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No. 25-CV-1994

Team 24

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IN THE

**Supreme Court of the United States**

MARCH TERM 2025

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THE CHURCH OF LIGHT, LLC,

*Petitioner,*

— *versus* —

LAURA MARSHALL,

*Respondent.*

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*On Writ of Certiorari to the  
United States Court of Appeals  
for the Fifteenth Circuit*

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**BRIEF FOR RESPONDENT**

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## **QUESTIONS PRESENTED**

- I. Whether the Campus Anti-Doxxing Statute (CADS) violates the First Amendment Free Speech rights of The Church of Light, LLC.
  
- II. Whether the Campus Anti-Doxxing Statute (CADS) violates the First Amendment Free Exercise rights of The Church of Light, LLC.

**TABLE OF CONTENTS**

QUESTIONS PRESENTED..... I

TABLE OF CONTENTS .....II

TABLE OF AUTHORITIES..... IV

PARTIES TO THE PROCEEDINGS ..... 1

STATEMENT OF JURISDICTION ..... 1

STANDARD OF REVIEW ..... 1

STATEMENT OF THE CASE..... 1

    I.    FACTUAL BACKGROUND ..... 1

    II.   NATURE OF THE PROCEEDINGS ..... 4

SUMMARY OF THE ARGUMENT ..... 4

ARGUMENT ..... 6

I.    THE CAMPUS ANTI-DOXXING STATUTE (CADS) DOES NOT VIOLATE THE FREE SPEECH  
    CLAUSE OF THE FIRST AMENDMENT. .... 6

    A.    Petitioner’s Speech is a True Threat and is a Matter of Private Concern, therefore is  
    Unprotected by the First Amendment. .... 6

        i.  *Petitioner’s speech constitutes a true threat as a form of inciting lawless conduct,  
        therefore unprotected by the First Amendment.* ..... 7

        ii. *Ms. Marshall is not a public figure and her place of employment is a matter of  
        private concern.* ..... 8

        iii. *Petitioner’s speech is a matter of private concern, as it discloses Ms. Marshall’s  
        place of employment.* ..... 9

    B.    CADS is Content-Neutral and Passes Intermediate Scrutiny. ....11

        i.  *CADS is content-neutral.* ..... 11

        ii. *CADS passes intermediate scrutiny.* ..... 12

        iii. *CADS survives even if the Court applies strict scrutiny.* ..... 14

II.	THE COURT OF APPEALS CORRECTLY FOUND THAT THE CAMPUS ANTI-DOXXING STATUTE (CADS) DOES NOT VIOLATE PETITIONER’S FREE EXERCISE RIGHTS.....	15
A.	The Statute is Neutral and Generally Applicable, Therefore Rational Basis Review Applies. ....	16
	<i>i. CADS is facially neutral because it does not target religion in its text, purpose, or operation.</i> .....	17
	<i>ii. CADS is generally applicable because it applies uniformly and contains no exemptions for comparable secular conduct.</i> .....	19
	<i>iii. CADS regulates harmful conduct, not religious belief or worship.</i> .....	21
B.	Even if the Court Were to Apply Strict Scrutiny, CADS Still Survives Because It Serves a Compelling Government Interest and is Narrowly Tailored. ....	23
	<i>i. CADS serves the compelling government interest of public safety by preventing harm on Delmont campuses.</i> .....	23
	<i>ii. CADS is narrowly tailored because it regulates only intentional, harmful doxxing directed at a limited and vulnerable university population.</i> .....	24
	CONCLUSION.....	25
	APPENDIX I .....	I
	APPENDIX II.....	II

**TABLE OF AUTHORITIES**

**STATUTES**

28 U.S.C. § 1254(1)..... 1  
28 U.S.C. § 1291..... 1  
Del. Ann. Stat. § 25.989 (2025) ..... 1, 12

**SUPREME COURT CASES**

*Bowen v. Roy*,  
476 U.S. 693 (1986)..... 19  
*Brandenburg v. Ohio*,  
395 U.S. 444, 447–49 (1969)..... 6  
*Church of Lukumi Babalu Aye v. City of Hialeah*,  
508 U.S. 520 (1993)..... 17, 18, 23, 25  
*Counterman v. Colorado*,  
600 U.S. 66 (2023)..... 7  
*Dun & Bradstreet v. Greenmoss Builders*,  
472 U.S. 749 (1985)..... 6  
*Employment Division v. Smith*,  
494 U.S. 872 (1990)..... 15, 16, 17, 18, 20, 21, 22  
*Free Speech Coal., Inc. v. Paxton*,  
606 U.S. 461 (2025)..... 13  
*Fulton v. City of Philadelphia*,  
593 U.S. 522 (2021)..... 19, 25  
*Gertz v. Robert Welch*,  
418 U.S. 323 (1974)..... 8, 9, 10  
*Lyng v. Nw. Indian Cemetery Protective Ass’n*,  
484 U.S. 439 (1988)..... 16, 22  
*McCullen v. Coakley*,  
573 U.S. 464 (2014)..... 13, 14

<i>Papish v. Bd. of Curators of the Univ. of Mo.</i> , 410 U.S. 667 (1973).....	24
<i>Prince v. Massachusetts</i> , 321 U.S. 158 (1944).....	21, 23
<i>Reed v. Town of Gilbert</i> , 576 U.S. 155 (2015).....	14
<i>Reynolds v. United States</i> , 98 U.S. 145 (1878).....	18, 19
<i>Rosenbloom v. Metromedia</i> , 403 U.S. 29 (1971).....	1
<i>Schall v. Martin</i> , 467 U.S. 253 (1984).....	23
<i>Snyder v. Phelps</i> , 562 U.S. 443 (2011).....	6, 7, 24
<i>Tandon v. Newsom</i> , 593 U.S. 61 (2021).....	19
<i>Texas v. Johnson</i> , 491 U.S. 397 (1989).....	24
<i>TikTok Inc. v. Garland</i> , 604 U.S. 56 (2025).....	12, 13
<i>Time, Inc. v. Firestone</i> , 424 U.S. 448 (1976).....	8
<i>Turner Broad. Sys., Inc. v. FCC</i> , 512 U.S. 622 (1994).....	12, 13
<i>United States v. Alvarez</i> , 567 U.S. 709 (2012).....	12
<i>United States v. Carolene Prods. Co.</i> , 304 U.S. 144 (1938).....	13
<i>Virginia v. Black</i> , 538 U.S. 343 (2003).....	7, 23

*Wisconsin v. Yoder*,  
406 U.S. 205 (1972)..... 22

**APPELLATE COURT CASES**

*Combs v. Homer-Center School District*,  
540 F.3d 231 (3d Cir. 2008) ..... 18

*Reyes v. Commonwealth*,  
791 S.E.2d 357 (Va. Ct. App. 2016)..... 1

*Stormans Inc. v. Wiesman*,  
794 F.3d 1064 (9th Cir. 2015)..... 16, 20

## **PARTIES TO THE PROCEEDINGS**

The Church of Light (hereinafter "Petitioner"), appeals the decision of the United States Court of Appeals for the Fifteenth Circuit, who reversed the trial court's granting of summary judgement and held that the Campus Anti-Doxxing Statute (hereinafter "CADS") does not violate the Free Speech and Free Exercise clauses of the First Amendment as applied. Respondent, Laura Marshall (hereinafter "Ms. Marshall"), asks this Court to affirm the decision of the appellate court.

## **STATEMENT OF JURISDICTION**

The District Court for the District of Delmont Western Division had jurisdiction under Del. Ann. Stat. §25.989 (2025). The Court of Appeals for the 15<sup>th</sup> Circuit had jurisdiction under 28 U.S.C. § 1291. This Court granted certiorari, thus has jurisdiction pursuant to 28 U.S.C. § 1254(1).

## **STANDARD OF REVIEW**

This Court granted *certiorari* on the two issues presented. The standard of review for both is *de novo* as they raise pure legal questions involving alleged constitutional violations. *Rosenbloom v. Metromedia*, 403 U.S. 29, 54 (1971). Under a *de novo* standard, a reviewing court independently evaluates the totality of the circumstances to reach its conclusion. *See Reyes v. Commonwealth*, 791 S.E.2d 357, 359 (Va. Ct. App. 2016).

## **STATEMENT OF THE CASE**

### **I. FACTUAL BACKGROUND**

***The Energy Controversy.*** In August 2024, the state of Delmont considered whether to clear nearly one thousand acres of undeveloped forest to facilitate the construction of solar and wind energy facilities. (R. 4.) Two opposing coalitions emerged: the Nature Coalition, which opposed the destruction of forested land, and the Energy Coalition, which supported the development of

renewable energy infrastructure. (R. 4-5.) Both groups organized protests and rallies throughout the state, some of which required police presence due to escalating tensions. (R. 4.)

By the summer of 2025, the controversy began to pose significant public safety concerns, particularly at Delmont University. (R. 5.) Protest activity increasingly involved the practice of doxxing, publishing individuals' private identifying information through a communication platform to facilitate harassment. (R. 5-6.) Individuals whose information was posted were quickly targeted at their homes, workplaces, and classrooms. (R. 5-6.) Students, professors, administrators, and staff at colleges and universities across Delmont were disproportionately affected. (R. 5-6.)

These incidents went beyond peaceful protest and several students were physically ambushed and hospitalized. (R. 5.) Many received threatening phone calls and were inundated with hostile messages through email and social media. (R. 6.) Law enforcement frequently arrived after perpetrators had already fled the scene. (R. 5-6.)

***Enforcement of the Campus Anti-Doxxing Statute.*** In response, the state of Delmont enacted the Campus Anti-Doxxing Statute (CADS). (R. 6-7.) This statute creates a private cause of action against any person who intentionally publishes specified categories of personal identifying information of students, faculty, administrators, or staff at Delmont college campuses, when done for the purpose of stalking or harassment. (R. 6-7.) The statute defines the required intent and enumerates the types of information subject to its prohibition. (R. 6-7.)

***The Church of Light.*** Petitioner, Church of Light, LLC, is a religious organization that opposed the Nature Coalition's position on the energy controversy. (R. 7, 10.) As part of its proselytizing efforts, Petitioner engaged in public demonstrations and mobile displays intended to criticize Nature Coalition members and supporters. (R. 10.)

*The Incident at Issue.* The Respondent, Ms. Marshall, is a student at Delmont State University. (R. 10.) At the time relevant to the case, she was also employed by and receiving treatment at the Delmont Treatment Center (hereinafter the “Treatment Center”), a substance abuse treatment facility located approximately five blocks from campus. (R. 10.) Ms. Marshall was an active member of the Nature Coalition and delivered a speech at one of the rallies. (R. 10-11.)

During the week of September 22, 2025, Petitioner broadcast a video clip of Ms. Marshall’s rally speech on a loop on screens mounted to vans that drove near campus. (R. 10-11.) Immediately following the speech footage, the screens displayed a photograph of Ms. Marshall wearing a Nature Coalition t-shirt while working at the front desk of the Treatment Center. (R. 10-11.) The image also included the Treatment Center’s location and hours of operation. (R. 10.) Although Petitioner had previously posted the photograph online, it had not previously been displayed alongside footage of Ms. Marshall’s political speech. (R. 11-12.)

Less than twenty-four hours after the combined broadcast, approximately twenty individuals confronted Ms. Marshall outside the Treatment Center. (R. 11.) Wearing ski masks and Energy Coalition t-shirts, the group photographed, catcalled, and insulted her. (R. 11.) The group followed Ms. Marshall to her car, surrounded it on all sides, and vandalized her vehicle. (R. 11.) The following night, a similar incident occurred, during which Ms. Marshall struck a light pole while attempting to escape the crowd, causing her vehicle’s airbags to deploy. (R. 11.) In both instances, the individuals dispersed before police arrived. (R. 11.)

Ms. Marshall asked Petitioner to cease displaying her speech alongside the photograph of her at her workplace. (R. 12.) Petitioner refused. (R. 12.) Ms. Marshall then brought suit under CADS. (R. 12.)

## II. NATURE OF THE PROCEEDINGS

*The District Court.* On December 8, 2025, the district court for the District of Delmont Western Division granted summary judgment in favor of the defendant, The Church of Light, finding CADS violates the First Amendment under the Free Speech and Free Exercise clauses. (R. 29.)

*The Appellate Court.* Ms. Marshall then appealed to the 15<sup>th</sup> Circuit Court of Appeals. (R. 30.) On December 29, 2025, the court reversed the decision of the district court, finding CADS does not violate the First Amendment. (R. 43.)

*Writ of Certiorari.* The Church of Light appealed to the Supreme Court of the United States on December 30, 2025. On January 7, 2026, this Court granted certiorari on the issues presented. (R. 49-50.)

### SUMMARY OF THE ARGUMENT

This Court should AFFIRM the decision of the Court of Appeals of Delmont for the following two reasons: the Campus Anti-Doxxing Statute (CADS) does not violate the Free Speech Clause because it regulates unprotected, harmful conduct and is content-neutral; CADS does not violate the Free Exercise Clause because it is neutral and generally applicable under *Employment Division v. Smith*; and, even if strict scrutiny applied, CADS is narrowly tailored to serve Delmont's compelling interest in public safety on Delmont campuses and preventing harassment. Accordingly, the Court should affirm the judgment below.

#### I.

CADS does not violate the Free Speech Clause of the First Amendment. Petitioner's conduct, broadcasting the workplace of Ms. Marshall (a private individual) alongside her controversial political speech, is a truth threat and therefore falls outside the core protections of

the First Amendment. Ms. Marshall is a private figure, and the disclosure of her place of employment in this context was not a matter of public concern, but a catalyst for unlawful conduct directed at her.

Even assuming Petitioner’s speech is protected, CADS is a content-neutral regulation that survives intermediate scrutiny. CADS regulates conduct, not viewpoints, and serves substantial governmental interests in preventing doxxing-related harm and preserving campus safety. Thus, it is substantially related to the important government interest of public safety. Even if this Court were to apply strict scrutiny, CADS would still survive as it is narrowly tailored to those interests and leaves open ample alternative channels for expression.

## II.

The court of appeals also correctly held that CADS does not violate the Free Exercise Clause. CADS is a neutral and generally applicable statute that regulates intentional, harmful conduct rather than religious belief or practice. It applies uniformly regardless of the individual’s motivation and contains no exemptions for comparable secular conduct. Under *Employment Division v. Smith*, CADS is subject only to rational basis review, which it easily satisfies.

Petitioner cannot avoid *Smith* by invoking a “hybrid rights” theory. This Court has never recognized hybrid rights as an independent basis for strict scrutiny, and courts of appeals have declined to apply the theory absent an independently viable companion constitutional claim. Since Petitioners fail to establish a separate First Amendment violation, their Free Exercise claim does not warrant strict scrutiny. However, if this Court were to decide that strict scrutiny applies, CADS would still be constitutional because Delmont has a compelling interest in the public’s safety on Delmont campuses and preventing harassment, and CADS is narrowly tailored to serve that interest. The Court should therefore affirm the decision of the court of appeals.

## ARGUMENT

### I. THE CAMPUS ANTI-DOXXING STATUTE (CADS) DOES NOT VIOLATE THE FREE SPEECH CLAUSE OF THE FIRST AMENDMENT.

CADS is not in violation of the Free Speech clause of the First Amendment for two primary reasons. First, the speech is unprotected as it constitutes a true threat as it incited imminent lawless action and is a matter of private concern and qualifies. *Brandenburg v. Ohio*, 395 U.S. 444, 447–49 (1969). Second, the speech is content neutral and may be limited under the standards of intermediate scrutiny, which CADS passes. However, even if strict scrutiny were to be deemed the appropriate standard, CADS is still constitutional as there is a compelling government interest and is narrowly tailored. Therefore, this Court should affirm the appellate court’s decision.

#### A. Petitioner’s Speech is a True Threat and is a Matter of Private Concern, therefore is Unprotected by the First Amendment.

The Free Speech Clause of the First Amendment is reliant on the context in which the speech was delivered, and the Court must consider the totality of the circumstances when determining its intent. *Snyder v. Phelps*, 562 U.S. 443, 453 (2011). Here, Petitioner spoke with reckless disregard for the harm that would come to Ms. Marshall when broadcasting her political speech with a photograph of her at her place of work. Petitioner incorrectly argues that Ms. Marshall is a public figure, which would deem her personal information a matter of public concern. This is not the case, and her place of employment is still a matter of private concern, even if the photograph itself was previously accessible to the public. Additionally, information regarding who works at the Treatment Center is a matter of private concern, thus it is not protected by the First Amendment. This Court has held that speech regarding matters of private concern does not hold the same constitutional value or protection. *Dun & Bradstreet v. Greenmoss Builders*, 472 U.S. 749, 761 (1985). To determine whether speech is a matter of public or private concern the Court

“must evaluate all circumstances of the speech, including what was said, where it was said, and how it was said.” *Snyder*, 562 U.S. at 454. The circumstances here show Ms. Marshall’s place of employment was a matter of private concern, and to publish it was a true threat.

- i. *Petitioner’s speech constitutes a true threat as a form of inciting lawless conduct, therefore unprotected by the First Amendment.*

The combination of speech within the context stated is done recklessly to incite the unlawful conduct of those who caused Ms. Marshall harm. The First Amendment does not protect speech that constitutes a “true threat,” or speech that incites imminent lawless action. *Virginia v. Black*, 538 U.S. 343, 359 (2003). This incitement is considered a threat regardless of whether the speaker themselves intends to carry out the harm. *Id.* at 359-60. The reasoning behind this exception to the First Amendment is the concern over an individual’s fear of violence and the disruption caused by that fear. *Id.* at 360. Intent can also be met through reckless conduct, meaning the speaker consciously disregards the substantial risk caused by the speech. *Counterman v. Colorado*, 600 U.S. 66, 74-75, 79-80 (2023).

In this case, Petitioner acted recklessly by broadcasting the combination of the photograph of Ms. Marshall in conjecture with her political speech. The First Amendment does not exist in a vacuum, and the Court must consider the totality of the circumstances when determining the intent and impact of the speech. *Snyder*, 562 U.S., 453 (2011). The context here is that over the course of nearly a year, doxxing has become a serious safety issue for activists in Delmont. (R. 5-6.) The harm to the public was not merely harassment through texting, phone calls, and social media, but in many cases ended in physical harm, harassment, stalking, and property damage. (R. 5-6.) The Energy Controversy was the most prevalent on the Delmont University Campus, where Petitioner was broadcasting from the van. (R. 5, 9-10.) *Counterman*, 600 U.S. at 79-80. This is also evidence that Petitioner’s speech was the cause of the harm on Ms. Marshall by extremists.

The broadcasting of the speech and photograph together are not mere advocacy for a specific action and does not invoke the First Amendment. *Brandenburg*, 395 U.S. at 449. Prior to the incident, Petitioner typically did not use photographs to promote local information, such as the Treatment Center. It was not until the incident at issue that Petitioner posted the photo that included Ms. Marshall. (R. 11-12.) Given the political climate of the Energy Controversy in Delmont, Petitioner gave the necessary connection of information to others and should have known that harm would come to Ms. Marshall based on that information. Thus, the totality of the circumstances show Petitioner knew their broadcast of Ms. Marshall would incite violence against her. This is regardless of the photograph being available on the Treatment Center website, as no harassment or incidents occurred prior to Petitioner combining her speech with direct information on her place of employment. (R. 11-12.) This was not abstract political commentary or general sharing of information. It was targeted exposure that effectively announced to viewers both who Ms. Marshall was and where she could be found.

ii. *Ms. Marshall is not a public figure and her place of employment is a matter of private concern.*

Ms. Marshall is not a public figure, thus her speech cannot be deemed a matter of public concern. A public figure is generally defined as persons who have obtained prominence, power, influence, and notoriety regarding specific controversies. *Time, Inc. v. Firestone*, 424 U.S. 448, 453 (1976). While Ms. Marshall was actively involved with the Nature Coalition in Delmont, one political speech at a rally and regular participation is insufficient to make her a public figure. *Gertz v. Robert Welch*, 418 U.S. 323, 351-52 (1974). To deem as such would set a dangerous precedent that implies any person who steps out or speaks at protests and rallies becomes a public figure, even if in a limited capacity. *Id.* This Court held that very notion in *Gertz*, refusing to assume that an individual's participation in public affairs renders them a public figure for all purposes. *Id.*

Petitioner contends that Ms. Marshall would only be considered a public figure in the sole context of the Energy Controversy, however her actions to this point have not met the standard set forth in *Gertz. Id.* In *Gertz*, the individual in question was active in the community and their profession, even serving as an officer in local civic groups and other professional organizations. *Id.* at 551. Despite this and more, he had achieved no general fame or notoriety in the community. *Id.* at 551-52. Here, Ms. Marshall was not a known figure to the general public nor the activist scene. It took the combination of her speech and her photograph being broadcast together by Petitioner for extremists to recognize her. (R. 11.) This is evident due to there being no incidents of harassment or stalking after her speech prior to Petitioner's broadcasting.

*iii. Petitioner's speech is a matter of private concern, as it discloses Ms. Marshall's place of employment.*

There is no single determinative factor that defines a matter of public or private concern, but all of them in light of each other. *Snyder*, 562 U.S. at 454. This means the Court must evaluate the totality of the circumstances surrounding what information was broadcast by Petitioner how it was broadcast, and the context within which it was broadcast. This includes the combination of the photograph of Ms. Marshall at the Treatment Center with its contact information alongside the broadcasting of her political speech at a Nature Coalition rally. The circumstances here provide that when Petitioner displayed solely the photograph of Ms. Marshall at the front desk of the Treatment Center on Petitioner's van, there was no issue of doxxing. (R. 11). However, once combined with Ms. Marshall's politically charged speech being broadcast from the van in conjunction with the photograph, onlookers were able to tie Ms. Marshall as the speech giver as well as the person in photograph. (R. 10-11.) Within twenty-four hours of the combined speech being broadcast, the connection was made, and Ms. Marshall was harassed at her work to the point of quitting her job and ending treatment at the Center. (R. 11.) The record reflects the nature of

doxxing in the Delmont area. (R. 5-6.) Once information was non-consensually disseminated to activists, they would almost immediately, and at times violently, harass and injure the subject. (R. 5-6.) This is precisely why CADS was enacted and what it aims to prevent on Delmont campuses, and the danger Ms. Marshall was placed in is a prime example of its necessity. (R. 5.)

This is where Petitioner fails to consider the whole record in context when analyzing the nature of the speech. Petitioner contends that because individually, the forms of speech are public concern, then in totality they must also be as such. However, this is not the case. When two elements of speech are combined, it becomes a matter of private concern because Ms. Marshall is pictured at the Treatment Center. Her being present in the photo with the location alongside her political speech creates a private matter by Petitioner giving extremists a direct location for where to find someone who they can dox for their political disagreements. That is not a mere hypothetical or potentiality, that is precisely what occurred in less than a day after the combined photograph and were disclosed to the public. (R 11.)

Additionally, speech is a matter of private concern if its purpose is for the “interest of the speaker and its business audience.” *Greenmoss*, 472 U.S. at 761 (holding that the content of a credit report is a matter of private concern). To make this determination, the Court must analyze the totality of the record and the circumstances within to determine the content, form, and context of the speech. *Id.* The necessary context from the record is as follows: the CADS legislation was enacted to protect the public and activists on both sides of a polarized political debate occurring in Delmont. (R. 4-5.) Petitioner’s combination of Ms. Marshall’s speech and photograph is made for the interest of the speaker and its business audience, not the public at large. Petitioner’s van is used to display messages from Petitioner’s viewpoint and spread their religious beliefs through various

mediums. (R. 9-10.) Those who interact with the messages and broadcasts of the van are those who are a part of Petitioner's business audience.

Because the speech is not only a true threat, but is a matter of private concern, it is unprotected by the First Amendment. Therefore, CADS does not violate the Free Speech clause.

**B. CADS is Content-Neutral and Passes Intermediate Scrutiny.**

CADS is content-neutral in its application as it does not take viewpoint, ideology, or subject matter into consideration. Therefore, intermediate scrutiny is the appropriate test. CADS passes intermediate scrutiny as it serves an important government interest, and the means are substantially related to achieving that interest. However, even if this court were to apply strict scrutiny, CADS still survives as it is narrowly tailored to a compelling government interest.

*i. CADS is content-neutral.*

The government may impose reasonable restrictions on the time, place, or manner of protected speech, provided the restrictions "are justified without reference to the content of the regulated speech, that they are narrowly tailored to serve a significant governmental interest, and that they leave open ample alternative channels for communication of the information. *Ward v. Rock Against Racism*, 491 U.S. 781, 791 (1989). Additionally, a law is content neutral when it is "justified without reference to the content of the regulated speech." *Id.* Here, CADS is equally applied regardless of which side of the Energy Controversy the speaker falls. CADS is content-neutral because the only restriction is the use of private identifying information with a specific harmful intent. There is no restriction based on the subject matter, viewpoint, or ideology of the speech. Petitioner is still free to broadcast their religious and political messages, they may still broadcast Ms. Marshall's political speech, and they may still post information regarding the Treatment Center. All that is barred by the statue is the *combination* of Ms. Marshall's political

speech with a photograph of her at her place of employment and the corresponding information. As previously stated, it is this combination of details that allowed viewers to know where Ms. Marshall worked and subsequently tied her photograph to her political speech.

Additionally, the added mental state requirement furthers that such speech is still permissible *unless* there is the necessary level of intent. Del. Ann. Stat. § 25.989 (2025). Therefore, any burden on speech is purely incidental. This leads us to the legislative intent, where there is no evidence that the purpose was to restrict speech based on its content. CADS was enacted in response to a dramatic rise in coordinated doxxing incidents on Delmont college campuses that repeatedly escalated to physical confrontations, property damage, and threats to personal safety. (R. 5-6.) Ms. Marshall experienced the same harassment. She was harassed at work and followed to her car; this caused her to hit a light pole which engaged the air bag in her car. (R. 11.) Preventing violence and intimidation to promote public safety is a paradigmatic content-neutral governmental interest. *Ward*, 491 U.S. at 796; *Turner Broad. Sys., Inc. v. FCC*, 512 U.S. 622, 662 (1994).

Additionally, this is not an instance of punishing speech for being offensive or controversial. *United States v. Alvarez*, 567 U.S. 709, 715 (2012) (finding the Stolen Valor Act violated the Free Speech clause as it criminalized speech solely because it was false, and targeted specific content). CADS does not target specific speech or content, if anything it protects activists from fear of being doxed and harassed because of their political speech. Here, CADS targets foreseeable real-world harms by prohibiting the disclosure of private information.

*ii. CADS passes intermediate scrutiny.*

A content-neutral regulation is constitutional so long as it 1) serves an important government interest, and 2) is substantially related to achieving that interest. *TikTok Inc. v. Garland*, 604 U.S. 56, 70 (2025). This Court repeatedly recognizes public safety and order as a

legitimate government interest. *McCullen v. Coakley*, 573 U.S. 464, 486 (2014). Here, CADS serves the important governmental interest of public safety and preventing violence and harassment on Delmont college campuses by preventing doxxing and the various harms that follow. (R. 3, 5.)

CADS directly responds to the issue of intentional or reckless doxxing and is necessary to prevent escalating violence on public campuses. The legislature is entitled to respond to such threats based on experience and predictive judgment. *United States v. Carolene Prods. Co.*, 304 U.S. 144, 152 (1938). In this case, when there were disclosures of activists' private information, it was followed by near immediate harassment, intimidation, and sometimes violence. (R. 5-6.) In the instance of Ms. Marshall, the broadcasting of her picture at her workplace with location details alongside her political speech was followed within hours by masked protesters who surrounded her, vandalized her vehicle, and forced her withdrawal from both employment and medical treatment. (R. 11). This demonstrates a direct causal chain that CADS seeks to address.

The next phase of the analysis is whether the statute furthers the important governmental interest and does not place an unnecessary substantial burden on Petitioner to further that interest. *Free Speech Coal., Inc. v. Paxton*, 606 U.S. 461, 471 (2025) (citing *Turner*, 520 U.S. at 189). Additionally, intermediate scrutiny does not require the statute to be the most restrictive means, only so much that the interest would be achieved less effectively without the statute and does not place a substantial burden on speech more than is necessary. *TikTok Inc.*, 604 U.S. at 76. CADS meets this standard. The statute directly prevents doxxing in Delmont and does not extend to speech outside of the doxxing context. The language of the statute is the prohibition of publishing private or personal information with the intent of causing stalking or harassment to another person.

(R. 6-7.) Without CADS, there would be no other ramifications to deter individuals from doxxing political adversaries or causing fear and intimidation on Delmont campuses.

*iii. CADS survives even if the Court applies strict scrutiny.*

Even if the Court were to apply strict scrutiny, CADS is still constitutional. As stated above, the government's interest in public safety and preventing harassment and intimidation is not only compelling, but necessary given the current political climate in Delmont. (R. 3, 5-6); *McCullen*, 573 U.S. at 486. Multiple people have been hospitalized, and harm is imminent on Delmont campuses where doxxing is concerned, and the sole purpose of CADS is to address it. (R. 5.)

Additionally, CADS is narrowly tailored to achieve that interest. As previously discussed, Petitioner is still able to broadcast political messages, general information and resources near the Delmont University campus, etc. The only restriction is the combination of Ms. Marshall's photograph and workplace information with her political speech to show extremists where she works and how they can recognize her. This put Ms. Marshall in danger and caused actual harm. CADS goes to prevent this harm on *both* sides, nothing more. Petitioner is not being prevented from broadcasting any of this information, just not in conjunction for viewers to make an instant connection. CADS only prevents a very narrow and specific type of information from being posted or broadcast. (R. 6-7.) The statute explicitly Defines what qualifies as personal information and is explicit about the intent required to reach (this level) of stalking or harassment. (R. 6-7.) CADS is by no means broad or wavering in its interpretation. This is dissimilar from the case of *Reed v. Town of Gilbert*, as the statute does not create exemptions for some forms of speech over others. *See Reed v. Town of Gilbert*, 576 U.S. 155, 157 (2015) (holding that a law restricting yard signs unless they fell under a specific exemption violated free speech). Instead, CADS is equally applied to protect a very specific group of people: those who are enrolled as students, faculty members, or

administrative/staff members at a Delmont college or university. (R. 6.) The statute applies regardless of the speaker's position in the Energy Controversy, and any restriction on speech is purely incidental. Therefore, CADS survives strict scrutiny because it is narrowly tailored to a compelling government interest.

Ultimately, Petitioner's broadcasting of Ms. Marshall at her place of employment with its information alongside her controversial political speech is unprotected by the First Amendment. It is a matter of private concern and is a true threat as it incites unlawful conduct. Additionally, CADS is content-neutral and passes intermediate scrutiny by preventing doxxing through the publishing of specific personal information, which is substantially related to an important government interest of public safety. However, even if this Court applied strict scrutiny, CADS survives as it is narrowly tailored to a compelling government interest in public safety.

Therefore, Respondent respectfully asks this Court to affirm the decision of the appellate court and find that the Campus Anti-Doxxing Statute is constitutional and does not violate Petitioner's right to Free Speech.

## **II. THE COURT OF APPEALS CORRECTLY FOUND THAT THE CAMPUS ANTI-DOXXING STATUTE (CADS) DOES NOT VIOLATE PETITIONER'S FREE EXERCISE RIGHTS.**

CADS does not violate the Free Exercise Clause because it is a neutral law of general applicability that regulates harmful conduct rather than religious belief. Any burden on religious conduct as a result of the statute is purely incidental. Under *Employment Division v. Smith*, neutral and generally applicable laws that incidentally burden religious exercise do not trigger heightened scrutiny and do not relieve an individual from the obligation to comply. *Employment Division v. Smith*, 494 U.S. 872, 879 (1990). The Free Exercise Clause is an absolute protection of religious beliefs, but religiously motivated conduct remains subject to reasonable regulation under laws enacted for the protection of society. CADS was enacted to address a documented pattern of

harassment, intimidation, and violence resulting from the intentional disclosure of private identifying information on college campuses. (R. 5-6.) The statute applies uniformly to all speakers, contains no exemptions that favor secular conduct, and targets only the intentional disclosure of private identifying information with harmful intent.

**A. The Statute is Neutral and Generally Applicable, Therefore Rational Basis Review Applies.**

The Free Exercise Clause does not require heightened scrutiny for every law that incidentally burdens religious exercise. Where a statute is neutral and generally applicable, this Court has made clear that it is subject only to rational basis review. *Stormans, Inc. v. Weisman*, 794 F.3d 1064, 1084 (9th Cir. 2015). Under this standard, a law need only be rationally related to a legitimate government interest, and courts do not inquire into whether the legislature could have adopted a more accommodating or narrowly drawn alternative. *Smith*, 494 U.S. at 885, 879. Here, the statute is rationally related to the legitimate governmental interest of protecting individuals from harassment and intimidation and maintaining safety within the university environment. Regulating the intentional disclosure of private identifying information is a rational means of addressing those concerns, and the legislature was not required to adopt a more narrowly tailored or religiously accommodating alternative. *Lyng v. Nw. Indian Cemetery Protective Ass'n*, 484 U.S. 439, 448-451 (1988).

Further, CADS fits squarely within the *Smith* framework. The statute does not single out religious belief or practice, does not incorporate discretionary or individualized exemptions, and applies uniformly to all individuals regardless of their motivations. For each of these reasons, *Smith* controls, and the court of appeals correctly declined to apply strict scrutiny. (R. 37-39.) Any incidental burden on religiously motivated conduct does not, by itself, trigger heightened review.

*See Smith*, 949 U.S. at 878. Given that CADS is neutral, generally applicable, and rationally related to the state of Delmont’s legitimate interests, it is constitutional under rational basis review.

*i. CADS is facially neutral because it does not target religion in its text, purpose, or operation.*

CADS is facially neutral because it does not discriminate against religion in its text nor does it regulate conduct because it is religious in nature. The threshold to implicate the Free Exercise Clause occurs when a law "discriminates against some or all religious beliefs or regulates or prohibits conduct because it is undertaken for religious reasons." *Church of Lukumi Babalu Aye v. City of Hialeah*, 508 U.S. 520, 532 (1993). A law that does not draw distinctions based on religious status or religious motivation satisfies the requirement of facial neutrality. *Id.* at 533.

Nothing in the text of CADS targets religion. The statute contains no reference to religion, religious belief, or religious practice. Instead, it applies to “any person” who, without consent, intentionally discloses private information with harmful intent. (R. 6.) The statute referring to “any person” means that it applies to any individual regardless of whether the speaker is a religious organization, a political activist, a journalist, or a private individual. CADS makes no reference to religious speech, evangelism, or broadcasting, nor does it impose special burdens on religious actors. Instead, it addresses a secular and well-documented problem: the use of doxxing to harass, intimidate, and endanger individuals on college campuses. (R. 6.)

This case stands in sharp contrast to *Lukumi*, where the challenged ordinances were crafted to suppress Santeria religious practices through selective prohibitions and carefully drawn exemptions for comparable secular conduct. *Lukumi*, 508 U.S. at 535-38. There, the Court found that the ordinances were neither neutral nor generally applicable because they targeted religious conduct "for distinctive treatment." *Id.* at 534. CADS contains no such targeting. It does not reflect animus toward religion, prohibit conduct because it is religious, nor does it permit similar secular

conduct to go unregulated. The statute's prohibitions apply uniformly, without regard to whether the individual's purpose is religious, political, or personal.

The history behind the enactment of CADS does not undermine its neutrality either. A law does not lose its neutral character if there is burdening of a religious activity when it is not the object of the text of the statute, “. . .but merely the incidental effect of a generally applicable and otherwise valid provision, the First Amendment has not been offended.” *Smith*, 494 U.S. at 878. The relevant inquiry is whether the legislature enacted the statute "because of," rather than "in spite of," its effect on religion. *Lukumi*, 508 U.S. at 540. Here, the record reflects that CADS was enacted in response to escalating incidents of doxxing-related harassment and violence on college campuses, a secular problem that implicates public safety and individual security. The fact that Petitioner engages in the type of public broadcasting that the statute is now limiting, fails to convert a generally applicable law into a religiously targeted regulation.

Finally, Petitioner's assertion that CADS disproportionately burdens its religious mission does not defeat facial neutrality. The Free Exercise Clause does not require that neutral laws have equal practical impact on all religious practices, nor does it prohibit laws that incidentally burden religiously motivated conduct. *Smith*, 494 U.S. at 878-79. A statute does not lose its neutrality merely because it has a greater practical impact on religious actors. A neutral law does not violate the Free Exercise Clause simply because it has the "incidental effect of burdening a particular religious practice." *Combs v. Homer-Center School District*, 540 F.3d 231, 241 (3d Cir. 2008). Here, any disproportionate impact on Petitioner results from the nature of the chosen methods of communication, not from discrimination embedded in the statute itself.

Laws are created to govern actions, while they cannot interfere with religious beliefs, they can with practices. *Reynolds v. United States*, 98 U.S. 145, 166 (1878). Allowing an individual to

justify conduct that violates generally applicable law on the basis of religious belief would elevate personal faith above civil authority, effectively permitting each person to decide for himself which laws to obey. *See Bowen v. Roy*, 476 U.S. 693, 700 (1986) (holding that the Free Exercise Clause protects individuals from governmental compulsion but does not afford individuals the right to dictate the government's internal procedures). The result would undermine the rule of law itself. *Reynolds*, 98 U.S. at 166-67. Because CADS regulates conduct without reference to religion and applies equally to all, it satisfies the facial neutrality requirement of the Free Exercise Clause.

ii. *CADS is generally applicable because it applies uniformly and contains no exemptions for comparable secular conduct.*

CADS is generally applicable because it applies evenly to all individuals and contains no exemptions that permit comparable secular conduct while burdening religious exercise. A law lacks general applicability only when it selectively imposes a burden on religious conduct while allowing analogous secular activity to proceed unregulated, or when it provides a mechanism for discretionary exemptions. *Fulton v. City of Philadelphia*, 593 U.S. 522, 534 (2021). In *Fulton*, this Court held that a city policy was not generally applicable because it allowed individualized, discretionary exemptions that could be granted at the government's sole discretion. *Id.* at 536. Similarly, in *Tandon v. Newsom*, the Court emphasized that a law fails general applicability if it treats comparable secular activity more favorably than religious exercise. *Tandon v. Newsom*, 593 U.S. 61, 62 (2021). Together, these cases show that a law is not generally applicable if it permits discretionary or individualized exemptions or treats comparable secular conduct more favorably than religious exercise.

CADS contains no such exemptions. The statute does not carve out favored categories of individuals, such as journalists, political advocates, or activists, nor does authorize case-by-case exemptions for particular individuals to be excused from compliance based on their purpose or

identity. Instead, CADS prohibits the same conduct, intentional disclosure of private identifying information with harmful intent, regardless of whether the individual who disclosed the information was religious or secular and regardless of whether the disclosure was motivated by political advocacy, journalism, religious expression, etc. Since the statute applies uniformly without discretionary carve-outs, CADS applies generally under *Smith*.

Further, Petitioner fails to identify any secular activity that is treated more favorably than its religious broadcasting. Petitioner may argue that public or confrontational religious speech is uniquely burdened, but that is a misunderstanding of general applicability. The Free Exercise Clause does not require that laws have identical practical effects on all forms of expression; it requires only that the law not single out religious conduct for disfavored treatment. *Smith*, 494 U.S. at 878-79. CADS regulates conduct based on harmful effects, not on the identity or motivation of the speaker. Since the statute applies uniformly and without exception to any individuals who engage in intentional, harmful disclosure of private information, it does not trigger heightened scrutiny under the general applicability framework articulated in *Smith*, *Fulton*, and *Tandon*. The court of appeals, therefore, correctly concluded that CADS is a generally applicable law within the meaning of the Free Exercise Clause.

Additionally, Petitioner cannot avoid *Smith* by invoking a so-called "hybrid rights" theory. Although *Smith* referenced cases involving multiple constitutional protections, this Court has never recognized hybrid rights as an independent basis for heightened scrutiny. *See id.* at 881-82. The courts of appeals are divided on the theory's viability, however, the majority have treated *Smith's* hybrid-rights discussion as dicta and declined to apply strict scrutiny absent an independently viable companion constitutional claim. *See Stormans*, 794 F.3d at 1081-82. Here, Petitioner's asserted speech interests do not transform a Free Exercise claim into a hybrid one,

particularly where CADS regulates harmful rather than suppressing expression based on belief or viewpoint. Because Petitioner’s Free Speech claim rises and falls with their Free Exercise claim, the hybrid-rights theory does not apply.

*iii. CADS regulates harmful conduct, not religious belief or worship.*

The Free Exercise Clause protects religious belief absolutely but permits regulation of religiously motivated conduct that threatens the safety or rights of others. *See Smith*, 494 U.S. at 878-79. Consistent with this principle, this Court has repeatedly upheld neutral laws regulating conduct even when those laws incidentally burden religious practice. In *Prince v. Massachusetts*, the Court rejected a Free Exercise challenge where religiously motivated conduct exposed a child to potential harm, emphasizing that “the right to practice religion freely does not include liberty to expose the community or the child to communicable disease or the latter to ill health or death.” *Prince v. Massachusetts*, 321 U.S. 158, 166-67 (1944).

CADS fits squarely within this line of cases. The statute does not restrict religious doctrines, interfere with worship, or prohibit evangelism or public preaching. Neither does the statute regulate speech based on religious content or viewpoint. Instead, CADS targets a specific form of harmful conduct, the intentional disclosure of private identifying information with harmful intent, of which disclosure would foreseeably lead to harassment, intimidation, and physical danger. (R. 6.) The statute’s focus on intent and harm confirms that it is directed at conduct with real-world consequences, not at religious belief or expression.

Petitioner’s assertion that its religious mission includes public broadcasting does not alter this analysis. Religious motivation does not convert otherwise regulable conduct into constitutionally protected exercise. *Smith*, 494 U.S. at 878-79. As the Court explained in *Smith*,

granting religious exemptions from neutral laws would permit individuals to become “a law unto himself,” undermining the rule of law and the government’s ability to protect the public. *Id.* at 879.

Further, this case bears no resemblance to the narrow category of decisions in which the Court has recognized Free Exercise protections for religious practices deeply intertwined with parental rights or communal autonomy, such as the outlier case *Wisconsin v. Yoder*. The case in *Yoder* involved a unique set of factors, including a centuries-old religious community, compulsory education, and a demonstrable threat to the survival of the religious group. *Wisconsin v. Yoder*, 406 U.S. 205, 216-19 (1972). The Court has repeatedly emphasized the limited scope of *Yoder* and declined to extend it beyond its extraordinary facts. *Smith*, 494 U.S. 881-82, 905-07. Petitioner’s claimed burden, restriction on a preferred method of public broadcasting, falls short of the coercive, existential intrusion present in *Yoder*.

Moreover, CADS does not coerce Petitioner to abandon its beliefs or core religious practices. The Church remains free to preach, evangelize, and disseminate its message through a wide array of channels. The statute restricts only a narrow category of conduct, harmful doxxing of an enrolled student, faculty member, administrative or staff member at a Delmont college or university, that is not inherently religious and that poses serious risks to others. (R. 6.) The Constitution does not guarantee the right to practice religion using one’s preferred or most effective means where reasonable alternatives remain available. *Lyng*, 484 U.S. at 449. By the way of its text and execution, since CADS regulates harmful conduct rather than religious belief, and because any burden on religious exercise is incidental rather than coercive, the statute does not violate the Free Exercise Clause.

**B. Even if the Court Were to Apply Strict Scrutiny, CADS Still Survives Because It Serves a Compelling Government Interest and is Narrowly Tailored.**

Even if this Court were to apply strict scrutiny, the statute would still survive constitutional review. This Court has made clear that laws burdening religious exercise may be upheld where they further compelling governmental interests and are narrowly tailored to achieve those interests. *Lukumi*, 508 U.S. at 546. Given that CADS serves the compelling interest of protecting public safety, preventing harassment, and maintaining the integrity of the campus environment, and because it does so through a narrowly tailored prohibition on harmful conduct, the court of appeals' decision should be affirmed on this ground as well.

*i. CADS serves the compelling government interest of public safety by preventing harm on Delmont campuses.*

Even assuming that CADS is subject to strict scrutiny, it survives because it advances a compelling governmental interest of the highest order. This Court has consistently recognized that protecting individuals from threats, harassment, and physical harm constitutes a compelling interest, particularly where such harms are foreseeable and difficult to remedy after the fact. *Prince*, 321 U.S. at 166-67 (holding that the right to religious exercise does not include the liberty to expose others to harm); *Black*, 538 U.S. at 359-60 (holding that the government has a compelling interest in preventing intimidation and fear). Doxxing poses precisely these dangers. The intentional disclosure of private identifying information exposes individuals to harassment, stalking, and violence, often with immediate and irreversible consequences. (R. 11.) The harm the State seeks to prevent is not speculative, rather it is the fear and intimidation itself. *Black*, 538 U.S. at 360. The state of Delmont has a compelling interest in preventing such harm before it occurs rather than responding only after individuals have been placed at risk. *See Schall v. Martin*, 467 U.S. 253, 264 (1984) (upholding preventative measures where the State acts to avert serious harm

before it occurs). That interest is especially acute in the campus context, where students and faculty live in close proximity and are uniquely vulnerable to targeted intimidation.

The prevention of harm preserves the campus environment as a space for open participation in a variety of contexts, without the fear of retaliation. When individuals are silenced by threats or exposure of personal information, expressive freedom itself is undermined. CADS directly addresses serious, well-documented threats to individuals' safety and campus order, and it therefore advances government interests sufficiently to satisfy strict scrutiny.

ii. *CADS is narrowly tailored because it regulates only intentional, harmful doxxing directed at a limited and vulnerable university population.*

CADS is narrowly tailored because it targets a specific, demonstrable harm that applies only to a limited class of individuals uniquely vulnerable to that harm. A statute is narrowly tailored when it focuses on the precise source of the problem without sweeping more broadly than necessary. *Ward*, 491 U.S. at 799. CADS applies only to the intentional disclosure of private identifying information when directed at Delmont students, faculty, and administrators. By limiting coverage to currently enrolled and university personnel, the statute avoids regulating speech directed at the general public. This limited scope confirms that CADS is not a broad prohibition on speech, but rather a targeted response to a defined problem.

The statute's intent and harm requirements further narrow its reach. Liability attaches only where an individual intentionally discloses private information in a manner likely to illicit harassment, intimidation, or danger. (R. 6.) Speech that is merely offensive, religiously motivated, or critical of university policies remains fully protected by the First Amendment. *Texas v. Johnson*, 491 U.S. 397, 414 (1989); *Snyder*, 562 U.S. at 458; *Papish v. Bd. of Curators of the Univ. of Mo.*, 410 U.S. 667, 670 (1973). Petitioner's suggestion that CADS is overinclusive ignores the statutes' carefully drawn boundaries. CADS does not restrict religious advocacy or public preaching; it

regulates a single method of expression that predictably causes severe harm when directed at identifiable individuals within the campus community. The Constitution does not require the government to tolerate such harm in the name of accommodating any individual's preferred means of expression. *Ward*, 491 U.S. at 798.

Neither does CADS raise the concerns that triggered heightened scrutiny in *Lukumi* or *Fulton*. In those cases, the challenged laws either incorporated discretionary exemptions or permitted individualized assessments that allowed the government to decide, case by case, when religious conduct would be tolerated. *Lukumi*, 508 U.S. at 537; *Fulton*, 593 U.S. at 533-34. As explained above, CADS does not permit individualized exemptions or discretionary enforcement that trigger the concerns identified in *Lukumi* or *Fulton*. The statute applies uniformly whenever its objective elements are met, without regard to the individual's identity or religious motivation. That structure further confirms that CADS is narrowly tailored, not selectively enforced. Since the statute regulates only intentional, harmful conduct directed at a narrow class of protected university persons, it is narrowly tailored to advance the government's compelling interest.

Accordingly, Respondent respectfully asks this Court to affirm the decision of the appellate court and find that the Campus Anti-Doxxing Statute does not violate Petitioner's Free Exercise Rights as it is neutral and generally applicable.

### **CONCLUSION**

For the aforementioned reasons, this Court should affirm the decision of the 15<sup>th</sup> Circuit Court of Appeals and hold that CADS does not violate Petitioner's First Amendment rights.

Respectfully Submitted,

***Team 24***

## APPENDIX I

### *CONSTITUTIONAL PROVISION:*

#### *The First Amendment*

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.

U.S. Const. amend. I

## APPENDIX II

### ***STATUTORY PROVISIONS:***

#### ***Campus Anti-Doxxing Statute of Delmont, Del. Ann. Stat. § 25.989***

A private cause of action against any individual who without consent uses a communication platform of any type to disclose private information of an enrolled student, faculty member, administrative or staff member at a Delmont college or university with the intent to “stalk, harass, or physically injure.”

A plaintiff who prevails under CADS is entitled to economic and non-economic damages, punitive damages, and injunctive relief. The terms “stalk,” “harass,” and “injure” are all defined in the statute, and “private information” is defined as:

- A) The plaintiff’s home address, personal email address, personal phone number, social security number, or any other personally identifiable information;
- (B) Contact information for the plaintiff’s employer;
- (C) Contact information for a family member of the plaintiff;
- (D) Photographs of the plaintiff’s children;
- (E) Identification of the school that the plaintiff’s children attend.

#### ***Definition of Intent, Del. Ann. Stat. § 163.732 (2020).***

“Intent” is defined as “acting purposefully or recklessly to place a person in reasonable fear of bodily injury, death, or property damage as to cause severe emotional distress to such person.”