

The Honorable Barbara J. Rothstein

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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

PARLER LLC,

Plaintiff,

v.

AMAZON WEB SERVICES, INC.,

Defendant.

No. 21-cv-00031-BJR

DEFENDANT AMAZON WEB
SERVICES, INC.'S MOTION TO
SEAL

Pursuant to Local Civil Rule 5(g), Defendant Amazon Web Services, Inc. (“AWS”) moves to seal limited portions of two concurrently filed employee declarations supporting its Opposition to Plaintiff Parler LLC’s (“Parler”) Motion for Temporary Restraining Order. AWS seeks to redact the names and job titles and descriptions from the declarations, identified on the docket as Amazon Executive 1 Decl. and Amazon Executive 2 Decl., and further described below.

Redaction of the employees’ identifying information is necessary to protect their safety and security and to prevent potential harassment – which are sufficiently compelling interests to justify this minimal sealing. As set out in the declarations, these employees’ safety concerns are well-founded in light of significant and repeated threats of physical violence against AWS, its facilities and its employees in the wake of AWS’s decision to suspend its cloud hosting agreement with Parler. These incitements to violence against AWS and other technology

1 companies justify protecting the declarants from potential threats and online abuse if they are
2 publicly identified in this matter.¹

3 Unredacted copies of the two Declarations have been filed under seal. Given the serious
4 nature of the safety risks, which include death threats leveled against Amazon executives, AWS
5 requests the opportunity to withdraw the two declarations from the record rather than unseal
6 them in the event this Motion to Seal is denied. *See* LCR 5(g)(6).

7 I. FACTS

8 The underlying facts are set out in AWS's Opposition to Parler's TRO Motion ("Opp.").
9 In brief, AWS suspended Parler's cloud hosting account on January 10, 2021, due to violations
10 of its contract with AWS – specifically, Parler's persistent failure to mitigate and address content
11 on its site that encouraged and promoted violence. *See* Opp., § II.D.

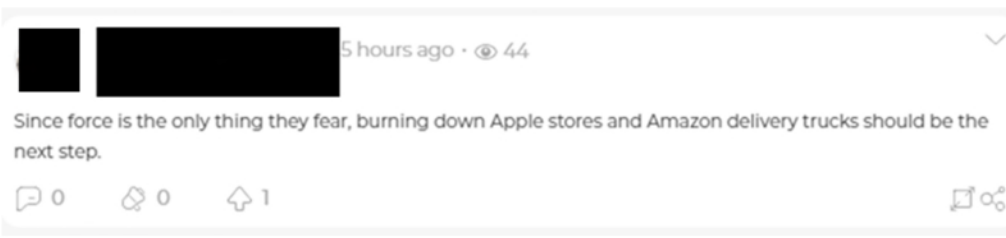
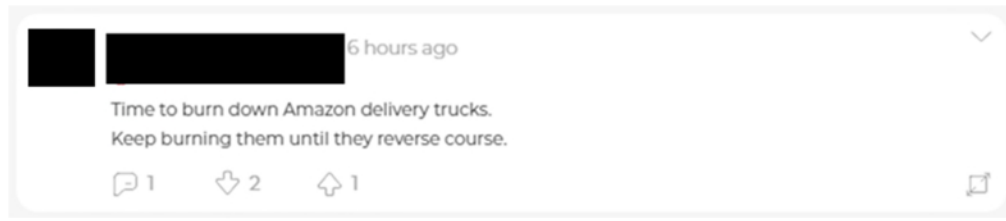
12 The AWS Customer Agreement requires that Parler abide by defined "Policies,"
13 including rules that prohibit any use of AWS services "to transmit, store, display, distribute or
14 otherwise make available" content that is "illegal" or "harmful," including "any activities that are
15 illegal, that violate the rights of others, or that may be harmful to others." *See, e.g.,* Complaint
16 (Dkt. No. 2), Ex. B. The agreement also specifies that, should Parler "become aware of any
17 violation" of its "obligations under this Agreement caused by an End User," it must
18 "immediately suspend access" to the content. *Id.* § 4.5.

19 Beginning in November 2020, AWS repeatedly made Parler aware of violent or
20 threatening content that plainly breached the AWS Customer Agreement. The content AWS
21 flagged included more than 100 representative "parleys" (posts) inciting violence. Some of these
22 parleys targeted political leaders, including a large amount of content that encouraged the
23 January 6 attack on the U.S. Capitol and threatened attacks on the impending inauguration. *See*
24 Amazon Executive 2 Declaration ("AE-2 Decl.") ¶¶ 4-6, Exs. D, E. Others promoted violence

25 _____
26 ¹ Pursuant to LCR 5(g)(3)(A), undersigned counsel certifies that on January 11 and 12, 2021,
27 AWS counsel, Ambika Doran, conferred by telephone with Parler's counsel, David Groesbeck,
in an attempt to reach agreement on the sealing requested in this motion. The parties had not
reached an agreement at the time of this filing.

1 against technology executives, including one reading, “#JackDorsey ... you will die a bloody
2 death alongside Mark Suckerturd [Zuckerberg]. ... It has been decided and plans are being put in
3 place. Remember the photographs inside your home while you slept? Yes, that close. You will
4 die a sudden death!” *Id.* Ex. E (Example 12). In the face of Parler’s failure to address this
5 content as required by the AWS Customer Agreement, AWS suspended Parler’s account
6 effective January 10. *See* AE-2 Decl. ¶ 7; Complaint (Dkt. No. 1) Ex. A.

7 After the notice of Parler’s account suspension, Parler users posted threats of physical
8 violence and death against Amazon delivery drivers, Amazon facilities, and Amazon executives.
9 Some examples follow (*see* AE-1 Decl. ¶ 8 & Ex. F):



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8 hours ago · 752

WE LOVE YOU SPECIAL FORCES, SEIZE AMAZON'S SERVERS OR SWITCH THEM ALL OFF ALSO THEIRS NOT JUST OURS.
#Congress #CapitolHill #Pelosi #NancyPelosi #Army #Politics #Trump #Trump2020 #Republican #Republicans #SocialMedia #Twitter #YouTube #CancelCulture _ read more



Can't the Special Forces seize Amazon's Servers? Before Jeff Bezos switches of Parler and Gab tonight...
Please, Special Forces, now we know you're good: seize Amazon's servers before Bezos switches off Parler and Gab. Gab is...
<https://felixdemocracy.wordpress.com/2021/01/10/cant-the-spe>

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make a comment

Never mind special forces. Give me 6 men and point me at the nearest server farm.

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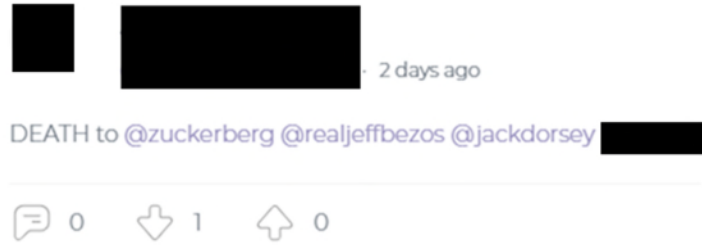
18 hours ago · 8.4k

Would it be inappropriate to suggest mostly peaceful protests outside EVERY Amazon building with molotov cocktails and gasoline? We can say we're with BLM.



Amazon Boots Parler Off Web Hosting Service
Amazon is booting social media platform Parler off its web hosting service Amazon Web Services (AWS), which will knock t...
<https://www.breitbart.com/tech/2021/01/09/amazon-boots-parler>

22 37 84



See <https://www.adl.org/blog/parler-users-prepare-for-site-shutdown-with-conspiracy-theories-threats>.

Individuals unhappy with AWS’ decision to suspend Parler also have “doxed” (posted personal information about) AWS’s attorneys, including its litigation counsel in this matter. *See* Concurrently filed Declaration of Ambika Doran (“Doran Decl.”) ¶ 14 & Ex. M.

Parler’s TRO seeks to force AWS’s to continue hosting death threats, calls to violence, and other content that plainly violates AWS’s terms. AWS opposes the motion. Its Opposition is supported by declarations from two AWS employees. Amazon Executive 1 Decl. (“AE-1 Decl.”) primarily addresses and refutes Parler’s false characterizations about AWS’s relationship with Twitter. Amazon Executive 2 Decl. (“AE-2 Decl.”) primarily provides background on the AWS Customer Agreement and Parler’s violation of the agreement due to its repeated failure to address violent and hateful content. Both employees are justifiably concerned for their safety as a result of the threats of physical violence that Parler users have directed to Amazon employees

1 and facilities, and to employees of other companies that have suspended Parler. AE-1 Decl. ¶
2 10; AE-2 Decl. ¶ 8.

3 II. ARGUMENT

4 Public access to court records is presumed, but “is not absolute and can be overridden
5 given sufficiently compelling reasons for doing so.” *Foltz v. State Farm Mut. Auto. Ins. Co.*, 331
6 F.3d 1122, 1135 (9th Cir. 2003). “In general, ‘compelling reasons’ sufficient to outweigh the
7 public’s interest in disclosure and justify sealing court records exist when such court files might
8 have become a vehicle for improper purposes.” *Kamakana v. City & Cty. of Honolulu*, 447 F.3d
9 1172, 1179 (9th Cir. 2006) (quotation mark and citation omitted). Such “improper purposes”
10 may include “the use of records to gratify private spite, promote public scandal, [or] circulate
11 libelous statements[.]” *Tarutis v. Spectrum Brands, Inc.*, 2014 WL 5808749, at *3 (W.D. Wash.
12 Nov. 7, 2014) (citing *Kamakana*, 447 F.3d at 1179).

13 Ultimately, “[t]he final determination of what constitutes a compelling reason is ‘best left
14 to the sound discretion of the trial court.’” *Central Freight Lines, Inc. v. Amazon Fulfillment
15 Services, et al.*, 2019 WL 3082302, at *2 (W.D. Wash. 2019) (quoting *Nixon v. Warner
16 Commc’ns, Inc.*, 435 U.S. 589, 598 (1978)); accord *Ctr. for Auto Safety v. Chrysler Grp., LLC*,
17 809 F.3d 1092, 1097 (9th Cir. 2016).

18 Courts have found compelling reasons to seal where disclosure could endanger a person’s
19 safety or security. See e.g., *Flynt v. Lombardi*, 885 F.3d 508, 511-12 (8th Cir. 2018) (“personal
20 and professional safety” of individuals, in circumstances where revealing their identities could
21 lead to them being “harassed and threatened,” justifies sealing records); *Goodman v. Las Vegas
22 Metro. Police Dept.*, 2013 WL 5743638, at *3 (D. Nev. 2013) (sealing portions of police
23 officer’s deposition transcript to protect safety of officer and family); *Bell v. Home Depot U.S.A.,
24 Inc.*, 2015 WL 6082460, at *2 (E.D. Cal. 2015) (protecting against potential compromise of
25 employee safety was compelling reason to seal records related to store security); cf. *United
26 States v. Harris*, 890 F.3d 480, 491-92 (4th Cir. 2018) (“protecting the physical and
27

1 psychological well-being of individuals related to the litigation” is compelling reason to restrict
2 access).

3 Similar safety and security concerns justify the limited sealing requested here. AWS’s
4 declarants have a well-founded belief that disclosing their identities in connection with this
5 litigation will trigger harassment and threats of physical violence, or worse. As noted above,
6 angry Parler users have lashed out at technology companies, including by overtly threatening to
7 kill Amazon employees, torch its delivery trucks, and seize AWS servers. *See* AE-2 Decl. ¶¶ 4-
8 8, Exs. D-F. The distress such threats pose to the AWS declarants is itself a sufficiently
9 compelling concern to justify redacting their names and titles. AE -1 Decl. ¶ 10; AE-2 Decl. ¶ 8.
10 Moreover, the potential for such online threats to trigger actual violence cannot, in the current
11 climate, be doubted; for example, as has been widely reported, Parler was used to incite,
12 organize, and coordinate the January 6 attack on the U.S. Capitol, which left five people dead
13 and shuttered Congress for hours. *See* Doran Decl. ¶¶ 7-9, Exs. F-H.

14 Additionally, the “compelling reasons” standard may be relaxed when sealing the
15 information would not harm the public’s interest in the judicial process. *See Marsteller v. MD*
16 *Helicopter Inc.*, 2017 WL 5479927, at *3 (D. Ariz. 2017) (“In close cases involving some degree
17 of conjecture, courts may still grant a motion to seal provided that sealing the document will not
18 interfere with the public’s interest in understanding the judicial process.”). Here, the public’s
19 ability to understand the nature of these proceedings and the court’s decision-making process
20 will not be hampered by the limited redactions proposed here. AWS seeks to seal only the
21 minimal information necessary to prevent its employees from becoming victims of serious
22 threats and harassment. Only their names and positions would be redacted; all of the substance
23 of the declarations will remain publicly accessible.

24 III. CONCLUSION

25 For the foregoing reasons, the Court should seal the declarant names, signatures and job
26 titles and descriptions contained in the Declarations of Amazon Executive 1 and Amazon
27 Executive 2. Given the significant safety risks discussed above, AWS requests the opportunity

1 to withdraw the declarations in the event the Court denies this Motion to Seal, as provided by
2 LCR 5(g)(6).

3 DATED this 12th day of January, 2021.

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