

EXHIBIT 1 to PLAINTIFF'S RESPONSE AND MEMORANDUM IN OPPOSITION TO DEFENDANT WILLIAM JENNINGS' MOTION TO DISMISS

UPON INFORMATION AND BELIEF:

HISTORY OF WILLIAM JENNINGS AND JEREMY SMITH'S CONTACT AND COLLABORATION IN RELATIONSHIP TO PLAINTIFF.

Gang of "Cyber Troll" (Tipton), "Cyber Troll Administrator" (Smith), and "Doc"/"Che" (Jennings).

William Jennings and Jeremy Smith's contact 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 William Jennings and Todd Tipton were at the time participants (source: Google Usenet archives).

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

Defendant Jennings 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:").

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).

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 William Jennings 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 and Jennings having numerous instances of conversations directed at each other on the Usenet (reference: Google Usenet archives).

Defendant Jennings Had Systematic Contact With Jeremy Smith

On 3 May 2002 15:14:49 GMT, Jeremy Smith, using his email address: jeremy.smith@banklife.com posted a message and asks a guitar related question.

William Jennings posts a message to Jeremy Smith on 04 May 2002 00:04:43 GMT regarding Germany’s question. On 04 May 2002 07:30:55 PDT Smith writes to Jennings saying: “I am the original poster on this thread, Jeremy Smith (writing from a different account, apologies for any confusion).”

As the acquaintance develops and strengthens through the collaborated attacks on the Plaintiff, and Jennings and Smith enjoy regular like-minded contacts on the Usenet through numerous one-on-one conversations (according to Google archives), and off the Usenet according to what is revealed in the writings, and what has been revealed to investigation of the case at bar.

From one of Jennings’ emails there are 175 references to Smith (reference: Google Usenet archives / journey@texas.net / Tommy)

Jennings Collaborated With Smith (And Tipton) In Carrying Attacks Against Plaintiff.

On 26 Oct 2005 15:36:02 -0500, William Jennings post 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. Meanwhile, Smith reminds Jennings to leave a crank review on plaintiff’s product on Amazon.com.

Ongoing Contact Between Jennings & Smith in Relationship to Plaintiff Coordinated attacks against the 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.

On or about Nov 18 2005 (message removed from Archives and can only be reconstructed through its trace), Jeremy Smith posted a message in which he voted William Jennings as “the best troll in RMCG history”.

Jennings Sends Smith A Gift Through Fax

On 17 Jul 2006 06:25:03 -0700, way after the original complaint was filed, Smith post a message in which he admits to having received at least one Fax from Jennings in the past. And it appears as though it was a gift (music score) from Jennings to Smith, and the it was received when Smith was engaged with matters relating to plaintiff “a long time ago”. Was it a gift for Smith’s loyalty in the cyber gang? In the same message Smith spreads false rumors about plaintiff.

On Oct 4 2005 9:03 pm, Smith initiates a thread which involves numerous exchanges with Jennings. In one of the messages Jennings specifically addresses Smith, and replied to him:

- “I will be in your area the 12th. and 13th. of next week. I'll send you my hotel room telephone number. I may not be in until late. Che”
- Smith replies: “Ok, I'll walk you through the next steps at that time.”
- Jennings replies: “That thingie should be in your mailbox now.”

This proves that Jennings and Smith had contact beyond the Usenet, via fax, via mail, via telephone.

We also know as described above, that Jennings has prompted Smith to act against Plaintiff, and vice versa.

Other collaborations between Jennings and Smith:

There are numerous other instances of alleged collaboration between Jennings and Smith which would have required direct contact between the two. They require further discovery.

One such area which is a subject for further Discovery is forging Plaintiff's ID using Giganews. Smith bought a subscription on Giganews in Texas, Jennings' home state, and the same/sister company which provides e-mail service to Jennings. Using Giganews, Smith forged the identity of Plaintiff several times and posted horrific messages posing the Plaintiff as the author.

The forged text highly resembles Jennings' style of writing and does not at all resemble Smith's, yet the account used to post them was purchased by Jeremy Smith and the account address was his home address in Chicago, Illinois. Such collaboration would not have been possible without an intimate contact between the two parties which surely would have involved knowledge of at least the others' state of residence, even if Jennings forgot that earlier Smith had used his real name to post on the newsgroup: “I live in Chicago”.