U.S.C.

13 § 107 18

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18 § 512(g)(2)(B) 5

19 § 512(g)(2)(C) 5

20 **Other Authorities**

21 Marc J. Randazza, *Lenz v. Universal: A Call to Reform Section 512(f) of the*
 22 *DMCA and to Strengthen Fair Use*, *Vanderbilt Journal of Entertainment and*
 23 *Technology Law* 743 (2020), available at
 24 <https://scholarship.law.vanderbilt.edu/jetlaw/vol18/iss4/3> 16

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1 Plaintiff/Counterclaim-Defendant Rapid Relief Team Ltd. (“RRT”) and
2 Counterclaim-Defendant Brown Rudnick LLP submit this Memorandum of Points and
3 Authorities in opposition to Defendant/Counterclaim-Plaintiff Cheryl Bawtinheimer’s
4 Motion for Preliminary Injunction.

5 **I. INTRODUCTION**

6 In 2019, RRT created Cookie the Kookaburra, a professionally-designed
7 stylized cartoon bird character (“Cookie” or the “Logo”). Since that time, it has
8 consistently and extensively been using the Logo as a brand identifier on equipment
9 designed to support emergency responders and communities in need, as well as
10 standard charity assets including its website and merchandise. The Logo is not
11 incidental to RRT’s business -- it is central to it. RRT owns the copyright in the Logo
12 and has secured federal registrations reflecting that ownership. Like any rights holder,
13 RRT has both the right and the obligation to protect its intellectual property from
14 unauthorized use. Defendant, without permission, incorporated the Logo into multiple
15 videos published on her YouTube channel. These uses were not necessary to any
16 commentary about RRT or its Logo. Instead, Defendant repeatedly displayed the
17 copyrighted work in a manner that appropriated its expressive value while adding
18 nothing meaningfully new. Upon discovering this unauthorized use, RRT took
19 measured and proportionate action: it submitted DMCA takedown requests for only
20 five unique videos—a small subset of Defendant’s main channel, which contains well
21 over 150 videos.

22 Now, Defendant asks this Court for extraordinary relief: a mandatory
23 preliminary injunction that would compel RRT to retract its takedown requests and
24 effectively bar RRT from protecting its intellectual property rights going forward. That
25 request turns the purpose of preliminary relief on its head. Mandatory injunctions are
26 reserved for truly exceptional circumstances. This is not one of them.

27 This Court should deny Defendant’s motion at least for the following reasons:
28

1 **First**, and fatal to a motion for injunctive relief, Defendant cannot demonstrate
2 irreparable harm. The record shows that Defendant remains free to publish content on
3 her YouTube channel and that she continues to do so. The challenged takedowns affect
4 only five distinct videos out of a vast library, and do not threaten her ability to speak
5 publicly through her channel. Indeed, any alleged harm is entirely self-inflicted. RRT
6 expressly informed Defendant that it would not object to the reposting of the videos if
7 the infringing content—comprising only a small fraction of each video, in some cases
8 less than one percent of runtime—were removed. Defendant refused. Rather than make
9 minimal edits to eliminate the infringing material, she chose to keep the videos offline
10 and now seeks to leverage that intransigence into a claim of irreparable injury. Equity
11 does not reward such strategic inaction.

12 **Second**, Defendant’s lack of urgency further undermines her position. Despite
13 claiming ongoing and irreparable harm, she waited almost four months – 118 days to
14 be exact – from the first takedown before seeking injunctive relief. That delay is
15 fundamentally inconsistent with the notion that immediate intervention is necessary to
16 prevent imminent injury.

17 **Third**, Defendant cannot establish a likelihood of success for either of its two
18 asserted counterclaims, as neither is supported by law or the underlying facts:

19 Defendant’s first counterclaim seeking damages under 17 U.S.C. § 512(f) fails
20 at the outset because Defendant cannot show, as required under Ninth Circuit binding
21 precedent in *Lenz v. Universal Music Group*, 815 F.3d 1145 (9th Cir. 2016), that RRT
22 lacked a *subjective* good faith belief in its copyright infringement claim when it
23 submitted its takedown requests. Contrary to Defendant’s unsupported and false
24 allegations, RRT considered whether Defendant’s depictions of the Logo in the videos
25 were fair use and held a subjective good faith belief that they were not. That alone
26 ends the § 512(f) inquiry.

27 Her declaratory judgment claim fares no better. Defendant’s use of the Logo is
28 not transformative, does not serve a distinct expressive purpose, and relies on repeated,

1 unnecessary display of the entirety of the copyrighted work. Indeed, the Logo is used
 2 in a manner that mirrors its core function—as a recognizable identifier of RRT—
 3 further underscoring, especially post-*Andy Warhol Foundation for the Visual Arts v.*
 4 *Goldsmith*, 598 U.S. 503 (2023), the absence of any legitimate fair use defense.

5 In short, Defendant seeks to manufacture urgency that does not exist, and avoid
 6 curing alleged harm despite her ability to do so, in an attempt to enlist this Court into
 7 granting extraordinary relief that would strip a rights holder of its ability to protect its
 8 own intellectual property. The law does not permit that result, and the facts do not
 9 justify it. The Court should deny Defendant’s motion in its entirety.

10 **II. FACTUAL BACKGROUND**

11 Cookie the Kookaburra is a stylized cartoon bird character that RRT has used as
 12 a logo on its equipment designed to support emergency responders
 13 and communities in need, including but not limited to semi-trailers
 14 used to transport all-terrain forklifts, marquees which provide shelter
 15 to volunteers preparing food and beverages, BBQ and coffee trailers,
 16 and on its standard charity assets including its website and merchandise for about seven
 17 years. Cookie was first published as a foreign copyrighted work on social media and
 18 then launched on the global RRT website in May 2019. ECF No. 7 at ¶4. RRT owns
 19 the copyright to Cookie’s image, and depictions of Cookie in different postures¹ are
 20 registered with the U.S. Copyright Office as VA0002472486 and VA000247487.²
 21 Declaration of D. Rozansky (“Rozansky Decl.”), Ex. 1.



22 Defendant has published hundreds of videos to her *Get a Life Podcast* and *Rapid*
 23 *Relief Team – Exposed* YouTube channels.³ On October 28, 2025, after discovering
 24

25 ¹ The Logo is registered in two different postures because it also appears in motion and in various
 26 postures on RRT’s website and social media.

27 ² Contrary to Defendant’s assertion, the Logo is not “clip art” nor “unregistered.” Motion at 6.

28 ³ Episode No. 167 was published on April 10, 2026, on the Get a Life Podcast page. Rozansky
 Decl., Ex. 2.

1 that certain of Defendant’s videos included imagery of the Logo, RRT’s counsel
 2 submitted two DMCA takedown requests to YouTube. Consistent with the
 3 requirements of the Digital Millenium Copyright Act, 17 U.S.C. § 512, YouTube has
 4 established policies for reviewing and implementing takedown requests. If YouTube
 5 determines after a review that a takedown request appears valid, YouTube will remove
 6 the entire video. Rozansky Decl., Ex. 3. YouTube, determining that the requests
 7 appeared valid, took down the videos. RRT subsequently identified other videos on
 8 Defendant’s YouTube channels that depicted RRT’s Logo and submitted additional
 9 takedown requests. In all, RRT has requested removal of the following five videos on
 10 Defendant’s channels, narrowly tailoring the requests to the portions of each video
 11 infringing upon RRT’s rights:⁴

Video	Channel(s)	Video Length	Infringement Duration	DMCA Takedown Requests and Video Status
“Lindy” ⁵	Get a Life Podcast; Rapid Relief Team - Exposed	5:06	15 seconds	- Submitted for Get a Life Podcast channel on Oct. 28, 2025 (video removed Dec. 5, 2025) - Submitted for Rapid Relief Team – Exposed channel Jan. 28, 2026 (video removed on or about Jan. 28, 2026)
“Divided at Christmas”	Get a Life Podcast	3:31	17 seconds	- Submitted on Oct. 28, 2025 (video removed Dec. 12, 2025)

22
 23
 24 ⁴ Each of the takedown requests identified the infringing use of the Logo with precise time stamps. Contrary to Defendant’s suggestion, RRT did not include merely incidental, isolated reproductions of the Logo. Motion 8-9. Rather, RRT included portions in which there were many instances of the Logo, or long consecutive stretches in which it was displayed.

26
 27 ⁵ This video was uploaded to the Get a Life Podcast channel under the title “Lindy expresses her concern regarding the Plymouth Brethren Christian Church’s RRT charity” and separately uploaded to the Rapid Relief Team – Exposed channel under the title “Plymouth Brethren Christian Church: Former Member Exposes Rapid Relief Team.”

1 2 3 4 5 6	Episode No. 144	Get a Life Podcast Rapid Relief Team – Exposed	2:00:00	7 minutes, 31 seconds	- Submitted for Get a Life Podcast on Jan. 28, 2026 (video removed on or about Jan. 28, 2026) - Submitted for Rapid Relief Team – Exposed on Jan. 30, 2026 (video removed on or about Jan. 30, 2026)
7 8 9 10 11	Episode No. 145	Get a Life Podcast; Rapid Relief Team – Exposed	1:41:23	20 seconds	Submitted on Jan. 28, 2026 to both channels. Following counternotification, the version on Get a Life Podcast is currently available while Rapid Relief Team – Exposed is not.
12 13	Chapter 2 Part 1	Rapid Relief Team - Exposed	9:51	6 seconds	Submitted on Jan. 28, 2026 (video removed on or about Jan. 28, 2026)

14 ECF No. 7 at ¶¶24-34; *see also* ECF No. 26, Exs. 15-16, 20-22.

15 After Defendant submitted counter notifications to YouTube to challenge
16 RRT’s first two takedown requests, RRT commenced this lawsuit against Defendant
17 for copyright infringement on December 19, 2025 (ECF No. 1), and amended the
18 complaint on January 30, 2026, to add infringement claims corresponding to the later
19 takedown requests and Defendant’s subsequent corresponding counter notifications
20 (ECF No. 7). *See* 17 U.S.C. § 512(g)(2)(B), (C). YouTube, not RRT, concluded that
21 the videos should be taken down. YouTube confirmed to Defendant that it had
22 “located and processed” the counter notification, and the video “was removed as the
23 result of a complete and facially valid takedown notice submitted by [RRT].” ECF No.
24 26-17 at 4. Contrary to Defendant’s assertion, YouTube *did not* find that any video
25 “did not infringe on RRT’s copyright.” Motion at 8, 9. Defendant submitted counter
26 notifications for each of the videos identified above for the Get a Life Podcast channel
27 but did not do so for the same videos on the Rapid Relief Team – Exposed channel.

28

1 Prior to serving the complaint, RRT informed Defendant numerous times that
 2 she was free to repost the videos if she first removed the infringing content. For
 3 example, on March 13, 2026, RRT’s counsel stated to Defendant that “if you edit and
 4 repost the videos without the content that infringes RRT’s copyright, and we formalize
 5 this in writing, RRT will not challenge the edited videos without the Logo, will
 6 withdraw the litigation, will notify YouTube that the matter has been settled, and will
 7 not pursue costs.” Declaration of Michael R. Graif (“Graif Decl.”), Ex. 1 at 2. Even
 8 though the infringing content comprised only a small proportion of each video,
 9 Defendant refused to remove the infringing content, opting instead to keep the entirety
 10 of each of the videos offline.⁶ Graif Decl., Ex. 1 at 1.

11 **III. LEGAL STANDARD**

12 A preliminary injunction “is an extraordinary remedy never awarded as of
 13 right.” *Winter v. Natural Res. Def. Council, Inc.*, 555 U.S. 7, 24 (2008). To obtain
 14 a preliminary injunction, the movant “must establish [(1)] that [it] is likely to succeed
 15 on the merits, [(2)] that [it] is likely to suffer irreparable harm in the absence of
 16 preliminary relief, [(3)] that the balance of equities tips in [its] favor, and [(4)] that an
 17 injunction is in the public interest.” *Id.* at 20.

18 **IV. ARGUMENT**

19 **A. Defendant Seeks a Mandatory Injunction, Requiring a Heightened** 20 **Burden of Proof**

21 A preliminary injunction can take two forms: a prohibitory injunction or a
 22 mandatory injunction. *Marlyn Nutraceuticals, Inc. v. Mucos Pharma GmbH & Co.*,
 23 571 F.3d 873, 878-79 (9th Cir. 2009). “A prohibitory injunction prohibits a party from
 24

25
 26 ⁶ As set forth in the table above, all videos are still removed by YouTube, with the exception of
 27 the version of Episode No. 145 on the Get a Life Podcast channel, which was put back up by YouTube
 28 after the submission of the counternotification, in contradiction with its policy regarding videos
 subject to a pending lawsuit. ECF No. 26, Ex. 19 at 2 (“While legal action is pending, the content at
 issue will not be reinstated to YouTube.”).

1 taking action and preserves the status quo pending a determination of the action on the
2 merits.” *Id.* (quotation marks omitted). In contrast, “[a] mandatory injunction orders
3 a responsible party to take action” and “goes well beyond simply maintaining the status
4 quo pendente lite and is particularly disfavored.” *Id.* at 879 (quotation marks and
5 citations omitted). “In general, mandatory injunctions ‘are not granted unless extreme
6 or very serious damage will result and are not issued in doubtful cases or where the
7 injury complained of is capable of compensation in damages.” *Id.* (quotation marks
8 and citation omitted). If a party “seeks a mandatory injunction, she must establish that
9 the law and facts clearly favor her position, not simply that she is likely to succeed.”
10 *Garcia v. Google, Inc.*, 786 F.3d 733, 740 (9th Cir. 2015) (en banc).

11 Defendant plainly seeks a mandatory injunction. The Motion expressly requests
12 an order “requiring Defendants to withdraw all DMCA requests sent to YouTube
13 regarding Bawtinheimer’s videos ... and ... requiring Counterclaim-Defendants to
14 seek approval from this Court to send any further DMCA notices regarding
15 Bawtinheimer’s videos.” Motion at 1.

16 Defendant’s arguments to the contrary are unavailing and have been squarely
17 rejected by courts in the Ninth Circuit. Defendant argues that its proposed preliminary
18 injunction “will merely restore the status quo by undoing the *de facto* injunction they
19 obtained by abusing the DMCA takedown process.” Motion at 22. To support that
20 argument, Defendant argues that RRT could not itself seek an injunction to take down
21 the videos yet obtained “a *de facto* prior restraint injunction” by submitting takedown
22 requests to YouTube. *Id.*

23 Defendant’s “*de facto* prior restraint injunction” argument is contrary to the
24 court holdings in this Circuit that flatly reject the conceptualization of a pre-suit
25 DMCA request as an injunction. Indeed, in *Suzhou Angela Online Game Technology*
26 *Co. v. Snail Games USA, Inc.*, the Ninth Circuit held that a motion for a preliminary
27 injunction that would require a copyright holder to retract a DMCA takedown request
28 is a motion for a mandatory injunction. No. 22-55137, 2022 WL 5240656, at *2 (9th

1 Cir. Oct. 6, 2022) (“Because [plaintiff’s] requested injunction would require
2 [defendants] to ‘take the affirmative action’ of retracting the [takedown] Letter, the
3 district court properly concluded that [plaintiff] sought a mandatory injunction.”
4 (quoting *Garcia*, 786 F.3d at 940)); *see also Stardock Sys., Inc. v. Reiche*, No. C 17-
5 07025, 2018 WL 7348858, at *8-9 (N.D. Cal. Dec. 27, 2018) (“Plaintiff’s argument is
6 based on the flawed premise that the issuance of a notice of infringement under the
7 DMCA is the equivalent of an injunction requiring the removal of allegedly
8 infringement (sic.) material. It is not.”) (internal quotation and emphasis omitted).
9 Contrary to Defendant’s suggestion, compelling RRT to take action would not be
10 preserving the status quo. *Contra* Motion at 21-22.

11 In addition, Defendant incorrectly argues that the only relief RRT can receive
12 for its copyright infringement claim is “monetary damages, which is insufficient to
13 prove irreparable harm.” Motion at 21. That is wrong: under the Copyright Act, 17
14 U.S.C. § 502, injunctive relief is an available remedy to enjoin further unlawful use.
15 And, indeed, Defendant ignores that RRT’s complaint seeks, *inter alia*, injunctive
16 relief. ECF No. 7 at 13.

17 Defendant’s cited case law is also inapposite. Unlike here, *Stuhlbarg* concerned
18 the importation of physical goods (*Stuhlbarg Int’l Sales Co. v. John D. Brush & Co.*,
19 240 F.3d 832, 838 (9th Cir. 2001)), and *Hill* concerned a joint business venture that an
20 injunction dissolved (*Hill v. Xyquad, Inc.*, 939 F.2d 627, 631 (8th Cir. 1991)). No such
21 urgency of injunctive relief exists here; nor could it, considering that this case concerns
22 only whether Defendant is or is not allowed to make gratuitous use of RRT’s
23 copyright-protected Logo in certain of her online videos. In addition, *Invisible*
24 *Narratives* involved a bad actor fraudulently obtaining intellectual property rights and
25 using them to presumably try to profit from the popularity of the other party’s content
26 – including by sending an email requiring negotiation within *one* day before
27 proceeding with improper takedown notices to attempt to get their channel taken down.
28 *Invisible Narratives v. Next Level Apps Tec.-FZCO*, No. 25-cv-01644, 2025 U.S. Dist.

1 LEXIS 29888, at *3-4 (N.D. Cal. Feb. 19, 2025). Far from making such threats, RRT
2 has instead sought appropriate protection for its intellectual property and repeatedly
3 offered Defendant a reasonable path forward that protected both RRT’s intellectual
4 property rights and Defendant’s ability to express herself online.

5 Because Defendant’s Motion seeks to alter the status quo and force RRT to take
6 action, the Motion seeks a mandatory injunction that requires Defendant to satisfy a
7 heightened standard and “should be denied unless the movant can ‘establish that the
8 law and facts clearly favor its position, not simply that it is likely to succeed.’” *Suzhou*
9 *Angela*, 2022 WL 5240656, at *2 (quoting *Garcia*, 786 F.3d at 940).

10 **B. Defendant Cannot Show Irreparable Harm**

11 Defendant is not entitled to a preliminary injunction, let alone a mandatory
12 preliminary injunction, because she cannot establish irreparable harm, much less meet
13 the heightened standard of “extreme or very serious damage [that] will result.”
14 Defendant alleges the following “harms”: (1) removal of her videos “limited her ability
15 to spread public awareness of RRT and its activities and to foster support for a
16 community of outcasts”; and (2) she “fears that any future videos regarding RRT will
17 be subjected” to further takedowns. Motion at 12, 21-22. These assertions are
18 unsupported and belied by the record.

19 As an initial matter, Defendant’s § 512(f) counterclaim cannot provide the basis
20 for an injunction because the only statutory remedy for a § 512(f) claim is “damages,
21 including costs and attorneys’ fees[.]” 17 U.S.C. § 512(f). As Defendant concedes,
22 “monetary damages” relief “is insufficient to prove irreparable harm.” Motion at 21.
23 There is no harm possible in an adjudication of Defendant’s § 512(f) claim past the
24 preliminary injunction stage. *See, e.g., Freedom Holdings, Inc. v. Spitzer*, 408 F.3d
25 112, 115 (2d Cir. 2005) (“At the preliminary injunction state, the only cognizable
26 harms are those that *cannot be remedied at the end of trial if the movant were to*
27 *prevail.*” (emphasis in original)). This alone should end the § 512(f) inquiry for
28 purposes of Defendant’s Motion. Instead, any harms alleged by Defendant must relate

1 to her counterclaim for declaratory relief on the issue of whether her use of RRT’s
2 Logo constitutes copyright infringement or fair use.

3 Defendant fails to show any connection between the purported harms and her
4 ability to use RRT’s Logo. RRT’s takedown requests for just a few of the hundreds of
5 videos Defendant has published, due to their unauthorized, non-transformative use of
6 the Logo, does not in any way hinder Defendant’s ability to pursue her purported
7 objective, i.e., spreading public awareness and fostering support. Nor does it create
8 any reasonable fear of future harm. As reflected by the hundreds of Defendant’s videos
9 that RRT has not sought to take down, Defendant’s videos simply do not need to show
10 the Logo to pursue this objective. Indeed, Defendant’s purported “fears” regarding
11 future videos are directly contradicted by RRT’s express assurances that it would not
12 object to her re-posting her videos if the infringing material were removed. Any harm
13 stemming from Defendant’s refusal to repost her videos with the Logo removed is thus
14 entirely self-inflicted, not irreparable.

15 Further refuting Defendant’s position that the alleged harm is irreparable,
16 Defendant demonstrating a lack of urgency by bringing her Motion several months
17 after she became aware of the initial Complaint, which was filed in December, and the
18 Amended Complaint, which was filed in January, as well as nearly four months since
19 the initial takedown notice.

20 1. Defendant Fails to Show Harm Caused by Not Using RRT’s Logo

21 Defendant disingenuously asserts that RRT has “limited her ability to spread
22 public awareness” and “to foster support.” Motion at 21. Defendant does not even
23 attempt to show that she needs to show RRT’s Logo to accomplish those goals.
24 Defendant’s videos do not provide commentary on RRT’s mascot. As demonstrated
25 by Defendant’s vast library of videos that concern RRT and the PBCC but do not show
26 or prominently feature RRT’s Logo, Defendant simply does not need to show Cookie
27 the Kookaburra in her videos to pursue her stated goals. RRT submitted takedown
28 notices regarding just five distinct videos based on their use of the Logo, and

1 Defendant has continued to post videos to her YouTube channels. Defendant also has
2 not identified any harm that would result from reposting those videos with the
3 objectionable content removed.

4 In sum, the wholesale reproduction of RRT’s Logo in the handful of
5 Defendant’s videos subject to RRT’s takedown requests does not spread public
6 awareness or foster support for Defendant’s cause, and the removal of such imagery
7 from her videos would not in any way stifle her message.

8 2. Defendant Is Free, and Has Continued, to Publish Videos, and Her
9 Alleged Harm Is Self-Imposed

10 Notwithstanding Defendant’s allegations of irreparable harm, it is simply
11 beyond dispute that Defendant remains free to publish videos critical of RRT to spread
12 public awareness and foster support for her cause. Defendant does not show—and
13 indeed cannot show—that RRT is preventing her from publishing videos about RRT.
14 RRT has requested the removal of a mere handful of videos in Defendant’s vast video
15 library on her channels, limiting its objections to videos that gratuitously feature
16 RRT’s Logo for a short period of time. RRT has also explicitly stated in
17 correspondence that should Defendant remove the Logo from the videos, RRT would
18 not object to her re-uploading them. Graif Decl., Ex. 1 at 2, 3. RRT is not preventing
19 Defendant from publishing.

20 Defendant attempts to concoct a sense of urgency by speculating,
21 disingenuously, that RRT will issue additional takedowns if she reuploads the videos
22 without the inclusion of the Logo (*contra* Motion at 21-22), despite RRT’s written
23 offer of assurances to the contrary. Graif Decl., Ex. 1 at 2, 3. In fact, Defendant has
24 continued to publish content on the Get a Life Podcast channel throughout the
25 pendency of this litigation, including at least as recently as on or around April 10,
26 2026. Rozansky Decl, Ex. 2. Given these circumstances, it is preposterous for
27 Defendant to assert that she has a “reasonable fear that Counterclaim-Defendants will
28 continue to [submit takedown requests] for *any* video she posts about RRT or the

1 Plymouth Brethren Christian Church (‘PBCC’), regardless of whether there is any
2 good-faith basis for claiming such videos constitute copyright infringement.” Motion
3 at 21-22. Any such fear is patently unreasonable, particularly in view of the fact that
4 RRT submitted takedown requests for a mere handful of the hundreds of Defendants’
5 online videos, and expressly offered to allow Defendant to re-post those handful of
6 videos if she just removed the infringing content. That Defendant voluntarily decided
7 to create this controversy by refusing to edit her videos to remove the infringing
8 material is a problem of her own making.

9 Such harm of one’s own making cannot be irreparable. *Al Otro Lado v. Wolf*,
10 952 F.3d 999, 1008 (9th Cir. 2020) (“That the government’s asserted harm is largely
11 self-inflicted severely undermines its claim for equitable relief. Self-inflicted wounds
12 are not irreparable injury.” (internal quotation marks and citations omitted)); *Stardock*,
13 2018 WL 7348858, at *11 (“If the harm complained of is self-inflicted, it does not
14 qualify as irreparable.” (quoting *Caplan v. Fellheimer Eichen Braverman & Kaskey*,
15 68 F.3d 828, 839 (3d Cir. 1995)); *Adtrader, Inc. v. Google LLC*, No. 17-cv-07082,
16 2018 WL 1876950, at *4 (N.D. Cal. Apr. 19, 2018) (“Harm does not constitute
17 irreparable injury if it is self-inflicted.”).

18 *Stardock* is particularly instructive. There, the plaintiff had knowledge of
19 defendants’ copyright claims but proceeded to develop potentially infringing material
20 without resolving the underlying intellectual property ownership issues and then
21 sought a preliminary injunction to try to prohibit the defendants from issuing additional
22 takedown notices. *Stardock*, 2018 WL 7348858, at *11. The court denied the
23 injunction, stating that it was “disinclined to extricate Plaintiff from a peril of his own
24 making.” *Id.* Here, too, Defendant has been aware of the precise nature of RRT’s
25 copyright claims since October 2025, and her decision not to upload the videos without
26 the use of the Logo while the dispute over its potential to be fair use was ongoing has
27 put her in a predicament completely of her own making and “severely undermines
28 [her] claim for equitable relief.” *See Al Otro Lado*, 952 F.3d at 1008.

1 3. Defendant’s Alleged “Intangible Injuries” Are Conclusory

2 Defendant also asserts “intangible injuries like reputational harm, loss of online
3 following, stifling of her speech rights, impairment of her right to associate with and
4 help others, and account termination,” but these are all unsupported and illusory.
5 Motion at 21. At best, Defendant’s alleged “intangible injuries” are mere categories
6 of harms she may believe she could possibly suffer—they are “grounded in platitudes
7 rather than evidence” and therefore insufficient to support injunctive relief. *See Herb*
8 *Reed Enters., LLC v. Fla. Ent. Mgmt., Inc.*, 736 F.3d 1239, 1249 (9th Cir. 2013). After
9 all, “[t]hose seeking injunctive relief must **proffer evidence** sufficient to establish a
10 likelihood of irreparable harm.” *Id.* at 1251 (emphasis added). As the Supreme Court
11 has held: “Issuing a preliminary injunction based only on a *possibility* of irreparable
12 harm is inconsistent with our characterization of injunctive relief as an extraordinary
13 remedy that may only be awarded upon a clear showing that the plaintiff is entitled to
14 such relief.” *Winter*, 555 U.S. at 22 (emphasis added).

15 Defendant fails to provide factual support for her alleged intangible injuries.
16 Briefly: (1) Defendant has not provided any evidence of reputational harm caused by
17 an inability to display the Logo in five of her videos; (2) Defendant has not shown any
18 diminishment in her online following at all, let alone as a result of RRT’s takedown
19 requests; (3) Defendant has not shown stifling of her speech rights, particularly given
20 Defendant’s lack of commentary on RRT’s copyrighted Logo in her videos; (4)
21 Defendant still maintains active social media accounts across multiple additional
22 platforms from which she can “associate with and help others”; and (5) Defendant’s
23 YouTube account is not terminated. Defendant thus has not provided record evidence
24 that she has actually suffered or is likely to suffer any of these alleged intangible harms
25 –and, even if she had, they would be harms of her own making and therefore not
26 irreparable.

27 4. Defendant’s Delay Belies Any Immediate Need for an Injunction

28

1 Defendant’s current assertion of urgency is also belied by her own actions,
 2 including her unjustifiable delay in seeking injunctive relief. Since RRT filed its
 3 original Complaint in December, Defendant has created additional videos, as set forth
 4 above. Defendant has also repeatedly avoided service of the Amended Complaint. This
 5 includes, in order, refusing email service when it was offered, not answering her door
 6 during three separate visits from a process server, and refusing to accept service via
 7 registered mail. *See* Affidavit of Attempted Service (Amanda Fong); Affidavit of
 8 Attempted Service (Ashley Biena). Only several months later—118 days from the first
 9 takedown notice—did she finally decide that she was being harmed. This delay
 10 “implies a lack of urgency and irreparable harm.” *Oakland Tribune, Inc. v. Chronicle*
 11 *Pub. Co., Inc.*, 762 F.2d 1374, 1377 (9th Cir. 1985); *see also, e.g. Playboy Enters. v.*
 12 *Netscape Communs. Corp.*, 55 F. Supp. 2d 1070, 1080, 1090 (C.D. Cal. 1999) (finding
 13 that five-month delay in filing motion for preliminary injunction demonstrated lack of
 14 any irreparable harm); *Stokely-Van Camp, Inc. v. Coca-Cola Co.*, 1987 WL 6300, at
 15 *3 (N.D. Ill. Jan. 30, 1987) (finding that “the fact that [movant] waited three months
 16 [to file a motion] indicates a lack of need for the extraordinary remedy of a preliminary
 17 injunction.”); 5 Nimmer on Copyright § 14.06[A][3][c][ii] (noting unreasonable delay
 18 can defeat a presumption of irreparable injury and the length of time “need not be
 19 great”).

20 **C. Defendant Cannot Show a Likelihood of Success on the § 512(f)**
 21 **Claim**

22 Defendant’s counterclaim under 17 U.S.C. § 512(f) cannot provide the basis for
 23 an injunction because the only statutory remedy is damages. But even if it could, under
 24 the controlling law of this Circuit set forth in *Lenz* and *Rossi*, Defendant cannot
 25 demonstrate a likelihood of success in connection with her § 512(f) counterclaim. *Lenz*
 26 *v. Universal Music Group*, 815 F.3d 1145 (9th Cir. 2016); *Rossi v. Motion Picture*
 27 *Ass’n of Am. Inc.*, 391 F.3d 1000 (9th Cir. 2004).

28 1. **The Governing Standard is Subjective Good Faith, not Objective**

1 *Entertainment Limited v. Babybus (Fujian) Network Technology Co.*, No. 21-cv-
 2 06536, 2022 WL 580788, at *7 (N.D. Cal. Feb. 25, 2022) (dismissing defendant’s
 3 §512(f) counterclaim due to a failure to allege sufficient facts demonstrating a material
 4 misrepresentation or subjective bad faith). This subjective standard is intended to
 5 foreclose precisely the circumstances of Defendant’s Motion: an infringer seeking
 6 damages from a copyright owner based on a disagreement on the merits of an
 7 underlying copyright infringement claim.

8 Defendant can claim that “anyone” would agree with her fair use position, but
 9 that objective standard is simply not how courts in this Circuit assess a § 512(f) claim.
 10 Indeed, Defendant’s counsel *knows* this because he wrote an article calling for the
 11 reform of Section 512(f) following the decision in *Lenz*. As he wrote in the abstract:
 12 “Currently, the DMCA issuer only has to prove he considered fair use before issuing
 13 a takedown notice, but faces no liability for actually taking action against fair use.”
 14 Marc J. Randazza, *Lenz v. Universal: A Call to Reform Section 512(f) of the DMCA*
 15 *and to Strengthen Fair Use*, *Vanderbilt Journal of Entertainment and Technology Law*
 16 743 (2020), available at <https://scholarship.law.vanderbilt.edu/jetlaw/vol18/iss4/3>.
 17 Defendant’s statement, for example, that “[a]ttorneys should be charged with some
 18 degree of constructive knowledge of fair use” is therefore reflective of Defendant’s
 19 counsel’s desire for the law to change, *not* the state of the law.

20 2. Attorney Parties Held a Subjective Good-Faith Belief that
 21 Defendant’s Use Was Not Fair

22 Attorney Parties undisputedly held a subjective good-faith belief that the
 23 takedowns issued on behalf of RRT were valid. Graif Decl. ¶8; Declaration of Katy-
 24 Jade Church (“Church Decl.”) ¶6.⁷ Both Graif and Church considered the possibility
 25

26 ⁷ Neither Mr. Graif nor Ms. Church have been served with a Summons and Counterclaims and
 27 by submission of Declarations in Support of Opposition to Motion for Preliminary Injunction make
 28 no appearance as a party in this case, and each specifically preserve all objections to personal
 jurisdiction.

1 that these uses were fair before determining that they were not. Graif Decl. ¶8; Church
2 Decl. ¶6. The Motion does not offer, *nor could it*, a shred of evidence to the contrary,
3 instead relying on speculation based on representation by Brown Rudnick in a different
4 case in Massachusetts and Mr. Graif’s public biography setting forth his years of
5 experience with copyright law. Motion at 19-20. Further, for the reasons set forth
6 below, the position taken by the Counter-Defendants is a correct interpretation of fair
7 use, particularly given the current state of the law in connection with fair use (i.e., post-
8 *Warhol*). At minimum, it easily satisfies the subjective, good faith belief test.

9 3. Disagreement Over Fair Use Cannot Establish § 512(f) Liability

10 As set forth in the previous sections, *Lenz* ends the inquiry where, as here,
11 Defendant cannot show that Counter-Defendants did not have a subjective good faith
12 belief regarding their copyright infringement claims. To that point, a reasonable
13 disagreement regarding the applicability of fair use cannot establish § 512(f) liability.
14 Indeed, courts routinely reject § 512(f) claims where fair use is debatable. *See e.g.*,
15 *Hosseinzadeh v. Klein*, 276 F.Supp.3d 34, 47 (S.D.N.Y. 2017) (dismissing a § 512(f)
16 claim because defendants demonstrated a subjective good faith belief regarding fair
17 use and stating that even if the court disagreed ultimately with that belief, it would still
18 dismiss the claim); *Shaffer v. Kavarnos*, No. 23-cv-10059, 2025 WL 2299173, at *4
19 (S.D.N.Y. Aug. 7, 2025) (finding Plaintiff did not provide sufficient evidence to
20 sustain a § 512(f) claim despite arguing that the content was “plainly fair use”).

21 Tellingly, none of the authority cited by Defendant in discussing § 512(f)
22 liability addresses a fair use defense. *See* Motion at 19. In *Hollister*, for instance, the
23 counter-defendants submitted takedown notices in connection with material connected
24 to *counterclaimant’s* prior registered works. *Hollister v. Sims*, 2026 U.S. Dist. LEXIS
25 47709, at *8-9 (C.D. Cal. Jan. 30, 2026). *Invisible Narratives* is also plainly
26 distinguishable, involving a company fraudulently obtaining copyright registrations
27 and then unlawfully submitting takedown notices claiming copyright rights it plainly
28 did not have against the rightful owner. *Invisible Narratives*, 2025 U.S. Dist. LEXIS

1 29888, at *3. *UMG* involved a complicated licensing scheme with unclear ownership.
2 *UMG Recordings, Inc. v. Augusto*, 558 F. Supp. 2d 1055 (C.D. Cal. 2008). Unlike
3 those outlandish fact patterns, this case involves, at minimum, a reasonable dispute
4 over fair use. That fact alone defeats any claim of knowing misrepresentation.

5 Defendant’s pages of spurious attacks on the PBCC and RRT in the Motion,
6 marshaled in an attempt to demonstrate an improper motive for these takedowns, are
7 also a red herring. Motion at 2-5. Even assuming, *arguendo*, such a motive, courts do
8 not look to the reasons for the takedowns – only whether they are submitted based on
9 a good faith belief that the content infringes on the owner’s rights. *Moonbug*, 2022 WL
10 580788, at *10 (“§ 512(f) protects against bad-faith misrepresentations of copyright
11 infringement *not* against a desire to see negative downstream consequences from
12 properly-filed claims of copyright infringement.”).

13 Defendant cannot demonstrate a likelihood of success on her § 512(f) claim and
14 the Motion should be denied as to the claim on that basis alone.

15 **D. Defendant Cannot Show a Likelihood of Success on the Underlying**
16 **Copyright Issue**

17 Defendant also cannot show a likelihood of success on the underlying copyright
18 claim because her use could not be considered fair use. “In determining whether the
19 use made of a work in any particular case is a fair use the factors to be considered shall
20 include— (1) the purpose and character of the use, including whether such use is of a
21 commercial nature or is for nonprofit educational purposes; (2) the nature of the
22 copyrighted work; (3) the amount and substantiality of the portion used in relation to
23 the copyrighted work as a whole; and (4) the effect of the use upon the potential market
24 for or value of the copyrighted work.” 17 U.S.C. §107.

25 All four of these factors militate against finding fair use under these
26 circumstances. Defendant used the entire Logo, not in a transformative manner, but
27 exactly in the manner that RRT uses it – to identify RRT. Although the videos at issue
28 are critical of RRT, they do not comment on or criticize the Logo itself at any point.

1 The copyrighted work is a stylized depiction of a bird, created by graphic design
2 professionals, and therefore its nature is inherently creative. ECF No. 7 ¶12. And,
3 because Defendant used the entire Logo in a non-transformative manner, the market
4 harm is plain. As further detailed below, Defendant cannot show that she is likely to
5 succeed on her fair use claim.

6 1. Defendant’s Use is Not Transformative Under *Warhol*

7 The first fair use factor evaluates the purpose and character of the use, including
8 whether such use is of a commercial nature or is for nonprofit educational purposes.
9 17 U.S.C. §107(1). “The most important inquiry under this factor is whether and to
10 what extent the new work is ‘transformative.’” *Chosen Figure LLC v. Kevin Frazier*
11 *Prods., Inc.*, 795 F. Supp. 3d 1232, 1247-48 (C.D. Cal. 2025) (quoting *Campbell v.*
12 *Acuff-Rose Music, Inc.*, 510 U.S. 569, 579 (1994)). “A transformative use is one that
13 ‘adds something new, with a further purpose or different character, altering the first
14 with new expression, meaning, or message’ to the original work, transforming the
15 original work into a ‘new creation.’ *Id.* (quoting *Campbell*, 510 U.S. at 577; *Perfect*
16 *10, Inc. v. Amazon.com, Inc.*, 508 F.3d 1146, 1165 (9th Cir. 2007)).

17 Under United States Supreme Court precedent, such identity of purpose without
18 justification for its secondary use cuts strongly against a finding of fair use. *Warhol*,
19 598 U.S. at 529. The landmark 2023 *Warhol* decision significantly narrowed the scope
20 of what use could be considered “transformative” and emphasized the importance of
21 only copying that which is “reasonably necessary” to achieve the purpose of the
22 secondary work. *Id.* at 533. The Supreme Court found that because both the original
23 and secondary uses of the copyrighted work – despite being aesthetically
24 distinguishable – were “portraits of Prince used in magazines to illustrate stories about
25 Prince,” they shared an identity of purpose that militated against a finding of fair use.
26 *Id.* at 536. Here, the purpose of Defendant’s use of the Logo is identical to RRT’s use
27 of the work: to identify RRT. Indeed, Defendant concedes that she was using the Logo
28 “to identify RRT.” Motion at 15. At no point in these videos does Defendant even

1 *mention* the Logo itself. She mentions RRT, and criticizes RRT, but RRT is not seeking
2 to have use of “RRT” taken down – only the use of its creative Logo, Cookie, which
3 is completely irrelevant to the criticisms at issue. Defendant’s wholesale reproduction
4 of the Logo without any commentary on it eliminates any argument that it is reasonably
5 necessary to include it in her criticism. This is not a “bad faith desperate argument,”
6 *contra* Motion at 16, but a sensible one, and it is dispositive of Defendant’s Motion
7 (and her ill-advised counterclaims). The Logo is reproduced in its entirety for the
8 same purpose for which RRT uses it. Defendant has not pleaded any other purpose.

9 The other aspect of this first factor evaluates whether the use is commercial or
10 for non-profit educational purposes. 17 U.S.C. §107(1). Although she claims her
11 intention is criticism and public awareness, Defendant concedes her videos are
12 monetized. Motion at 15. Defendant’s focus need not be exclusively on monetary gain
13 for the use to be considered commercial. *Bouchat v. Baltimore Ravens Ltd. P’ship*, 619
14 F.3d 301, 311 (4th Cir. 2010) (“The crux of the profit/nonprofit distinction is not
15 whether the sole motive of the use is monetary gain but whether the user stands to
16 profit from exploitation of the copyrighted material without paying the customary
17 price.” (quoting *Harper & Row Publishers Inc. v. Nation Enters.*, 471 U.S. 539, 562
18 (1985)). Defendant’s use may have multiple purposes, but one of those purposes is to
19 monetize her videos. Motion at 12. This fact cannot be ignored. Even partial
20 commercial use tilts this factor further against fair use particularly where, as here, the
21 use is non-transformative. *Id.* (“Because defendants’ use of Bouchat’s logo is non-
22 transformative, we have no hesitation in concluding that the commercial nature of the
23 use weighs against a finding of fair use.” (citing *Campbell*, 510 U.S. at 579)).

24 2. The Nature of the Copyrighted Work Weighs Against Fair Use

25 The second fair use factor also favors RRT. The Logo, a stylized professionally-
26 designed image designed to evoke a native Australian bird as the “mascot” of a
27 charitable enterprise, is artistic in nature. The role the image plays as a source identifier
28 does not make it less artistic or unique. *See Bouchat*, 619 F.3d at 311 (finding the

1 Flying B logo, used to identify the Baltimore Ravens, a creative work, which resolves
2 that factor in favor of a copyright infringement plaintiff and against finding fair use).
3 This factor weighs against fair use.

4 3. Defendant’s Use of the Entire Logo Weighs Against Fair Use

5 The third factor, the “amount and substantiality” used of the Logo plainly favors
6 RRT. Defendant does not dispute that the videos use the Logo in its entirety. “Unless
7 the use is transformative, the use of a copyrighted work in its entirety will normally
8 weigh against a finding of fair use.” *Bouchat*, 619 F. 3d at 311; *see also Chosen Figure*,
9 795 F.Supp.3d at 1351 (“While wholesale copying does not preclude fair use per se,
10 copying an entire work militates against a finding of fair use.”) (quoting *Kelly v. Arriba*
11 *Soft Corp.*, 336 F.3d 811, 820 (9th Cir. 2003)). As set forth above, Defendant’s use of
12 the Logo is not transformative, and therefore the use of the entire Logo similarly
13 weighs against finding fair use.

14 Defendant’s arguments to the contrary are meritless. Although Defendant
15 accurately points out that her uses of the entire Logo each make up a relatively small
16 proportion of the full videos, this fact underscores the ease with which she could edit
17 the videos to remove the infringing uses. It does not bear on the inquiry under this fair
18 use factor. Even displaying the full copyrighted work for a minimal amount of time is
19 a violation, because “[w]hat matters is the amount of the copyrighted work used.”
20 *Bouchat*, 619 F.3d at 312 (further explaining “a taking may not be excused merely
21 because it is insubstantial with respect to the *infringing* work,” for “no plagiarist can
22 excuse the wrong by showing how much of his work he did not pirate.”) (quoting
23 *Harper & Row*, 471 U.S. at 565 (quotations omitted) (emphasis in original)).

24 Defendant argues that the only way she could criticize RRT is to use the Logo
25 in its entirety (Motion at 17), but this is nonsensical, as her criticism *never involves* the
26 Cookie Logo, nor is the Cookie Logo the only way to identify RRT. Defendant has
27 released scores of other videos criticizing RRT that demonstrate this fact. Defendant
28 did not need to use the Logo *at all*, let alone in its entirety for stretches of time, to

1 identify RRT previously. It is only now, when RRT seeks to prevent her use of it, that
2 she claims (falsely) that she is being silenced.

3 4. The Market Effect Weighs Against Fair Use

4 The fourth factor, regarding the effect on the market of the use, weighs against
5 fair use as well. This factor “requires courts to consider not only the extent of market
6 harm caused by the particular actions of the alleged infringer, but also whether
7 unrestricted and widespread conduct of the sort engaged in by the defendant ... would
8 result in a substantially adverse impact on the potential market for the original.”
9 *Campbell*, 510 U.S. at 590 (internal citation omitted). Setting the precedent requested
10 by Defendant that anyone may freely use the Logo if they in some way comment upon
11 or criticize RRT would lead to such an adverse result. Furthermore, “[w]hen a use is
12 not transformative, market substitution is more likely.” *Bouchat*, 619 F.3d at 313
13 (citing *Campbell*, 510 U.S. at 591); *Chosen Figure*, 795 F. Supp. 3d at 1251. Defendant
14 is using the Logo for the same purpose – to identify RRT – and so her use can be
15 considered market substitution, which causes market harm to the Logo.

16 5. Defendant’s Authorities are Distinguishable

17 The authorities cited by Defendant in support of her fair use argument are
18 distinguishable. As a preliminary matter, every single one was decided prior to the
19 Court’s significant decision in *Warhol* regarding the nature of transformative use and
20 how it is assessed, including the weighing of the similarity of the purposes of the first
21 and secondary use, whether the use is reasonably necessary to achieve the purpose of
22 the secondary work, and whether the secondary use is commercial in nature. The
23 authorities are also plainly distinguishable individually on their facts.

24 Defendant’s references to *Bouchat*⁸ conveniently omit the context of that series
25 of cases. The first *Bouchat* decision found copyright infringement of the Flying B logo
26

27 ⁸ There are two different *Bouchat* decisions, both in the Fourth Circuit, referenced in this brief.
28 The cases analyze different uses of the Flying B logo in different contexts.

1 by the Baltimore Ravens, who then voluntarily adopted a new logo. *Bouchat v.*
2 *Baltimore Ravens*, 737 F.3d 932, 935 (4th Cir. 2013). The copyright owner then filed
3 a series of subsequent cases in which he tried to stop exceptionally insubstantial past
4 usage in various videos and displays. In “Bouchat IV,” the Fourth Circuit found the
5 footage of the logo in season highlight films and in a short video shown during Ravens
6 home games was not fair use. *Id.* at 936. By the *Bouchat* decision cited by Defendant,
7 the sixth of these cases, the uses at issue were far less significant. The Flying B logo
8 was used incidentally, appearing on the Ravens’ players’ helmets or uniforms for
9 fractions of a second and for the specific, historical purpose of showing past plays by
10 the Ravens in the uniforms displaying that logo. *Id.* at 940 (describing the use as
11 “exceptionally insubstantial” and “fleeting”). Here, the Logo is displayed for the same
12 purpose – not a historical, or even a critical one, but merely to identify RRT – and for
13 more than fractions of a second at a time. This line of cases, rather than supporting
14 Defendant’s position, in fact demonstrate the opposite: direct infringement is
15 impermissible, and it is only attenuated, fleeting, and *historical* use that is permitted.
16 The Logo is currently being used by RRT, so the use by Defendant is certainly not
17 historical, and Defendant’s use of it is never “fleeting.”

18 *In re DMCA* and *Seltzer* both rely heavily on transformative use analysis prior
19 to the decision in *Warhol*. Further, in *Seltzer*, the use of a still image was photographed
20 in an alleyway and then that was used in a music video, *i.e.*, several steps of adaptation
21 absent from this case. *Seltzer v. Green Day, Inc.*, 725 F.3d 1170 (9th Cir. 2013); *see*
22 *In re DMCA § 512(H) Subpoena to Twitter, Inc.*, 608 F. Supp. 3d 868 (N.D. Cal. 2022).

23 Finally, *Hustler* involved reprinting a parodic work to bring attention to it, rebut
24 it, and solicit political donations in connection with it. *Hustler Magazine, Inc. v. Moral*
25 *Majority, Inc.*, 796 F.2d 1148 (9th Cir. 1986). As the Ninth Circuit observed, the
26 intention of the copying was indeed commercial, but it was also to call particular
27 attention *to the copyrighted work* (the original parody), which necessarily requires its
28 reproduction. *Id.* at 1153. Not so here, where the Logo is not at all necessary to criticize

1 RRT. Again, the fact that nothing about the content of the Logo itself was discussed
2 in any of the infringing videos highlights the critical difference between these cases
3 and the factual scenario present here.

4 Nor do Defendant’s cited set of pre-*Warhol* cases concerning use of photographs
5 to criticize their subjects meaningfully affect the fair use analysis here. Motion at 16.
6 The Logo does not identify RRT in the same way a photo identifies a person: it is a
7 professionally-designed artistic work representative of RRT and used for the purpose
8 of identification, but it is not an image *of* RRT. The cases again rely on a pre-*Warhol*
9 analysis of transformative use of these photographs for purposes of criticism, failing
10 to consider the more narrow questions of whether their uses were reasonably necessary
11 and weighed against the commercial nature of the secondary use. Motion at 16. *Katz*
12 also involved the additional effort of cropping of the original photo into unflattering
13 images with critical captions rather than a direct copying for the purpose of criticizing
14 the owner of the Logo, not the “subject” of the work (here, a stylized bird).
15 Defendant’s use of the Logo for the exact same purpose as RRT – to identify RRT –
16 is not transformative post-*Warhol*.

17 Finally, Defendant’s cases on market harm are similarly inapposite. In *Savage*,
18 as in *Hustler*, and unlike here, the content of the copyrighted work was what was being
19 criticized. *Savage v. Council on Am.-Islamic Rels., Inc.*, 2008 U.S. Dist. LEXIS 60545,
20 at *15 (N.D. Cal. July 25, 2008). In *Garcia*, the court never reached the issue of fair
21 use at all, because the proposed work was not copyrightable for multiple reasons as a
22 matter of law. *Garcia v. Google, Inc.*, 786 F.3d 733, 737 (9th Cir. 2015) (en banc).
23 Similarly, in *Bollea*, there were significant issues regarding the validity of the
24 copyright, and the copyrighted work was edited and, once again, *its content*
25 commented upon, all facts that distinguish the present situation. *Bollea v. Gawker*
26 *Media, LLC*, 913 F. Supp. 2d 1325, 1328-29 (M.D. Fla. 2012). In fact, the *Bollea*
27 copyright claim was an afterthought, included in an amended complaint alongside a
28 litany of privacy-related claims.

1 **E. The Balance of Equities and Public Interest Favor RRT**

2 Given Defendant’s failure of proof as to the first two elements, the court need
3 not consider the final two *Winter* factors. *Garcia*, 786 F.3d at 746; *see also MG*
4 *Premium Ltd. v. Does*, No. 2:21-cv-08533, 2023 WL 4681368, at *4 (C.D. Cal. June
5 2, 2023) (holding that because plaintiff failed to show a likelihood of irreparable harm
6 stemming from defendant’s DMCA takedown notices, the court need not consider the
7 remaining *Winter* factors). Nonetheless, both factors – the balance of equities and the
8 public interest – favor RRT. The balance of the equities favors RRT because denying
9 the injunction preserves the status quo – RRT may protect its Logo, and Defendant
10 remains free to publish her views. *Stardock*, 2018 WL 7348858, at *10-11 (denying
11 plaintiff’s request for injunctive relief for withdrawal of defendant’s DMCA takedown
12 notices, holding that “foreclosing Defendants from exercising their statutory right to
13 issue a DMCA notice of infringement would be inequitable and would turn the status
14 quo doctrine on its head.”). Regarding the public interest factor, the requested
15 injunction seeks to strip a copyright owner’s statutory DMCA rights, chill lawful
16 copyright enforcement, and encourage litigants to seek to enjoin takedown activity
17 whenever fair use is in dispute. None of this serves the public interest. Nor does
18 Defendant’s cited case, *Beyond Blond Productions*, compel a different result. It is
19 readily distinguishable: the asserted rights in the takedown notice that the court
20 rescinded via injunction concerned material that was not covered by the copyright
21 owner’s purported copyright rights at all. *Beyond Blond Prods., LLC v. Heldman*, 479
22 F. Supp. 3d 874, 889 (C.D. Cal. 2020).

23 **V. CONCLUSION**

24 For all the foregoing reasons, Defendant cannot satisfy the stringent
25 requirements for a mandatory preliminary injunction, and the Court should deny the
26 Motion.

27
28

1 DATED: April 20, 2026

Respectfully submitted,

2 BROWN RUDNICK LLP

3
4 By: /s/ Daniel A. Rozansky

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25 *and Counterclaim-Defendant Brown*
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27
28

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15 Rapid Relief Team (RRT) Ltd., and Counterclaim-Defendant
Brown Rudnick LLP

16 **UNITED STATES DISTRICT COURT**
17 **FOR THE NORTHERN DISTRICT OF CALIFORNIA**
18 **OAKLAND DIVISION**

19 RAPID RELIEF TEAM (RRT) LTD.,
20 Plaintiff and Counterclaim-
21 Defendant,

22 vs.

23 CHERYL BAWTINHEIMER,
24 Defendant and
Counterclaim-Plaintiff.

25 vs.

26 BROWN RUDNICK LLP, KATY-JADE
27 CHURCH, and MICHAEL GRAIF,
28 Counterclaim-Defendants.

Case No. 4:25-cv-10864-JST

HON. JON S. TIGAR

**DECLARATION OF DANIEL A.
ROZANSKY IN SUPPORT OF
PLAINTIFF AND
COUNTERCLAIM-DEFENDANT
RRT AND COUNTERCLAIM-
DEFENDANT BROWN
RUDNICK'S OPPOSITION TO
DEFENDANT AND COUNTER
CLAIM-PLAINTIFF CHERYL
BAWTINHEIMER'S MOTION FOR
PRELIMINARY INJUNCTION**

DATE: June 18, 2026
TIME: 2:00 P.M.

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CTRM: Courtroom 6 – 2nd Floor
Action Filed: December 19, 2025
Amended Complaint Filed: January 30, 2026

DECLARATION OF DANIEL A. ROZANSKY

I, Daniel A. Rozansky, declare as follows:

1. I am an attorney at law duly licensed to practice before the above-entitled Court, and am a Partner at the law firm of Brown Rudnick LLP, attorneys of record for Plaintiff and Counterclaim-Defendant Rapid Relief Team (RRT) Ltd. (“RRT”) and Counterclaim-Defendant Brown Rudnick LLP (“Brown Rudnick”).

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

3. Attached as **Exhibit 1** are the copyright registrations with the United States Copyright Office for the Cookie Logo.

4. Attached as **Exhibit 2** is a true and correct copy of a screen capture of Episode No. 167 on the Get a Life Podcast YouTube channel, which indicates it was published to YouTube nine days ago as of April 20, 2026.

5. Attached as **Exhibit 3** is a true and correct copy of a Page Vault screen capture showing YouTube’s takedown policies as set forth in its Help Center.

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

Executed April , 2026, at Los Angeles, California.



DANIEL A. ROZANSKY

EXHIBIT 1

Registration Number

VA 2-472-487

Effective Date of Registration:

December 18, 2025

Registration Decision Date:

December 18, 2025

Title

Title of Work: Cookie the Kookaburra - Wings on Hips

Completion/Publication

Year of Completion: 2019
Date of 1st Publication: May 01, 2019
Nation of 1st Publication: Australia

Author

- Author:** Rapid Relief Team (RRT) Ltd
Author Created: 2-D artwork
Work made for hire: Yes
Domiciled in: Australia

Copyright Claimant

Copyright Claimant: Rapid Relief Team (RRT) Ltd
Level 6, 10 Herb Elliott Ave, Sydney Olympic Park, 2127, Australia

Rights and Permissions

Organization Name: Rapid Relief Team (RRT) Ltd
Address: Level 6, 10 Herb Elliott Ave
Sydney Olympic Park 2127 Australia

Certification

Name: Richard Grosse
Date: December 18, 2025

Correspondence: Yes
Copyright Office notes: Basis for Registration: Registration based on deposited pictorial authorship describing, depicting, or embodying character(s). Compendium 313.4(H).

Registration Number

VA 2-472-486

Effective Date of Registration:

December 18, 2025

Registration Decision Date:

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Title

Title of Work: Cookie the Kookaburra

Completion/Publication

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Name: Richard Grosse
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EXHIBIT 2

URL: <https://www.youtube.com/watch?v=cA0QkJMDFiU>

Date Accessed: April 20, 2026

The screenshot shows a YouTube video player with a Zoom call in progress. On the left, a man with glasses and a blue shirt is identified as Richard Marsh. On the right, a woman with long blonde hair is identified as Cheryl - info.getalife@proton.me. Behind her is a framed sign that says "GET A LIFE" with icons of a person and a scale. The video title is "Get A Life Ep.167 Plymouth Brethren Christian Church Rapid Relief Team v Bawtinheimer Lawsuit Update". Below the title, it says "Get A Life Podcast" with 1.84K subscribers and a "Subscribe" button. The video description starts with "8.5K views 9 days ago #plymouthbrethrenchristianchurch #bbc #abuse Assholes, stalkers, pervers, trolls and censorious bullies - the favorite prey of Cheryl's hungry pack of lawyers - and they already have their teeth into the tender parts of the Plymouth Brethren Christian Church's hypocritical PR charity, Rapid Relief Team. Join us for a rundown on the astonishing events of the past fortnight, as the Rapid Relief Team's malicious and dishonest attack is turned round and the BBC get a hefty dose of their own medicine. We dig into the BBC's history of vicious SLAPPs and censorship, and show that the morally bankrupt Brown Budnik lawyers Charlotte". The right sidebar shows recommended videos: "Stained Glass Lamps" (Sponsored), "Lanhee Chen | Full Episode 4.17.26 | Firing Line with ..." (9.4K views), "I Am Chris Farley" (Documentary - 2015), "Ex-CIA Agent, Whistleblower John Kiriakou Sentenced to ..." (553K views), "Clueless" (Comedy - 1995), "Mobilizing Our Collective Power | RSA US Fellowship Town Hall ..." (7 views), "Brennan Lee Mulligan & Matt Mercer | GMs" (882K views), "BoilersXtra: Who will lead Purdue basketball in minutes ..." (1K views), "Selling Your House Settlement Claim" (82 views), "Gradient descent, how neural networks learn | Deep Learning ..." (9.1M views), and "James Fisher, Olik | Olik Connect 2026" (6.7K views). The Windows taskbar at the bottom shows the search bar, task view, and several open applications including Outlook, Downloads, Zoom Workplace, and a screen capture tool. The system tray shows the temperature as 55°F and the time as 4:40 PM on 4/20/2026.

EXHIBIT 3

About copyright removal requests

Copyright removal requests are **different from Content ID claims**. Content can also be removed from YouTube for **reasons** other than copyright.

A copyright removal request is a legal request usually sent by a copyright owner or authorized representative to remove content from YouTube due to alleged **copyright** infringement.

When YouTube gets a copyright removal request, it's **reviewed**. To comply with copyright law, if a request appears to be valid, content is removed from YouTube and a **copyright strike** is applied to the uploader's channel.

Note: Copyright removal requests also can be scheduled, which gives the uploader 7 days to **take action** (such as removing the video or seeking retraction) to avoid content removal and a copyright strike. Counter notifications cannot be filed until the removal is effective and the copyright strike is applied.

Uploaders have options to resolve the copyright strike:

- **Complete Copyright School and wait 90 days:** Copyright strikes expire after 90 days if the uploader completes [Copyright School](#). The video is not reinstated.
- **Get a retraction:** Uploaders can get in touch with the person who submitted the copyright removal request and ask them to [retract the copyright removal request](#).
- **Submit a counter notification:** If the uploader thinks their content was removed by mistake, or qualifies as a copyright exception, like [fair use](#), they can [submit a counter notification](#).

Copyright takedown request process



Uploader action

- * Copyright strike gets resolved by a successful counter notification, retraction, or expiration after 90 days, if uploader has completed Copyright School.
- * Sometimes, YouTube may re-review a takedown request or counter notification and may reverse the initial decision, if it is determined the original decision was incorrect. If this happens, you will be notified via email.
- * Only submit a counter notification if your content was taken down due to a mistake or misidentification, including cases of fair use or other similar copyright exceptions. Do not submit counter notifications for any other reasons.

Claimant action

⚠️ Concerns about harassment and copyright infringement sometimes overlap, but submitting a copyright removal request is not always the best option. If you're concerned about someone harassing you on YouTube, learn more about [reporting harassment and cyberbullying](#).

Understand removal options

Scheduled copyright removal requests

Copyright removal requests can be scheduled. This gives the uploader 7 days to take action to avoid content removal and a **copyright strike** on their channel. During this 7-day period,

Copyright claim basics

- What is a copyright claim?
- About copyright removal requests
- Understand copyright strikes
- Learn about Content ID claims
- Dispute a Content ID claim
- Appeal a Content ID claim
- Monetization during Content ID disputes

Understand removal options

Scheduled copyright removal requests

Copyright removal requests can be scheduled. This gives the uploader 7 days to take action to avoid content removal and a [copyright strike](#) on their channel. During this 7-day period, uploaders can:

- **Delete the content:** If a removal request is scheduled, and the uploader deletes their content before the 7 days are over, then their channel won't get a [copyright strike](#). After the 7 days are over, deleting the content won't resolve the copyright strike.
- **Get a retraction:** Uploaders can get in touch with the person who submitted the removal request and ask them to [retract their copyright removal request](#).
- **Cancel an appeal:** If the removal request was a result of a [rejected appeal of a Content ID claim](#), the uploader can [cancel their appeal](#) within the 7-day period. By canceling, the uploader avoids a copyright strike. However, the Content ID claim will remain active on their content. Learn more about the difference between [copyright removal requests and Content ID claims](#).

If an uploader doesn't take any action, the content is removed from YouTube and a [copyright strike](#) is applied to their channel. Then, the uploader can choose how they want to [resolve the copyright strike](#), such as by submitting a counter notification.

Prevent copies

If you use the [YouTube Studio form](#) to submit a removal request, you can select the "Prevent Copies" option, which automatically [prevents copies of removed videos](#) from being uploaded again. This feature, which uses the same technology as the [Copyright Match Tool](#), identifies potential matches for you to review and act upon. Learn more about the ["Prevent Copies" feature](#).

Frequently asked questions (FAQs)

- [How are copyright removal requests reviewed?](#) ▾
- [Why are automated systems used to review copyright removal requests?](#) ▾
- [As an uploader, how do I know if a copyright removal request is scheduled?](#) ▾
- [I submitted a copyright removal request and content was removed, but then I got an email saying it may be reinstated. Why?](#) ▾

 Give feedback about this article


Was this helpful?

Yes

No

Need more help?

Try these next steps:

 **Post to the help community**
Get answers from community members

Copyright claim basics

- [What is a copyright claim?](#)
- [About copyright removal requests](#)
- [Understand copyright strikes](#)
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- [Monetization during Content ID disputes](#)

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Was this helpful?

Yes

No

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Copyright claim basics

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- [Monetization during Content ID disputes](#)

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15 Rapid Relief Team (RRT) Ltd., and Counterclaim-Defendant
Brown Rudnick LLP

16 **UNITED STATES DISTRICT COURT**
17 **FOR THE NORTHERN DISTRICT OF CALIFORNIA**
18 **OAKLAND DIVISION**

19 RAPID RELIEF TEAM (RRT) LTD.,
20 Plaintiff and Counterclaim-
21 Defendant,

22 vs.

23 CHERYL BAWTINHEIMER,
24 Defendant and
Counterclaim-Plaintiff.

25 vs.

26 BROWN RUDNICK LLP, KATY-JADE
27 CHURCH, and MICHAEL GRAIF,
28 Counterclaim-Defendants.

Case No. 4:25-cv-10864-JST

HON. JON S. TIGAR

**DECLARATION OF MICHAEL R.
GRAIF IN SUPPORT OF
PLAINTIFF AND
COUNTERCLAIM-DEFENDANT
RRT AND COUNTERCLAIM-
DEFENDANT BROWN
RUDNICK'S OPPOSITION TO
DEFENDANT AND COUNTER
CLAIM-PLAINTIFF CHERYL
BAWTINHEIMER'S MOTION FOR
PRELIMINARY INJUNCTION**

DATE: June 18, 2026
TIME: 2:00 P.M.

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CTRM: Courtroom 6 – 2nd Floor
Action Filed: December 19, 2025
Amended Complaint Filed: January 30, 2026

DECLARATION OF MICHAEL R. GRAIF

I, Michael R. Graif, declare as follows:

1. I am a Partner at the law firm of Brown Rudnick LLP, attorneys of record for Plaintiff and Counterclaim-Defendant Rapid Relief Team (RRT) Ltd. (“RRT”) and Counterclaim-Defendant Brown Rudnick LLP (“Brown Rudnick”).

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

3. In addition to my practice at Brown Rudnick, I am currently an adjunct professor at the University of Pennsylvania Carey Law School and teach courses concerning intellectual property law, including its application to social media.

4. I have been practicing intellectual property law, including copyright law, for over 30 years.

5. On January 28, 2026, I submitted takedown requests to YouTube pursuant to the Digital Millenium Copyright Act (“D.M.C.A.”), 17 U.S.C. §512(c), concerning the videos entitled “Episode No. 144: Rapid Relief Team’s Branded Trauma: Ex-Members Speak Out;” “Episode No. 145: Rapid Relief Team: Where’s the compassion?- With guest Damian Hastie;” “Plymouth Brethren Christian Church: Former Member Exposes Rapid Relief Team;” and “Chapter 2 part 1 Rapid Relief Team – Why disaster relief?” on the “Get a Life Podcast” and “Rapid Relief Team – Exposed” YouTube channels.

6. On January 30, 2026, I submitted a D.M.C.A. takedown request for “Episode No. 145” on the “Rapid Relief Team – Exposed” YouTube channel.

7. Before submitting each takedown request, I identified the specific content that I determined to be copyright infringement of the copyrighted work of my client, RRT, and identified it by time stamp to YouTube.

8. Before submitting each takedown request, I considered whether the identified use was fair use, and formed a good faith belief that the identified use was copyright infringement.

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9. Attached as **Exhibit 1** is a true and correct copy of an email I sent on behalf of RRT to Defendant Cheryl Bawtinheimer, and her reply.

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

Executed April 20, 2026, at New York, New York.


/s/ Michael R. Graif

MICHAEL R. GRAIF

EXHIBIT 1

From: Curtis & Cheryl Bawtinheimer <curcher21@gmail.com>
Sent: Friday, March 13, 2026 8:03 PM
To: Graif, Michael R. <MGraif@brownrudnick.com>
Subject: Re: Our client: Rapid Relief Team

CAUTION: External E-mail. Use caution accessing links or attachments.

 **This message needs your attention**

- This is a personal email address.
- This is their first email to your company.

Report this Email or Mark as Safe

Powered by Mimecast

Mr Graif,

I will be responding in full as soon as I have a legal opinion from my advisor re your last email, but this may take a few more days.

I will not accept service by email.

Please note that this is not the correct email address for you to contact me. Every episode of Get-A-Life Podcast has an email address in the description specifically to provide a means of communication regarding issues with the podcast or its content. That is the only email address that will be responded to in future.

Sincerely,

Cheryl Bawtinheimer

On Fri, Mar 6, 2026, 5:49 p.m. Graif, Michael R. <MGraif@brownrudnick.com> wrote:

Dear Ms. Bawtinheimer:

We write further to our previous message concerning a potential resolution of this matter and an end to the pending litigation. We also write to correct certain factual and legal misunderstandings and/or mischaracterizations about this litigation presented on social media by your associate, Mr. Richard Marsh.

The purpose of this message is threefold:

1. After commentary online by your Associate Mr Richard Marsh, to clarify why your use of RRT's Cookie Bird logo (the "Logo") constitutes copyright infringement, whereas the recent use of it in a newspaper does not.
2. To reiterate our proposed remedy - if you edit and repost the videos without the content that infringes RRT's copyright, and we formalize this in writing, RRT will not challenge the edited videos without the Logo, will withdraw the litigation, will notify YouTube that the matter has been settled, and will not pursue costs. With respect to this proposed remedy, we will need confirmation if you agree by Friday, March 13th.
3. If you choose not to accept our proposed remedy at 2 above, to confirm whether you will accept service via email.

More detail on each is included below.

GAL vs newspaper use of RRT logo

In Mr. Marsh's Facebook post and video of February 21, 2026, he states that RRT has not objected to the use of the Logo by newspapers, but has objected to its use by the Get A Life Podcast ("GAL").

There is an important legal distinction here.

The use of the Logo in the newspaper could be considered as being for the purpose of offering commentary *on the Logo* as the subject of the pending litigation. This constitutes fair use under copyright law.

GAL's repeated use was not for the purpose of offering commentary or criticism of the Logo, which is not fair use.

Mr. Marsh's Facebook post and video presentation on "fair use" blends copyright and trademark fair use elements, which are different as a matter of law. We will address his points in turn.

U.S. federal copyright law, which governs this dispute, identifies four factors to consider whether a use is “fair,” including the purpose or character of the use; the nature of the work; the amount of the work that is used; and its effect on the potential market for or value of the work. 17 U.S.C. §107. GAL’s use of the Logo was not for criticism, commentary, news reporting, or parody of *the Logo*. Second, the Logo is a creative work rather than factual or informational, which renders its use less likely to be fair. Third, the entire Logo was reproduced by GAL. And finally, by appearing in connection with GAL’s continued criticism of RRT, the effect of GAL’s use of the Logo directly harms RRT’s potential market, i.e., donations to support its charitable efforts and its relationships with beneficiaries, and its ability to attract and retain volunteers. To be clear, RRT does not dispute that GAL has the right to comment on the actions of RRT (as long as such comments otherwise comply with the law), but GAL cannot gratuitously use the Logo to do so.

Turning to Mr. Marsh’s statements directly, first, once again, copyrighted material can be used fairly for criticism and commentary *of that material*. As Mr. Marsh said in his video, reproducing a political billboard to comment on that billboard is protected by fair use. GAL is not criticizing or commenting *on the copyrighted work*. Further, GAL’s use of the Logo was not in any way “transformative” as a matter of law. The use in question is a direct reproduction of the Logo. The Logo appears on the screen while speakers on the podcast make statements unrelated to the Logo. Mr. Marsh also addressed competition between the parties, confusion as to the source of the work, and counterfeiting considerations, none of which are factors generally considered in a *copyright* fair use analysis.

Proposed remedy

As a final point, Mr. Marsh indicates in his video that you could not edit the videos that include Logo because RRT has “locked them down”. That is not correct -- YouTube has removed the videos from public display because of RRT’s pending claim, but you still should have a copy of your videos, and can edit and re-post them

RRT is accordingly offering you to do just that, before it serves the complaint. If you so elect to edit and re-post the videos without the Logo and we formalize that in writing, RRT will not challenge the edited videos or any future videos if they contain no further misuse of RRT’s copyrighted material, will withdraw the litigation, will notify YouTube that the matter has been settled, and will not pursue costs. Please confirm by return e-mail by Friday, March 13th if you would like us to assist with a draft of an agreement to this end.

Service of complaint

If you do not, then please advise us within the same time whether you will accept service of the complaint via e-mail. We can also contact your lawyer if you have one and provide us with his or her contact information.

We look forward to hearing from you.

Sincerely,

Michael Graif



Michael R. Graif

Partner

Brown Rudnick LLP
Seven Times Square

New York, NY10036
T: +1 212.209.4809
MGraif@brownrudnick.com
www.brownrudnick.com

Please consider the environment before printing this e-mail

The information contained in this electronic message may be legally privileged and confidential under applicable law, and is intended only for the use of the individual or entity named above. If the recipient of this message is not the above-named intended recipient, you are hereby notified that any dissemination, copy or disclosure of this communication is strictly prohibited. If you have received this communication in error, please notify Brown Rudnick LLP, (617) 856-8200 (if dialing from outside the US, 001-(617)-856-8200) and purge the communication immediately without making any copy or distribution.

To the extent Brown Rudnick is a "controller" of the "personal data" (as each term is defined in the European General Data Protection Regulation (EU/2016/679) or in the UK's Data Protection Act 2018) you have provided to us in this and other communications between us, please see our privacy statement and summary [here](#) which sets out details of the controller, the personal data we have collected, the purposes for which we use it (including any legitimate interests on which we rely), the persons to whom we may transfer the data and when and how we intend to transfer it outside the European Economic Area.

1 BROWN RUDNICK LLP
Joel S. Miliband, #77438
2 jmiliband@brownrudnick.com
4 Park Plaza, Suite 420
3 Irvine, California 92614
Telephone: (949) 752-7100
4 Facsimile: (949) 252-1514

5 Michael R. Graif
Seven Times Square, 46th Floor
6 New York, NY 10026
Tel.: 212-209-4800
7 mgraif@brownrudnick.com

8 Daniel A. Rozansky, #161647
drozansky@brownrudnick.com
9 2121 Avenue of the Stars, Suite 720
Los Angeles, California 90067
10 Telephone: (424) 525-0200
Facsimile: (424) 525-0201

11 Katherine C. Dearing (*pro hac vice*)
12 1900 N Street, Fourth Floor
Washington, D.C. 20036
13 Tel.: 202-536-1700
kdearing@brownrudnick.com

14 Attorneys for Plaintiff and Counterclaim-Defendant
15 Rapid Relief Team (RRT) Ltd. and Counterclaim-Defendant
Brown Rudnick LLP

16 **UNITED STATES DISTRICT COURT**
17 **FOR THE NORTHERN DISTRICT OF CALIFORNIA**
18 **OAKLAND DIVISION**

19 RAPID RELIEF TEAM (RRT) LTD.,
20 Plaintiff and Counterclaim-
21 Defendant,

22 vs.

23 CHERYL BAWTINHEIMER,
24 Defendant and
Counterclaim-Plaintiff.

25 vs.

26 BROWN RUDNICK LLP, KATY-JADE
27 CHURCH, and MICHAEL GRAIF,
28 Counterclaim-Defendants.

Case No. 4:25-cv-10864-JST

HON. JON S. TIGAR

**DECLARATION OF KATY-JADE
CHURCH IN SUPPORT OF
PLAINTIFF AND
COUNTERCLAIM-DEFENDANT
RRT AND COUNTERCLAIM-
DEFENDANT BROWN
RUDNICK'S OPPOSITION TO
DEFENDANT AND COUNTER
CLAIM-PLAINTIFF CHERYL
BAWTINHEIMER'S MOTION FOR
PRELIMINARY INJUNCTION**

DATE: June 18, 2026
TIME: 2:00 P.M.

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CTRM: Courtroom 6 – 2nd Floor
Action Filed: December 19, 2025
Amended Complaint Filed: January 30, 2026

1 **DECLARATION OF KATY-JADE CHURCH**

2 I, Katy-Jade Church, declare as follows:

3 1. I am an attorney and solicitor duly licensed to practice in the United
4 Kingdom and an Associate at the law firm of Brown Rudnick LLP, attorneys of record
5 for Plaintiff and Counterclaim-Defendant Rapid Relief Team (RRT) Ltd. (“RRT”) and
6 Counterclaim-Defendant Brown Rudnick LLP (“Brown Rudnick”).

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

9 3. I have been practicing law for over 10 years and currently practice in the
10 Litigation and Dispute Resolution group and with the Brand and Reputation
11 Management team at Brown Rudnick.

12 4. On October 28, 2025, I submitted takedown requests to YouTube
13 submitted takedown requests to YouTube pursuant to the Digital Millenium Copyright
14 Act (“D.M.C.A.”), 17 U.S.C. §512(c) concerning videos entitled “Lindy expresses her
15 concern regarding the Plymouth Brethren Christian Church's RRT charity” and “Rapid
16 Relief Team: Hypocrisy & Families Divided at Christmas” that were posted on the
17 “Get a Life Podcast” YouTube channel.

18 5. Before submitting each takedown request, I identified the specific content
19 that I determined to be copyright infringement of the copyrighted work of my client,
20 RRT, and identified it by time stamp to YouTube.

21 6. Before submitting each takedown request, I considered whether the
22 identified use was fair use, and formed a good faith belief that the identified use was
23 copyright infringement.

24 7. On December 26, 2025 and December 29, 2025, I sent follow-up
25 communications to YouTube indicating that the videos I had requested be taken down
26 previously, and which had been taken down prior to the counternotifications submitted
27 by Defendant, were the subject of a currently pending lawsuit. I did not seek the
28 removal of any material beyond that which had been previously removed by YouTube

1 in accordance with its own policies.
2

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

5 Executed April 20, 2026, at London, UK.
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KATY-JADE CHURCH
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1 BROWN RUDNICK LLP
2 DANIEL A. ROZANSKY (#161647)
3 drozansky@brownrudnick.com
4 2121 Avenue of the Stars, Suite 720
5 Los Angeles, California 90067
6 Telephone: (424) 525-0200
7 Facsimile: (424) 525-0201

8 Michael R. Graif
9 Seven Times Square, 46th Floor
10 New York, NY 10026
11 Tel.: 212-209-4800
12 mgraif@brownrudnick.com

13 Katherine C. Dearing (*pro hac vice*)
14 1900 N Street, Fourth Floor
15 Washington, D.C. 20036
16 Tel.: 202-536-1700
17 kdearing@brownrudnick.com

18 Attorneys for Plaintiff
19 Rapid Relief Team (RRT) Ltd.

20 **UNITED STATES DISTRICT COURT**
21 **FOR THE NORTHERN DISTRICT OF CALIFORNIA**
22 **OAKLAND DIVISION**

23 RAPID RELIEF TEAM (RRT) LTD.,

24 Plaintiff,

25 v.

26 CHERYL BAWTINHEIMER,

27 Defendant.

Case No. 4:25-cv-10864-JST

HON. JON S. TIGAR

AFFIDAVIT OF ATTEMPTED SERVICE

Action Filed: December 19, 2025
Amended Complaint Filed: January 30, 2026

28

AFFIDAVIT OF ASHLEY BIENIA

I, Ashley Bienia, of Penhold, AB, declare as follows:

1. I am an adult person and not a party to this action.

2. I am a process server for 'Xpera Risk Mitigation and Investigation' and as such have personal knowledge of the facts and matters hereinafter deposed to, save and except those which are based on information and belief, and as to such matters I verily believe them to be true.

3. I was instructed to serve Cheryl Bawtinheimer located at 219 Davison Drive, Red Deer, AB (herein referred to as the "Service Address"), with the following documents:

- Letter of Service dated March 16, 2026, from counsel with Brown Rudnick LLP;
- Amended Summons in a Civil Action of the Plaintiff, Rapid Relief Team (RRT) Ltd. Filed March 16, 2026;
- Amended Complaint of the Plaintiff, Rapid Relief Team (RRT) Ltd., filed January 30, 2026;
- Standing Orders of the Court for the Northern District of California;
- Summary of Document to Be Served Form pursuant to the Convention on the Service Abroad of Judicial and Extrajudicial Documents in Civil or Commercial Matters, signed at The Hague, the 15th of November 1965.

4. I made the following attempts to serve Cheryl Bawtinheimer March 17, 18 and 19, 2026, at 219 Davison Drive, Red Deer, AB, the Service Address, by way of in-person delivery attempts as follows:

5. On Tuesday, March 17, 2026, I arrived at the provided address of 219 Davison Drive, Red Deer, AB, at 6:04 pm. There was a black Volkswagen Golf bearing ABLP # CBC 6321 parked on the driveway. There was no answer at the door and a strong smell of Marijuana in the air. There was a sign that read 'No Solicitors - Violators Will Be Sacrificed to the Old Gods Not the New'. There was a video

1 doorbell camera. There was no answer and I departed the residence.
2 6. On Wednesday, March 18, 2026, I made a second attempt at 8:50 am at
3 219 Davison Drive, Red Deer, AB. The exterior garage lights were on. There were
4 no vehicles on the driveway. There was no response at the door despite knocking and
5 ringing the video doorbell camera several times. A small dog barked from
6 somewhere within the residence. I departed the area at 8:57 am.

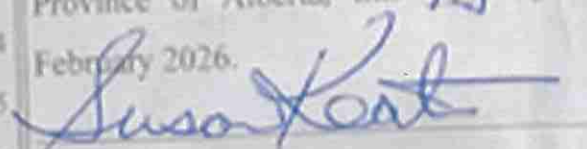
7 7. On Thursday, March 19, 2026, I made a third attempt at 7:56 pm at 219
8 Davison Drive, Red Deer, AB. The black Volkswagen Golf noted March 17 was
9 parked on the driveway. A Kia Rondo bearing ABLP # CWZ 7536 and a grey Mazda
10 CX-5 bearing ABLP # CBN 6904 were parked on the street closer to the residence
11 than any other home on the street. The lights were off except for a red/orange light
12 inside. A small dog came to the window and barked. Surveillance rang the doorbell
13 and knocked and there was no answer, thus discontinued the attempt.

14
15 I declare under penalty of perjury under the laws of the United States of
16 America that the foregoing is true and correct.

17 Executed April 13, 2026, at 10:25am

18
19 
20 _____
21 ASHLEY BIENIA
22 XPERA RISK MITIGATION AND
23 INVESTIGATION

24 SWORN BEFORE ME in Calgary, in the
25 Province of Alberta, this 13 day of
26 February 2026.

27 
28 _____
Being a Solicitor

SUSAN ANNIS KEATS
Appointment #: 0722674

My Commission Expires February 06, 2029 OF ATTEMPTED SERVICE

1 BROWN RUDNICK LLP
2 DANIEL A. ROZANSKY (#161647)
3 drozansky@brownrudnick.com
4 2121 Avenue of the Stars, Suite 720
5 Los Angeles, California 90067
6 Telephone: (424) 525-0200
7 Facsimile: (424) 525-0201

8 Michael R. Graif
9 Seven Times Square, 46th Floor
10 New York, NY 10026
11 Tel.: 212-209-4800
12 mgraif@brownrudnick.com

13 Katherine C. Dearing (*pro hac vice*)
14 1900 N Street, Fourth Floor
15 Washington, D.C. 20036
16 Tel.: 202-536-1700
17 kdearing@brownrudnick.com

18 Attorneys for Plaintiff
19 Rapid Relief Team (RRT) Ltd.

20 **UNITED STATES DISTRICT COURT**
21 **FOR THE NORTHERN DISTRICT OF CALIFORNIA**
22 **OAKLAND DIVISION**

23 RAPID RELIEF TEAM (RRT) LTD.,
24 Plaintiff,
25 v.
26 CHERYL BAWTINHEIMER,
27 Defendant.

Case No. 4:25-cv-10864-JST

HON. JON S. TIGAR

AFFIDAVIT OF ATTEMPTED SERVICE

Action Filed: December 19, 2025
Amended Complaint Filed: January 30, 2026

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AFFIDAVIT OF AMANDA FONG

I, AMANDA FONG, of the City of Calgary, Alberta, SWEAR AND SAY THAT:

1. I am a legal assistant with the law firm of Stikeman Elliott LLP (“**Stikeman Elliott**”), counsel assisting Brown Rudnick LLP for the Plaintiff, Rapid Relief Team (RRT) Limited (RRT) (the “**Plaintiff**”). As such, I have personal knowledge of the facts and matters herein deposed to, except where stated to be based on information and belief, and where so stated, I do verily believe the same to be true.

2. On March 24, 2026, I am advised and do verily believe that Jessica Watts, Legal Administrative Assistant with Stikeman Elliott LLP, arranged for hardcopies of the following documents (the “**US Court Documents**”):
 - Letter of Service dated March 16, 2026, from counsel with Brown Rudnick LLP;
 - Amended Summons in a Civil Action of the Plaintiff, Rapid Relief Team (RRT) Ltd. Filed March 16, 2026;
 - Amended Complaint of the Plaintiff, Rapid Relief Team (RRT) Ltd., filed January 30, 2026;
 - Standing Orders of the Court for the Northern District of California;
 - Summary of Document to Be Served Form pursuant to the Convention on the Service Abroad of Judicial and Extrajudicial Documents in Civil or Commercial Matters, signed at The Hague, the 15th of November 1965.via process server, Ian Walsh with Xpera, attached hereto, and marked as **Exhibit “A”**.

3. On March 24, 2026, I am advised and do verily believe that Dustin Terbals, Stikeman Elliott’s office services clerk, prepared a courier package for the filed US Court Documents, which includes hard copies to the following party:

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i. Cheryl Bawtinheimer at 219 Davison Drive, Red Deer, AB T4R 2E6

Enclosed herewith the marked as **Exhibit "B"** is an email confirming the preparation of the courier package. Attached hereto and marked as **Exhibit "C"** are the receipts and proof of delivery for the courier package.

4. On March 30, 2026, the package was returned to Stikeman Elliott LLP (4200 Bankers Hall West, 888- 3rd Street SW, Calgary, AB T2P 5C5), marked as refused by addressee. Attached to hereto and marked as **Exhibit "D"** is the returned package to Stikeman Elliott LLP

5. I make this declaration of facts to prove proper service of the Service Materials and for not other improper reason or purpose.

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

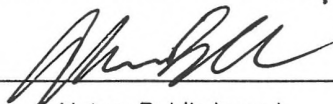
Executed April 17, 2026, at Calgary, Alberta, Canada

AMANDA FONG
STIKEMAN ELLIOTT LLP

Archer Bell
Barrister & Solicitor

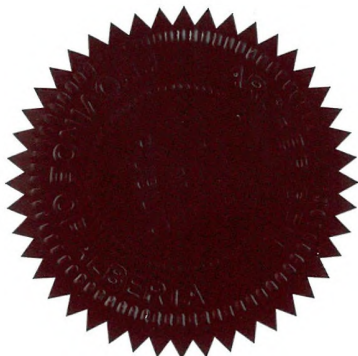


This is **Exhibit "A"** referred to in the Affidavit of Amanda Fong,
sworn before me in the City of Calgary,
in the Province of Alberta this ~~17~~ day of ~~April~~ 2026.



A Notary Public in and
for the Province of Alberta

Archer Bell
Barrister & Solicitor



From: [Jessica Watts](#)
To: ian.walsh@xpera.ca
Cc: [Marita Zouravloff](#); [Amanda Fong](#); [Collette Allen](#)
Subject: RE: Process Service in Red Deer
Date: Monday, March 16, 2026 4:56:33 PM
Attachments: [2026-03-16 RRT Letter of Service.pdf](#)
[Proposed Hague Form - RRT v. Bawtinheimer.pdf](#)
[TAB 1 - Amended Summons in a Civil Action and RRT's First Amended Complaint.pdf](#)
[TAB 2 - Standing Order All Judges and of All Cases Before Judge Jon S. Tigar.pdf](#)
[TAB 3 - Orders Setting Initial Case Management Conference and ADR Deadlines.pdf](#)

Hello Ian,

Thank you so much for speaking with me on the phone regarding our Red Deer process service request.

As mentioned in our conversation, the attached US Court documents MUST be served on Cheryl Bawtinheimer by Thursday, March 19, 2026.

Here are the details for this request:

1. **Personal Service on:**

Cheryl Bawtinheimer
219 Davison Drive
Red Deer, AB T4R 2E6

2. **Please Print the documents as follows:**

- Single Sided
- Colour and Stappled
- Compiled in an envelope for service to Cheryl Bawtinheimer.

Documents to be Printed:

- 2026-03-16 RRT Letter of Service
- Proposed Hague Form – RRT v. Bawtinheimer
- TAB 1 – Amended Summons in a Civil Action and RRT's First Amended Complaint.
- TAB 2 - Standing Order All Judges and of All Cases Before Judge Jon S. Tigar
- TAB 3 - Orders Setting Initial Case Management Conference and ADR Deadlines

3. **Affidavit of Service of your Red Deer agent:**

Please do not hesitate to contact me on my direct line at 403-508-9271

Thank you again for your help and guidance with this personal service request.
We look forward to receiving confirmation for service and your invoice

Kind regards
Jessica

Jessica Watts (she/her)
Legal Administrative Assistant

Direct: +1 403 508 9271
Email: jwatts@stikeman.com

From: Jessica Watts

Sent: Monday, March 16, 2026 4:15 PM

To: 'ian.walsh@xpera.ca' <ian.walsh@xpera.ca>
Cc: Marita Zouravlioff <MZouravlioff@stikeman.com>; Amanda Fong <AFong@stikeman.com>
Subject: Process Service in Red Deer
Importance: High

Hello Mr. Walsh,

My name is Jessica Watts, and I support the LIT team here at Stikeman Elliott LLP in Calgary, and Jakub Maslowski (Senior Counsel) in our office passed along your contact information.

We are in **urgent need** of a Process Service of US Court documents to a residential address in Red Deer, Alberta **NO LATER than Thursday, March 19th**.

We will provide you with the documents, details of service and will require an Affidavit of Service from your agent.

Can you let me know if you are able to assist us with this Process Service request?

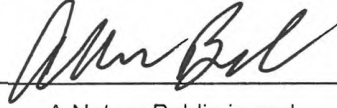
You can reach me at my direct line at 403-508-9271

Thank you for your help and guidance
Kind regards

Jessica Watts (she/her)
Legal Administrative Assistant

Direct: +1 403 508 9271
Email: jwatts@stikeman.com

This is **Exhibit "B"** referred to in the Affidavit of Amanda Fong,
sworn before me in the City of Calgary,
in the Province of Alberta this 17 day of April 2026.



A Notary Public in and
for the Province of Alberta

Archer Bell
Barrister & Solicitor



From: [Dustin Terbals](#)
To: [Jessica Watts](#); [Cal Services](#)
Cc: [Amanda Fong](#)
Subject: RE: Registered Mail Service of Document to Red Deer [Matter no. 135719.1017]
Date: Tuesday, March 24, 2026 3:14:42 PM
Attachments: [Scan - 2026-03-24 17.10.05.pdf](#)

Hi,

See attached for the registered mail receipt.

Due to the tight cutoff at the post office, I was not able to read this email before preparing the receipt and it has the 059999.0999 that was on the envelope.

Dustin Terbals
Office Services Clerk

Direct: +1 403 781 9175
Email: DTerbals@stikeman.com

From: Jessica Watts <jwatts@stikeman.com>
Sent: Tuesday, March 24, 2026 2:38 PM
To: Cal Services <CalServices@stikeman.com>
Cc: Amanda Fong <afong@stikeman.com>
Subject: Registered Mail Service of Document to Red Deer [Matter no. 135719.1017]

Hi there,

Amanda is bringing up document that will need to be sent out for service via registered mail.

This is on Matter no. 135719.1017

If you can bring Amanda, the tracking details that would be great.

Thanks
Jess

Jessica Watts (she/her)
Legal Administrative Assistant

Direct: +1 403 508 9271
Email: jwatts@stikeman.com

This is **Exhibit "C"** referred to in the Affidavit of Amanda Fong,
sworn before me in the City of Calgary,
in the Province of Alberta this **17** day of **April** 2026.



A Notary Public in and
for the Province of Alberta

Archer Bell
Barrister & Solicitor



Stikeman Elliott

Registered Receipt

This receipt is necessary if enquiry is desired. Fragile and perishable articles are not Indemnified against damage. Idemnity and fees information is available on request from your Postal Outlet.

Stikeman Elliott LLP
 Barristers & Solicitors
 4200 Bankers Hall West
 888 - 3rd Street S.W.
 Calgary, Alberta T2P 5C5
 Canada

059999.0999
M. Zouravlioff

Sender instructions - Note: Present mailings at any Postal Outlet
 A Complete and remove customer receipt.
 B Remove Paper backing from receipt.
 C Affix receipt to this form.
 Delivery confirmation may be obtained by calling 1-888-550-6333 or through the internet at www.canadapost.ca

(1)



REGISTERED DOMESTIC
 CUSTOMER RECEIPT

RECOMMANDÉ RÉGIME INTÉRIEUR
 REÇU DU CLIENT



To
 Cheryl Bawtinheimer
 219 Davison Drive
 Red Deer, AB T4R 2E6



Number Numéro de repérage de l'RCR
 RN 882 503 366 CA

Declared Value \$

33-006-584 (17-12)

(2)

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(4)



4200 Bankers Hall West
888 - 3rd Street S.W.
Calgary, AB T2P 5C5
Canada

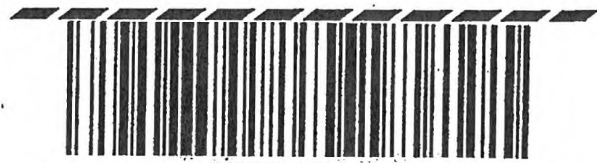
Cheryl Bawtinheimer
219 Davison Drive
Red Deer, AB T4R 2E6



DELIVERY:

File No.: 0599990999
Date: March 24, 2026
Lawyer: Marita Zouravloff - 111
Method: Registered Mail
Deliver by: 02:29 PM - Sameday
Phone No: 111

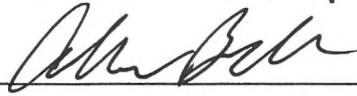
CANADA POST POSTES CANADA REGISTERED RECOMMANDÉ
RN 882 503 366 CA RN 882 503 366 CA SIGNATURE



TRACKING NUMBER RN 882 503 366 CA N° DE REPÉRAGE

Sender warrants that this item does not contain non-mailable matter.
33-085-584 (17-12) L'expéditeur garantit que cet envoi ne contient pas d'objet inadmissible.

This is **Exhibit "D"** referred to in the Affidavit of Amanda Fong,
sworn before me in the City of Calgary,
in the Province of Alberta this **17** day of **April** 2026.



A Notary Public in and
for the Province of Alberta

Archer Bell
Barrister & Solicitor



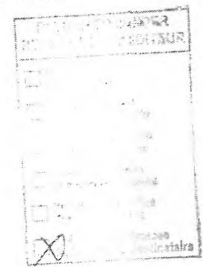
(13)

Refused



4200 Bankers Hall West
Rd 8 - 3rd Street SW
Calgary, AB T2P 5C5
Canada

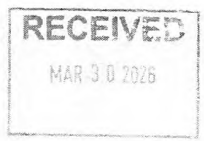
Cheryl Bawtinheimer
219 Davison Drive
Red Deer, AB T4R 2E6



514

DELIVERY:
File No.: 0599990999
Date: March 24, 2026
Lawyer: Manta Zouravloff - 111
Method: Registered Mail
Deliver by: 02:29 PM - Sameday
Phone No: 111

POSTED



Canada Post logo and Registered Mail / Courrier recommande label with SIGNATURE box, T2P 5C5 barcode, and RN 982 56 3 365 CA

**Tracking number:**

RN882503366CA

Delivered

Shipping service: Registered Mail

Sender: Unavailable

Delivery standard: Mar. 30

Latest updates

Date	Time	Location	Progress	Post office
Mar. 30	9:28 am		Signature available	
Mar. 30	9:28 am	CALGARY,AB	The item was successfully returned to the sender.	
Mar. 30	7:18 am	CALGARY,AB	The item being returned to the sender went out for delivery.	
Mar. 27	10:17 pm	CALGARY,AB	Item processed	
Mar. 27	8:38 am	RED DEER,AB	Customer addressing error found; attempting to correct. Possible delay	
Mar. 27	8:27 am	RED DEER,AB	Item refused by recipient. Item being returned to sender	
Mar. 26	12:33 pm	RED DEER,AB	Item refused by recipient. Item being returned to sender	
Mar. 26	9:13 am	RED DEER,AB	Item out for delivery	
Mar. 26	1:04 am	RED DEER,AB	Item processed	
Mar. 25	5:11 am	RED DEER,AB	Item arrived	
Mar. 25	3:30 am	CALGARY,AB	Item departed	
Mar. 24	9:41 pm	CALGARY,AB	Item in transit	
Mar. 24	6:41 pm	CALGARY,AB	Item processed	
Mar. 24	2:56 pm	CALGARY,AB	Item accepted at the Post Office	

Features and options

Signature Required