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JOHN DOE

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

JAMES WOODS,

Plaintiff,

v.

JOHN DOE, ET AL.,

Defendants.

Case No. BC589746

Assigned to: Hon. Mel Recana

DEFENDANT JOHN DOE'S:

1. **NOTICE OF MOTION AND SPECIAL TO MOTION STRIKE [CODE CIV. PROC. § 4251.6];**
2. **DECLARATION OF KENNETH P. WHITE; AND**
3. **EXHIBITS**

Date: February 2, 2016
Time: 8:30 a.m.
Dept.: 45

PLEASE TAKE NOTICE that on February 2, 2016, at 8:30 a.m., or as soon thereafter as the matter may be heard, in Department 45 of the above-entitled Court, located at 111 North Hill

Street, Los Angeles, CA 90012, Defendant John Doe ("Mr. Doe") will and hereby does move the Court for an order striking the entire Complaint pursuant to Code of Civil Procedure section 425.16.

This Special Motion to Strike is made on the grounds that Plaintiff James Woods' ("Mr. Woods") claims for defamation and false light invasion of privacy constitute a strategic lawsuit against public participation ("SLAPP") within the meaning of Code of Civil Procedure section 425.16. That statute protects conduct in furtherance of the exercise of the constitutional right of free speech. (Code Civ. Proc., § 425.16, subd. (e)(4).) Mr. Doe's speech is protected by the statute and Mr. Woods cannot show a probability of prevailing on the merits.

Mr. Doe's Special Motion to Strike is based on this Notice, the Memorandum of Points and Authorities attached hereto, the Declaration of Kenneth P. White and the exhibits filed concurrently herewith, the records and pleadings on file herein, and on such other evidence as may be presented.

Dated: September 1, 2015

Respectfully submitted,

BROWN WHITE & OSBORN LLP

By _____

KENNETH P. WHITE
Attorneys for Defendant
John Doe

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MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION

Plaintiff James Woods ("Mr. Woods"), a celebrity, aggressively exercises his First Amendment rights on the social media platform Twitter.

From his Twitter account @RealJamesWoods, Mr. Woods gleefully calls people "clown" and "scum."[1] He fantasizes about killing a man over an offensive shirt.[2] He portrays immigrants as obedient Democratic voters or as tattooed thugs.[3] He angrily calls Al Sharpton a "disgusting pig" who is responsible for the murder of policemen.[4] When other Twitter users disagree with him, Mr. Woods declares that they must be on crack cocaine.[5] Accused of rudeness, he calls the accuser a "disgusting, reprehensible liar."[6] When he finds a *Rolling Stone* profile of the Boston Marathon Bomber unsatisfying, Mr. Woods rages that the publisher – who is gay -- must be masturbating to the image of the terrorist.[7] Faced with the existence of gay Americans like Defendant John Doe ("Mr. Doe")[8], Mr. Woods is scornful: he uses accusations of homosexuality as an insult and derides the notion that gay Americans seek equal dignity.[9]

Mr. Doe agrees that this speech, however vile, is fully protected by the First Amendment. Regrettably Mr. Woods' commitment to the First Amendment stops at his own keyboard. When Mr. Doe responded to one of Mr. Woods' provocative tweets with an insult, rather than respond with more words Mr. Woods brought this thoroughly frivolous and censorious lawsuit. Mr. Woods did so even though the hyperbolic insult – that Mr. Woods is a "cocaine addict" – is exactly the sort of rhetorical flourish Mr. Woods himself uses all the time,[10] and in fact is a frequently employed in-joke on

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[1] Exhibits E-3, E-4 to Declaration of Kenneth P. White ("White Decl.").
[2] Exhibits E-7 to White Decl.
[3] Exhibits E-8, E-9 to White Decl.
[4] Exhibit E-12
[5] Exhibits E-1, E-2 to White Decl.
[6] Exhibit E-10 to White Decl.
[7] Exhibits E-11, E-13, E-14 to White Decl.
[8] Mr. Doe is appearing anonymously, as the law permits. (*See, e.g., Digital Music News LLC v. Superior Court* (2014) 226 Cal.Ap.4th 216, 228.)
[9] Exhibits E-5, E-6, E-13, E-14 to White Decl.
[10] Exhibits E-1, E-2 to White Decl.

Twitter.[11] Like a bully who can dish it out but can't take it, Mr. Woods uses his wealth and fame to abuse the court system in order to punish and bully an obscure and much less powerful Twitter user who taunted him.

Fortunately California's anti-SLAPP statute[12] protects Mr. Doe – and anyone whose speech annoys James Woods – from vexatious and ruinously expensive litigation.

Mr. Doe carries his initial burden under § 425.16 with ease: his speech is on a public forum, Twitter, and is on a subject of public interest, a political argument with a celebrity. But Mr. Woods cannot possibly carry *his* burden of showing a probability of prevailing. Mr. Doe's "cocaine addict" jab at Mr. Woods was classic rhetorical insult and hyperbole, not a provable statement of fact. In determining whether a statement is protected rhetoric or unprotected fact, California courts look at the totality of the circumstances, and especially at the context of the statement and how its intended audience would interpret it. Here ***every relevant factor*** shows that the "cocaine addict" tweet was mere insult and "lusty and imaginative expression of contempt," not a statement of provable fact. It was uttered on Twitter, a platform known for insult and exaggeration. It was uttered by an anonymous account known for hyperbole *to* an account known for hyperbole. It employed a widely used Twitter "meme" to insult Mr. Woods. Most importantly, as Mr. Woods himself angrily emphasizes, it was part of a pattern of *insults* directed at Mr. Woods based on his political views. Under well-established California law, it was protected by the First Amendment, and Mr. Woods cannot prevail.

This Court should strike the Complaint entirely and award Mr. Doe his attorney fees. Thanks to the anti-SLAPP statute, the wealthy and famous cannot silence the weak.

II. STATEMENT OF RELEVANT FACTS

A. Twitter Is A Social Media Platform Known For Hyperbole and Insult

Twitter is a social media platform – a way for users to interact through the internet. Users have usernames starting with an "@" sign, like Mr. Woods with @RealJamesWoods and Mr. Doe with @AbeListed. Users can make statements called "tweets," which are brief expressions of up to 140

[11] Exhibits C-1 to C-2 to White Decl.

[12] Code Civ. Proc. § 425.16. All statutory references herein are to the California Code of Civil Procedure unless otherwise noted.

characters that may include images, video, or links. Anyone who "follows" a user's Twitter account will see the tweets that user sends. Twitter user "A" can also "retweet" Twitter user "B's" tweet, copying it so that "A's" own followers see it as well. Twitter users can direct a tweet at another user by adding their Twitter username in the tweet. (White Decl. at ¶¶ 7-17; *United States v. Cassidy* (D.Md. 2011) 814 F.Supp.2d 574, 576.) Mr. Woods sues over such an exchange, in which he sent a tweet and Mr. Doe responded to him by using @RealJamesWoods. (Exhibit A to White Decl.)

Twitter is known for hyperbole, overheated rhetoric, and ad hominem attacks. It's "notorious for spreading misinformation."[13] It's also known for being relentlessly insulting: "the Twitter universe is never happier than when it's being snarky, or downright nasty, to someone."[14] One court, in noting the difficulty of distinguishing between hyperbole and a true threat online, noted "[a] lot of people spout off online via Twitter, Facebook and other social media." (*U.S. v. Bradbury* (N.D. Ind., May 22, 2015) 2015 WL 2449641, at *3.)

B. Mr. Woods Is Known For Hyperbole and Insult On Twitter

Mr. Woods epitomizes the rough-and-tumble tone of Twitter.

Mr. Woods has been called "Obama's biggest Twitter troll"[15] and a "prolific, highly articulate, and politically incorrect conservative voice on Twitter."[16] He has suggested publicly on Twitter that his vocal conservative advocacy will cost him work in Hollywood,[17] and has explained that he

[13] Rutkin, *Twitter Bots Grow Up and Take Over the World* (July 30, 2014) New Scientist [retrieved from https://www.newscientist.com/article/mg22329804-000-twitter-bots-grow-up-and-take-on-the-world/ as of July 27, 2015.]

[14] Gross, *Study: Twitter Opinions Don't Match the Mainstream* (March 4, 2013) CNN.com [retrieved from http://www.cnn.com/2013/03/04/tech/social-media/twitter-reactions-public-opinion/ as of July 27, 2015].

[15] Suebsang, *How James Woods Became Obama's Biggest Twitter Troll* (December 31, 2014) Daily Beast [retrieved from http://www.thedailybeast.com/articles/2014/12/31/how-james-woods-became-obama-s-biggest-twitter-troll.html as of July 27, 2015.]

[16] Treacher, *James Woods: I'll Probably Never Work In That Town Again* (October 9, 2013) Daily Caller [retrieved from http://dailycaller.com/2013/10/09/james-woods-ill-probably-never-work-in-that-town-again/#ixzz3k38zCMXD as of July 27, 2015.]

[17] "Woods, who recently appeared in White House Down and Jobs, was replying to a tweet that questioned the wisdom of his outspoken declarations. "I don't expect to work again. I think Barack Obama is a threat to the integrity and future of the Republic. My country first." Pulver, *James Woods Claims Hollywood Is Against Him After Anti-Obama Tweets* (October 10, 2013) The Guardian [retrieved from http://www.theguardian.com/film/2013/oct/10/james-woods-tweets-barack-obama as of July 27, 2015.]

expresses himself on Twitter to avoid mainstream media "editorializing."[18] On occasion, he retweets the vulgar and abusive insults directed at him.[19]

Mr. Woods earned this reputation. He routinely engages in political hyperbole and exaggeration on Twitter:

- Mr. Woods uses terms like "clown" and "scum" to deride people with whom he disagrees. (Exhibits E-3, E-4 to White Decl.).
- Mr. Woods called the controversial Al Sharpton a "disgusting pig" and said that he was "DIRECTLY responsible for the murder of two good policemen." (Exhibit E-12 to White Decl.)
- Mr. Woods posted a picture of a man wearing a shirt that appears to celebrate the 9/11 attacks and stated "I could shoot this guy in the head and sleep like a baby." (Exhibit E-7 to White Decl.)
- When *Rolling Stone* published a profile of the Boston Marathon Bomber and featured his picture on the cover, Mr. Woods launched an angry tirade, suggesting that publisher Jann Wenner – who is gay -- harbored "erotic fantasies" about the domestic terrorist and was "whacking off" to him, and that Wenner was a "disgusting piece of shit" who made the bomber into a "dreamboat homoerotic fantasy." (Exhibits E-11, E-13, and E-14 to White Decl.)
- The homophobic quality of Mr. Woods' Wenner tweets are typical. On another occasion, Mr. Woods sneered at Justice Kennedy's statement "gays ask for equal dignity in the eyes of the law" by posting a picture of explicit conduct by nearly-naked men at a gay pride parade. (Exhibit E-6 to White Decl.)
- Mr. Woods expresses his hostility for illegal immigration, posting pictures of immigrants as "undocumented Democrats on their way to America's voting booths" and suggesting that

[18] Twitch.com, *'For the Record': James Woods Explains Why He's Giving Up on The MSM and Sticking To Twitter* (October 11, 2013) [retrieved from http://twitchy.com/2013/10/11/for-the-record-james-woods-explains-why-hes-giving-up-on-the-msm-and-sticking-to-twitter/ as of July 27, 2015.]

[19] Twitchy.com, *'Unending Stream of Mindless Bile': James Woods Retweets Liberal Followers*, (August 8, 2014) [retrieved from http://twitchy.com/2014/08/08/unending-stream-of-mindless-bile-james-woods-retweets-liberal-followers/ as of July 27, 2015.]

illegal immigrants are not children worthy of sympathy but menacing tattooed gang members. (Exhibits E-8 and E-9 to White Decl.)

- When questioned or insulted, Mr. Woods throws a rhetorical elbow right back. When a Twitter user called him a "dick," Mr. Woods rejoined that "dick" was a "menu choice" for the insulter. (Exhibit E-5 to White Decl.) When another user used the same insult and claimed that Mr. Woods wouldn't take a picture with her, Mr. Woods called her a "disgusting, reprehensible liar." (Exhibit E-10 to White Decl.).

Mr. Woods' odd combativeness obviously wasn't meant to go unnoticed, and it doesn't. Perhaps because he has portrayed drug users during his long and successful acting career, and perhaps because his Twitter persona seems manic, for several years Twitter users have routinely joked that Mr. Woods is on cocaine. Exhibits C1 through C10 are ten different examples of Twitter users reacting to Mr. Woods' diatribes with that "you're on coke" insult. That vivid insult – "your political views suggest you are on drugs" -- is a staple of American rhetorical life.[20] In fact, ***Mr. Woods has repeatedly used the insult himself*** – the very insult that he now sues over. (Exhibits E-1, E-2 to White Decl.)

C. <u>Mr. Doe Is Also Known For Blunt Rhetoric And For Insulting Political Figures</u>

Mr. Doe is not rich or famous like Mr. Woods. He polices Twitter expression he doesn't like through responsive speech, not through expensive lawsuits. People who follow his Twitter account @AbeListed would be familiar with his blunt and abrasive style of insulting political opponents, often directing his insults at their Twitter accounts. For example:

- In response to a tweet by Donald Trump advancing the notion that President Obama was not born in the United States, Mr. Doe snarked "the new Klan will have orange hair." (Exhibit D-1 to White Decl.) Mr. Doe later called Trump and conservative writer Rich Lowry (called out specifically as @RichLowry) "the United Racists of America" and joked that they were actually Democratic agents working to alienate the Latino vote from the GOP. (Exhibit D-2 to White Decl.) He exaggerated, arguably, by suggesting that Glenn Beck's political views showed a need for anti-psychotic medication. (Exhibit D-7 to White Decl.)

[20] It is not clear why Mr. Woods, who makes homophobic comments on Twitter, has singled out Mr. Doe, a vocal gay rights activist, as the one Twitter user to sue over this joke.

- Mr. Doe's remarks often included the rhetorical trope of suggesting that alcohol or drugs produced the political positions he didn't like. In response to a post criticizing President Obama, Mr. Doe mocked former Reagan speechwriter Peggy Noonan as "hitting the gin again" and asked if she "read any Pew polls between cocktails." (Exhibit D-4 to White Decl.) Similarly, when Liz Cheney suggested that Sarah Palin was more qualified than President Obama, Mr. Doe asked "what drugs is Liz Cheney on?" (Exhibit D-8 to White Decl.)
- As Mr. Woods angrily reveals in the Complaint, Mr. Doe has insulted Mr. Woods before, calling him "ridiculous scum clown-boy James, a joke." (Exhibit B to White Decl.)
- A gay rights activist, Mr. Doe is particularly vigorous in attacking Twitter users and public figures who engage in homophobia. When evangelist Franklin Graham called for a boycott of LGBT-friendly companies Mr. Doe called him a "two-bit huckster." (Exh. D-5 to White Decl.) Regarding Justice Scalia, who penned dissents to recent gay rights decisions, Mr. Doe offered the colorful if incoherent insult "why can't I inject Scalia with an admixture of Breitbart's recycled cholesterol and Ben Shapiro's colorless piss," referring to two prominent conservative commentators. (Exhibit D-9 to White Decl.)

D. <u>Mr. Woods Sent A Political Tweet, Mr. Doe Insulted Him In Response</u>

Mr. Woods is suing Mr. Doe over a July 15, 2015 Twitter exchange. It began when Mr. Woods tweeted "USATODAY app features Bruce Jenner's latest dress selection, but makes zero mention of Planned Parenthood baby parts market." (Exhibit A to White Decl.) To Mr. Doe, Mr. Woods tweet – which deliberately called the transgendered woman Caitlyn Jenner by her former name and tied her to an unrelated political controversy about abortion – was the latest in a pattern of aggressive homophobic tweets. So he responded with an insult – an insult commonly directed at Mr. Woods on Twitter as an in-joke (Exhibits C1-10 to White Decl.), and an insult Mr. Woods has employed himself (Exhibits E-1 and E-2 to White Decl.). He responded "cocaine addict James Woods still sniffing and spouting." (Exhibit A to White Decl.)

The screenshot of the tweet submitted by Mr. Woods shows that one person "favorited" Mr. Doe's insult. (Exhibit A.) It would have been visible to Mr. Doe's followers and potentially to anyone

who searched for the terms within it. (White Decl. at ¶¶ 16-17.) It would not have automatically displayed to Mr. Woods' followers, unless they also followed Mr. Doe. (*Ibid.*)

In response Mr. Woods has sued Mr. Doe for defamation and false light invasion of privacy. Mr. Woods focuses on the "cocaine addict" tweet, but also complains bitterly that Mr. Doe has engaged in "rantings" and "childish name calling" and has called him things like "joke" and "ridiculous" and "scum" and "clown-boy." (Complaint at ¶¶ 1,8.)

III. ARGUMENT

The Court should strike Mr. Woods' complaint under California's anti-SLAPP statute. Mr. Doe easily carries his burden under the first prong of the anti-SLAPP test; his speech is in a public forum and on a matter of public interest. But Mr. Woods cannot carry his burden: because Mr. Doe's tweet is rhetorical hyperbole plainly protected by the First Amendment, Mr. Woods' attempt to abuse the courts to censor Mr. Doe must fail.

A. California's Anti-SLAPP Statute Protects Mr. Doe's First Amendment Rights From Plaintiff's Frivolous Assault

California's anti-SLAPP statute helps defend against the "disturbing increase in lawsuits brought primarily to chill the valid exercise of the constitutional rights of freedom of speech and petition for the redress of grievances." (§ 425.16.) An anti-SLAPP motion like this one triggers a two-step process.

First, Mr. Doe must make a prima facie showing that the conduct cited in the Complaint concerns or arises from "any act of that person in furtherance of the person's right of petition or free speech under the United States Constitution or the California Constitution in connection with a public issue." (§ 425.16, subd. (b)(1); *Governor Gray Davis Committee v. American Taxpayers Alliance* (2002) 102 Cal.App.4th 449, 458–59.) In determining whether Mr. Doe has sustained his initial burden, the Court considers the pleadings, declarations and matters that may be judicially noticed. (§ 425.16, subd. (b)(2); *Brill Media Co., LLC v. TCW Group, Inc.*, (2005) 132 Cal.App.4th 324, 329.)

Second, once Mr. Doe carries his burden (as he easily does), the burden shifts to Mr. Woods to show that he has a probability of prevailing on his claim. (§ 425.16, subd. (b)(1); *Premier Med. Mgmt. Systems, Inc. v. California Ins. Guar. Ass'n* (2006) 136 Cal.App.4th 464, 476 ["plaintiff must

demonstrate that the complaint is both legally sufficient and supported by a sufficient prima facie showing of facts to sustain a favorable judgment"].) Mr. Woods' burden "resembles the burden he would have in fending off a motion for summary judgment or directed verdict." *Gilbert v. Sykes* (2007) 147 Cal.App.4th 13, 53. He must therefore submit *admissible* evidence to oppose an anti-SLAPP motion. (*HMS Capital, Inc. v. Lawyers Title Co.* (2004) 118 Cal.App.4th 204, 212.) If Mr. Woods can't even state a cause of action, he by definition can't meet this standard. (*Vogel v. Felice* (2005) 127 Cal.App.4th 1006, 1017 plaintiff cannot show a probability of success where claim is legally insufficient on its face]).

If Mr. Woods cannot carry his burden, the Court must strike the Complaint and award attorney fees and costs to Mr. Doe. (§ 425.16, subd. (c).)

B. <u>The Complaint Arises From Mr. Doe's Protected Speech, Triggering the Anti-SLAPP Statute</u>

Mr. Doe easily carries his burden under the first prong of the anti-SLAPP statute. That statute applies to the following expression:

> (1) any written or oral statement or writing made before a legislative, executive, or judicial proceeding, or any other official proceeding authorized by law; (2) any written or oral statement or writing made in connection with an issue under consideration or review by a legislative, executive, or judicial body, or any other official proceeding authorized by law; (3) ***any written or oral statement or writing made in a place open to the public or a public forum in connection with an issue of public interest***; (4) or ***any other conduct in furtherance of the exercise of the constitutional right of petition or the constitutional right of free speech in connection with a public issue or an issue of public interest.*** (§ 425.16, subd. (e) [emphasis added].)

It does not matter what guise or cause of action Mr. Woods uses to attack the protected expression. If the factual conduct described in the Complaint falls into one of these categories, it triggers the anti-SLAPP statute. (*Martinez v. Metabolife Intern., Inc*. (2003) 113 Cal.App.4th 181, 187 ["a plaintiff cannot avoid operation of the anti-SLAPP statute by attempting, through artifices of pleading, to characterize an action as a 'garden variety breach of contract [or] fraud claim' when in fact the liability claim is based on protected speech or conduct."].) Therefore it applies both to Mr. Woods' defamation claim and to his claim styled as "false light invasion of privacy."

Here, Mr. Woods' own complaint demonstrates that Mr. Doe's challenged tweet was both a statement on a matter of public interest in a public forum and an exercise of his right to free speech on an issue of public interest. (§ 425.16, subd. (e)(3), (4).)

First, the Complaint demonstrates that Twitter is a public forum – Mr. Woods describes how hundreds of thousands of users read his statements there. (Complaint at ¶1.) Anyone can sign up for Twitter, make statements there, and read other people's statements. (White Decl. at ¶ 8.)

Second, the exchange between Mr. Woods and Mr. Doe was a quintessential matter of public interest. A matter of public interest is "any issue in which the public is interested." *Nygard, Inc. v. Uusi-Kerttula* (2008) 159 Cal.App.4th 1027, 1042 [story about a celebrity's conduct was a matter of public interest]; *Cross v. Cooper* (2011) 197 Cal.App.4th 357, 372-73. In this case the exchange arose when Mr. Woods tweeted about two issues of public interest – the recent highly publicized gender transition of Caitlyn Jenner and controversial abortion videos. (Exhibit A.) In the tweet that is the basis for this lawsuit, Mr. Doe responded with an insult directed to Mr. Woods, who is a self-described "world-renowned award-winning actor." (*Ibid.;* Complaint at ¶ 3.) Moreover, as is noted above, Mr. Woods' penchant for rough-and-tumble exchanges on Twitter has already been the subject of numerous media reports.[21] This is more than enough, especially in light of the Legislature's instructions that courts interpret the anti-SLAPP statute broadly. (*Martinez, supra,* 113 Cal.App.4th 181, 187; § 425.16, subd. (a).)

Mr. Doe has therefore made a prima facie showing that his challenged expression is covered by the anti-SLAPP statute. The burden now shifts to Mr. Woods to show a probability of prevailing. Because Mr. Doe's tweet was so clearly rhetorical hyperbole and not a provable statement of fact, Mr. Woods cannot prevail.

C. <u>Mr. Woods Cannot Prevail Because The Challenged Language Is Hyperbole, Not A Statement of Provable Fact</u>

Mr. Woods can't carry his burden because he is suing over a tweet that is clear rhetorical hyperbole, and therefore absolutely protected by the First Amendment.

1. <u>Only Statements of Provable Fact, Not Hyperbole and Insult, Can Be Defamatory</u>

To be defamatory a statement "must contain a false statement of *fact.*" (*Gregory v. McDonnell*

[21] *See* footnotes 15-19, *supra.*

(1976) 17 Cal.3d 596, 600-01.) Only ***provably false statements of fact*** can be defamatory; insults, hyperbole, and "loose and figurative expressions of opinion" cannot be. (*Paterno v. Superior Court* (2008) 163 Cal.App.4th 1342, 1356.) "Rhetorical hyperbole," "vigorous epithet," "lusty and imaginative expression of [ ] contempt," and language used "in a loose, figurative sense" are all protected by the First Amendment. (*Greenbelt Pub. Assn. v. Bresler* (1970) 398 U.S. 6, 14.)

Many courts have applied this rule to rhetorical and insulting accusations of criminal activity or dishonesty. For example, in *Rosenauer v. Scherer* (2001) 88 Cal.App.4th 260, 280 the court upheld an anti-SLAPP order when the defendant called plaintiff a "thief" and "liar" in "the midst of a heated confrontation over a political issue," because, as the court explained, the language was "the type of loose, figurative, or hyperbolic language that is constitutionally protected." Similarly, in *Standing Commission on Discipline v. Yagman* (9th Cir. 1995) 55 F.3d 1430, 1440, the court found that the term "dishonest" was protected opinion because it was "used to convey the low esteem" in which the defendant lawyer held a judge, not as a literal allegation of dishonesty. (*See* also *Greenbelt Co-op. Pub. Ass'n v. Bresler* (1970) 398 U.S. 6, 14 [an article using the term "blackmail" was not defamatory because "even the most careless reader must have perceived that the word was no more than rhetorical hyperbole, a vigorous epithet"]; *Troy Group, Inc. v. Tilson* (C.D. Cal. 2005) 364 F.Supp.2d 1149, 1159 ["crooks" is obvious hyperbole and not a statement of fact]; *Morningstar, Inc. v. Superior Court* (1994) 23 Cal.App.4th 676, 691 [titling article "Lies, Damn Lies, and Fund Advertisements" not actionable as libel because it "cannot reasonably be read to imply a provably false factual assertion"].)

Whether a statement is one of fact or one of hyperbole is a question of law for the court. (*Seelig v. Infinity Broadcasting Corp.* (2002) 97 Cal.App.4th 798, 809-10.) In making this determination, California courts look at the totality of the circumstances, including both the words used and their context. (*Ibid.*, citing *Rudnick v. McMillan* (1994) 25 Cal.App.4th 1183, 1191.) In considering the context of a statement, courts examine the "***knowledge and understanding of the audience to whom the publication was directed***." (*Seelig, supra*, 97 Cal.App.4th at 809-810 [emphasis added]; *Moyer v. Amador Valley J. Union High School Dist.* (1990) 225 Cal.App.3d 722, 724.) A statement made by a publication known for hyperbole and abuse is therefore more likely to be taken as hyperbole and not fact. In *Seelig*, for instance, the court considered the "irreverence" of a morning ratio program "which

may strike some as humorous and others as gratuitously disparaging" in determining that "no reasonable listener" could take the challenged statements as factual pronouncements. (97 Cal.App.4th at p. 811.)

Similarly, statements in an adversarial setting are more likely to be interpreted as hyperbole and not fact. "[W]here potentially defamatory statements are published in a ... setting in which the audience may anticipate efforts by the parties to persuade others to their positions by use of epithets, fiery rhetoric or hyperbole, language which generally might be considered as statements of fact may well assume the character of statements of opinion." (*Gregory v. McDonnell Douglas Corp.* (1976) 17 Cal.3d 596, 601[statements in a bulletin attacking the motives of union officers in a labor dispute], quoted in *Ferlauto v. Hamsher* (1999) 74 Cal.App.4th 1394, 1401-02.)

In applying this doctrine, California courts have repeatedly recognized that speech on internet forums like Twitter is likely to be viewed by its audience as opinion or hyperbole, not fact. That's particularly true when the statements are couched in bombastic language:

- In *Krinsky v. Doe 6* (2008) 159 Cal.App.4th 1154, the court found that posts on a Yahoo! Finance board that accused the plaintiff of misconduct using terms like "mega scum bag" and "cockroach" were not statements of fact. "A reasonable reader of this diatribe would not comprehend the harsh language and belligerent tone as anything more than an irrational, vituperative expression of contempt for the three officers of SFBC and their supporters." (159 Cal.App.4th at 1175-76. [noting that debate or criticism often becomes "heated or caustic" on the internet]).
- In *Summit Bank v. Rogers* (2012) 206 Cal.App.4th 669, the court reviewed numerous authorities for the proposition that "online blogs and message boards are places where readers expect to see strongly worded opinions rather than objective facts." (*Id.* at pp. 696-97.) The court emphasized that in determining whether a statement is taken as fact or bluster, the court must consider how someone familiar with the context would view them: "Rogers's statements must be viewed from the perspective of the average reader of an Internet site such as Craigslist's 'Rants and Raves,' not the Bank or a banking expert who might view them as conveying some special meaning." (*Ibid.*)

- In *Chaker v. Mateo* (2012) 209 Cal.App.4th 1138, the court found that an ex-lover's rant on a review site called "Ripoff Report" was non-actionable opinion. Because the defendant's statements were made "on Internet Web sites which plainly invited the sort of exaggerated and insulting criticisms of businesses and individuals which occurred here," the defendant's statements that plaintiff "picks up street walkers and homeless drug addicts and is a dead beat dad would be interpreted by the average Internet reader as . . . insulting name calling . . . ." (*Id.* at p. 1149.)

The fact that something is posted on the internet doesn't *automatically* make it hyperbole. An internet statement can be treated as one of fact if it is accompanied by indicia of reliability, none of which are present in this case:

> Internet posts where the "tone and content is serious," where the poster represents himself as "unbiased" and "having specialized knowledge," or where the poster claims his posts are "Research Reports" or "bulletins" or "alerts," may indeed be reasonably perceived as containing actionable assertions of fact. (*Overstock.com, supra*, 151 Cal.App.4th at pp. 705–706, 61 Cal.Rptr.3d 29.) And while "generalized" comments on the Internet that "lack any specificity as to the time or place of" alleged conduct may be a "further signal to the reader there is no factual basis for the accusations," specifics, if given, may signal the opposite and render an Internet posting actionable. (*Chaker, supra*, 209 Cal.App.4th at pp. 1149–1150, 147 Cal.Rptr.3d 496 [making this distinction but finding the comments at issue too generalized to support a defamation claim]; cf. *ComputerXpress, Inc. v. Jackson, supra,* 93 Cal.App.4th at p. 1013, 113 Cal.Rptr.2d 625 [though generally dismissing Internet postings as nonactionable, suggesting that in a "few instances in which the postings did contain apparent statements of ***432** facts—such as the statement that a company owned by the former president had filed for bankruptcy"—they could have been actionable had there been evidence of falsehood].) (*Bentley Reserve L.P. v. Papaliolios* (2013) 218 Cal.App.4th 418, 433.)

Application of this law to these facts leads inexorably to one conclusion: Mr. Doe's insulting tweet was not a statement of provable fact, and can't be defamatory.

2. Mr. Doe's Tweet Was Hyperbole And Insult, Not A Statement of Provable Fact

In this case, an examination of the context, the understanding of the audience, and the totality of the circumstances shows that every relevant factor points to Mr. Doe's insulting tweet being figurative and hyperbolic, not a statement of fact:

Twitter is known for hyperbole. Twitter is known for abuse and hyperbole, not for fact. (*See* Section IIA, *supra.*) Twitter users will not be inclined to view heated tweets as stating provable facts. (*Ferlauto supra,*74 Cal.App.4th at pp. 1401-02.)

Mr. Doe is known for insult and hyperbole. Mr. Doe's audience – his followers on Twitter – know that he routinely engages in insult and hyperbole over political figures and pundits. (*See* Section IIB, *supra*.) In fact, Mr. Doe's audience knows that he uses rhetorical accusations of drug or alcohol abuse as a way to express disagreement with political positions. (Exhibits D-4, D-8 to White Decl.) They also know that he reacts with anger to homophobia. (Exhibits D-5, D-9.) The audience won't expect heated tweets to state provable fact. *(Seelig, supra,* 97 Cal.App.4th at pp. 809-810.)

Mr. Woods is known for insult and hyperbole. Mr. Woods' followers know that he is routinely at the center of heated political rhetoric. (*See* Section IIB, *supra*.) He's even gone out of his way to emphasize the vivid insults he receives on Twitter. (*See* footnote 19, *supra*.) His audience won't expect heated exchanges with him to contain provable statements of fact. (*Seelig, supra,* 97 Cal.App.4th at pp. 809-810.)

Mr. Doe's tweet came as part of a pattern of insult towards Plaintiff. Plaintiff repeatedly and specifically states that the tweet he sues over was part of a pattern of insult and abuse. He calls the tweet "the culmination of a malicious on-line campaign" of "rantings against Woods" including "childish name calling." (Complaint at ¶ 1.) He emphasizes that Mr. Doe has called him "prick," "joke," "ridiculous," "scum," and "clown-boy." (*Id.* at ¶ 8; Exh. B to White Decl.) He complains that Mr. Doe seeks to "humiliate others who dare to harbor opinions different from his own." (Complaint at ¶1.) Mr. Doe's "cocaine addict" tweet comes in the wake of Mr. Doe's tweet saying "you are a ridiculous scum clown-boy, James, a joke." (Exhibit B to White Decl.) Therefore an audience familiar with this interaction would recognize the tweet as just the *latest item in a series of insults*, not as a fact. (*Gregory,supra,* 17 Cal.3d at p. 601.)

Mr. Doe's tweet echoed a Twitter in-joke. Twitter users routinely use the "cocaine" insult to respond to Mr. Woods' political rants. (Exhibits C-1 to C-10 to White Decl.). An audience familiar with Twitter would therefore interpret Mr. Doe's tweet as an iteration of that joke, not as a provable factual assertion. (*Seelig supra*, 97 Cal.App.4th at pp. 809-810.)

Mr. Doe was responding to a vivid political statement. Mr. Doe's insult was not offered in the abstract; it came in response to Plaintiff's vivid statement suggesting that the media should be concerned with abortion and not Caitlyn Jenner's dress selection. (Exhibit A.) Plaintiff pointedly

referred to Caitlyn Jenner by her former name, Bruce Jenner, making the expression more pungent to a gay rights activist like Mr. Doe. (*Id.*) Mr. Doe's tweet was a political response to this political statement. Political rhetoric is much more likely to be taken as hyperbole and not as a statement of literal fact. *(Beilenson v. Superior Court*, 44 Cal.App.4th 944, 950 (1996) [campaign mailer charging politician with "ripp[ing] off" taxpayers "when taken in context with the other information contained in the mailer [is] rhetorical hyperbole common in political debate" and not defamatory].)

Mr. Doe is anonymous. Mr. Doe tweets anonymously under a pseudonym. (Complaint at ¶ 1.) California courts recognize that statements by anonymous internet sources are less likely to be seen as statements of fact. (*Krinsky, supra,* 59 Cal.App.4th at p. 1162; *Summit Bank supra,*, 206 Cal.App.4th at p. 697.)

Mr. Doe's tweet was not formal. Mr. Doe's tweet "cocaine addict James Woods still sniffing and spouting" was a sentence fragment, not a carefully crafted and grammatical statement. California courts recognize that informality doesn't support viewing a statement as factual. (*Summit Bank supra,* 206 Cal.App.4th at p. 697.)

Mr. Doe's statement was not labeled as fact. Mr. Doe didn't label his tweet as factual. California courts have recognized that as a factor in determining whether a statement is fact or opinion. ***(****Papaliolios, supra*, 218 Cal.App.4th at p. 431.)

Mr. Doe's statement didn't include any indicia of reliability. Mr. Doe didn't say why he thought Mr. Woods was a "cocaine addict," how he would be in a position to know, or what facts or evidence supported the statement. It didn't include any details. In other words, it didn't include any of the factors that California courts have identified as suggesting internet bluster can be taken as fact. (*See, e.g., Papaliolios, supra,* 218 Cal.App.4th at p. 431 [noting detail and claims of personal knowledge as indicia of statements of fact].)

In short, **all of the facts show that Mr. Doe's audience would not have interpreted his tweet as a statement of fact.** (*Seelig, supra,* 97 Cal.App.4th at pp.809-810). The totality of the circumstances ***overwhelmingly*** shows it was not a statement of fact. (*Ibid.*) The tweet is classic "rhetorical hyperbole," "vigorous epithet," "lusty and imaginative expression of [ ] contempt," and

language used "in a loose, figurative sense," and therefore non-defamatory and absolutely protected by the First Amendment. (*Greenbelt supra*, 398 U.S. at p. 14.)

Because Plaintiff can't show a false statement of provable fact, he can't make a prima facie case of defamation. Nor can he make a prima facie case for his second cause of action of False Light Invasion of Privacy. First, that claim is defective when combined with a defamation claim based on the same facts. "When an action for libel is alleged, a false-light claim based on the same facts (as in this case) is superfluous and should be dismissed." (*McClatchy Newspapers, Inc. v. Superior Court* (1987) 189 Cal.App.3d 961, 965.) Moreover, if a defamation claim cannot succeed, nor can a false light claim on the same facts. (*Tamkin v. CBS Broadcasting* (2011) 193 Cal.App.4th 133, 148.)

California courts have recognized that online anonymity allows the weak to criticize the strong:

> "The use of a pseudonymous screen name offers a safe outlet for the user to experiment with novel ideas, express unorthodox political views, or criticize corporate or individual behavior without fear of intimidation or reprisal. In addition, by concealing speakers' identities, the online forum allows individuals of any economic, political, or social status to be heard without suppression or other intervention by the media or more powerful figures in the field." (*Krinsky v. Doe 6, supra*, 159 Cal.App.4th at p. 1162, 72 Cal.Rptr.3d 231.) "The 'ability to speak one's mind' on the Internet 'without the burden of the other party knowing all the facts about one's identity can foster open communication and robust debate.' " (*Doe v. 2TheMart.com Inc.* (2001) 140 F.Supp.2d 1088, 1092.) (*Digital Music News LLC*, 226 Cal.App.4th at 228-29.)

This case shows exactly why anonymity is valuable and necessary: a rich and famous person, furious that some presumptuous gay activist dares to use the same language he uses all the time, has lashed out with a vexatious lawsuit to silence and abuse his critic. The Court should not permit it. The Court should grant the motion and strike Plaintiff's vexatious and censorious lawsuit.

D. Mr. Doe is Entitled To His Attorney Fees

A "prevailing defendant" on a motion to strike "shall be *entitled*" to recover attorney fees and costs. (Code Civ. Proc. § 425.16, subd. (c) [emphasis added].) The fee award is mandatory, and may be sought in three ways: (1) the party may request fees in the motion; (2) the party may make a noticed motion for fees after the ruling on the anti-SLAPP motion; or (3) the party may include the fee request in the cost bill after entry of judgment. (*American Humane Ass'n v. Los Angeles Times Communications*, (2001) 92 Cal.App.4th 1095, 1103.)

Here, Mr. Doe will submit a motion for fees after the hearing on this motion.

IV. CONCLUSION

For the foregoing reasons, Defendant John Doe respectfully requests that the Court strike this vexatious Complaint and award his attorney fees, for which he will move separately.

Dated: September 1, 2015

Respectfully submitted,

BROWN WHITE & OSBORN LLP

By _____

KENNETH P. WHITE
Attorneys for Defendant
JOHN DOE

DECLARATION OF KENNETH P. WHITE

I, Kenneth P. White, declare as follows:

1. I am an attorney licensed to practice law in California and am a Partner at Brown White & Osborn LLP, attorneys for Defendant John Doe ("Defendant"). I make this Declaration in support of Defendant's Special Motion to Strike. I know the matters in this declaration based on my own knowledge and could testify to them if called as a witness. However, because this declaration is submitted for a limited purpose, it does include all fact I know about the matter.

EXHIBITS

2. Attached as **Exhibit A** is a true and correct copy of a screenshot of the July 15, 2015 Twitter exchange that is the subject of this lawsuit. I obtained it from Exhibit A to Plaintiff's ex parte application for early discovery, referred to in paragraph 3 of Mr. Woods' August 27, 2015 declaration in support of that ex parte application.

3. Attached as **Exhibit B** is a true and correct copy of a screenshot of the December 25, 2015 Twitter exchange referred to in Plaintiff's complaint. I obtained it from Exhibit B to Plaintiff's ex parte application for early discovery, referred to in paragraph 6 of Mr. Woods' August 27, 2015 declaration in support of that ex parte application.

4. Attached as **Exhibit C** are 10 true and correct copies of screenshots of Twitter exchanges in which Twitter users make reference to cocaine use by Plaintiff. They were found at the following locations:

a. C-1: https://twitter.com/AnnLynch3/status/563114160071122945

b. C-2: https://twitter.com/BexaRaven/status/563710275816157184

c. C-3: https://twitter.com/Jaccuse1/status/562483964078592000

d. C-4: https://twitter.com/HaneyClay/status/557986986301325312

e. C-5: https://twitter.com/Rinkguy/status/555336155877900288

f. C-6: https://twitter.com/sunny37130/status/547209909809332226

g. C-7: https://twitter.com/BaronMatrix/status/388403286132281344

h. C-8: https://twitter.com/realmrmom/status/551072794851565569

i. C-9: https://twitter.com/Cjenkinshammond/status/547554606801104896

j. C-10: https://twitter.com/fukyu70/status/549348416078487552

5. Attached as **Exhibit D** are true and correct copies of screenshots of tweets posted by Mr. Doe on his @AbeListed Twitter account. They were found at the following locations:

a. D-1: https://twitter.com/abelisted/status/411371374389624832

b. D-2: https://twitter.com/abelisted/status/616436842095751169

c. D-3: https://twitter.com/abelisted/status/407180532699512832

d. D-4: https://twitter.com/abelisted/status/472185624565280768

e. D-5: https://twitter.com/abelisted/status/608013379999899648

f. D-6: https://twitter.com/abelisted/status/464774085281460225

g. D-7: https://twitter.com/abelisted/status/326935265065185280

h. D-8: https://twitter.com/abelisted/status/357259754847993858

i. D-9: https://twitter.com/abelisted/status/448733069332054016

6. Attached as **Exhibit E** are true and correct copies of screenshots of tweets posted by Plaintiff on his @RealJamesWoods account. They were found at the following locations:

a. E-1: https://twitter.com/RealJamesWoods/status/388773780417302528

b. E-2: https://twitter.com/RealJamesWoods/status/546782498525839360

c. E-3: https://twitter.com/RealJamesWoods/status/491672808012144640

d. E-4: https://twitter.com/RealJamesWoods/status/357750439518797824

e. E-5: https://twitter.com/RealJamesWoods/status/381629222823161856

f. E-6: https://twitter.com/RealJamesWoods/statuses/614751096255283200

g. E-7: https://twitter.com/RealJamesWoods/status/549327893567115267

h. E-8: https://twitter.com/EmptyChair2012/status/495427243716644866

i. E-9: https://twitter.com/RealJamesWoods/status/488953744730914817

j. E-10: https://twitter.com/RealJamesWoods/status/390674524523352064

k. E-11: https://twitter.com/RealJamesWoods/status/357747578009432064

l. E-12: https://twitter.com/RealJamesWoods/status/546618313884045312

m. E-13: https://twitter.com/RealJamesWoods/statuses/357748304416735232

n. E-14: https://twitter.com/RealJamesWoods/statuses/357739270162751488

TWITTER

7. I have used the social media platform Twitter for more than five years and am very familiar with how it works. I co-run a Twitter account that has posted almost 75,000 "tweets" over that time and has more than 43,000 followers. In addition, I have researched and written several times about the implications of defamation and true threat law as applied to communications on Twitter, and have been interviewed on that subject by various media outlets.

8. Twitter users create an account with a username. The account name is preceded with an "at sign," @. Thus Mr. Woods' Twitter account is @RealJamesWoods, and Mr. Doe's is @AbeListed. Anyone with an email address can sign up, make statements, and read other people's statements.

9. Twitter users can post messages of up to 140 characters from their account in a single message, and can post pictures, video, and links to other web sites as part of those messages. Each message is called a "tweet."

10. Once a Twitter user has an account, they can *follow* other accounts with a push of a button. "Following" another account means that the user sees the tweets that the account-user posts on Twitter – in effect, the follower is a subscriber to the followed account. The aggregate of all the Twitter accounts a user follows is sometimes called the user's "Twitter feed." Depending on how many accounts the user follows, the feed may generate "tweets" to read slowly or very swiftly.

11. A Twitter user can also "retweet" or "RT" someone else's "tweet." By clicking on a symbol under another user's tweet, a user can cause that tweet to repeat in his or her own timeline, so his or her own followers see that other user's tweet. Tweets by celebrities and other famous people are commonly retweeted hundreds or thousands of times.

12. A Twitter user can "favorite" a tweet by clicking a star symbol under the tweet. This puts the tweet in the user's "favorites" list, which other users can see if they click on that user's "favorites" column.

13. Twitter displays how many times a tweet has been "retweeted" or "favorited." For instance, Exhibit E-1 shows that at the time that particular screenshot was taken, Mr. Woods' tweet had been retweeted by 8 Twitter users and favorited by 14 Twitter users.

14. A Twitter user can also click a "Notifications" link to see the following:

a. All the times their tweets have been retweeted or favorite by others; and

b. All the times someone has addressed them by using like username – like @AbeListed – in a tweet.

15. Twitter has a search function on its main screen. A user can search for a word, or a username, and Twitter will display recent tweets reflecting that word or username.

16. A user will only see someone else's tweet under five circumstances:

a. When the user *follows the person who tweeted*;

b. When the user *follows someone who retweeted* the tweet in question;

c. When someone *"favorites" the tweet*, and the user clicks on that person's "favorites" column;

d. When the user *searches for a word or username* that is in the tweet, and sees it in search results; or

e. When *the tweet is promoted* through Twitter's advertising mechanism.

17. Therefore, when someone like @Abelisted tweets something like Exhibit A to someone like @RealJamesWoods, @Abelisted's followers will see it, but @RealJamesWoods' followers will not automatically see it.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on September 1, 2015 in Los Angeles, California.

Kenneth P. White

EXHIBIT A

https://twitter.com/abelisted/status/621328418861248512

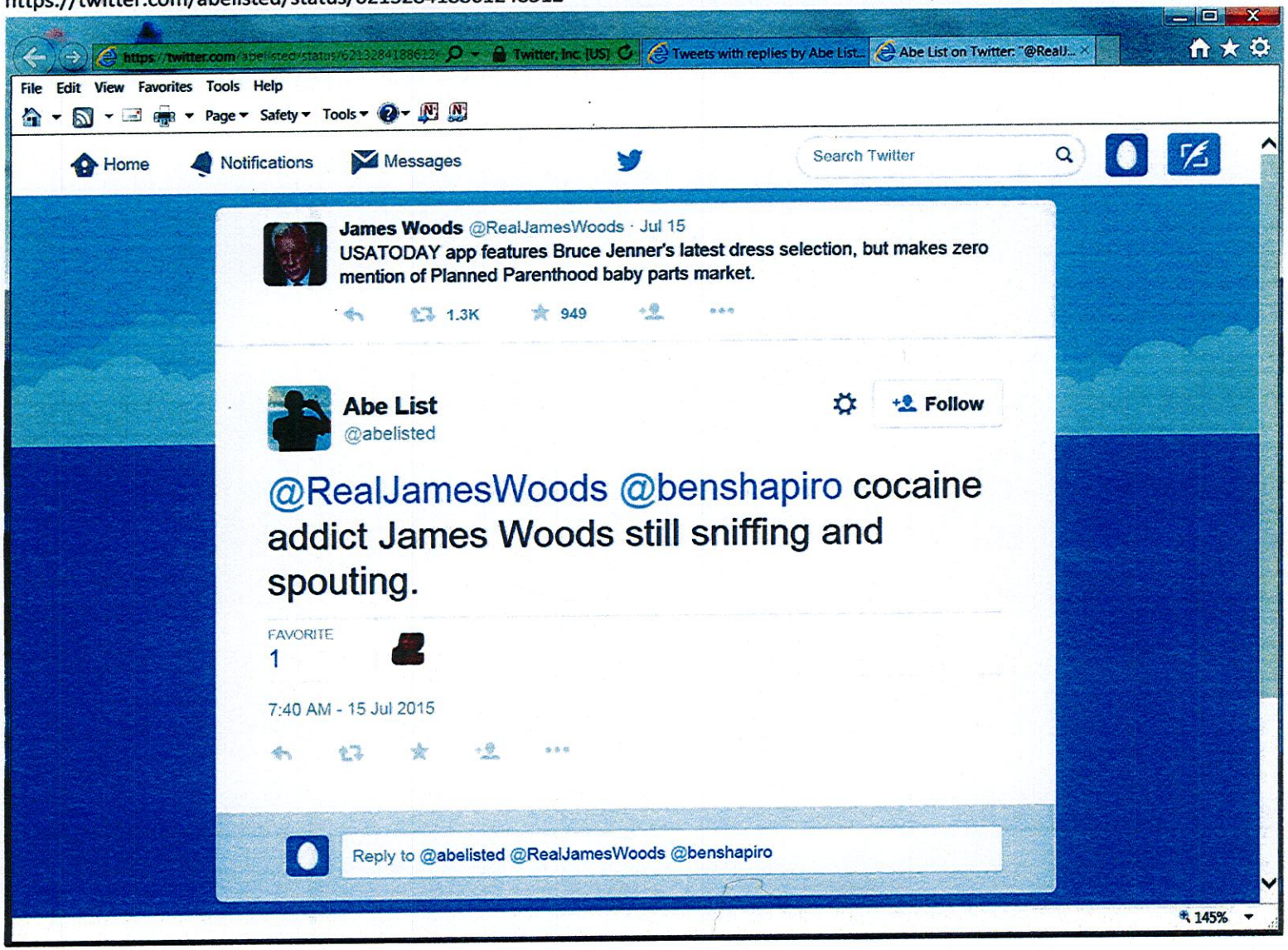
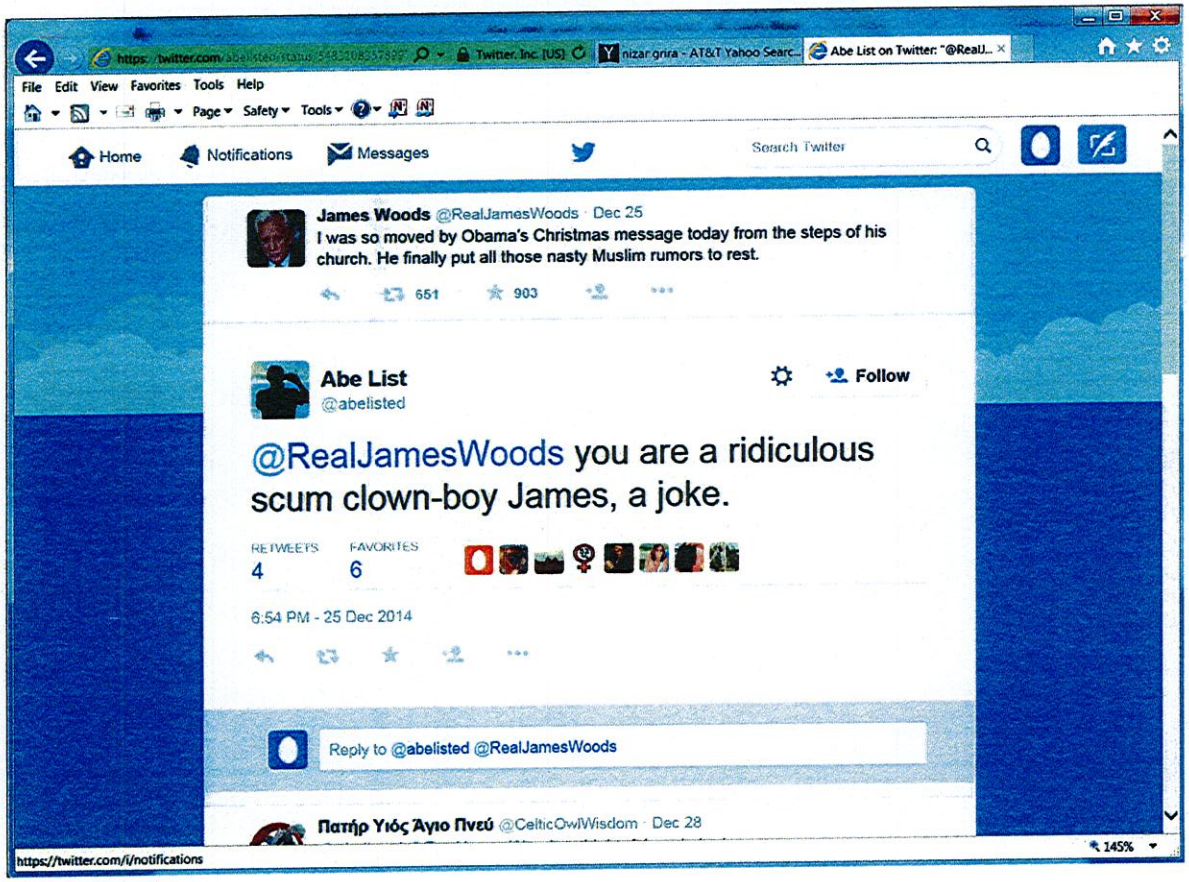
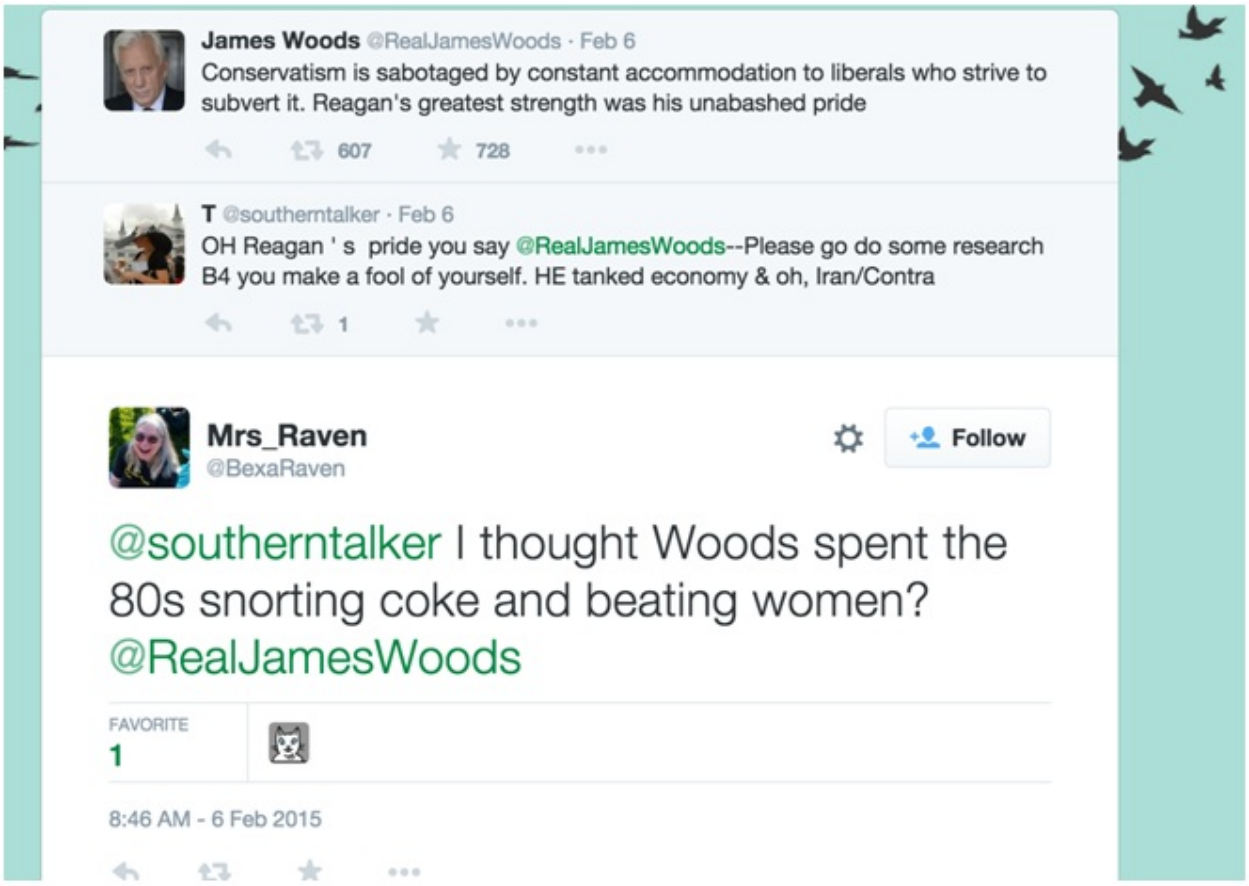


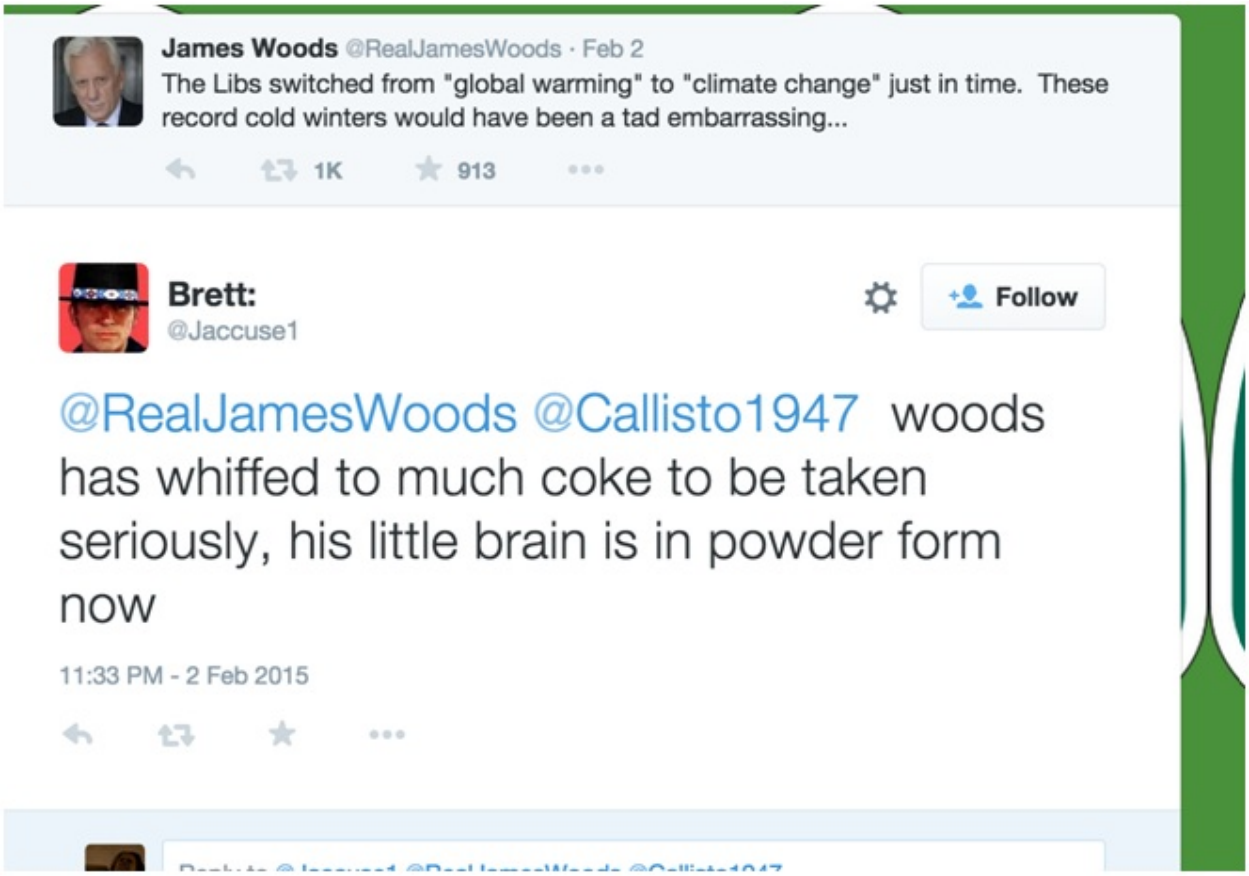
EXHIBIT B


Twitter, Inc. [US]
nizar grira - AT&T Yahoo Searc...
Abe List on Twitter: "@RealJ...
File Edit View Favorites Tools Help
Page Safety Tools
Home
Notifications
Messages
Search Twitter
James Woods @RealJamesWoods · Dec 25
I was so moved by Obama's Christmas message today from the steps of his church. He finally put all those nasty Muslim rumors to rest.
651
903
Abe List
@abelisted
Follow
@RealJamesWoods you are a ridiculous scum clown-boy James, a joke.
RETWEETS
4
FAVORITES
6
6:54 PM - 25 Dec 2014
Reply to @abelisted @RealJamesWoods
Πατήρ Υιός Άγιο Πνεύ @CelticOwlWisdom · Dec 28
https://twitter.com/i/notifications
145%

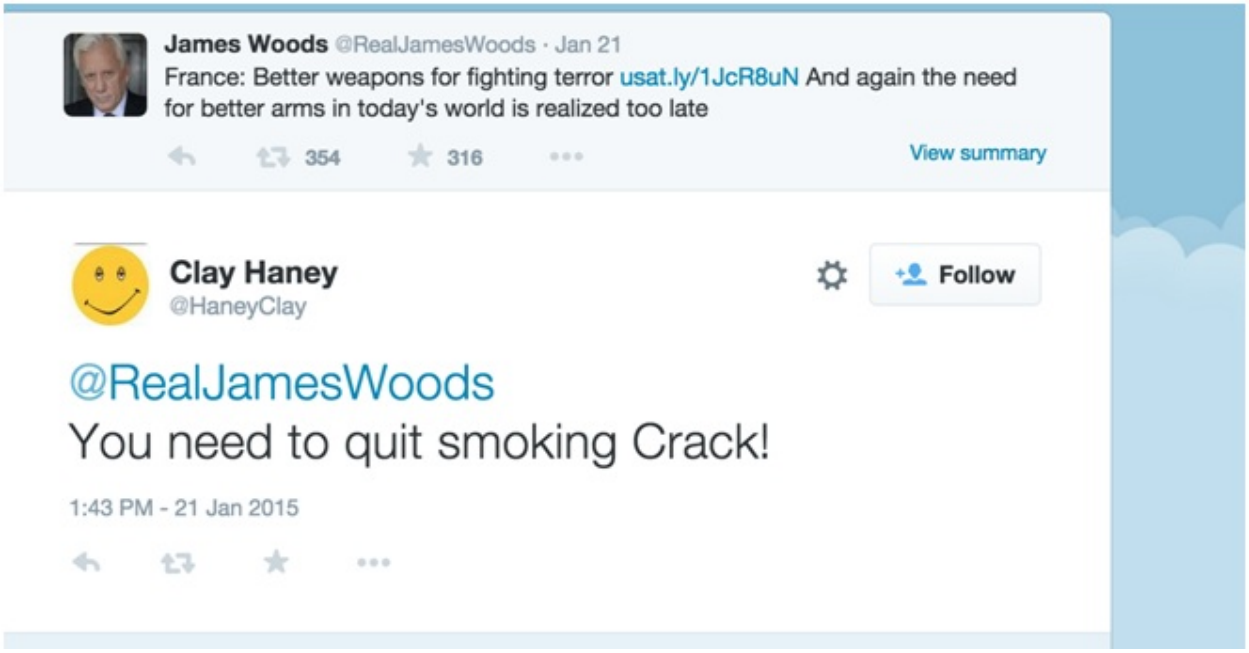

Big Sexy Jeb! Lund @Mobute · Jun 28
James Woods has been in character as a dumb shithead for so long that the movie's gonna be overshadowed by the prep.
James Woods @RealJamesWoods
@RealJamesWoods Justice Anthony Kennedy: "Gays ask for equal dignity in the eyes of the law." #LiveandLetLive
11
37
Is_It_October_Yet
@ifstonefan
Follow
@Mobute @RealJamesWoods - I used to think he was great in The Boost, "playing" a coke addicted asshole. Then I realized he wasn't playing.
FAVORITE
1
7:02 PM - 28 Jun 2015


James Woods @RealJamesWoods · Feb 6
Conservatism is sabotaged by constant accommodation to liberals who strive to subvert it. Reagan's greatest strength was his unabashed pride
607
728
T @southerntalker · Feb 6
OH Reagan ' s pride you say @RealJamesWoods--Please go do some research B4 you make a fool of yourself. HE tanked economy & oh, Iran/Contra
1
Mrs_Raven
@BexaRaven
Follow
@southerntalker I thought Woods spent the 80s snorting coke and beating women? @RealJamesWoods
FAVORITE
1
8:46 AM - 6 Feb 2015

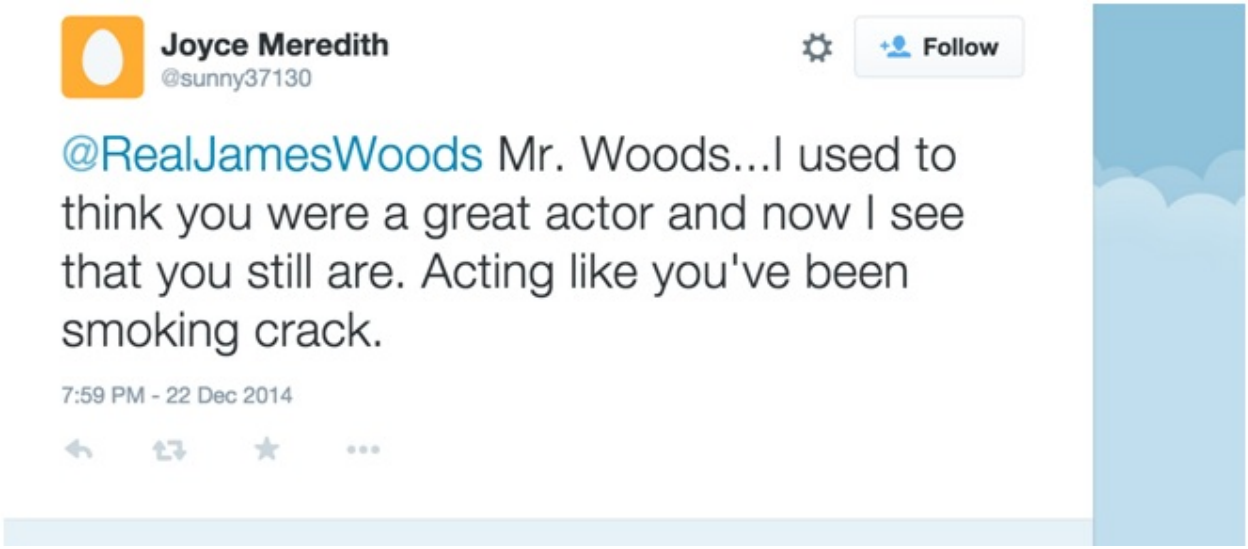
C2

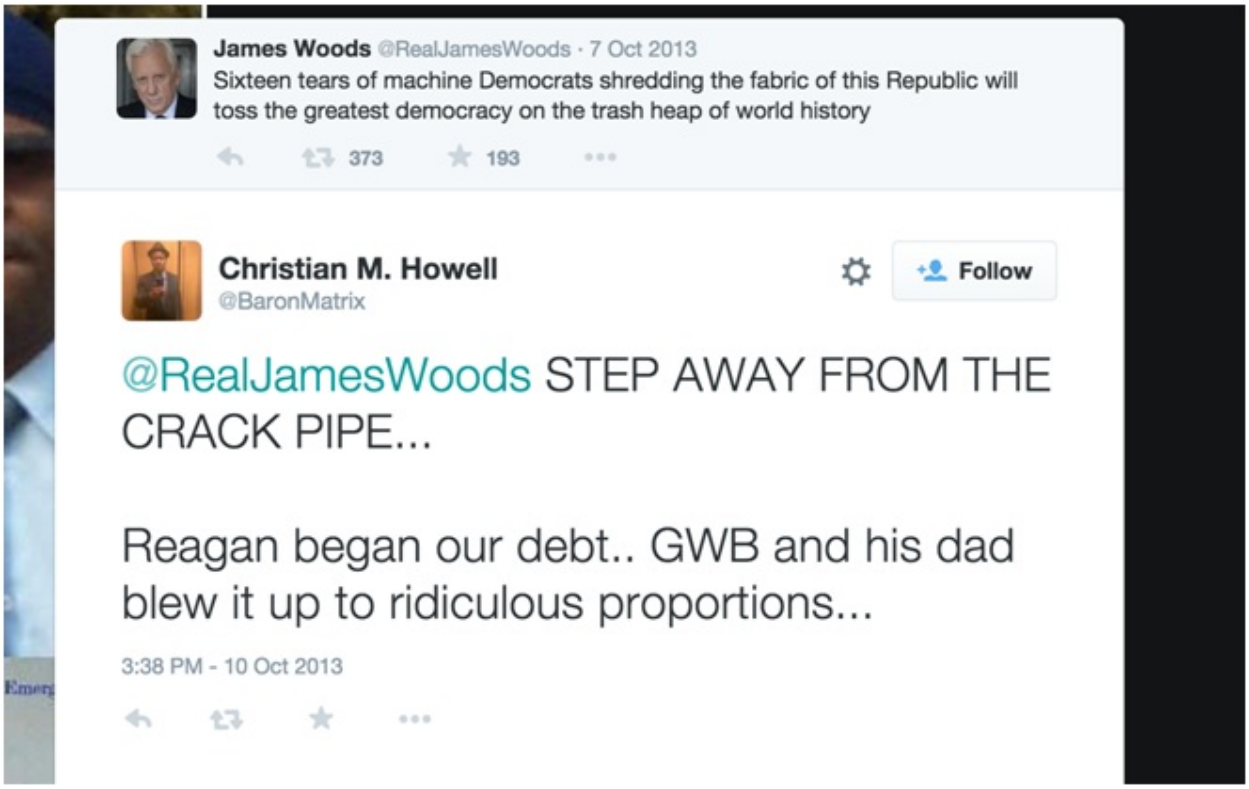

James Woods @RealJamesWoods · Feb 2
The Libs switched from "global warming" to "climate change" just in time. These record cold winters would have been a tad embarrassing...
1K
913
Brett:
@Jaccuse1
Follow
@RealJamesWoods @Callisto1947 woods has whiffed to much coke to be taken seriously, his little brain is in powder form now
11:33 PM - 2 Feb 2015

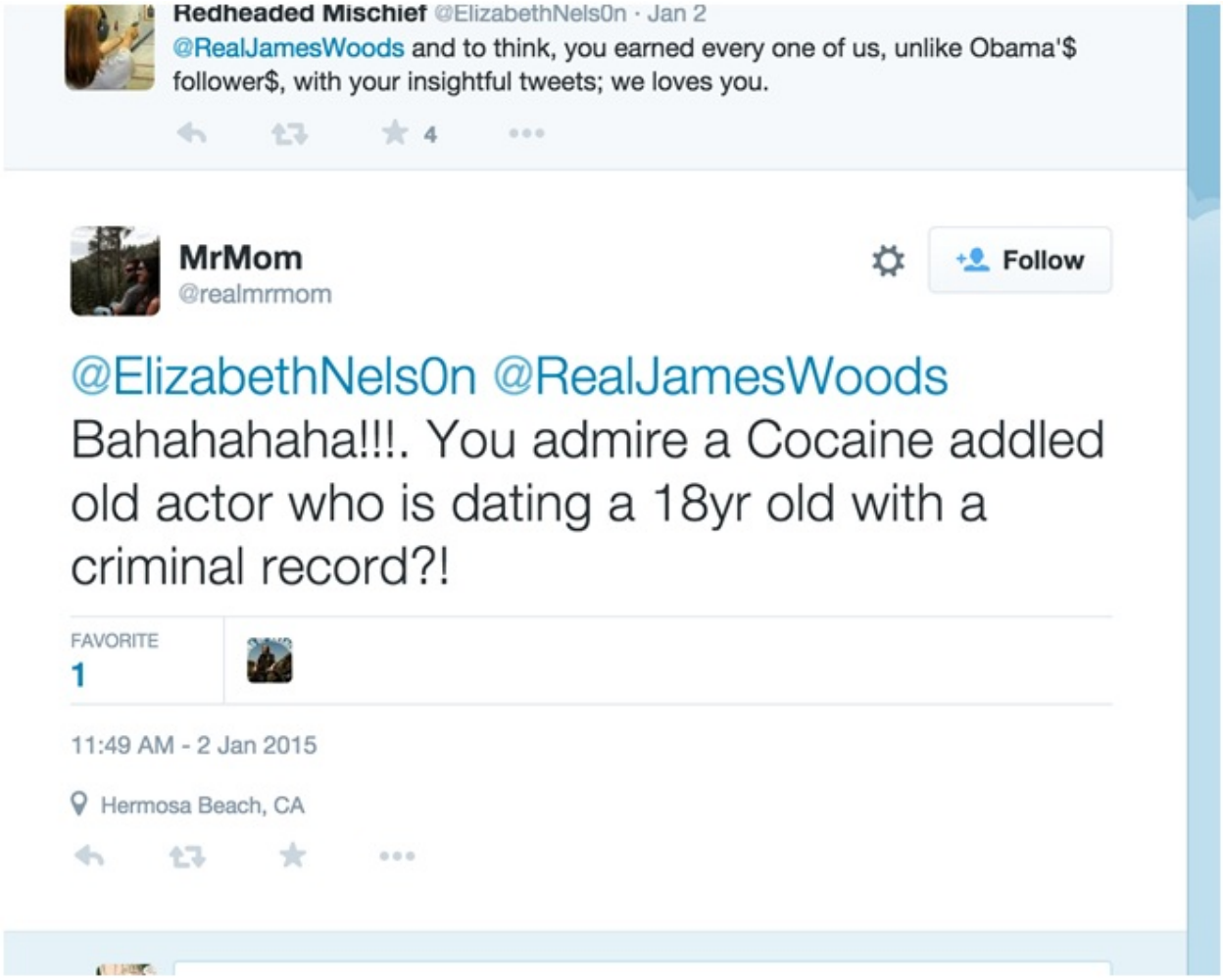
C3

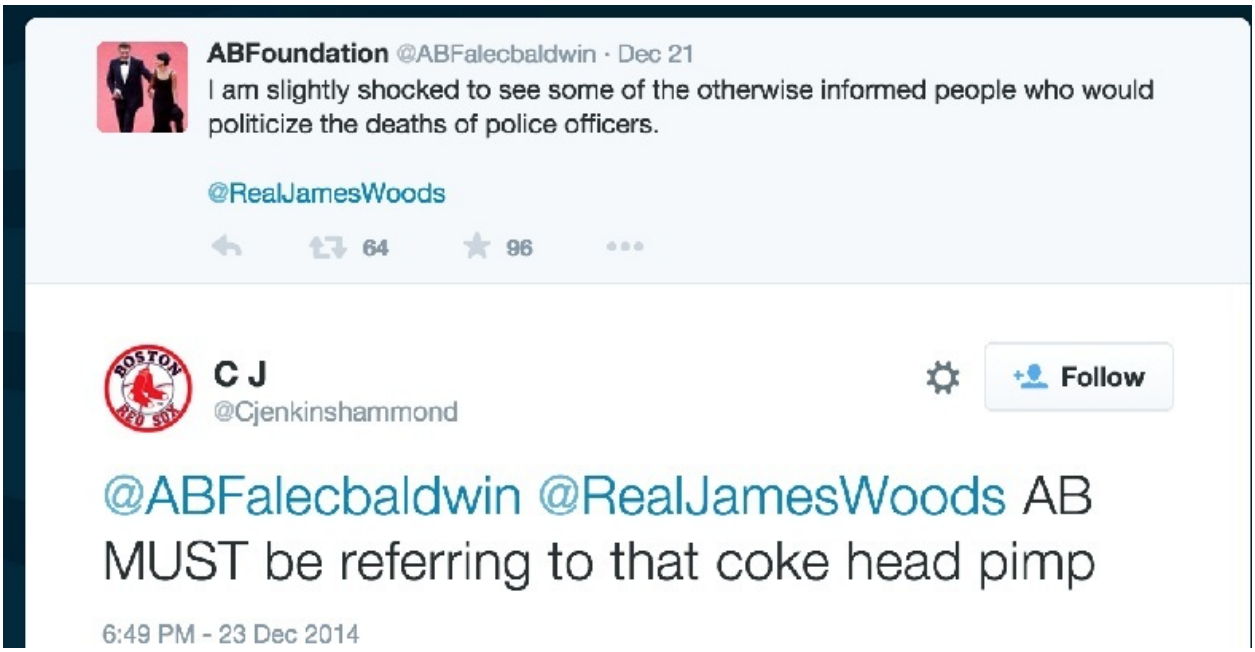

James Woods @RealJamesWoods · Jan 21
France: Better weapons for fighting terror usat.ly/1JcR8uN And again the need for better arms in today's world is realized too late
354
316
View summary
Clay Haney
@HaneyClay
Follow
@RealJamesWoods
You need to quit smoking Crack!
1:43 PM - 21 Jan 2015


Imagine if this kind of courage and dignity were in the White House...
1.1K
1.4K
Jim McMorrow
@Rinkguy
Follow
@RealJamesWoods @jstines3 is j.w. smoking crack?
6:10 AM - 14 Jan 2015


Joyce Meredith
@sunny37130
Follow
@RealJamesWoods Mr. Woods...I used to think you were a great actor and now I see that you still are. Acting like you've been smoking crack.
7:59 PM - 22 Dec 2014


James Woods @RealJamesWoods · 7 Oct 2013
Sixteen tears of machine Democrats shredding the fabric of this Republic will toss the greatest democracy on the trash heap of world history
373
193
Christian M. Howell
@BaronMatrix
Follow
@RealJamesWoods STEP AWAY FROM THE CRACK PIPE...
Reagan began our debt.. GWB and his dad blew it up to ridiculous proportions...
3:38 PM - 10 Oct 2013


Redheaded Mischief @ElizabethNels0n · Jan 2
@RealJamesWoods and to think, you earned every one of us, unlike Obama'$ follower$, with your insightful tweets; we loves you.
4
MrMom
@realmrmom
Follow
@ElizabethNels0n @RealJamesWoods
Bahahahaha!!!. You admire a Cocaine addled old actor who is dating a 18yr old with a criminal record?!
FAVORITE
1
11:49 AM - 2 Jan 2015
Hermosa Beach, CA


ABFoundation @ABFalecbaldwin · Dec 21
I am slightly shocked to see some of the otherwise informed people who would politicize the deaths of police officers.
@RealJamesWoods
64
96
C J
@Cjenkinshammond
Follow
@ABFalecbaldwin @RealJamesWoods AB MUST be referring to that coke head pimp
6:49 PM - 23 Dec 2014

James Woods @RealJamesWoods · Dec 28

Is flying on the plane very dangerous during a thunderstorm? - Yahoo Answers
This may explain the AirAsia tragedy. answers.yahoo.com/question/index…

62 72

Charles Davis
@fukyu70

Follow

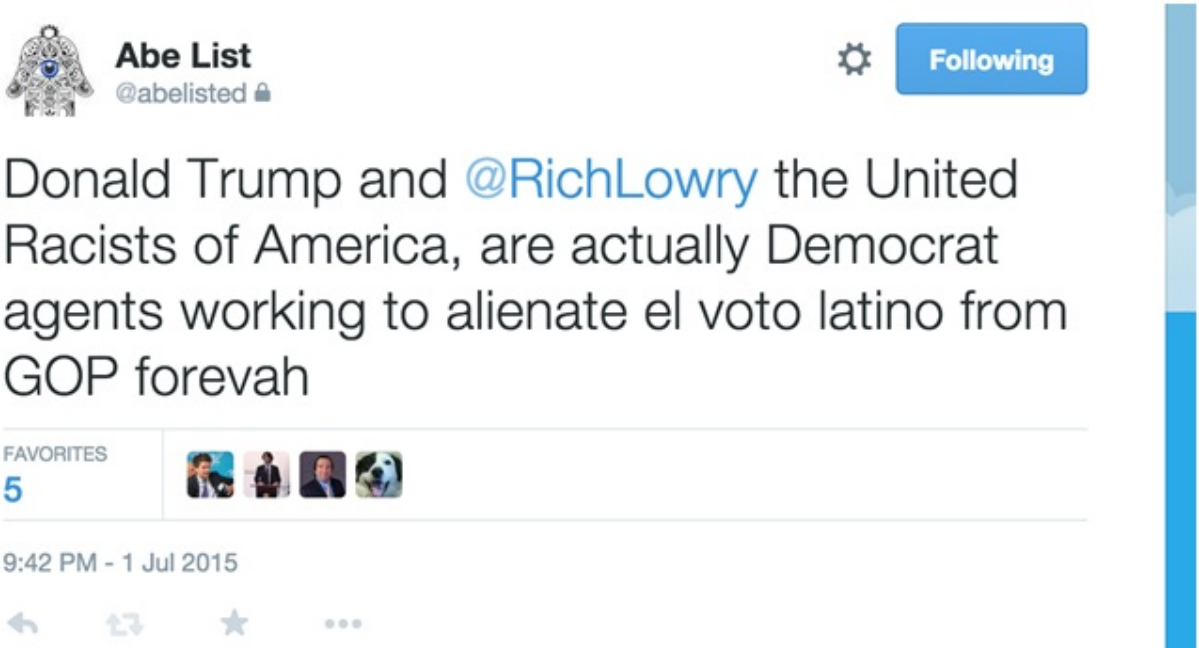
@RealJamesWoods say nigga! You still on cocaine?

RETWEET
1

5:37 PM - 28 Dec 2014

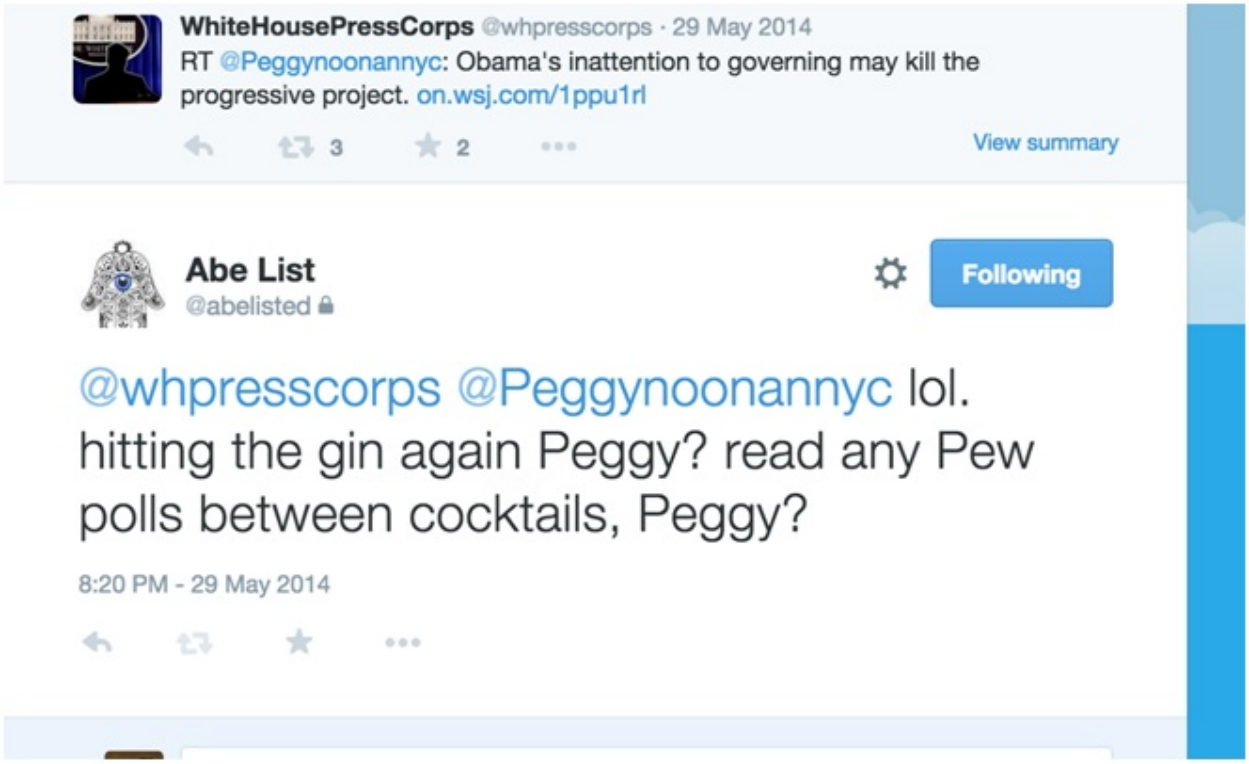

Donald J. Trump @realDonaldTrump · 12 Dec 2013
How amazing, the State Health Director who verified copies of Obama's "birth certificate" died in plane crash today. All others lived
1.9K
788
Abe List
@abelisted
Following
@realDonaldTrump the new Klan will have orange hair.
11:45 PM - 12 Dec 2013

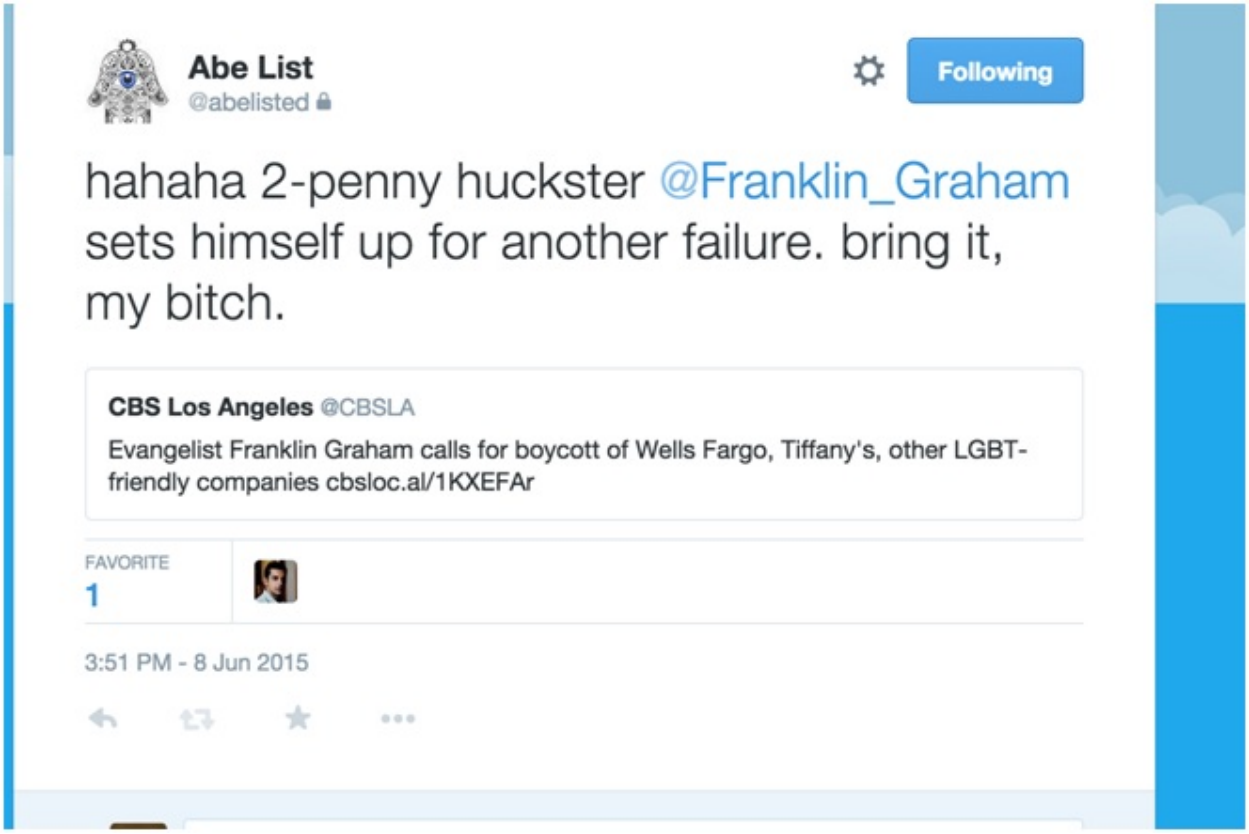
D1

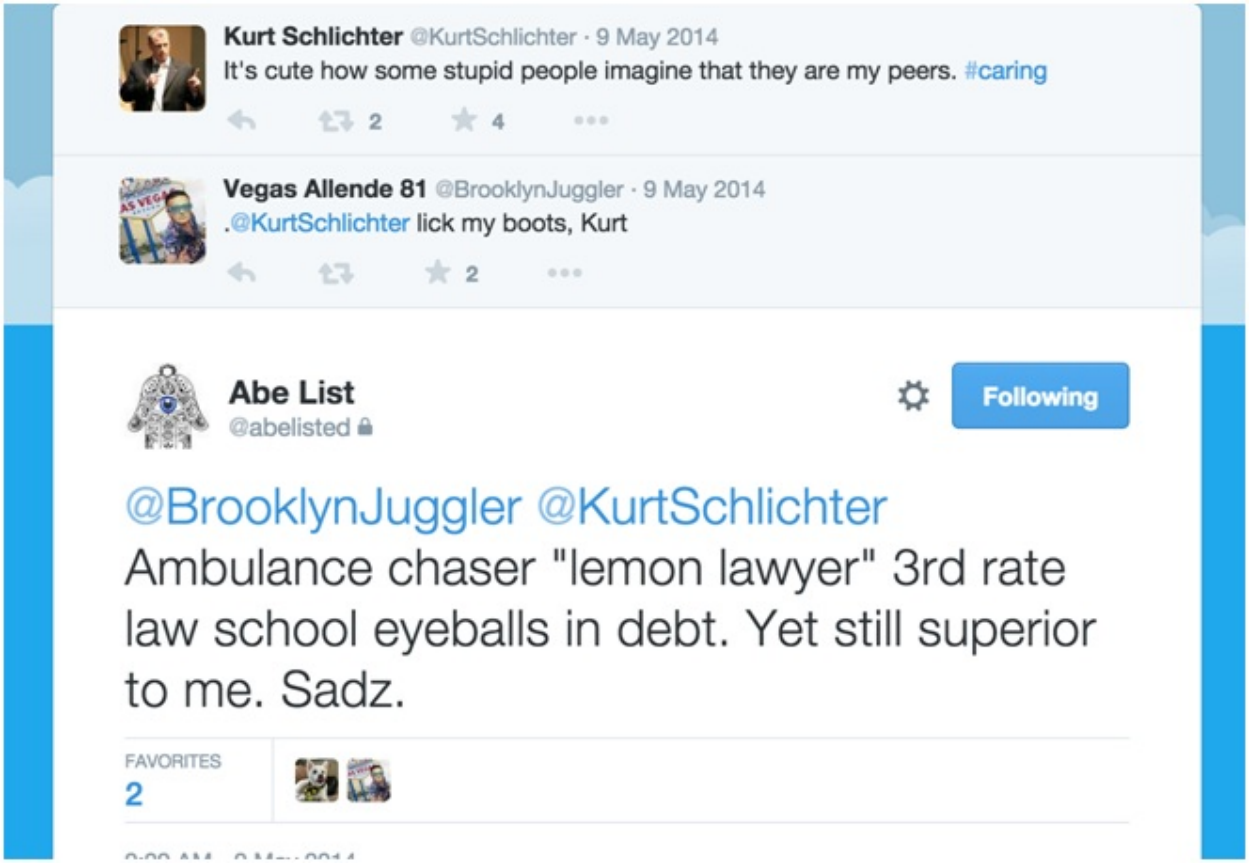

Abe List
@abelisted
Following
Donald Trump and @RichLowry the United Racists of America, are actually Democrat agents working to alienate el voto latino from GOP forevah
FAVORITES
5
9:42 PM - 1 Jul 2015

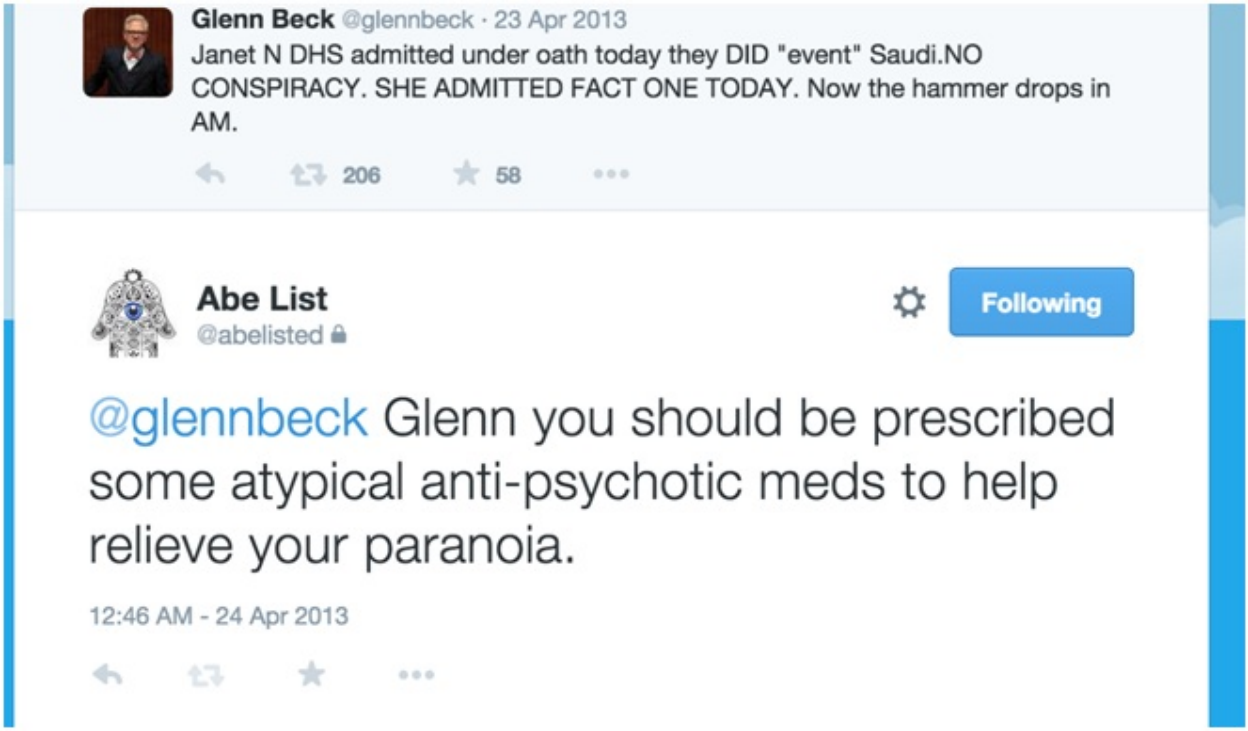
D2

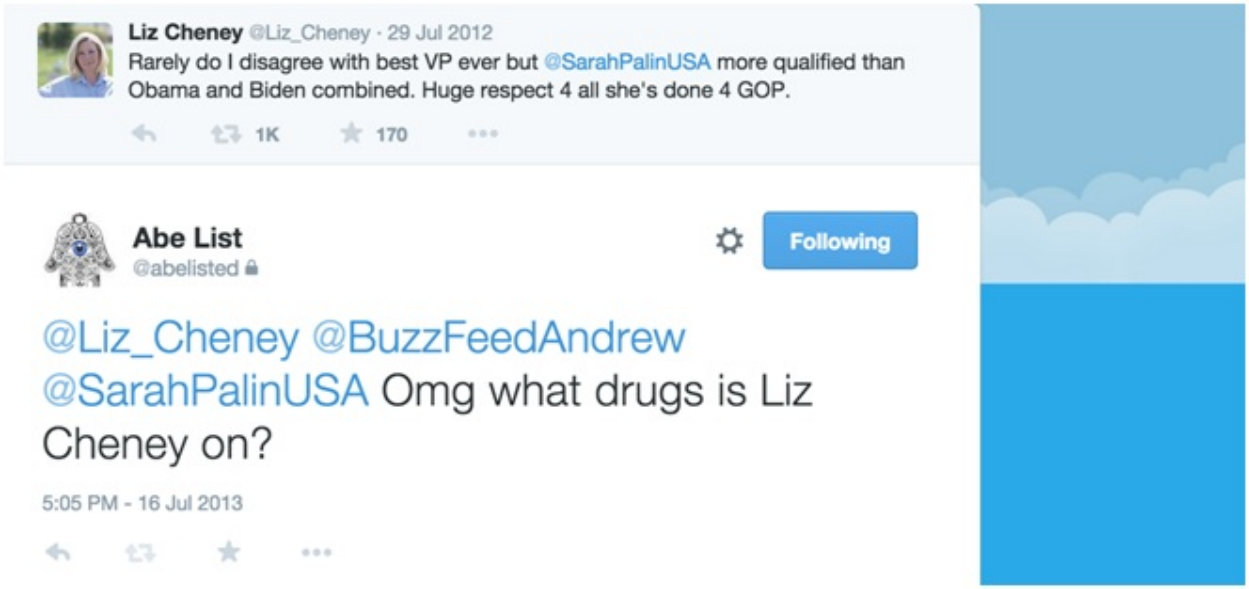

David Frum @davidfrum · 1 Dec 2013
Now that the Obamacare website is fixed, I can quickly and conveniently pay 33% more for my health insurance!
85
30
Abe List
@abelisted
Following
@davidfrum Or move back to Canada and quit whining. You've already damaged this country enough, eh?
10:12 AM - 1 Dec 2013

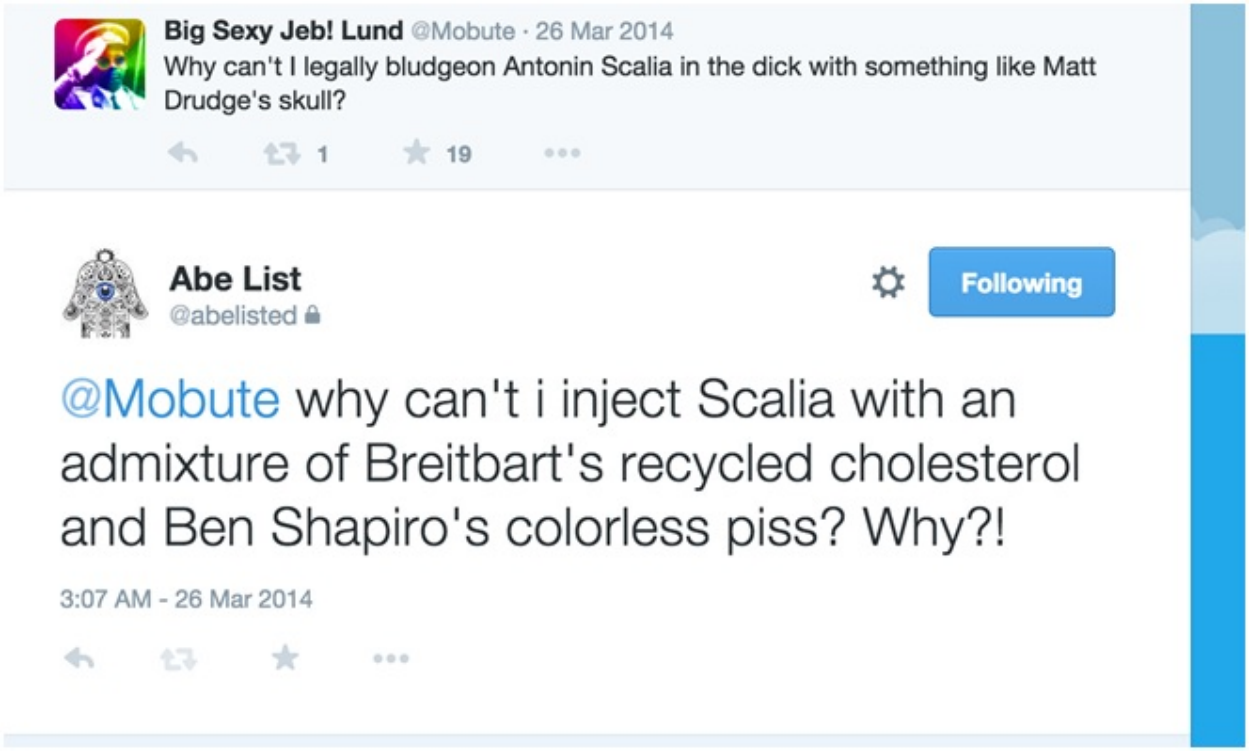

WhiteHousePressCorps @whpresscorps · 29 May 2014
RT @Peggynoonannyc: Obama's inattention to governing may kill the progressive project. on.wsj.com/1ppu1rl
3
2
View summary
Abe List
@abelisted
Following
@whpresscorps @Peggynoonannyc lol. hitting the gin again Peggy? read any Pew polls between cocktails, Peggy?
8:20 PM - 29 May 2014

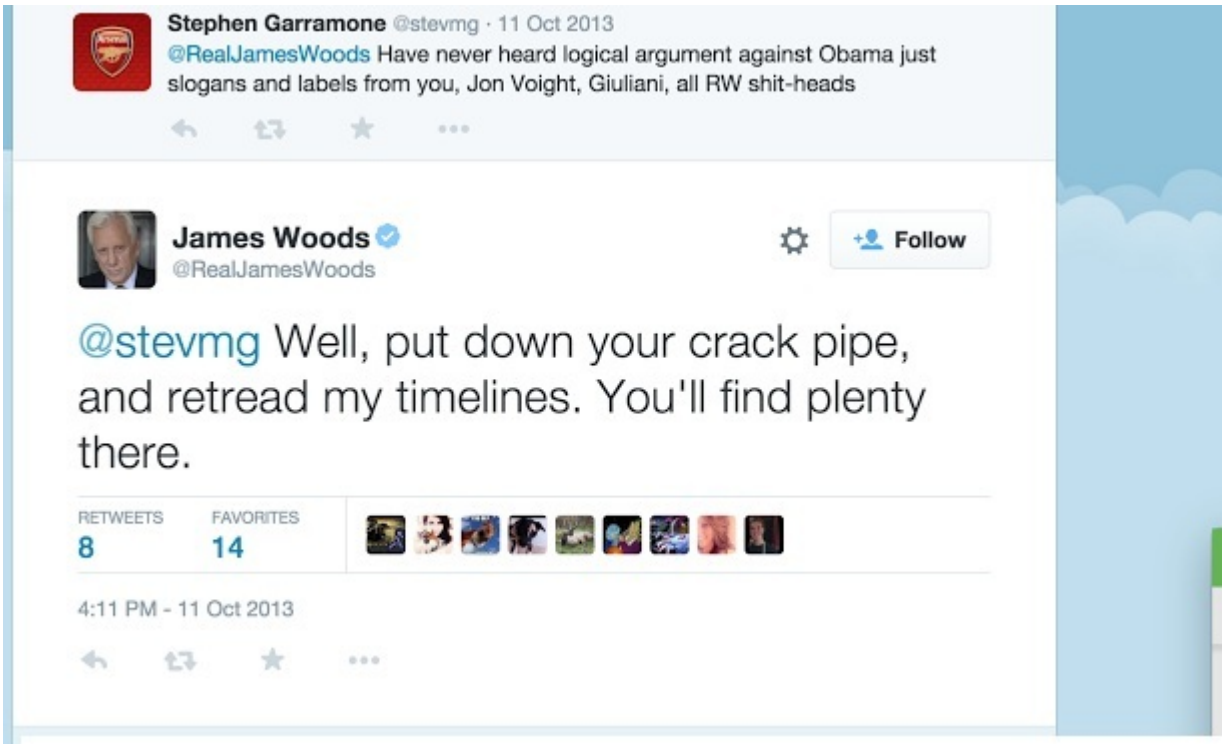

Abe List
@abelisted
Following
hahaha 2-penny huckster @Franklin_Graham sets himself up for another failure. bring it, my bitch.
CBS Los Angeles @CBSLA
Evangelist Franklin Graham calls for boycott of Wells Fargo, Tiffany's, other LGBT-friendly companies cbsloc.al/1KXEFAr
FAVORITE
1
3:51 PM - 8 Jun 2015


Kurt Schlichter @KurtSchlichter · 9 May 2014
It's cute how some stupid people imagine that they are my peers. #caring
2
4
Vegas Allende 81 @BrooklynJuggler · 9 May 2014
.@KurtSchlichter lick my boots, Kurt
2
Abe List
@abelisted
Following
@BrooklynJuggler @KurtSchlichter
Ambulance chaser "lemon lawyer" 3rd rate law school eyeballs in debt. Yet still superior to me. Sadz.
FAVORITES
2


Glenn Beck @glennbeck · 23 Apr 2013
Janet N DHS admitted under oath today they DID "event" Saudi.NO CONSPIRACY. SHE ADMITTED FACT ONE TODAY. Now the hammer drops in AM.
206
58
Abe List
@abelisted
Following
@glennbeck Glenn you should be prescribed some atypical anti-psychotic meds to help relieve your paranoia.
12:46 AM - 24 Apr 2013


Liz Cheney @Liz_Cheney · 29 Jul 2012
Rarely do I disagree with best VP ever but @SarahPalinUSA more qualified than Obama and Biden combined. Huge respect 4 all she's done 4 GOP.
1K
170
Abe List
@abelisted
Following
@Liz_Cheney @BuzzFeedAndrew @SarahPalinUSA Omg what drugs is Liz Cheney on?
5:05 PM - 16 Jul 2013


Big Sexy Jeb! Lund @Mobute · 26 Mar 2014
Why can't I legally bludgeon Antonin Scalia in the dick with something like Matt Drudge's skull?
1
19
Abe List
@abelisted
Following
@Mobute why can't i inject Scalia with an admixture of Breitbart's recycled cholesterol and Ben Shapiro's colorless piss? Why?!
3:07 AM - 26 Mar 2014

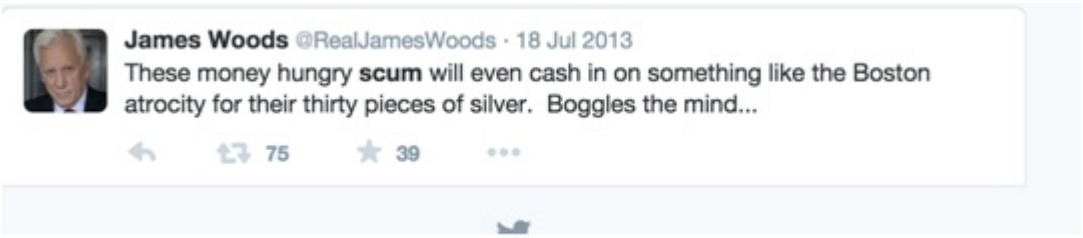

Stephen Garramone @stevmg · 11 Oct 2013
@RealJamesWoods Have never heard logical argument against Obama just slogans and labels from you, Jon Voight, Giuliani, all RW shit-heads
James Woods
@RealJamesWoods
Follow
@stevmg Well, put down your crack pipe, and retread my timelines. You'll find plenty there.
RETWEETS
8
FAVORITES
14
4:11 PM - 11 Oct 2013

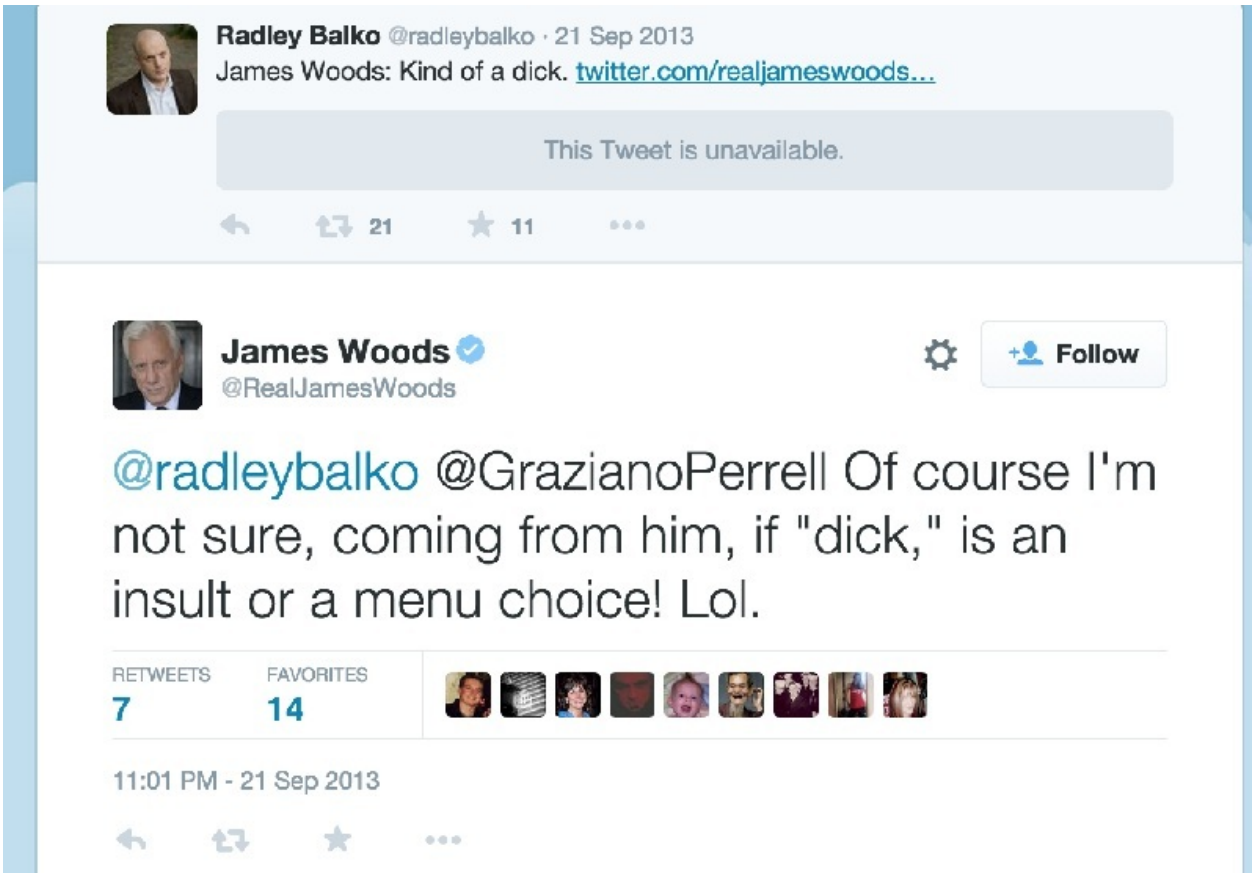
E1

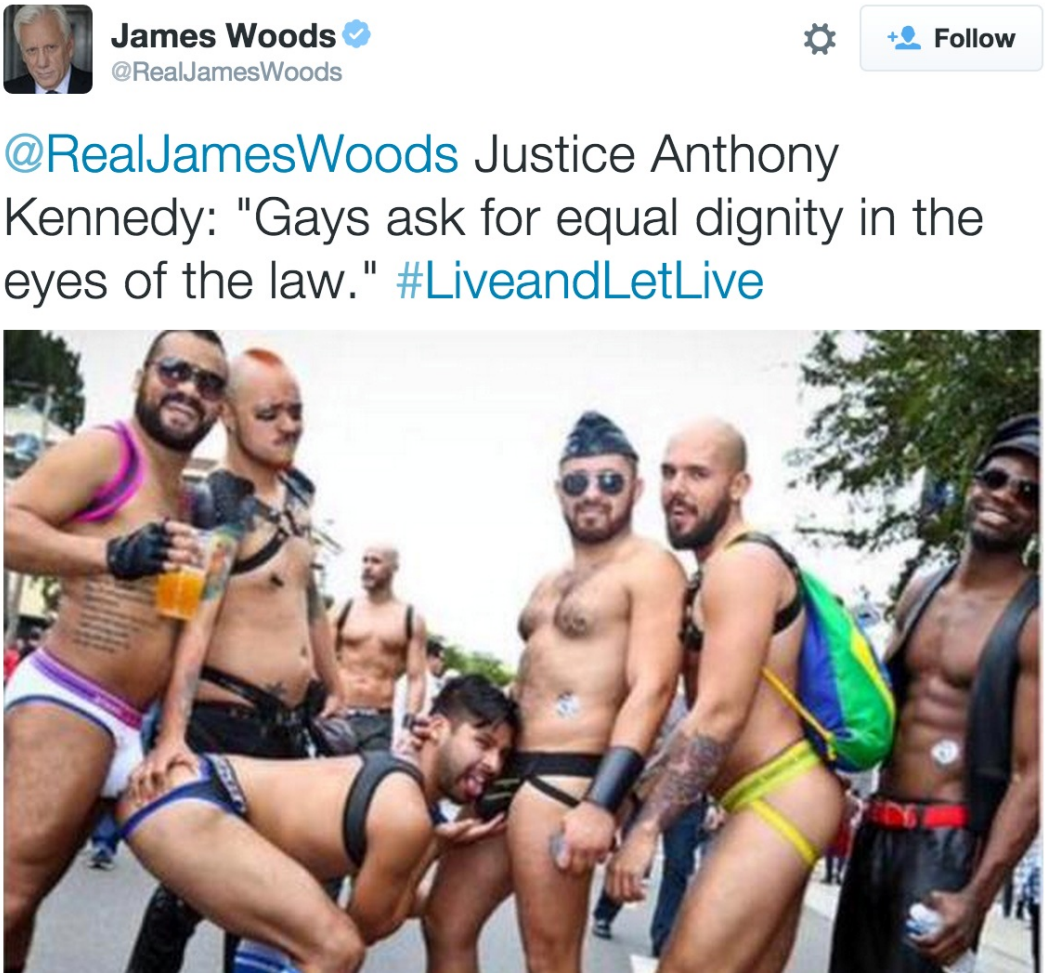

benghazi victim retweeted
James Woods @RealJamesWoods · Dec 21
@JGSaxon Thank God. I wouldn't want you to spend your precious crack allowance being enlightened.
RETWEETS
71
FAVORITES
135
3:41 PM - 21 Dec 2014 · Details
Hide conversation
Reply to @RealJamesWoods @JGSaxon

E2


James Woods
@RealJamesWoods
Follow
This clown's opinion of our National Guard.
toprightnews.com/?p=4657
RETWEETS
177
FAVORITES
100
2:55 PM - 22 Jul 2014


James Woods @RealJamesWoods · 18 Jul 2013
These money hungry scum will even cash in on something like the Boston atrocity for their thirty pieces of silver. Boggles the mind...
75
39


Radley Balko @radleybalko · 21 Sep 2013
James Woods: Kind of a dick. twitter.com/realjameswoods…
This Tweet is unavailable.
21
11
James Woods
@RealJamesWoods
Follow
@radleybalko @GrazianoPerrell Of course I'm not sure, coming from him, if "dick," is an insult or a menu choice! Lol.
RETWEETS
7
FAVORITES
14
11:01 PM - 21 Sep 2013


James Woods
@RealJamesWoods
Follow
@RealJamesWoods Justice Anthony Kennedy: "Gays ask for equal dignity in the eyes of the law." #LiveandLetLive

James Woods 
@RealJamesWoods

 Follow

I could shoot this guy in the head and sleep like a baby.

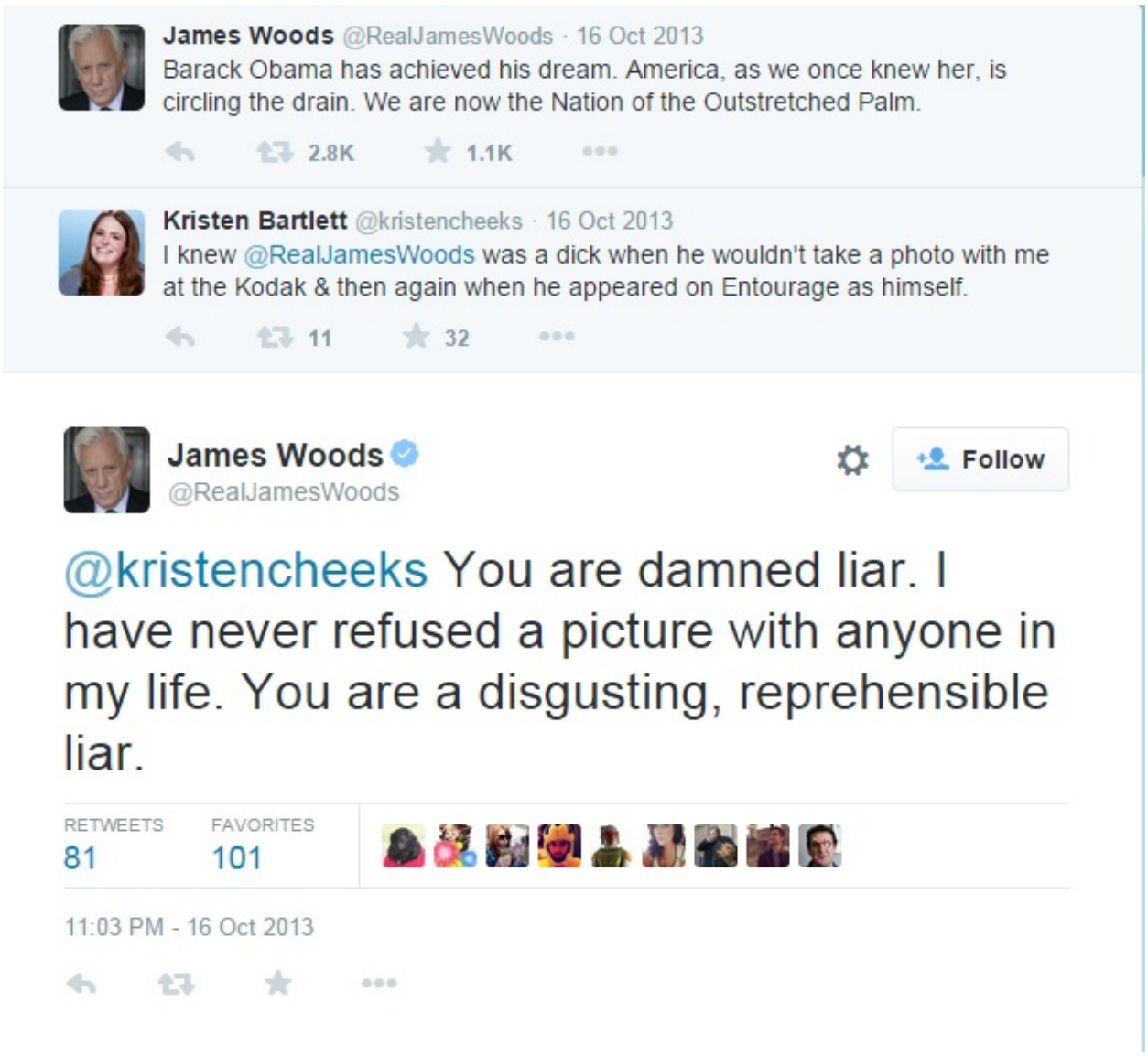
RETWEETS	FAVORITES
2,440	2,735

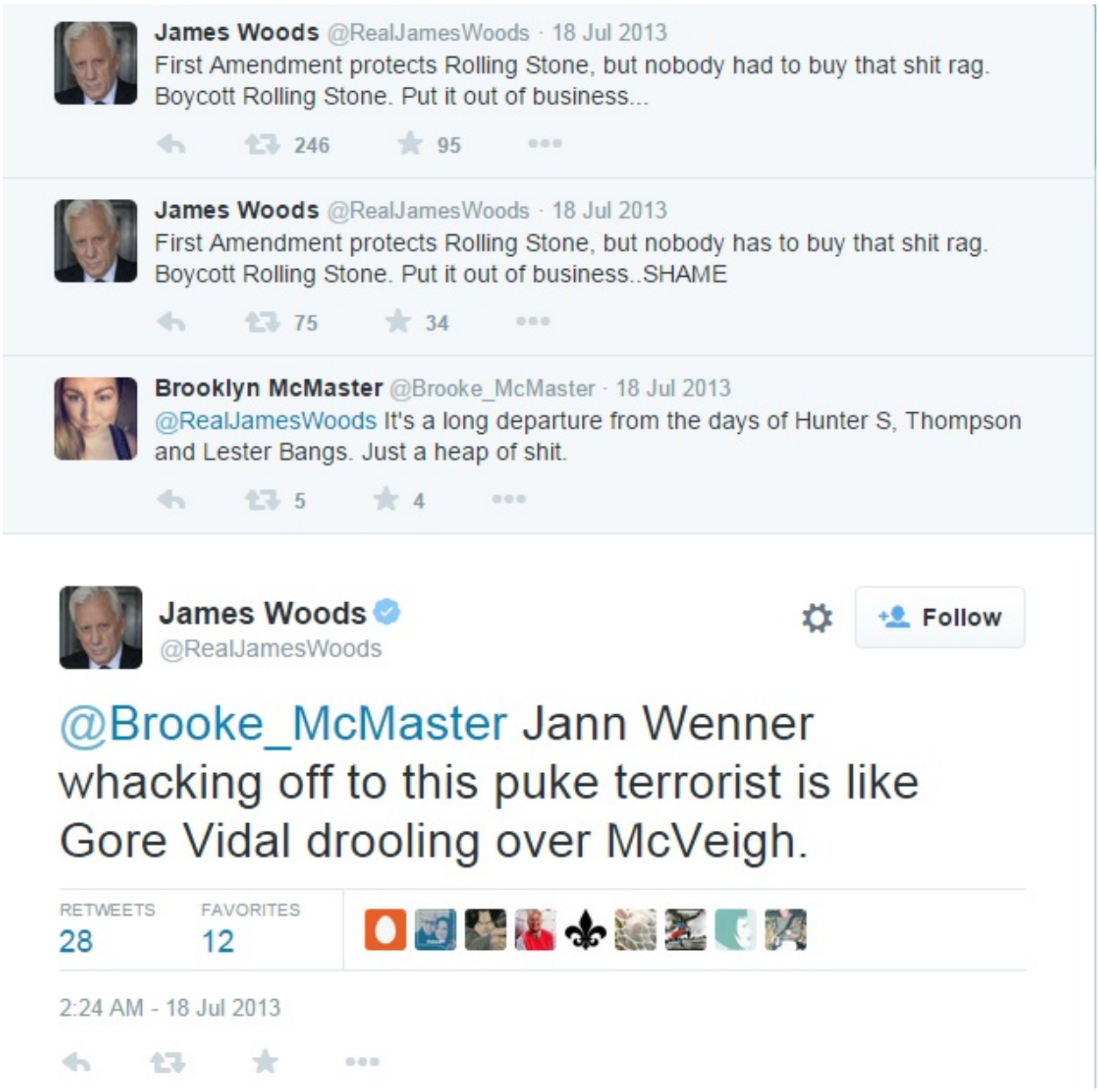
2:15 PM - 28 Dec 2014

E7

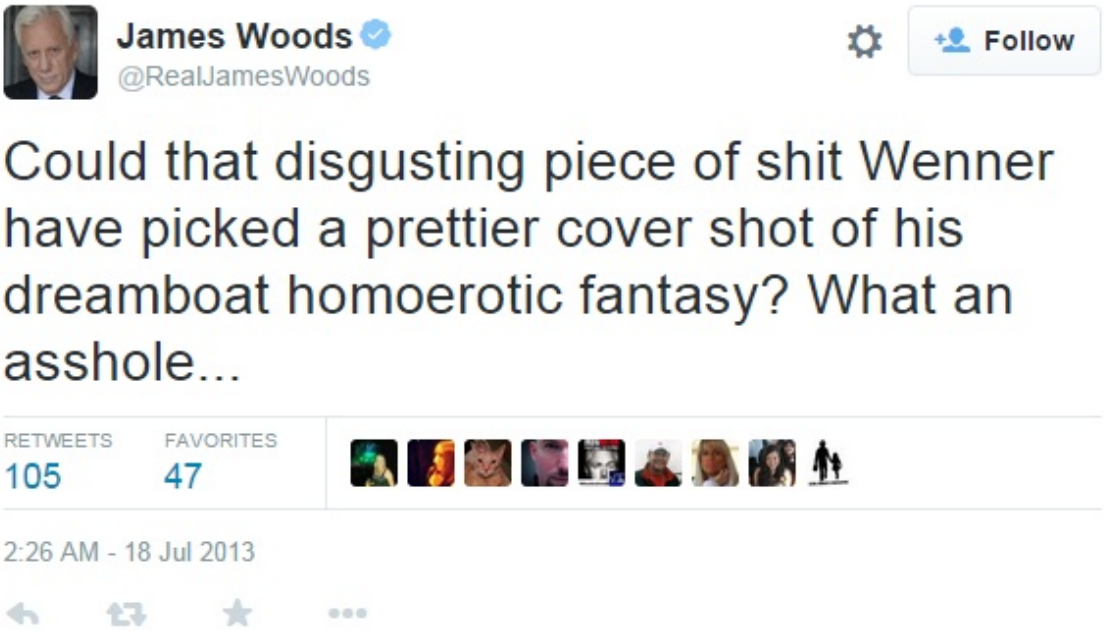

James Woods @RealJamesWoods · 1 Aug 2014
Undocumented Democrats on their way to America's voting booths...
2K
1.3K
Loafs & Fishes
@EmptyChair2012
Follow
When did @RealJamesWoods turn into such a bigoted prick? I'll have to renew my Variety subscription. #immigration twitter.com/RealJamesWoods…
This Tweet is unavailable.
11:33 PM - 1 Aug 2014

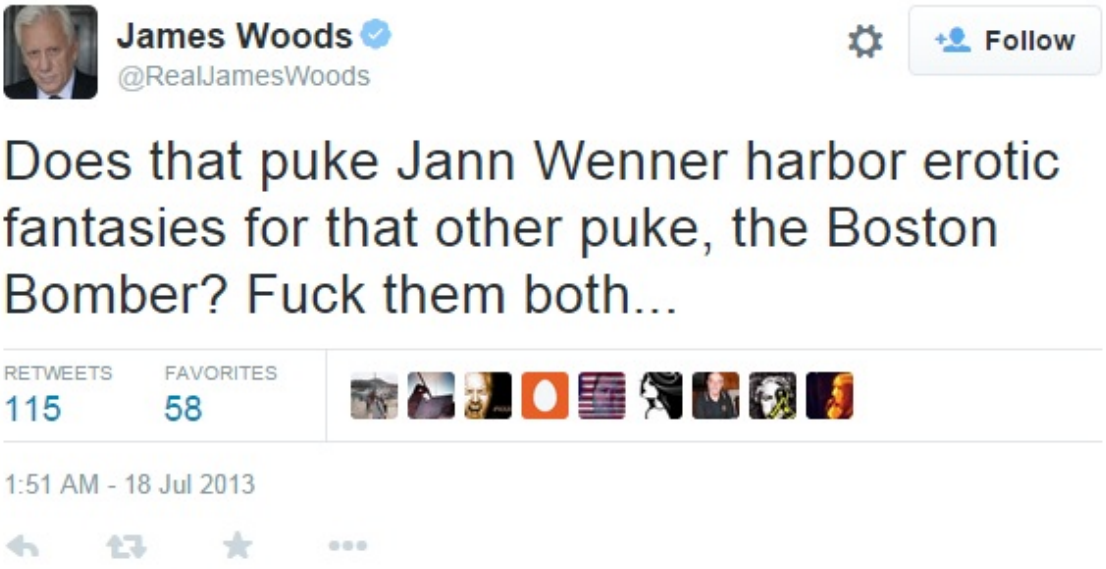

James Woods
@RealJamesWoods
Follow
The "children"...
ILLEGAL IMMIGRATION
What the left wants you to think is crossing the border
What's coming across with them
fb/libertyheadquarters
RETWEETS
2,358
FAVORITES
1,241
2:50 AM - 15 Jul 2014


James Woods @RealJamesWoods · 16 Oct 2013
Barack Obama has achieved his dream. America, as we once knew her, is circling the drain. We are now the Nation of the Outstretched Palm.
2.8K
1.1K
Kristen Bartlett @kristencheeks · 16 Oct 2013
I knew @RealJamesWoods was a dick when he wouldn't take a photo with me at the Kodak & then again when he appeared on Entourage as himself.
11
32
James Woods
@RealJamesWoods
Follow
@kristencheeks You are damned liar. I have never refused a picture with anyone in my life. You are a disgusting, reprehensible liar.
RETWEETS
81
FAVORITES
101
11:03 PM - 16 Oct 2013


James Woods @RealJamesWoods · 18 Jul 2013
First Amendment protects Rolling Stone, but nobody had to buy that shit rag. Boycott Rolling Stone. Put it out of business...
246
95
James Woods @RealJamesWoods · 18 Jul 2013
First Amendment protects Rolling Stone, but nobody has to buy that shit rag. Boycott Rolling Stone. Put it out of business..SHAME
75
34
Brooklyn McMaster @Brooke_McMaster · 18 Jul 2013
@RealJamesWoods It's a long departure from the days of Hunter S, Thompson and Lester Bangs. Just a heap of shit.
5
4
James Woods
@RealJamesWoods
Follow
@Brooke_McMaster Jann Wenner whacking off to this puke terrorist is like Gore Vidal drooling over McVeigh.
RETWEETS
28
FAVORITES
12
2:24 AM - 18 Jul 2013


James Woods
@RealJamesWoods
Follow
@RealJamesWoods This disgusting pig is DIRECTLY responsible for the murder of two good policemen. No discussion:
WASHINGTON, DC
FOX NEWS LIVE
FUELING THE FLAMES
AL SHARPTON LEADS PROTESTS AGAINST POLICE
RETWEETS
4,520
FAVORITES
3,395
5:48 AM - 21 Dec 2014


James Woods
@RealJamesWoods
Follow
Could that disgusting piece of shit Wenner have picked a prettier cover shot of his dreamboat homoerotic fantasy? What an asshole...
RETWEETS
105
FAVORITES
47
2:26 AM - 18 Jul 2013


James Woods
@RealJamesWoods
Follow
Does that puke Jann Wenner harbor erotic fantasies for that other puke, the Boston Bomber? Fuck them both...
RETWEETS
115
FAVORITES
58
1:51 AM - 18 Jul 2013

PROOF OF SERVICE
STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I am employed in the County of Los Angeles, State of California. I am over the age of eighteen years and not a party to the within action. My business address is 333 South Hope Street, 40th Floor, Los Angeles, California 90071.

On September 1, 2015, I served the following document(s) described as: **DEFENDANT JOHN DOE'S NOTICE OF MOTION AND SPECIAL TO MOTION STRIKE; DECLARATION OF KENNETH P. WHITE; EXHIBITS** in this action by placing true copies thereof enclosed in sealed envelopes and/or packages addressed as follows:

Evan N. Spiegel, Esq.
Lavely & Singer, P.C.
2049 Century Park East, Ste. 2400
Los Angeles, CA 90067

☒ **BY MAIL:** I deposited such envelope in the mail at 333 South Hope Street, 40th Floor, Los Angeles, California 90071. The envelope was mailed with postage thereon fully prepaid. I am "readily familiar" with the firm's practice of collection and processing correspondence for mailing. It is deposited with the U.S. Postal Service on that same day in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one (1) day after date of deposit for mailing in affidavit.

☐ **BY FACSIMILE:** I served said document(s) to be transmitted by facsimile pursuant to Rule 2008 of the California Rules of Court. The telephone number of the sending facsimile machine was 213/613-0550. The name(s) and facsimile machine telephone number(s) of the person(s) served are set forth in the service list.

☐ **BY OVERNIGHT DELIVERY:** I served such 5ized by the overnight service carrier to receive documents, in an envelope or package designated by the overnight service carrier.

☐ **BY HAND DELIVERY:** I caused such envelope(s) to be delivered by hand to the above addressee(s).

☐ **BY ELECTRONIC MAIL:** On the above-mentioned date, from Los Angeles, California, I caused each such document to be transmitted electronically to the party(ies) at the e-mail address(es) indicated below. To the best of my knowledge, the transmission was reported as complete, and no error was reported that the electronic transmission was not completed.

☒ **STATE:** I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on September 1, 2015, at Los Angeles, California.

Letty Perez