

Re-filed 4-January-2007

**EXHIBIT 1** to PLAINTIFF'S RESPONSE AND MEMORANDUM IN OPPOSITION TO DEFENDANT TODD TIPTON'S MOTION TO DISMISS

**HISTORY OF TODD TIPTON AND JEREMY SMITH'S FRIENDSHIP, AND EXAMPLES OF THEIR DIRECT CONTACT IN RELATIONSHIP TO PLAINTIFF.**

UPON INFORMATION AND BELIEF:

**Todd Tipton and Jeremy Smith's friendship dates back to 2002**

Defendant Jeremy Smith posted on the Usenet numerous times between Dec 27 2001 and Apr 7 2003 using the email address jeremy.smith@banklife.com and sometimes cwenz123@earthlink.net which he apparently shared with his wife, Defendant Cindy Smith as the screen name for this email address was sometimes stated as "Jeremy and Cindy". Some of the posts by these two email addresses were on the Classical Guitar Newsgroup ("Newsgroup") in which Defendants Todd Tipton and William Jennings were at the time participants (source: Google Usenet archives).

**Jeremy Smith Thanks Tipton And States "I live in Chicago"**

In a thread, Jeremy Smith asks for advice on something guitar related which Tipton answers (Tue, 30 Apr 2002 09:36:42 CDT). In return Jeremy Smith sends a thank you note to Tipton in which Jeremy Smith writes:

- ("I live in Chicago" 30 Apr 2002 17:05:44 GMT by jeremy.smith@banklife.com).

**Jeremy Smith Used His Real Name And Stated His Illinois Domicile Starting In 2002 On The Classical Guitar Newsgroup**

**Defendant Tipton Became Aware Of Smith's Real Name And Illinois Presence In 2002**

Not only Jeremy Smith used an email address that contained his real name to post on the Newsgroup, he reiterated his real name in some of the posts so that it is not confused with the screen name he sometimes used (including in his attacks on Plaintiff), "William Zantzinger". And replies to his posts contained his real name in the email address that was shown as the author of the text that was being replied to (one of several examples is a Usenet posting on Sat, 20 Jul 2002 23:29:15 GMT states: "Jeremy and Cindy wrote:").

In the postings using his real name, Jeremy Smith stated and implied more than once that he lives in Chicago, Illinois (reference: Google Usenet archive)..

- (e.g., "...I don't know how it works in Philadelphia, but here in Chicago you can see the recital program BEFORE you buy the tickets... Cheers, Jeremy Smith" 19 May 2002 18:57:16 GMT by jeremy.smith@banklife.com)

Smith's references to his residence in Chicago occurred regularly in his postings. In 2006 alone "Chicago" showed up 27 times in Smith's posts (reference: Google Usenet archive).

He further signed his posts as Jeremy Smith and made sure he was known as Jeremy Smith and not one of his favorite “stage” names, William Zantzinger.

- (“...Jeremy p.s. William Zantzinger is just a stage name.” 12 Apr 2002 21:25:54 GMT by jeremy.smith@banklife.com)
- (“...This is Jeremy, the original poster, from a different address.” 12 Apr 2002 15:51:12 PDT by cwenz123@earthlink.net)

Contrary to his sworn affidavit, Defendant Todd Tipton was clearly aware that Smith’s real name is Jeremy Smith, and that he lives in Chicago, before filing of the original complaint. A friendship and mentorship developed then and strengthened through their attacks on Plaintiff, and to Jeremy being one of the few members of a small guitar forum Todd Tipton hosts:

- (“Page 1 The Guitar Forum ~ View topic - My Schramm guitar - 08/12/2006 10:42:06 PM <http://www.cgm.net/viewtopic.php?t=210> - **< Lounge ~ My Schramm guitar Jeremy** Posted: Sun Jan 29, 2006 8:37 pm - Joined: 23 May 2005 - Posts: 168 Check it out guys:  
<http://www.schrammguitars.com/smith.html> )

The two have continued their contact on and off the Newsgroup. It is inconceivable to think that this relationship which developed in 2002 did not lead to emails exchanged between the two.

### **Defendant Tipton Gave Online Guitar Lessons To Jeremy Smith**

On Fri, 12 Apr 2002 15:51:12 PDT, Jeremy Smith, using his email address: jeremy.smith@banklife.com posted a message soliciting guitar instructions.

On Fri, 12 Apr 2002 18:01:37 CDT, Todd Tipton wrote a message to Jeremy Smith, addressing him by his real name and giving him guitar instructions:

(“Jeremy, Actually, I am a bit more convinced that I was closer to the mark in the initial reply. Try -this- experiment.... best wishes, **Todd Tipton** Minneapolis, Mn....”  
Posted from dawntoddtipton@mn.rr.com)

This message was preceded by another message from Tipton to Jeremy Smith a few hours before (Fri, 12 Apr 2002 10:23:15 CDT).

### **Tipton Collaborated With Smith In Carrying Attacks Against Plaintiff.**

#### **Tipton’s Emails To Smith Regarding Plaintiff**

#### **Tipton, The “Cyber Troll”**

On Thu, 4 Aug 2005 11:31:19 -0700 (PDT), Jeremy Smith emailed Plaintiff (using the same screen name he had used in 2002, “Billy (William) Zantzinger” on the Newsgroup, using Deloitte’s network, that:

- (“Reza, I know who your cyber troll is, he told me about it over email and I have them saved. I’m willing to testify to this. Let’s talk next steps.” 4 Aug 2005 11:31:19 -0700 (PDT) by a Jeremy Smith screen name “Billy Zantzinger”).

Smith refers to “Cyber Troll” which at the time was a reference for Tipton “Cyber Troll of Minneapolis” after Plaintiff found out from initial investigation, via Time Warner Cable, that the anonymous defendant who was forging Plaintiff’s ID and writings, and publishing an array of violent material on Plaintiff’s behalf, was a resident of Minneapolis. Google Usenet archives reveal multiple references to “Cyber Troll of Minneapolis”. Since then, Cyber Troll was the nickname that the cyber-gang of Smith, Tipton, Jennings used to refer to Tipton. Some old timer readers of the newsgroup also tipped Plaintiff that the “Cyber Troll” was Todd Tipton.

On 30th July 2005 Tipton did a search of the internet via Google for “cyber troll of minneapolis” (Source: Statcounter.com for Tipton IP 70.92.166.167). The topic was an active one in the newsgroup as Plaintiff was undergoing severe coordinated attacks and there is no doubt, given their history, friendship, and similarities in their multi-personality and poor characters (and even looks, as they’re both bald,) that they were in contact as per Jeremy’s contention. Further progress on Discovery will shed further light on their relationship.

### **Ongoing Contact Between Tipton & Smith in Relationship to Plaintiff**

On or about Jun 17 2006 Tipton posted a message on Usenet using his ID: "Enemy Combatant" <contact@toddtipton.com> in which he faked some of Plaintiff’s writings. Tipton’s message was clearly aimed at his collaborators in relationship to Plaintiff. In response to Tipton’s prompt, Smith posted a message referring to dangers of catching STD from a concert performer. Smith also faked another section of Plaintiff’s writings following Tipton’s leadership. Jennings also participated. The three defendants were the only ones who participated in that thread. Smith and Tipton had previously inspired another defendant whose violations included falsely accusing Plaintiff of having STD (he settled with Plaintiff and was dismissed by Plaintiff with prejudice).

These references are extremely mild as compared to the violations these defendants committed anonymously, but are noted here to demonstrate ongoing contact between Todd Tipton, Jeremy Smith, William Jennings, and in this case, Smith responding to Tipton’s prompt.

### **Another Contact Between Tipton and Smith in Relation to Plaintiff**

On Wed, 21 Jun 2006 05:27:40 +0000 (UTC), Todd Tipton posts a message in response to a message by Jeremy Smith, mocking a motto of Plaintiff’s website “*Dedicated to a new millennium of friendship, dialogue, peace, harmony, understanding, cooperation, and cultural exchange...*” (from [www.rezamus.com](http://www.rezamus.com)), clearly in relationship to Plaintiff, which at least shows a direct contact between Tipton and Smith in relationship to the same victim they collaborated against in the past. The message also contained one of favorite Tipton’s lines which he often used in relationship to Plaintiff, and incidentally the same line shows up on a forged website setup by Smith (possibly with assistance from Tipton).

### **Tipton Helped Smith Setup Forged Website; Both Made Announcement**

Tipton setup a forged website resembling that of Plaintiff’s online journal on or about 04 Aug 2005 17:54:45 CDT. On Sun, 7 Aug 2005 13:03:27 -0500 Tipton wrote to Plaintiff, after Plaintiff

caught him: “I shouldn't have posted the parody site”, but refused to admit to other offences he'd committed using various aliases.

On Sun, 11 Sep 2005 16:45:56 EST, Jeremy Smith announces a second forged site of Plaintiff's main site (a one-line message: “<http://www.geocities.com/rezasworld/>” by Jeremy Smith who posed as “Official Moderator <moderator@rmcg.com>”).

On this website the same expression that appears on several Tipton posts including the one from 21 Jun 2006 05:27:40 +0000 (UTC) in response to Jeremy Smith. Furthermore, Smith and Tipton both announce the forged site to Plaintiff:

Jeremy Smith:

- (“You and I share similar interests and even look alike. [www.geocities.com/rezasworld/](http://www.geocities.com/rezasworld/) mailed Sun, 11 Sep 2005 17:00:23 -0700 (PDT) By Jeremy Smith posed as “Roza Ganjavi <rezasworld@yahoo.com>” )

Todd Tipton:

- (“Reza, I figured that you would want to see this: <url to Jeremy's 11 Sep 2005 16:45:56 EST announcement of the forged website> 12 Sep 2005 23:00:04 -0500 by Todd Tipton).

### **Other Examples of Contacts Between Tipton and Smith in Relation to Plaintiff**

On Fri, 29 Jul 2005 00:43:42 CDT, Todd Tipton posts a message using a message forged by Smith and reposts the forged message produced by Smith, and attacks Plaintiff for having authored it (which Plaintiff hadn't and Tipton knew that. (Exhibit will be filed under Seal as needed).

On 8 Mar 2006 22:42:54 -0800, Smith and Tipton both copy Plaintiff text (Tipton as usual alters it a bit to make it nasty). Then they conceal evidence by removing one of the posts. Shows collaboration / contact at minimum:

- (Removed Original:  
<http://groups.google.com/group/rec.music.classical.guitar/msg/c1d487cf1fbec72f?dmode=source&hl=en> by Jeremy Smith posing as “Burial Policy”
- Reply by Todd Tipton posing as “Enemy Combatant”  
<contact@toddtipton.com> 8 Mar 2006 22:42:54 -0800 )

And other examples. These are all from after they were caught by Plaintiff. The level of collaboration before their identities were revealed is a task for Discovery. It is fair to suspect a lot more contact and collaboration between these two friends around their numerous vulgar attacks on Plaintiff will be revealed.

### **Collaboration Between Tipton, Smith, Jennings**

This is one of several examples:

On 26 Oct 2005 15:36:02 -0500, William Jennings posts the following message and gives it the title: "Pinging the Cyber troll Administrator" (another words, Jeremy Smith, whom Jennings has been in touch with off line and surely knew his name and that Smith was an Illinois residents (see preceding Paragraphs where Smith publicly admits his presence in Chicago on numerous occasions).

Jennings writes:

- "I'm walking out the door headed for Mexico where I'll eat a dead kid tonight. I'll leave juggling the Neandertal's in your capable hands. Btw, don't worry if you drop one or two of them..... It'll be fun seeing them bounce all over cyber space like ping pong balls. Che' de Guy"

On the same day, 26 Oct 2005, at 21:02:21 -0500, Jeremy Smith posts a message:

- "Thank you Che'. I will contact the Cyber Troll and see what grand plans he has in store during your absence. Meanwhile, be sure to leave Rosa some feedback over at Amazon (<http://tinyurl.com/dgbkl>)."

By "Cyber Troll", Smith meant Tipton. He had referred to Tipton, as others had, by the same nickname (see Exhibit 1 of PLAINTIFF'S RESPONSE AND MEMORANDUM IN OPPOSITION TO DEFENDANT TODD TIPTON'S MOTION TO DISMISS). The "administrator" of abuses against plaintiff got contacted directly by William Jennings to take care of attacking plaintiff while Jennings is out of town. In response, Smith promises to contact Tipton, another member of their cyber gang, to orchestrate how they could ensure to make plaintiff's life as miserable as possible. Smith reminds Jennings to leave a crank review on plaintiff's product on Amazon.com, while he will be contacting Tipton.