

**SUPERIOR COURT OF THE DISTRICT OF COLUMBIA  
CIVIL DIVISION**

**METROPOLITAN AFRICAN METHODIST  
EPISCOPAL CHURCH,**

**Plaintiff,**

**v.**

**PROUD BOYS INTERNATIONAL, L.L.C.,  
ENRIQUE TARRIO, JOHN DOES #1-8,**

**Defendants.**

**No. 2021 CA 000004 B  
Judge Heidi M. Pasichow  
Next Court Date: June 25, 2021,  
9:30 AM  
Event: Scheduling  
Conference**

**PLAINTIFF'S MEMORANDUM OF POINTS AND AUTHORITIES  
IN SUPPORT OF MOTION FOR DEFAULT JUDGMENT AND INJUNCTIVE RELIEF  
AGAINST PROUD BOYS INTERNATIONAL, L.L.C.**

## TABLE OF CONTENTS

	<u>Page</u>
PRELIMINARY STATEMENT .....	1
BACKGROUND .....	4
I. Factual History .....	4
A. PBI Governs the Proud Boys .....	5
B. The Proud Boys Are White Supremacists .....	6
C. PBI Conspired with Its Supporters to Harm and Intimidate Supporters of the Black Lives Matter Movement on December 12 .....	6
1. PBI Leaders Encourage Violence against BLM Supporters .....	7
2. PBI Leadership Encouraged Followers to Travel to Washington, D.C. on December 12 .....	7
3. The Proud Boys Engaged in Tightly Coordinated Activity for the December 12 Event .....	8
4. The Proud Boys Coordinate Attacks on BLM Supporters .....	8
D. The Proud Boys Attacked Metropolitan AME .....	10
E. The Proud Boys Routinely Engage in White Supremacist Violence Similar to That Employed on December 12 .....	10
F. The Proud Boys Are Unrepentant and Have Expressed Contempt for This Court and the Legal System .....	12
II. Procedural History .....	14
ARGUMENT .....	14
I. The Church Is Entitled to a Default Judgment on Liability on Each of the Causes of Action Alleged in the Complaint .....	15
A. The Complaint Adequately Pleads the Elements of Each of the Claims It Asserts .....	15
1. D.C. Bias-Related Crimes Act. ....	15
2. Torts .....	16
3. FACE Act .....	17
B. PBI Is Liable on Metropolitan AME's Claims as a Co-Conspirator .....	17
II. The Court Should Award Full Compensatory Damages to Metropolitan AME .....	18
III. PBI's Conduct Warrants a Substantial Award of Punitive Damages .....	19

A.	PBI’s Conduct Was Malicious, Wanton, and Intentional .....	20
B.	PBI Is Unrepentant.....	21
C.	Courts Have Awarded Substantial Punitive Damages against Other White Supremacist Organizations .....	22
IV.	The Court Should Award Attorneys’ Fees and Costs .....	23
V.	The Court Should Award Injunctive Relief against PBI .....	24
CONCLUSION.....		25

## **TABLE OF AUTHORITIES**

	<b>Page(s)</b>
<b>CASES</b>	
<i>Aboye v. United States</i> , 121 A.3d 1245 (D.C. 2015) .....	15, 19
<i>District of Columbia v. Bamidele</i> , 103 A.3d 516 (D.C. 2014) .....	19
<i>Blanken v. Harris, Upham &amp; Co.</i> , 359 A.2d 281 (D.C. 1976) .....	16
<i>Dumpson v. Ade</i> , 2019 WL 3767171 (D.D.C. Aug. 9, 2019) .....	14, 15, 24
<i>Gersh v. Anglin</i> , 353 F. Supp. 3d 958 (D. Mont. 2018) .....	23
<i>Green Leaves Restaurant, Inc. v. 617 H Street Assocs.</i> , 974 A.2d 229–30 (D.C. 2009) .....	17
<i>Howard Univ. v. Wilkins</i> , 22 A.3d 774 (D.C. 2011) .....	22
<i>Hunter v. Fort Worth Capital Corp.</i> , 620 S.W.2d 547 (Tex. 1981) .....	5
<i>Ifill v. Dist. of Columbia</i> , 665 A.2d 185 (D.C. 1995) .....	24
<i>Jones v. United States</i> , 168 A.3d 703, 717 (D.C. 2017) .....	16
<i>Keenan v. Aryan Nations</i> , Am. Compl., No. CV 99-441 (Idaho 1st Dist., May. 24, 1999); Am. Judgment, No. CV 99-441 (Idaho 1st Dist., Sept. 8, 2000) .....	22
<i>Lawrence v. Intermountain, Inc.</i> , 243 P.3d 508 (Utah Ct. App. 2010) .....	22
<i>Lockhart v. Cade</i> , 728 A.2d 65 (D.C. 1999) .....	14
<i>Lyons v. Jordan</i> , 524 A.2d 1199 (D.C. 1987) .....	19

**TABLE OF AUTHORITIES**  
**(Continued)**

	<b><u>Page(s)</u></b>
<i>Macedonia Baptist Church v. Christian Knights of the Ku Klux Klan—Invisible Empire Inc.</i> , No. 96-CP-14-217, (S.C. Ct. Com. Pl. Jul. 24, 1998).....	22
<i>McKinney v. Southern White Knights</i> , SPLC No. C87-565A (N.D. Ga., Mar. 24, 1987); Judgment, SPLC No. C87- 565 A. (N.D. Ga., Oct. 25, 1988), <i>aff’d</i> , 934 F.2d 1265 (11th Cir. 1991), <i>cert.</i> <i>denied</i> , <i>Stephens v. McKinney</i> , 502 U.S. 1093 (1992) .....	22
<i>Modern Management Co. v. Wilson</i> , 997 A.2d 37 (D.C. 2010) .....	22
<i>Obeidallah v. Anglin</i> , Order No. 2:17-cv-720 (S.D. Ohio Jun. 13, 2019) .....	23
<i>Oliver v. Mustafa</i> , 929 A.2d 873 (D.C. 2007) .....	14, 19
<i>Sarete, Inc. v. 1344 U St. Ltd. P’ship</i> , 871 A.2d 480 (D.C. 2005) .....	16
<i>United States v. Tarrio</i> , No. 2021-CF2-105 (D.C. Super. Ct. Feb. 4, 2021).....	24
<i>United Methodist Church of Berea v. Dunlop Const. Prod., Inc.</i> , 1992 WL 80054 (Ohio Ct. App. Apr. 16, 1992).....	18
<i>Weishapl v. Sowers</i> , 771 A.2d 1014 (D.C. 2001) .....	17
<i>Zanders v. Baker</i> , 207 A.3d 1129 (D.C. 2019) .....	14
 <b>STATUTES</b>	
18 U.S.C. § 248(a)(3).....	17
18 U.S.C. § 248(c)(1)(B) .....	15, 19, 23, 24
D.C. Code § 22-1805a .....	15
D.C. Code § 22-3701(1).....	15
D.C. Code §§ 22-3701(2).....	15

**TABLE OF AUTHORITIES**  
**(Continued)**

	<b><u>Page(s)</u></b>
D.C. Code § 22-3704(a)(1) .....	24
D.C. Code § 22-3704(a)(3) .....	19
D.C. Code § 22-3704(a)(4) .....	15, 23
<b>COURT RULES</b>	
Rules 69(a)(2) and 69-I(a)–(b) of the D.C. Superior Court Rules of Procedure .....	24
Rule 55(a) of the D.C. Superior Court Rules of Procedure .....	14
Rule 55(b)(2) of the D.C. Superior Court Rules of Civil Procedure .....	1
<b>OTHER AUTHORITIES</b>	
139 Cong. Rec. S15660 (Nov. 3, 1993) .....	19
<i>16th Street Baptist Church Bombing (1963)</i> , NAT’L PARK SERV. (Nov. 19, 2020), <a href="https://www.nps.gov/articles/16thstreetbaptist.htm">https://www.nps.gov/articles/16thstreetbaptist.htm</a> .....	3
Jason Horowitz et al., <i>Nine Killed in Shooting at Black Church in Charleston</i> , N.Y. TIMES, June 17, 2015 .....	3
U.S. Inflation Calculator, <a href="https://www.usinflationcalculator.com/">https://www.usinflationcalculator.com/</a> .....	22

Plaintiff Metropolitan African Methodist Episcopal Church (“Metropolitan AME” or the “Church”) submits this Memorandum of Points and Authorities in support of its Motion for Default Judgment and Injunctive Relief against Defendant Proud Boys International, L.L.C. (“PBI”) and asks the Court to set an *ex parte* proof hearing pursuant to Rule 55(b)(2) of the D.C. Superior Court Rules of Civil Procedure.<sup>1</sup>

### **PRELIMINARY STATEMENT**

Metropolitan AME is entitled to a default judgment against PBI. PBI has been properly served, and it has intentionally and purposefully refused to acknowledge the Complaint and the Court’s entry of default. Accordingly, as a matter of law, PBI is deemed to have admitted all well-pleaded allegations in the Complaint. The declarations submitted herewith show that Metropolitan AME is entitled to an award of compensatory damages of at least \$59,126.38. The Court should also grant a substantial award of punitive damages—in the millions of dollars—to condemn and deter PBI’s egregious conduct, as courts have done in other cases involving acts by white supremacists to attack and intimidate their perceived opponents. Substantial damages are warranted because of the intentional, racist, and violent nature of PBI’s attack on the Church; the incitement and planning at the highest levels of the PBI organization; PBI’s other attacks on Black churches and other supporters of Black Lives Matter; its persistent pattern of planned violent behavior to achieve its white supremacist goals; its lack of repentance; and the disdain it has shown for this Court and the legal system.

The Black church in America represents the autonomy and resilience of the Black community. Since the days of slavery, it has served as a sanctuary, a place of worship, a meeting ground, a source of nonviolent strength and conscience, and a mighty symbol of the inherent

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<sup>1</sup> Metropolitan AME filed its Unopposed Motion to Exceed Page Limit on June 4, 2021. Because that Motion is still pending before the Court, Metropolitan AME is prepared to refile an amended brief of no more than 20 pages.

dignity of every person. Church is “the one place where everybody should be the same standing before a common master and savior. And a recognition grows out of this—that all men are brothers because they are children of a common father.” Rev. Dr. Martin Luther King, Jr., *The Drum Major Instinct* (Feb. 4, 1968), reprinted in *A Testament of Hope*, 259, 263 (ed. James M. Washington, 1986). An attack on a Black church strikes at the physical and metaphysical core of the Black community. It is a challenge to the principle that all persons are created equal.

Metropolitan AME is an historic Black church that has been a vocal proponent of racial justice since it was founded in the 19th Century. The Church was the spiritual home of notable leaders for racial equality, including Frederick Douglass, has hosted speakers including Ida B. Wells, Booker T. Washington, and Eleanor Roosevelt, and conducted the funeral services for Mr. Douglass, Senator Blanche Bruce, and Rosa Parks. President Barack Obama attended the Church prior to his second inauguration. To this day it is a pillar of the Black community. It proudly displays a large “Black Lives Matter” banner on its grounds.

On December 12, 2020, members of the white supremacist group known as the Proud Boys traveled to Washington, D.C. to engage in violence and destruction of property against supporters of racial justice, including Metropolitan AME. Spreading throughout the city, the Proud Boys physically attacked counter-protestors and passersby, destroyed property, and sought to silence peaceful speech and intimidate supporters of the Black Lives Matter (“BLM”) movement by invading churchyards of historically Black churches and destroying banners supporting the BLM movement.

PBI—the highest authority in the Proud Boys organization—planned and coordinated the violence on December 12. Acting through its leaders—including Defendant Tarrio, PBI’s Chairman—PBI exhorted Proud Boys members in countless social media messages and



encrypted texts that they should “fucking come out on December 12” and “run these [BLM] scumbags out [of] our cities and anyone supporting them.” Rhee Decl. Exs. K at 39:50; J.

Metropolitan AME was among the targets of the Proud Boys’ violent, racist acts. Chanting “Whose streets? Our streets!” and displaying white supremacist symbols, a crowd of Proud Boys leapt over the wrought iron fence surrounding the Church property, swarmed into the churchyard, tore down and stomped on the large BLM sign the Church was displaying, and then cut the sign into pieces with a knife. They then loudly and publicly celebrated their invasion of the Church and destruction of its sign. The message they intended to convey, and did convey, was unmistakable: as one Proud Boys leader wrote on his website just months earlier, “Black Lives Don’t Matter.” *Id.* Ex. G. The December 12 attacks on Metropolitan AME and other churches carried forward a long, ugly legacy. For centuries, white supremacists have sought to intimidate, silence, and control Black Americans by targeting their houses of worship. Black churches have suffered from arsons, bombings, and shootings by white supremacists because of their central role in the struggle for freedom and equality.<sup>2</sup> The violence the Proud Boys unleashed on Metropolitan AME was intended to serve the same invidious goals. As the Church’s pastor explains:

The Proud Boys, like similar groups that came before them, including the Ku Klux Klan, acted in accordance with a long-standing narrative of white supremacists in America—that white men can do what they want, to whomever they want, and call their violent conduct “freedom.”

Lamar Decl. ¶ 39.

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<sup>2</sup> See, e.g., A Testament of Hope at 463-64 (ed. James M. Washington, 1986) (discussing the bombings of four Black churches by segregationists in Montgomery, AL on Jan. 10, 1957, including the church of civil rights leader Rev. Ralph Abernathy, during the campaign to integrate Montgomery buses); *16th Street Baptist Church Bombing (1963)*, NAT’L PARK SERV. (Nov. 19, 2020) (KKK bombed Black church and murdered four young girls), <https://www.nps.gov/articles/16thstreetbaptist.htm>; Jason Horowitz et al., *Nine Killed in Shooting at Black Church in Charleston*, N.Y. TIMES, June 17, 2015, <https://www.nytimes.com/2015/06/18/us/church-attacked-in-charleston-south-carolina.html>.

PBI and its co-conspirators have shown no remorse; rather, they have boasted about their conduct. Tarrío posted online, “I’M DAMN PROUD I DID IT!” and “I’LL FUCKING DO IT AGAIN.” *Id.* Exs. CC; DD. Since the December 12 attack, the Church has continued to be threatened via abusive hate messages posted on social media. Lamar Decl. ¶ 39. Defendants have also expressed contempt for both this proceeding and the broader legal system. When asked about this lawsuit, Tarrío responded, “I don’t care,” and bragged that he would “drag [his] balls across [Plaintiff’s] face in court.” *Id.* Exs. LL; NN.

These egregious actions show no signs of abating. On the contrary, PBI and its co-conspirators have continued to engage in similar violent efforts to achieve their ends, including the riots in Washington, D.C. on January 6, 2021. The Proud Boys know their campaigns of violence break the law and accept minor penalties as a necessary cost of furthering their agenda. Without significant consequences here, they will continue to terrorize communities and engage in hateful violence against Black Americans, other people of color, religious minorities, LGBTQ+ people, and others seeking to advance the American promise of equality.

In view of PBI’s refusal to acknowledge either the Complaint or the Court’s entry of default, and its ongoing and egregious conduct, the Court should enter a default judgment against PBI and award Metropolitan AME compensatory and punitive damages, costs, and fees.

## **BACKGROUND**

### **I. Factual History**

The facts of this case are described in detail in Metropolitan AME’s Complaint and are summarized in this Section. Detailed supporting evidence is set forth in the declaration of William H. Lamar IV (“Lamar Decl.”), Metropolitan AME’s Pastor; the expert declaration of Dr. Heidi Beirich, an expert in right-wing extremism and white supremacy who has studied and written about the Proud Boys professionally since its founding (“Beirich Decl.”); and the exhibits

to the declaration of Jeannie Rhee, which are cited as herein as “Ex. \_\_,” all of which are submitted herewith.

**A. PBI Governs the Proud Boys**

At the relevant times, PBI was a Texas limited liability company and the governing body of the Proud Boys. Compl. ¶ 18.<sup>3</sup> PBI’s Constitution and Bylaws (“Bylaws”) are the group’s “supreme law,” dictating its governing structure and members’ behavior through membership requirements and standards of conduct. Rhee Decl. Ex. A, Art. I, § 4.

The Proud Boys consist of PBI, local chapters, the Elders Chapter, and Proud Boys members. Compl. ¶ 20 n. 4; Rhee Decl. Ex. A, Art. I, § 2(a). The Elders Chapter includes eight Proud Boys leaders who serve as the members of PBI. Compl. ¶ 19; Rhee Decl. Ex. A, Art. II, §§ 1–2. It governs PBI’s affairs, coordinates with the Chairman on public messaging, and is authorized to collect annual dues from the entire membership of the Proud Boys and to hold property in the name of the organization. Compl. ¶ 19; Rhee Decl. Ex. A, Art. II, § 4. The 2018 Bylaws named Defendant Tarrio and Rufio Panman (a pseudonym used by Ethan Nordean) as Elders. Rhee Decl. Ex. B; *see also* Ex. KK (identifying Rufio Panman as Nordean).

The Chairman of the Proud Boys is the highest role in the organization, Compl. ¶ 20, and, together with the Elders Chapter, serves as the leader of both PBI and the Proud Boys. Compl. ¶ 19; Rhee Decl. Ex. A, Art. II. Defendant Tarrio has been the Chairman since November 2018. Compl. ¶ 29; Rhee Decl. Ex. HH.

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<sup>3</sup> Jason L. Van Dyke, PBI’s former leader, claims he dissolved PBI on February 10, 2021, almost two months after the December 12 attacks and after this action was commenced. Van Dyke, acting through his company JLVD Holdings L.L.C., managed PBI and served as its registered agent until he purportedly resigned on February 5, 2021. Texas law allows claimants to sue a dissolved corporation for pre-dissolution activity for three years after its dissolution. *See Hunter v. Fort Worth Capital Corp.*, 620 S.W.2d 547, 550–51 (Tex. 1981). On June 5, 2021, Van Dyke copied Plaintiff’s counsel on an email instructing his IT staff to block the email addresses of the Court and Plaintiff’s counsel. Rhee Decl. Ex. OO.

## **B. The Proud Boys Are White Supremacists**

PBI and its members “espouse white supremacy and have worked hand-in-hand with other white supremacist groups.” Compl. ¶¶ 21, 52–55; Beirich Decl. ¶ 17. The Proud Boys’ founder, Gavin McInnes, described its members as “Western chauvinists who refuse to apologize [sic] for creating the modern world.” Beirich Decl. ¶ 30. This language is echoed in the organization’s official creed to which all members must attest adherence. *Id.* ¶¶ 33, 35. As Dr. Beirich explains, the term “‘western chauvinism’ is code for white supremacy and patriarchal misogyny.” *Id.* ¶ 30.

White supremacist beliefs permeate the Proud Boys’ membership. Members are drawn to the organization because of its “pro-white sentiment.” *Id.* ¶ 46. One member explained that “like 90% of [Proud Boys] would tell you something along the lines of, ‘Hitler was right. Gas the Jews.’” *Id.* Another former member noted that the group’s private Facebook group was filled with “n\*\*\*\* this, n\*\*\*\* that, Nazi this, there was all this white-supremacist stuff...pictures of old cartoons of the black dude with the big lips and the bone.” *Id.*

## **C. PBI Conspired with Its Supporters to Harm and Intimidate Supporters of the Black Lives Matter Movement on December 12**

PBI—acting through Tarrio, Nordean, and others—engaged in months of planning and coordination to encourage Proud Boys to travel to Washington, D.C. on December 12 and to violently intimidate supporters of BLM while there. Compl. ¶¶ 6–7, 65–69. The planners included, among others, PBI Chairman Tarrio; Elder Nordean; Joe Biggs, a Proud Boys organizer and leader, and Jeremy Bertino, a Proud Boys leader for the December 12, 2020 event. *See* Rhee Decl. Exs. GG at 6:50; MM at 1:04:15.

Such painstaking coordination and planning are a hallmark of the Proud Boys. *E.g.*, Compl. ¶¶ 25, 31, 56–64, 65–69, 101. As Biggs explained, “We take three months to plan an

event, and we go, ‘What’s our main object,’ and then we plan around that to achieve the main objective . . . .” Rhee Decl. Ex. GG at 6:50. Biggs noted, “Now it’s like you’re literally planning to go into a combat zone so here’s a lot more that goes into it . . . . I need satellite imagery. I need to talk to people on the ground. I need to scout out these alleyways. . . . When we have an escape route, we have four or five ways in and out, in case police close things off.” *Id.*

1. PBI Leaders Encourage Violence against BLM Supporters

The planning for the December 12 attack was similarly deliberate. *See* Compl. ¶¶ 65–69. For months leading up to December 12, PBI’s leaders encouraged violence against supporters of the BLM movement. Compl. ¶¶ 46–55. On August 24, Biggs wrote online that BLM “is about Destroying all things America,” and that “[t]he truth is that Black Lives Don’t Matter just Black lies used to cover [for] the real truth[:] A communist takeover.” Rhee Decl. Ex. G. He said: “We are at a tipping point in America, do we stand and fight?” *Id.*

Nordean made similar statements. On October 2, he called BLM a “terrorist organization” that was “responsible for murders, assaults, harassment of decent people, and destruction of millions of dollars in property and small businesses.” Rhee Decl. Ex. I. Following violent attacks by the Proud Boys at a “Million MAGA March” on November 14, upon information and belief, Nordean told his followers on social media that “more needs to be done!” and urged them to “run these [BLM] scumbags out [of] our cities and anyone supporting them.” *Id.* Ex. J.

2. PBI Leadership Encouraged Followers to Travel to Washington, D.C. on December 12

Immediately following the November 14 violence, PBI leadership began encouraging members to travel to Washington, D.C. on December 12. Compl. ¶¶ 66–67. On a November 20

episode of the Proud Boys-affiliated WarBoys online show, Tarrio, alongside Nordean and Biggs, urged Proud Boys members as follows: “You guys need to fucking come out on December 12.” Rhee Decl. Ex. K at 39:50. On November 22, Biggs posted that he was “[r]eady for DC on Dec 12th.” *Id.* Ex. L. On December 10, the Proud Boys Parler account posted a flyer reading: “NO Antifa/BLM terrorists IN AMERICA Dec 12–forever.” The flyer included a link to the Proud Boys’ website. *Id.* Ex. M.

3. The Proud Boys Engaged in Tightly Coordinated Activity for the December 12 Event

The Proud Boys heeded their leaders’ instructions. Approximately 400 Proud Boys members traveled to Washington, D.C. to seek out violence against BLM supporters on December 12. Compl. ¶ 68. Videos and other evidence captured the coordinated activities of hundreds of Proud Boys organized by Tarrio, Nordean, and other senior leaders. On the evening of December 11, Tarrio, speaking to a crowd of Proud Boys on the National Mall alongside Nordean, stated, “[t]his fight’s not over,” and instructed the crowd to meet at Harry’s Restaurant at 10:00 AM the following day before moving to Freedom Plaza at 11:00 AM. Rhee Decl. Ex. N at 1:13, 14:45. He said, “For the parasites both in Congress and that stolen White House: You want a war? You’ve got one.” *Id.* As instructed, Proud Boys members and leaders met at Harry’s Restaurant the following morning. *Id.* Ex. P at 1:05.

4. The Proud Boys Coordinate Attacks on BLM Supporters

Throughout the day and into the evening of December 12, Proud Boys led by Tarrio, Nordean, and others coordinated to attack and intimidate BLM supporters. Compl. ¶¶ 73–74; Rhee Decl. Exs. Q; R; S; T. Video from the evening shows a group of Proud Boys carrying a stolen BLM banner and walking westbound on M Street. *Id.* Ex. U. The group of Proud Boys then drop the sign, stomp on it, and chant “U.S.A.” while someone yells “fuck Black Lives

Matter . . . fuck those n\*\*\*\*\*s!” *Id.* The group eventually regroups with the main group of Proud Boys at the intersection of M and 15th Street—less than a block from Metropolitan AME—where they are met with cheers. *Id.*

Shortly thereafter, video shows Proud Boys stealing a BLM banner from the premises of Asbury United Methodist Church, the oldest Black Methodist church in the District of Columbia. Compl. ¶ 75; Rhee Decl. Ex. V. The banner was delivered to Tarrio and other Proud Boys. Rhee Decl. Ex. O at 1:22:10. A screenshot from the video shows Tarrio pouring flammable liquid on the sign and setting it on fire as his fellow Proud Boys celebrated. *Id.*



Minutes after the burning of the Asbury banner, a smaller group of Proud Boys members moved West to East on 11th Street, approaching the main group and carrying another BLM banner. *Id.* Ex. W. They were greeted with praise. *Id.* A member from the smaller group raised his fist in victory, showing off his trophy to the group. *Id.*

**D. The Proud Boys Attacked Metropolitan AME**

As documented by contemporaneous video, the Proud Boys' attack on Metropolitan AME followed this same pattern. A mob of Proud Boys, wearing the Proud Boys' black and yellow colors and apparel, chanting "Whose streets? Our streets!," leapt over the iron fence onto Metropolitan AME property. They broke the zip ties holding the Church's Black Lives Matter sign in place, tore down the sign, and stomped on it. Compl. ¶¶ 79, 81–84; Rhee Decl. Ex. X. One of the attackers displayed the "OK" hand symbol—a well-known white supremacist gesture. Compl. ¶¶ 84–85; Rhee Decl. Ex. X; *see* Beirich Decl. ¶ 50. The attackers then carried the damaged Black Lives Matter sign to the sidewalk, pulled out a knife, and cut the sign into pieces while celebrating its destruction. Rhee Decl. Ex. Y.



**E. The Proud Boys Routinely Engage in White Supremacist Violence Similar to That Employed on December 12**

The Proud Boys have frequently engaged in violent attacks against BLM supporters and other perceived opponents. Compl. ¶ 46. While more examples are found in Dr. Beirich's



report, *see, e.g.*, Beirich Decl. ¶¶ 52–53, a few examples of Proud Boy acts of violence both before and after December 12 include:

- Proud Boys members organized the Unite the Right rally in Charlottesville, Virginia in August 2017 that resulted in the death of racial justice activist Heather Heyer and dozens of other hate crimes. *Id.* ¶ 53.
- On October 12, 2018, a large group of Proud Boys attacked protestors after the then-head of the Proud Boys, Gavin McInnes, gave a speech in New York City. The Proud Boys flooded the streets of New York after the speech, kicking a person laying on the sidewalk and charging at protestors before “pummeling them to the ground.” Ten Proud Boys members were later charged, and two were convicted and sentenced to four years in prison Rhee Decl. Exs. PP; C.
- In July 2020, Proud Boys members aligned themselves with the KKK and other hate groups to harass BLM supporters protesting a Confederate statue in Weatherford, Texas. Compl. ¶ 47. Three men were arrested as a result: one Proud Boy pointed a sniper rifle at the crowd of BLM supporters, another Proud Boy charged and attempted to tackle a Black man, and yet another assaulted and cursed at a Black protestor. Rhee Decl. Ex. E.
- In August 2020, the Proud Boys violently confronted BLM protestors in Portland, Oregon following the murder of George Floyd, arming themselves with paintball guns, metal rods, aluminum bats, fireworks, pepper spray, rifles and handguns. Compl. ¶ 49; Rhee Decl. Ex. F.
- On August 22, 2020, Proud Boys member Alan Swinney was captured on film pointing a gun at protestors. Compl. ¶¶ 50–51.

The Proud Boys’ attacks against the U.S. Capitol on January 6, 2021, were highly orchestrated in the same fashion as their attacks on Metropolitan AME and other targets the previous month. *See* Beirich Decl. ¶¶ 75–76, 78. PBI leaders, including Tarrio, encouraged their members to visit Washinton, D.C. to disrupt the joint session of Congress assembled to count electoral votes. Exs. EE; II. Scores of Proud Boys members and thousands of other supporters of former President Trump breached police perimeters surrounding the Capitol. Beirich Decl. ¶ 76. Many in the crowd broke into the building, occupying, vandalizing, and looting it for hours. Multiple Proud Boys have been charged for their part in the attack. *Id.*

**F. The Proud Boys Are Unrepentant and Have Expressed Contempt for This Court and the Legal System**

PBI and its co-conspirators have shown no regret for the violence and destruction they wreaked on December 12. Far from it. They view their attacks on BLM supporters as a success story, promote incidents like these to recruit and fundraise, Beirich Decl. ¶ 67; Exs. G; J, and have indicated repeatedly that they would not hesitate to engage in these types of acts again.

Tarrio has said explicitly and repeatedly that he does not regret those actions. On December 17, Tarrio confessed that he burned the Asbury United's BLM banner. Compl. ¶ 90; Rhee Decl. Ex. AA at 2:16. He bragged that he was "damn proud" of his actions and said, "I did nothing wrong." Compl. ¶ 90; Rhee Decl. Ex. AA at 2:16. Nordean and Biggs expressed their support for Tarrio's actions, saying "Proud of your fucking boy, Enrique." Compl. ¶ 93; Rhee Decl. Ex. AA at 3:02. Later, Tarrio posted on social media: "Against the wishes of my attorney I am here today to admit that I am the person responsible for the burning of this sign. And I am not ashamed of what I did. . . ." Compl. ¶ 91; Rhee Decl. Ex. BB. On December 19, Tarrio repeated on social media: "I'll say it again[ ]and I'll say it loud for the people in the back[.] I'M DAMN PROUD I DID IT." Compl. ¶ 92; Rhee Decl. Ex. CC.

On December 22, Tarrio wrote about the burning of a BLM banner, "I'LL FUCKING DO IT AGAIN," and added "Ayo . . . Pass me the lighter." Compl. ¶ 95; Rhee Decl. Ex. DD.



Nordean continued to urge his followers to engage in violence against the Proud Boys' perceived enemies in the wake of the events of December 12. Appearing with Bertino on a December 31, 2020, episode of Nordean's internet show, Rebel Talk, Nordean urged his followers to "desensitize ourselves from this stuff we've been taught, you know, 'never use violence,'" and claimed: "[Y]ou have to use force. This is the organized militia part of our freaking Constitution." Rhee Decl. Ex. FF at 15:58.

PBI and Tarrío have also expressed disregard for this lawsuit, the Court, and the legal system. PBI, although it has been properly served, has failed to appear in this Court to respond to the Complaint or to defend its actions. PBI's former leader and registered agent purportedly dissolved PBI in response to the filing of this lawsuit to try to avoid responsibility for its actions, and he has attempted to block this Court's email addresses so PBI cannot receive notices from the Court. *See supra* note 2. When asked about Metropolitan AME's claims in this case, Tarrío has said, "I don't care. . . . They're not going to get anything out of me." Rhee Decl. Ex. LL.

And, “If they try to go after [my money], I’d be happy to drag my balls across their face.” Rhee Decl. Ex. NN.

## **II. Procedural History**

On January 4, 2021, Metropolitan AME filed the Complaint against PBI and other Defendants. On January 6, 2021, PBI was served with the Complaint through personal service on Jason L. Van Dyke, its sole registered service agent. Proof of service was filed with the Court on January 11, 2021. Although Van Dyke acknowledged receipt of the Complaint, and that he was the registered agent for service at the time that it was served, PBI did not file any response to the Complaint. On February 5, 2021, Plaintiff asked the Court to enter default for PBI. Following a status conference, the Clerk of Court entered default on April 9, 2021, pursuant to Rule 55(a) of the Superior Court Rules of Civil Procedure.

## **ARGUMENT**

An entry of default “precludes the defaulting party from offering any further defense on the issue of liability.” *Zanders v. Baker*, 207 A.3d 1129, 1135 (D.C. 2019). Under D.C. law, “the entry of default operates as an admission by the defaulting party that there are no issues of liability.” *Lockhart v. Cade*, 728 A.2d 65, 68 (D.C. 1999). Thus, on issues relating to liability, a defaulting party “admits the plaintiff’s well-pleaded allegations of fact[ ] and is barred from contesting on appeal the facts thus established.” *Oliver v. Mustafa*, 929 A.2d 873, 878 (D.C. 2007) (citation omitted). “[T]he only issue remaining before the trial court ... [is] the extent of damages.” *Lockhart*, 728 A.2d at 68; *accord Dumpson v. Ade*, 2019 WL 3767171 at \*3 (D.D.C. Aug. 9, 2019). The Complaint more than adequately pleads the elements of Metropolitan AME’s causes of action against PBI. *See infra* Argument § I. And—although not necessary for this motion—the evidence submitted herewith and summarized above provides further compelling support for its claims.

With respect to the amount of damages, the plaintiff need only submit affidavits or other documentary evidence establishing a basis for the damages sought. *Dumpson*, 2019 WL 3767171 at \*3. The evidence submitted with this motion is more than sufficient to establish that the Church is entitled to recover at least \$59,126.38 in compensatory damages. *Infra* Argument § II(A). The Church also submits that the Court should enter a substantial award of punitive damages in the millions of dollars. *Infra* Argument § II(B). Finally, the Court should award reasonable attorneys’ fees and costs pursuant to D.C. Code § 22-3704(a)(4) and 18 U.S.C. § 248(c)(1)(B), as well as injunctive relief. *Infra* Argument §§ III–IV.

**I. The Church Is Entitled to a Default Judgment on Liability on Each of the Causes of Action Alleged in the Complaint**

The Complaint sufficiently pleads the elements of each of the claims it asserts, and it adequately pleads that PBI is liable on those claims as a co-conspirator.

**A. The Complaint Adequately Pleads the Elements of Each of the Claims It Asserts**

**1. D.C. Bias-Related Crimes Act.**

A plaintiff states a claim under the D.C. Bias-Related Crimes Act (“BRCA”) by alleging that the defendant committed a “designated act that demonstrates an accused’s prejudice based on the actual or perceived race, color, . . . or political affiliation of a victim of the subject designated act.” D.C. Code § 22-3701(1). A “designated act” under the BRCA means “any criminal act recognized under D.C. law.” *Aboye v. United States*, 121 A.3d 1245, 1250 (D.C. 2015). The BRCA identifies examples of designated acts including “injury to property,” “theft,” and “unlawful entry,” as well as “conspiring to commit” each of the aforementioned criminal acts. D.C. Code § 22-3701(2).

The Complaint adequately alleges each of these elements. PBI’s co-conspirators committed numerous “designated acts” under the BRCA, including violations of D.C. Code

§ 22-1805a (prohibiting conspiracies); § 22-3211 (prohibiting theft); and § 22-3312.01 (prohibiting defacement of property). *See* Compl. ¶¶ 16, 21–22, 39, 48–51, 65, 69–71, 74, 84, 89–91.

The Complaint more than sufficiently pleads that PBI and its co-conspirators were motivated by bias based on race, color, and political affiliation. Compl. ¶¶ 21, 46–55, 75, 83–85. PBI and the Proud Boys have extensive and well-documented ties to white supremacy. Compl. ¶ 21; *supra* Background § I(B); Beirich Decl. ¶¶ 11, 17, 23, 29–36, 45–53. PBI’s co-conspirators who attacked the Church displayed the “OK” hand symbol during the attack, which is associated with support for white supremacy. Compl. ¶¶ 83–85; *supra* Background §§ I(B), I(C)(5); Beirich Decl. ¶¶ 50–51. The Proud Boys’ intentional targeting of the BLM movement and what was clearly identified as a Black church, further reflects their white supremacist beliefs. Compl. ¶¶ 46–55; *infra* Argument § I(B); Beirich Decl. ¶¶ 83–90; Compl. ¶ 16; Lamar Decl. ¶¶ 35–38.

## 2. Torts

The Complaint adequately pleads the elements of Metropolitan AME’s claims for conversion,<sup>4</sup> trespass to chattel,<sup>5</sup> and trespass to realty.<sup>6</sup> The elements of each of these causes of action are adequately pleaded in the Complaint, and AME’s allegations are further supported by undeniable admissible evidence, including contemporaneous video. *See* Compl. ¶¶ 76–82; *supra* p. 9; Lamar Decl. ¶¶ 18–25.

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<sup>4</sup> The elements of conversion are “an unlawful exercise of ownership, dominion and control over the personality of another in denial or repudiation of his right to such property.” *Blanken v. Harris, Upham & Co.*, 359 A.2d 281, 283 (D.C. 1976).

<sup>5</sup> Trespass to chattel involves “conduct that intentionally dispossesses another of personal property or interferes with another’s personal property.” *Jones v. United States*, 168 A.3d 703, 717 (D.C. 2017).

<sup>6</sup> Trespass to realty requires an “unauthorized entry onto property that results in interference with the property owner’s possessory interest therein.” *Sarete, Inc. v. 1344 U St. Ltd. P’ship*, 871 A.2d 480, 490 (D.C. 2005).

### 3. FACE Act

Finally, the Complaint adequately pleads the elements of Metropolitan AME's claims for violation of the FACE Act. A plaintiff successfully states a claim under the FACE Act by alleging that defendants "intentionally damage[d] or destroye[d] the property of a place of religious worship." 18 U.S.C. § 248(a)(3). Defendants and their co-conspirators intentionally damaged and destroyed the Church's BLM sign. *Supra* Argument § I(A)(2). Additionally, Metropolitan AME's status as a religious place of worship is readily apparent to passersby. Compl. ¶ 16; Rhee Decl. Ex. D; Lamar Decl. ¶ 11.

#### **B. PBI Is Liable on Metropolitan AME's Claims as a Co-Conspirator**

The elements of conspiracy under D.C. law are: "(1) an agreement between two or more persons; (2) to participate in an unlawful act, or in a lawful act in an unlawful manner; and (3) an injury caused by an unlawful overt act performed by one of the parties to the agreement (4) pursuant to, and in furtherance of, the common scheme." *Weishapl v. Sowers*, 771 A.2d 1014, 1023 (D.C. 2001). The allegations in the Complaint, along with additional evidence gathered by the Church to date, satisfy each element of conspiracy with respect to all claims against PBI. *See* Compl ¶¶ 21–22, 60–63, 65–69, 74–75, 81–84, 90, 92–93, 95–96.

PBI is responsible for the actions of its duly appointed leaders, including Tarrio; Elders such as Nordean; and other senior members of the organization. Compl. ¶¶ 18–21; 29–32; *supra* Background § I(A). Courts may look to an organization's bylaws to determine which individuals within the organization have authority to act on behalf the organization as a whole. *See Green Leaves Restaurant, Inc. v. 617 H Street Assocs.*, 974 A.2d 229–30 (D.C. 2009).

PBI is thus liable for conspiracy to commit each of the claims asserted in the Complaint. As discussed in detail above, the Complaint alleges, and the evidence shows, that PBI—through its designated leaders—agreed on and engaged in a months' long effort to plan the events of

December 12. Compl. ¶¶ 65–69; *supra* Background § I(C). The attack on Metropolitan AME was one of many unlawful attacks that night in furtherance of the agreement to harm and intimidate supporters of BLM through violence and destruction. *Id.* Metropolitan AME was injured by the attack, as shown in the accompanying Declaration of Rev. Lamar and discussed further in Section II, below. Finally, the object of the Defendants’ scheme was to harm, intimidate, and silence Black Americans and supporters of the BLM movement. Compl. ¶¶ 1–3; *supra* Background § I(C).

## **II. The Court Should Award Full Compensatory Damages to Metropolitan AME**

Metropolitan AME has demonstrated that it is entitled to compensatory damages in the amount of at least \$59,126.38. These damages, as set forth in the accompanying Declaration of Rev. Lamar, have three components:

*First*, after PBI’s co-conspirators destroyed Metropolitan AME’s BLM sign, the Church was required to replace the sign and repair the wooden frame supporting it. Lamar Decl. ¶ 27(a).

*Second*, Metropolitan AME was forced to implement costly new security measures. These included installing two security cameras and accompanying IT improvements, and engaging additional security personnel to guard the Church property in December 2020 and January 2021, when the Proud Boys were planning further events in Washington, D.C. The Church spent \$22,247.28 on these security measures. *See* Lamar Decl. ¶¶ 27(a)–(b).

*Third*, Metropolitan AME’s employees, trustees, and volunteers devoted significant time and resources to respond to the attack. Individuals secured a new BLM sign for the Church, coordinated the Church’s security response, and reviewed and assisted with preparing legal documents to hold PBI and its co-conspirators accountable for their actions. Lamar Decl. ¶ 27(d). The time spent responding to the actions of PBI’s co-conspirators damaged the Church by diverting resources from its primary missions. *See, e.g., United Methodist Church of Berea v.*



*Dunlop Const. Prod., Inc.*, 1992 WL 80054, at \*13 (Ohio Ct. App. Apr. 16, 1992) (upholding damages award for time spent by church trustees and volunteers). The Church suffered \$36,219.10 worth of damages in personnel costs devoted to the attack. Lamar Decl. ¶ 27(e).

### **III. PBI's Conduct Warrants a Substantial Award of Punitive Damages**

The Court should award punitive damages to Metropolitan AME to punish and deter PBI's egregious and malicious acts. Punitive damages may be awarded when a defendant's acts are "accompanied by gross fraud, willful disregard of the plaintiff's rights, or other aggravating circumstances," *Lyons v. Jordan*, 524 A.2d 1199, 1204 (D.C. 1987), or where there is "evidence of actual malice, wanton conduct, deliberate violence, or intent to injure." *District of Columbia v. Bamidele*, 103 A.3d 516, 522 (D.C. 2014). "[R]eckless disregard for the rights and safety of [others]" demonstrates malice sufficient to award punitive damages. *Id.* at 523–24. Punitive damages are available after entry of default. *See, e.g., Oliver v. Mustafa*, 929 A.2d 873, 878–79 (D.C. 2007); *Lyons v. Jordan*, 524 A.2d 1199, 1204 (D.C. 1987).

The BRCA and the FACE Act also explicitly authorize punitive damages. D.C. Code § 22-3704(a)(3); *see Aboye v. U.S.*, 121 A.3d 1245, 1250 (D.C. 2015) (BRCA intended to "curb the proliferation" of "'bias-related or 'hate' crimes'" of all kinds, specifically including ... "'activities like burning a cross in front of a black family's home [and] painting a swastika on a synagogue'" and to "'send a powerful message ... that such insidious forms of hatred will not be tolerated in the District.'" (quoting Comm. on the Judiciary, Rep. on Bill 8-168 at 2 (Oct. 18, 1989)); 18 U.S.C. § 248(c)(1)(B). Senator Orrin Hatch, who proposed the religious property protections in the FACE Act, said they were intended to counter hate-motivated attacks on churches. He cited to examples of church arsons and stated that "[v]arious groups, acting on behalf of various causes, have undertaken an interstate campaign of harassment, physical assaults, and vandalism" targeting places of worship. 139 Cong. Rec. S15660 (Nov. 3, 1993).

Under these standards, the Court should award punitive damages in the millions of dollars.

**A. PBI's Conduct Was Malicious, Wanton, and Intentional**

PBI's conduct demonstrated malice, wantonness, and intent. PBI and its members intentionally targeted Metropolitan AME as part of its years' long efforts to use violence to intimidate and silence Black Americans and supporters of the BLM movement. *See supra* Argument § I(B)(2); Beirich Decl. ¶¶ 86–90.

As Dr. Beirich explains, white supremacist ideology, and the use of orchestrated violence to further that ideology, is central to the Proud Boys' culture and beliefs. Dr. Beirich shows that “the Proud Boys were founded upon, influenced by, and work to further white supremacy and other forms of hatred towards marginalized communities. White supremacy is at the core of the group's ideology.” *Id.* ¶ 11. Dr. Beirich also shows that the Proud Boys “are an inherently violent group. Its members have frequently made violent comments, praised violence and engaged in violent activities.” *Id.* The Proud Boys specifically perceive BLM as their enemy, because it is “antithetical to [their] white supremacist ideology.” *Id.* Thus, as Dr. Beirich concludes, the December 12 attack on Metropolitan AME “was a natural outcome of the Proud Boys' belief system.” *Id.*

As Dr. Beirich also explains, the Proud Boys' attack on Metropolitan AME is part of a long history of attacks on Black churches by white supremacist groups. *Id.* In Black communities across the United States, these historic churches are symbols of African American culture and resistance. Lamar Decl. ¶¶ 5, 35. They serve as a meeting place for civil rights leaders, community centers in their neighborhoods, and as places of worship where Black Americans can retreat from racist practices they face outside church doors. *Id.* Attacks on these sanctuaries have been well documented over decades, dating back as early as the burning of the

Emanuel African Methodist Episcopal Church in 1822 and the over 100 attacks on Black churches since the 1950s, including, most recently, the burning of three Black churches in Louisiana in 2019. Beirich Dec. ¶¶ 87–88. White supremacists target Black churches for the same reason: to terrorize members of the Black community in the very place that they seek sanctuary and refuge, and to persecute those who resist racial oppression. *Id.* ¶¶ 90, 105.

PBI's actions created a grave psychological toll on the membership of Metropolitan AME and the broader Black community. *See* Lamar Decl. ¶¶ 25, 30–41. The attack was particularly terrifying because the congregation is acutely aware of the history of attacks against Black churches elsewhere, including the murder of nine Black church members at their sister AME parish in Charleston, SC in 2015 by an avowed white supremacist. To Reverend Lamar and his congregation, the message from the attack was clear: voicing support for the idea that Black lives are of equal value to other lives risk being met with physical violence. Lamar Decl. ¶ 30. Reverend Lamar explains that the attack felt like “is a continuation of the same violence enacted on our predecessors over centuries, intended to intimidate and silence us into submission.” *Id.* ¶ 38.

## **B. PBI Is Unrepentant**

A substantial punitive damages award is also appropriate in view of PBI's utter lack of repentance for its misconduct. PBI leaders, including Tarrio, have consistently expressed pride, not remorse, about the Proud Boy's actions on December 12, including the attack on Metropolitan AME. *See supra* Background § I(F). As noted, Tarrio, referring to the burning of the BLM sign from Asbury Church, boasted that “I am the person responsible for the burning of this sign. And I am not ashamed of what I did . . . .” Rhee Decl. Ex. BB. Tarrio wrote “Pass me the lighter” and “I’LL FUCKING DO IT AGAIN.” Compl. ¶¶ 95–96; Rhee Decl. Ex. DD. Other senior Proud Boys leaders praised Tarrio's actions and his lack of remorse. Rhee Decl.

Ex. AA at 3:02. And after the December 12 rampage, the Proud Boys returned to Washington, D.C. to play a central role in the attack on the U.S. Capitol on Jan. 6. As discussed *supra* pp. 12–14, PBI and Tarrio have similarly expressed disrespect and disregard for this lawsuit and the judicial process.

PBI’s lack of regret and contempt for the judicial process further justify a substantial punitive damages award, because it reflects a likelihood that they will continue to engage in similar behavior. *See Modern Management Co. v. Wilson*, 997 A.2d 37, 45 (D.C. 2010) (punitive damages advance the state’s interest in “protect[ing] the public by deterring the defendant or others from doing such wrong in the future”); *Lawrence v. Intermountain, Inc.*, 243 P.3d 508, 517 (Utah Ct. App. 2010) (“A high probability of recidivism justifies a higher than normal punitive damage award.”).

### **C. Courts Have Awarded Substantial Punitive Damages against Other White Supremacist Organizations**

A punitive damages award must “remain of sufficient size to achieve the twin purposes of punishment and deterrence.” *Howard Univ. v. Wilkins*, 22 A.3d 774, 783 (D.C. 2011). Cases against other white supremacist organizations and individuals are instructive in determining the appropriate damages amount here. A few examples follow:

- In *McKinney v. Southern White Knights*, the court awarded \$2,500 in compensatory damages and \$831,578 in punitive damages (more than \$1.8 million in 2021 dollars) after Klansmen threw rocks and bottles and harassed an interracial group marching to protest racial discrimination in Georgia in 1987. Complaint, *McKinney v. Southern White Knights*, SPLC No. C87-565A (N.D. Ga., Mar. 24, 1987); Judgment, SPLC No. C87-565 A. (N.D. Ga., Oct. 25, 1988), *aff’d*, 934 F.2d 1265 (11th Cir. 1991), *cert. denied*, *Stephens v. McKinney*, 502 U.S. 1093 (1992). (Conversions to 2021 dollars are calculated using U.S. Inflation Calculator, <https://www.usinflationcalculator.com/>.)
- In *Macedonia Baptist Church v. Christian Knights of the Ku Klux Klan—Invisible Empire Inc.*, the jury awarded compensatory damages of \$300,000 and punitive damages of \$37.5 million (later reduced to \$21.5 million, or \$35.2 million in current

dollars) after Klansmen burned a Black church. Judgment, No. 96-CP-14-217, (S.C. Ct. Com. Pl. Jul. 24, 1998).

- In *Keenan v. Aryan Nations*, the court awarded \$330,000 in compensatory damages and \$6 million in punitive damages (\$9.3 million in current dollars) after a family stopped its car near a neo-Nazi Aryan Nations compound, and Aryan Nations members opened fire and held plaintiffs at gunpoint because they were seen as a threat to the Aryan Nations. Am. Compl., No. CV 99-441 (Idaho 1st Dist., May. 24, 1999); Am. Judgment, No. CV 99-441 (Idaho 1st Dist., Sept. 8, 2000).
- In *Gersh v. Anglin*, Andrew Anglin, the founder of the neo-Nazi website the Daily Stormer, organized a campaign of harassment targeting a Jewish woman and her family. Anglin urged his followers to launch a “troll storm” that resulted in harassing messages being sent to plaintiff. The court awarded \$4.4 million in compensatory damages and \$10 million in punitive damages, the maximum permitted under Montana law. 353 F. Supp. 3d 958 (D. Mont. 2018).
- In *Obeidallah v. Anglin*, another case involving the Daily Stormer, Anglin falsely claimed that Obeidallah, a Muslim comedian, of being a terrorist, resulting in threats, emotional distress, and reputational harm. Order No. 2:17-cv-720 (S.D. Ohio Jun. 13, 2019). Obeidallah was awarded compensatory damages of \$820,000 and punitive damages of \$3.28 million, the maximum permitted by Ohio law. *Id.*

PBI’s malicious, wanton, intentional, and unrepentant conduct is similar to that of the KKK, neo-Nazis, and other white supremacists. And given the large size of the Proud Boys’ membership and PBI’s ability to raise funds from members, the punitive damages award should be sufficiently large so that the costs are not *de minimis* when spread among all Proud Boys members. *See* Rhee Decl. Ex. A, Art. II, § 4(c) (PBI’s bylaws authorize the Elders Chapter to collect dues from members “for the benefit of the fraternity”); *Id.* Ex. H (stating that the Proud Boys had 22,000 members in September 2020).

#### **IV. The Court Should Award Attorneys’ Fees and Costs**

The D.C. Code expressly permits recovery of reasonable attorneys’ fees and costs for a violation of the BRCA, D.C. Code § 22-3704(a)(4), as does the FACE Act. 18 U.S.C. § 248(c)(1)(B). The Church therefore respectfully submits that the Court should grant its request for attorneys’ fees and costs, in an amount to be determined at the conclusion of this case.

**V. The Court Should Award Injunctive Relief against PBI**

The BRCA, the FACE Act, and the Court’s general equitable powers authorize permanent injunctive relief. D.C. Code § 22-3704(a)(1); 18 U.S.C. § 248(c)(1)(B); *Ifill v. Dist. of Columbia*, 665 A.2d 185, 187 (D.C. 1995).

The Church requests three forms of injunctive relief. *First*, the Church requests a preservation order requiring PBI to preserve all property until Metropolitan AME has fully collected on any judgment. Without such an order, there is a risk of property that could otherwise be available for collection on a judgment being destroyed or dissipated. *See Dumpson v. Ade*, No. CV 18-1011, 2019 WL 3767171 at \*8 (D.D.C. Aug. 9, 2019) (ordering defaulting defendant to preserve “all property—including intellectual property” until plaintiff has “fully collected” on the default judgment). The Church likewise requests that the Court order PBI to preserve all evidence and to respond to the Church’s discovery requests in aid of the default judgment, pursuant to D.C. Superior Court Civil Rules 69(a)(2) and 69-I(a)–(b).

*Second*, the Church requests a stay away order directing PBI, its successors, and their respective agents and members, not to come within one mile of the Church or Rev. Lamar without prior permission of the Court. In Defendant Tarrio’s criminal case, Judge Robert Okun ordered him to stay out of the District entirely on the grounds that his hostility to Black Lives Matter threatened those who display BLM banners throughout Washington, D.C. Order, *United States v. Tarrio*, No. 2021-CF2-105 (D.C. Super. Ct. Feb. 4, 2021) (denying motion to modify conditions of pretrial release). PBI and its members should not be permitted to approach the Church or Rev. Lamar without the Court’s permission.

*Third*, the Church requests the Court further order PBI, its successors, and their respective agents and members not to contact the Church or Rev. Lamar without prior permission of the Court. This should include (1) prohibiting direct communications with the

Church or Rev. Lamar, including online; and (2) publishing any public statements involving the Church or Rev. Lamar that are defamatory, threatening, intimidating, harassing, or bullying, or that interfere with the Church or Rev. Lamar's religious activities.

### **CONCLUSION**

For the foregoing reasons, Metropolitan AME respectfully requests that the Court grant its motion for default judgment against PBI and other relief. Metropolitan AME further requests that the Court hold an Ex Parte Proof Hearing at the Court's earliest convenience. In accordance with the Court's Order dated June 4, 2021, Metropolitan AME will file its opposition to Defendant Tarrio's motion to stay proceedings on or before June 16, 2021. Metropolitan AME is prepared to proceed with an Ex Parte Proof Hearing prior to the close of fact discovery, and respectfully submits that a hearing and entry of a default judgment at the earliest time convenient to the Court would best serve the interests of justice. Metropolitan AME's counsel will be prepared to discuss the scheduling of an Ex Parte Proof Hearing at the Initial Scheduling Conference on June 25, 2021.

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