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Sarah Biglow
Massachusetts Commission Against Discrimination
One Ashburton Place, Room 601
Boston, MA 02108
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RE: Isaac Kriegman v. Thomson Reuters, et al.
MCAD Docket No. 22BEM00013

Dear Ms. Biglow:

Complainant ("Isaac Kriegman," "Mr. Kriegman," or "Kriegman") submits this Response to the position statement of Thomson Reuters, et al. (collectively, "TR" or "Company") in the above-referenced Charge of Discrimination with the Massachusetts Commission Against Discrimination ("MCAD").

I. INTRODUCTION

Mr. Kriegman alleges a racially hostile work environment and retaliation in violation of Title VII of the Civil Rights Act of 1964 ("Title VII"), 42 U.S.C. §2000e et seq., as well as Massachusetts General Laws Chapter 151B. TR created a racially hostile environment for Kriegman and other white employees by encouraging and promoting the dissemination of materials rife with negative racial stereotyping. The racially hostile environment was encouraged and promoted by TR, both through their mandatory bias training programs for employees, promotion of optional training and programming for employees, and their oversight of a required intracompany portal called "The Hub." Through various channels, TR permitted employees and staff to share materials and comments replete with racial stereotypes and insults. When Kriegman, an employee with white skin, posted alternative viewpoints and complained about this hostile environment at TR, TR retaliated and fired him.

Now, TR attempts to claim that Kriegman was fired because he wasn't doing his job – something that simply is not supported by the facts. Rather, TR's stated reasons for firing Kriegman are entirely pretextual. For six years, "Kriegman had no disciplinary issues at Thomson Reuters" and he "had received overall rates of 'achieved' or 'exceeded' on performance reviews." (TR Position Statement at 20). That all changed the moment Kriegman complained about the racially hostile environment at the company. Despite Kriegman's multiple requests for remedies, TR not only failed to take reasonable remedial measures to end the hostile environment -- they punished Kriegman for complaining,

prohibiting him from sharing information on company portals and communication networks. Then, less than a month after he complained about the hostile environment, TR fired him. TR admits they fired him for "the manner in which [he] conducted himself in recent weeks." This supposedly impermissible "manner" of conducting himself involved complaining about the racially hostile environment at the company and posting about D&I topics, which the company encouraged for other employees. (TR Position Statement at 49).

Thomson Reuters admittedly engages in company training that stigmatizes and stereotypes individuals based upon the color of their skin. They allow employees to post racially charged messages replete with racial stereotypes and insults on their company portal, provided those racially charged messages, stereotypes, and insults are directed at white people. After taking a leave of absence to cope with the racially hostile environment at the company, Kriegman returned to work and attempted to counter this insulting race-based messaging from colleagues. Kriegman's efforts were met with hostility, personal attacks, and racial insults.

Now, rather than acknowledge the harm TR's obsession with race has caused, TR contends that its discrimination, racial insults, stereotypes, and disparate treatment of employees with white skin are somehow justified in the name of countering "systemic" racism. They blame Kriegman, claiming that by reading posts on the front page of The Hub, he "voluntarily sought out" and "subjected himself" to racial insults and stereotypes. (TR Position Statement at 21). Kriegman is not responsible for the racially charged environment that TR encourages and promotes. TR failed to take reasonable remedial measures to end the racially hostile environment at the company. Rather than fulfilling their legal obligation, they fired Kriegman in retaliation for his complaints.

II. RACIALLY HOSTILE ENVIRONMENT CLAIM

Title VII and M.G.L.c. 151B prohibit a discriminatory "hostile work environment," which arises when acts of discrimination or harassment are severe and pervasive enough to have an adverse impact on an employee's ability to do his or her job. 42 U.S.C.S. §2000e et seq. An employee must show he was subjected to inappropriate and unwelcome conduct as a result of the protected classification (race, sex, religion, national origin); and that this conduct was sufficiently severe or pervasive so as to unreasonably interfere with work or create an intimidating, hostile or offensive work environment. *See Harris v. Forklift Sys., Inc.*, 520 U.S. 17, 21 (1993). The employee must show that a reasonable person would find the conduct hostile or offensive and also establish some basis for employer liability. *O'Rourke v. City of Province*, 235 F.3d 713, 728 (1st Cir. 2001).

Title VII protects ***all employees***, even white employees, from discrimination on the basis of race. In the terse, common-sense words of the Supreme Court: "The way to stop discrimination on the basis of race is to stop discriminating on the basis of race." *Parents Involved in Community Schools v. Seattle School District No 1*, 127 S. Ct. 2738 (2007). There is no special application of Title VII to privilege historically oppressed minorities or to correct perceived historical wrongs by harassing, arbitrarily and in the present, those "historically" perceived to be oppressors. Title VII simply forbids discrimination on the basis of race (along with other protected categories).

Moreover, a workplace that targets employees for racial insults and racial stereotypes on account of skin color not only violates Title VII, but it is also obviously

counterproductive. It achieves no racial justice in the workplace and it stock in trade of stereotyping is no less harmful to historically underprivileged minorities. Regardless of intent, however, Thomson Reuters is required to observe civil rights laws, which protect all employees from discrimination based upon skin color.

A. Kriegman's Work Environment was Racially Hostile

Whether a workplace is hostile or abusive can only be determined by considering a totality of the circumstances. See *Harris*, 520 U.S. at 17. Courts examine the "frequency of the discriminatory conduct; its severity; whether it is physically threatening or humiliating, or a mere offensive utterance; and whether it unreasonably interferes with an employee's work performance." *Billings v. Town of Grafton*, 515 F.3d 39, 48 (1st Cir. 2008) (quoting *Harris*, 510 U.S. at 23. The central question is whether the workplace conduct could be found to be both objectively and subjectively offensive, amounting to a change in the terms and conditions of employment. *Ponte v. Steelcase Inc.*, 741 F.3d 310, 321 (1st Cir. 2014); and *Xiaoyan Tang v. Citizens Bank, N.A.* 821 F.3d 206 (1st Cir. 2016).

"There is no mathematically precise test to determine whether a plaintiff presented sufficient evidence that she was subjected to a severely or pervasively hostile work environment." *Colón-Fontánez v. Municipality of San Juan*, 660 F.3d 17, 44 (1st Cir. 2011). While stray remarks or simple teasing are not sufficient to establish a hostile work environment, frequent harassing comments that a reasonable person as well as the victim find offensive are enough to state a claim for hostile work environment. *Xiaoyan Tang v. Citizens Bank, N.A.* 821 F.3d 206, 218 (1st Cir. 2016) (holding that an employee's allegations that her supervisor made racially and sexually inappropriate comments, such as discussing "Thai girls" and their swimsuit choices and that this "happened a lot," were sufficient to state a hostile environment claim under Title VII.)

Thomson Reuters admits that in the wake of George Floyd's murder in May of 2020, the Company instituted new programming in a "concerted effort" to fight "racism" and what it labels "social injustice." (TR Position Statement at 3). As part of this concerted effort, TR imposed company-sponsored programs for employees, such as training on bias, "Micromessages" (whatever that means), and a "21-Day Racial Equity Habit Building Challenge." (*Id.* at 4). Some of these programs were voluntary, and some, such as the "Breaking Bias" program, were not. There can be no dispute, however, that they were pervasive. In addition, the internal Company communications portal called "The Hub" was routinely used for communicating on race-related and politically charged topics. As a result of TR's new "concerted effort" on what it called "racial justice" issues, the culture of TR changed dramatically. Racially charged messages suddenly permeated the workplace, including insults and stereotypes directed at white employees such as Kriegman.

Contrary to TR's representations, there was no way to avoid this pervasive race baiting. The Hub was TR's internal Company communications channel and TR employees, including Kriegman, were required to log in regularly to receive important Company information and communications. (TR Position Statement at 21 and 22). Kriegman was expected to stay abreast of Company events on The Hub, and even expected to produce content on the Hub. (*Id.*). TR admits that simply opting out of The Hub was not possible for Kriegman. (*Id.*). TR claims that Kriegman was able to opt out of receiving notifications of Hub posts, but this would have impacted his access to important Company and work-related news and information. Since The Hub admittedly functioned like a water cooler for

employees, asking an employee to stop receiving notifications or to stop reading posts on The Hub, is like suggesting that an employee shun the breakroom.

TR admits to actively encouraging conversations about "racial justice" issues. (TR Position Statement at 2, 3, and 23). These conversations were monitored by TR on The Hub, and TR had a process for removing content it deemed subjectively "offensive." (*Id.* at 23). Despite this process, TR permitted hundreds of racially charged messages — including promotion of racial stereotypes and insults — to proliferate on their company network. Examples are listed in the complaint, and TR's Position Statement admits that many of these messages were "reviewed" but then "***reinstated***" on the Hub. Examples include:

- Racial insults and stereotypes include: "the self-indulgent tears of white women," "putting on a pair of White Privilege glasses," "white fragility," and the problems of "whiteness." Complaint ¶ 24, TR Position Statement at 24, 37.

- Articles and books promoting racial stereotypes about white people such as "White Fragility: Why it's So Hard for White People to Talk about Racism," "A Sociologist Examines The 'White Fragility' That Prevents White Americans from Confronting Racism," "Seeing White," "Habits of Whiteness," and "How to Be a Better White Person." Complaint ¶ 25, TR Position Statement at 25, 37.

- Special resources on "White Fragility" that shared how black people are the "'havers' of race and the guardians of racial knowledge," followed by calls for the dismantling of "white fragility." Complaint ¶ 28, TR Position Statement at 26, 37.

- Commentary on the problems of "white culture and the 'white community.'" Complaint ¶ 30, TR Position Statement at 27.

- Commentary on "how white fragility shuts down any meaningful or productive conversations about race in the workplace." Complaint ¶ 46, TR Position Statement at 31.

- Quotes from these promoted discussions stating, "a 'relaxed day' at work for her was one during which she didn't have to care what white people thought." Complaint ¶ 47, TR Position Statement at 31, 32.

- Employee comments recommending and directing their "white colleagues" to take the 21-Day Racial Equity Habit Building Challenge. Complaint ¶ 36, TR Position Statement at 28.

- Employee comments labeling "whiteness" a "dirty word." Complaint ¶ 49.

It is hard to imagine that TR would not itself shudder with paroxysms of "anti-racism" had employees and their supervisors posted the same messages with "white" replaced by "black." The difference, of course, is that TR condones and promotes a hostile work environment based on race, so long as the race is identified as "white." Astonishingly,

TR's defense is that Kriegman could have chosen not to read the posts. (TR Position Statement at 24, 25, 26, 27, 29, 31, 33). No major company would venture this argument if employees posted hostile comments about minorities on a company message board. Had TR permitted posts about the problems of "blackness," "black fragility," or circulated reading lists discussing how a "relaxed day at work was one in which an employee didn't have to care what black people thought"—the MCAD would doubtless be entertaining multiple actions for race-based discrimination, and the MCAD should not give TR a pass simply because the company chooses to discriminate against those perceived as "white" on the basis of the same obnoxious stereotypes.

In addition to racially offensive and harassing posts, messages were directed at Kriegman specifically and individually. These included: "As a white person I am embarrassed and ashamed for you." "We as white folks, should never presume to speak for people of color – which is what you have chosen to do." Kriegman was lectured about "privilege that comes with the whiteness of our skin, and the reality of systemic racism…" and how "White folks trying to 'help' by whitesplaining…" Complaint ¶ 81. When Kriegman complained about these racially offensive comments directed at him, TR removed ***his post***, which did not contain any racial insults or stereotypes, from The Hub.

Racially charged posts were ongoing and encouraged on The Hub for almost a year. TR admits to actively encouraging these conversations about "whiteness," "white power," and "white fragility." In particular, "White Fragility" assumes that the color of one's skin causes an inability to engage in self-reflection, with the corollary that "blackness" somehow automatically endows individuals with powers of self-reflection. It is a racial stereotype and insulting to all races, but because it is offensive to white people, TR encouraged conversations about it. Yet, when an employee like Kriegman flagged or complained about this racially offensive content, TR reviewed it ***and then reinstated the message*** on The Hub. (TR Position Statement at 37).

While "[t]here is no mathematically precise test to determine whether a plaintiff presented sufficient evidence that she was subjected to severely or pervasively hostile work environment," tolerating ***a year*** with hundreds of offensive Hub messages like those highlighted above substantially alters one's work environment. *Colón-Fontánez*, 660 F.3d 17, 44 (1st Cir. 2011). Kriegman experienced far more than "stray remarks." *MCAD and Fintonis v. City of Lynn Public Schools*, No. 99-13-0912, 2006 WL 3423161, at *9 (MCAD 2006). The pervasive and ongoing nature of the hostility was objectively unreasonable.

B. Thomson Reuters Failed to Take Reasonable Remedial Measures to Stop the Harassment

Thomson Reuters admits it made a "concerted effort"—i.e. through management—to address what it calls "racial injustice," and that part of that effort involved encouraging employee conversation related to D&I initiatives. (TR Position Statement at 2, 3). These conversations and shared resources included the racist posts on The Hub directed at white people. TR not only failed to take reasonable remedial measures to stop or prohibit these harassing materials; it actively encouraged and promoted the material on its web portal. This was directly targeted, among others, at Kriegman, who reported information as racially hostile, only to have TR review, endorse, and reinstate the material. (TR Position Statement at 37).

Where the person responsible for creating a hostile work environment is not a supervisor, the employee must show "that the employer knew or should have known about the harassment yet failed to take prompt action to stop it." *Harris*, 510 U.S. 17, at 96-97 (1993). Under both Title VII and Chapter 151B, when a co-worker, rather than a supervisor, is responsible for creating a hostile work environment, the employer is liable for the co-worker's misconduct if the harassment is causally connected to the employer's negligence. *Forsythe v. Wayfair Inc.*, No. 21-1095, 20 22 U.S. App. LEXIS 5246, *3 (1st Cir. Feb. 28, 2022). Kriegman notified TR of the Harassment in early May 2021. TR admits that it reviewed many of the racially offensive posts and insults that Kriegman flagged, and then reinstated this material on the Company portal. Meanwhile, it suppressed Kriegman's respectful posts.

Rather than address the racially discriminatory insults and stereotypes proliferating throughout the Company-controlled portal, Thomson Reuters makes the absurd argument that Kriegman was "voluntarily seeking out and subjecting himself" to racially offensive insults and stereotypes. This would be the same as saying a black employee just does not have to "listen" to Nword jokes in the workplace. Apparently, if one is the recipient of racial insults and stereotypes in the company breakroom at Thomson Reuters, TR's solution is to tell the employee to quit the company breakroom—with the difference that the Hub is a required portal for company messages. Unlike a company breakroom or water cooler, which can be avoided without detriment to one's job, Kriegman had no option to opt-out of The Hub. TR admits Kriegman was required to be on The Hub. He was required to produce content for The Hub as part of his job. TR suggests that Kriegman, who was required to be on The Hub, should learn to look the other way. His remedy, as far as TR is concerned, is to ignore racial stereotypes and insults.

TR also argues that Kriegman could "control his notification settings" and implies this would have avoided the racially insulting messages they permitted on their company network. (TR Position Statement at 25). But this is an admission that TR wishes to make it possible to ignore the racially hostile content that it knows proliferates within the company. TR has a basic legal duty to exercise reasonable care to prevent a racially hostile work environment, and part of that duty involves removing posts from their company web portal that perpetuate racial stereotypes and insults. TR was made aware of these posts and failed to take even the most basic remedial measures to prevent the harassment. TR did the opposite. It encouraged these posts, and when Kriegman reported them as racially offensive, TR reviewed and reinstated them. (TR Position Statement at 37). Now TR admonishes Kriegman because ***he*** should have done more to control ***his settings*** to avoid the messages, and, to boot, TR prohibited ***Kriegman*** from posting to The Hub. Finally, when he complained, TR fired him.

III. RETALIATION CLAIM

Both Title VII and Chapter 151B prohibit employers from "retaliating against persons who complain about unlawfully discriminatory employment practices." *Noviello v. City of Bos.*, 398 F.3d 76, 88 (1st Cir. 2005)(citing U.S.C. § 2000e-3(a); Mass Gen. Laws ch. 151B, § 4(4)). Title VII "casts its protective cloak…broadly," protecting not just employees who file formal Title VII complaints, but employees who "resist," "contend against," "confront" or "withstand" employment practices they believe to be a violation of Title VII. *Rodriguez-Vives v. P.R. Firefighters Corps of P.R.*, 743 F.3d 278, 284 (1st Cir. 2014) (citing *Crawford v. Metro. Gov't of Nashville & Davidson Cnty.*, 555 U.S. 271, 276 (2009)).

To demonstrate retaliation under either statute, a plaintiff must show that he (i) undertook protected conduct, (ii) suffered an adverse employment action, and (iii) the two were casually linked. *Id.* "An employee who carries her burden of coming forward with evidence establishing a prima facie case of retaliation creates a presumption of discrimination, shifting the burden to the employer to articulate a legitimate, non-discriminatory reason for the challenged actions." *Billings v. Town of Grafton*, 515 F.3d 39, 55 (1st Cir. 2008). As a matter of law, an employee may have a viable retaliation claim against his employer even if the underlying discrimination claim is not viable. *Mesnick v. Gen. Elec. Co.*, 950 F.2d 816, 827 (1st Cir. 1991). The employment activity or practice that an employee opposed need not be an actual violation of Title VII, so long as the employee had a reasonable belief that it was, and he communicated that belief to his employer in good faith. *Higgins v. New Balance Athletic Show, Inc.*, 194 F.3d 252, 261-62 (1st Cir. 1999).

Once an employee establishes a prima facie case of retaliation, an employer may offer a legitimate non-discriminatory reason for the adverse action. The burden then shifts back to the employee to show the employer's reason is pretextual. *Colbern v. Parker Hannifin/Nichols Portland Div.*, 429 F.3d 325, 336 (1st Cir. 2005). Pretext can be shown "through 'such weaknesses, implausibilities, inconsistencies, incoherencies, or contradictions in the employer's proffered legitimate reasons for its actions that a reasonable factfinder could rationally find them unworthy of credence." *Billings*, 515 F.3d at 55-56 (quoting *Hodgens v. Gen. Dynamics Corp.*, 144 F.3d 151, 168 (1st Cir. 1998)). For example, reports of poor performance occurring immediately after an employee files a complaint are evidence of pretext, particularly when an employee has only received positive reviews prior to the alleged harassment. *Xiaoyan Tang*, 821 F.3d at 222 (1st Cir. 2016). "[W]here a plaintiff makes out a prima facie case for retaliation and the issue becomes whether the employer's stated nondiscriminatory reason is pretext for discrimination, courts must be 'particularly cautious' about granting the employer's motion for summary judgment." *Billings*, 515 F.3d. at 56.

In May of 2021, Kriegman made multiple complaints to TR about the hostile work environment. TR admits that Kriegman communicated these complaints to both his supervisor and HR via video calls, phone calls, emails, and other Company communications channels. (TR Position Statement at 18). Kriegman made these complaints in good faith, after having taken a leave of absence to cope with the hostile work environment. He spent many hours trying to share his perspective and concerns about the work environment at TR, composing various posts for The Hub—based on actual evidence rather than airy invocations of race-based stereotypes—as well as emailing supervisors and HR representatives about the racially charged work environment at TR.

Now TR argues that Kriegman did not have a good-faith belief that the working environment was hostile, citing – incredibly – *Kriegman's repeated use of the phrase "hostile environment."* (TR Position Statement 55). TR further argues that no one could in good faith believe that the kinds of materials it was disseminating created a hostile environment – completely ignoring the raging national debate over this type of intensely racialized approach to promoting diversity and inclusion.[1] In reality, Kriegman's view is mainstream and shared in good faith by large numbers of American workers.

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[1] *See, e.g.*, Brian Steele, "Lawsuit seeks end to Smith College's anti-bias training practices," *Daily Hampshire Gazette* (Dec. 20, 2021), https://www.gazettenet.com/Jodi-Shaw-sues-Smith-College-in-federal-court-cites-climate-of-racial-fear-44133462; Daniel Villareal, "Disney Corp Asks Employees to Complete 'White Privilege

Kriegman obviously had a good faith belief that the work environment was hostile. He communicated his concerns and complaints through proper channels—many times. His complaints formally started May 17, 2021. He was fired less than a month later (on June 7, 2021).

TR also claims that Kriegman was fired for cause, alleging issues with Kriegman's work product. (TR Position Statement at 7, 8). These allegations suddenly arose only when Kriegman complained about the hostile work environment. "[I]f adverse action is taken against a satisfactorily performing employee in the immediate aftermath of…protected activity," there is an inference of retaliatory causation. *Mole v. Univ. of Mass.*, 814 N.E.2d 329, 339 (Mass. 2004). Reports of poor performance occurring immediately after an employee files a complaint are evidence of pretext, particularly when an employee has only received positive reviews prior to the alleged harassment. *Xiaoyan Tang*, 821 F.3d at 222 (1st Cir. 2016).

TR's stated reasons for firing Kriegman are totally pretextual. TR manufactured them after the fact – without producing a single email or other piece of evidence – to justify getting rid of Kriegman's pesky dissenting voice. In particular, TR stated that in the weeks leading up to his termination, Kriegman's work "ground to a halt" and he assigned work he should have done himself to an intern. (TR Position Statement at 7). The real reason Kriegman's work slowed down was that the outside group providing data took a long time getting their data to TR. Kriegman kept his manager, Isabelle Moulinier, up to date on the delayed receipt of this data, and even asked if he should be assigned to another project while their group waited for this data, which Moulinier opted not to do. Further, Kriegman assigned a TR intern the opportunity to do the literature review not to offload work from himself, but because there was no other work for the intern to do while awaiting the data and Kriegman felt an obligation to provide the intern with some type of work to do. He discussed this with both Mouliniere and Josh Lemaitre, both of whom approved the idea.

TR has provided no communications or other evidence that Kriegman suddenly started missing work deadlines or was the cause of delays or missed deadlines on any projects. TR has also provided no evidence that Kriegman assigning work to a company intern (who had no work to do because of delays in receipt of data) was problematic. Rather, they have used normal delays in data collection as a pretext to suddenly fire an employee with six years of exemplary service.

Kriegman never heard a single complaint about his work product while at TR, until he complained about being harassed on the basis of race. For six years, his work patterns of submitting hours and time sheets remained constant. TR now accuses Kriegman of submitting his work hours late, a common occurrence at TR and one that was never documented or flagged for even minor discipline prior to Kriegman's sudden termination. His yearly performance reviews and evaluations never mentioned this as a concern. Even the email terminating Kriegman from employment mentions no concerns about his work product. This is because there *were* no concerns about Kriegman's work product. He was an

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Checklist', Pivot Away from 'White Dominant Culture', Leaked Docs Show," *Newsweek* (May 8, 2021), https://www.newsweek.com/disney-corp-asks-employees-complete-white-privilege-checklist-pivot-away-white-dominant-1589775; Lia Eustachewich, "Coca-Cola slammed for diversity training that urged workers to be 'less white,'" *N.Y. Post* (Feb. 23, 2021), https://nypost.com/2021/02/23/coca-cola-diversity-training-urged-workers-to-be-less-white.

exemplary employee who was fired for complaining about the racially hostile environment at TR.

TR also claims that Kriegman was terminated for insubordination, alleging "deviant flouting of direct instructions about the use of Company communication channels." Among other things, he is accused of refusing to perform his job unless TR disseminated his Hub post. (TR Position Statement at 1). This is completely false and known to be so.

Kriegman never refused to perform his job. Rather, Kriegman expressed concerns that he was being subjected to a hostile work environment and that he would be fired for his posts on The Hub. Kriegman made many good-faith attempts to follow Company guidelines for Hub usage. He repeatedly asked for clarification on the standard for posts on the Hub. TR responded with vague feedback such as his post was "too long" or "antagonistic" and even because it used the term "systemic racism" (a term permitted on The Hub when posted by other employees, so long as their posts targeted race-based stereotypes at white employees). No guidelines provide TR employees standards for the length of posts permitted on the Hub; these rules were apparently crafted for Kriegman alone.

Kriegman repeatedly tried to edit and change his posts to conform to TR's vague Company guidelines. Kriegman responded to TR's confusing feedback, edited his posts, and tried to resubmit them. TR admits that Kriegman edited and resubmitted the posts. But TR permitted only one perspective, and as a "white" employee, Kriegman was not permitted to have a different perspective much less defend it on the Hub. TR, by its own admission, encouraged employees to post non-work-related political material regarding D&I issues. Yet when Kriegman did so, albeit with a different perspective, his posts were removed and censored. He was then accused of insubordination.

Less than one month after Kriegman complained to the company about the hostile environment, TR promptly terminated his employment. TR did not take reasonable remedial measures in response to his complaints; in fact, Kriegman was never asked for information to support his complaint, and the results of this "investigation" were not even communicated to Kriegman until after his termination. (TR Position Statement at 15, n4). Kriegman followed appropriate community channels for communicating his concerns regarding the work environment at TR. He notified HR, his supervisor, and his co-workers through the company portal that was specifically permitted to be used for this purpose. Other co-workers were permitted to discuss systemic racism in the workplace and to offer suggestions about making the environment at TR more accepting—so long as they criticized white employees on the basis of race. Kriegman did what any other employee at TR was permitted to do, but because he was white, and despite posting material without racial stereotypes and offering a different perspective, Kriegman's posts were removed. When he complained, his Hub access was suspended. He was prohibited from discussing his experience of racism at the company. When he complained about this retaliatory treatment, he was fired.

Kriegman was also directly harassed by his colleague, Josh Lemaitre, for complaining about the hostile environment. TR admits that Kriegman complained about the hostile work environment to Lemaitre, and also admits that the conversation became heated. Lemaitre let Kriegman know he should not be spending Company time posting to The Hub and to "f*cking do your job instead." (TR Position Statement at 40). TR admits that Lemaitre did not make these sorts of angry and intimidating comments to other employees who were

stereotyping and harassing people on the basis of race, so long as they were white. (TR Position Statement at 41). TR also admits that after this exchange, Lemaitre accused Kriegman of "blatant antagonism towards Thomson Reuters" and phoned Kriegman's supervisor, Ms. Moulinier. (*Id.* at 13.) In that call, Lemaitre said he could "no longer work with Kriegman, and requested Kriegman be removed from [his project]." (*Id.*) Kriegman reported this hostile and retaliatory exchange to HR representatives on May 26, 2021 and reiterated his concerns about the hostile work environment. A week later, he was fired.

Kriegman's termination email specifically states that he was fired for "repeatedly refusing to follow the counsel offered" and "[t]he manner in which you've conducted yourself in recent weeks." Complaint ¶ 118. Thus, TR admits that Kriegman's termination was motivated by the events of "recent weeks," i.e. directly on the heels of Kriegman's complaints of a racially hostile environment. Kriegman's reasonable expression of concerns about the racially hostile work environment at TR, an environment that relentlessly pushed highly charged racial messaging for almost a year, resulted in his termination. Kriegman used the same channels open to other employees to express these concerns about the racially hostile environment. Other employees had been posting on these topics for over a year. But only Kriegman was accused of conducting himself in an inappropriate manner and fired.

Kriegman has satisfied all the elements for a prima facie case of Title VII retaliation. He reasonably believed the environment was hostile and clearly made this complaint multiple times through appropriate communications channels at TR. Within a month, and without any evidence that Kriegman's work product had been affected in any way, Kriegman's six years of exemplary service to TR were disregarded, and his employment with TR terminated. One can only imagine the spasms of righteous indignation that would beset TR if Black or Hispanic employees were subjected to similar treatment for objecting to employees' public discussion of racial issues stereotyping them; yet TR fired Kriegman.

As irresistible as double standards are to TR, the MCAD should impose the consistent standards of law as directed by *Seattle School District No 1*, 127 S. Ct. 2738 and other cases. TR cannot retaliate against Kriegman simply because he is a white man objecting to racial stereotypes of white people, however much TR cloaks its race-based rhetoric as "racial justice."

IV. CONCLUSION

For the foregoing reasons, the agency should find probable cause and take Kriegman's case for investigation.