

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NEW YORK

ALYSSA MERCANTE,

Plaintiff,

-against-

JEFF TARZIA,

Defendant.

Complaint

Case No. _____

Jury Trial Demanded

Preliminary Statement

1. Modern video game enthusiasm is marked by the presence of semi-organized, outrage-driven campaigns for harassment, like 2014’s infamous Gamergate.¹

2. In 2024, a small, Montreal-based narrative development and consulting company, Sweet Baby, Inc., found itself at the center of a fresh controversy, incorrectly accused by Gamergate enthusiasts of forcibly inserting gender, sexual, or ethnic minority characters into the game or otherwise tweaking its narrative presentation to favor a general liberal bent.²

3. Alyssa Mercante was a senior editor at the gaming news website and blog Kotaku³, one of the longest-running and most successful gaming news websites. (Kotaku, along with its parent company G/O Media, has its primary place of business in New York.)

¹ WIKIPEDIA, *Gamergate (harassment campaign)*, [https://en.wikipedia.org/wiki/Gamergate_\(harassment_campaign\)](https://en.wikipedia.org/wiki/Gamergate_(harassment_campaign)) (last accessed November 26, 2024)

² Megan Farokhmanesh, *The Small Company at the Center of ‘Gamergate 2.0’* (Mar 14, 2024 10:22 AM), <https://www.wired.com/story/sweet-baby-video-games-harassment-gamergate/>

³ KOTAKU, <http://www.kotaku.com/> (last accessed November 26, 2024)

4. Kotaku has long enjoyed the derision and ire of a certain set of “alt-right” trolls online for its perceived liberal or leftward bias in covering video games and issues related to gaming.

5. Those critical of Kotaku gather in special reddit forums and elsewhere to mock and harass its employees, e.g., <http://www.reddit.com/r/kotakuinaction>.

6. Among these vociferous, ceaseless critics is Jeff Tarzia, a social media influencer who publishes videos related to video games on the popular online video platforms YouTube and Rumble under the moniker “SmashJT.”

7. Tarzia has declared Kotaku to be “everything wrong with the video game industry.”⁴

8. In fact, Tarzia created a petition⁵ at Change.org “to have Kotaku shut down,”⁶ stating “we demand accountability from Kotaku” and exhorting his viewers to “join this movement to uphold the standards we as a community deserve in the video game industry.”⁷

9. Tarzia did not stop there. He created a page on his website called “Kotaku Detected,” where he maintains “a comprehensive directory of individuals who work, have worked, or are in some way related to Kotaku” with the intent to

⁴ Jeff Tarzia, *Kotaku Detected*, SMASHJT, <https://www.smashjt.com/kotaku-detected> (last accessed November 26, 2024)

⁵ Jeff Tarzia, *Demand the Shutdown of Kotaku for the Betterment of Video Game Journalism*, CHANGE.ORG (May 6, 2024) <https://www.change.org/p/demand-the-shutdown-of-kotaku-for-the-betterment-of-video-game-journalism> (last accessed November 26, 2024) (archive: <https://archive.is/OJm1Z>)

⁶ Jeff Tarzia (@SmashJT), YOUTUBE, *I want to end Kotaku...* (May 6, 2024), <https://www.youtube.com/watch?v=IQpQcLgKNXA>, 00:00-00:30 (last accessed November 26, 2024).

⁷ *Id.* at 09:32:01.

“spotlight the people behind Kotaku’s content and hold them accountable for their actions.”

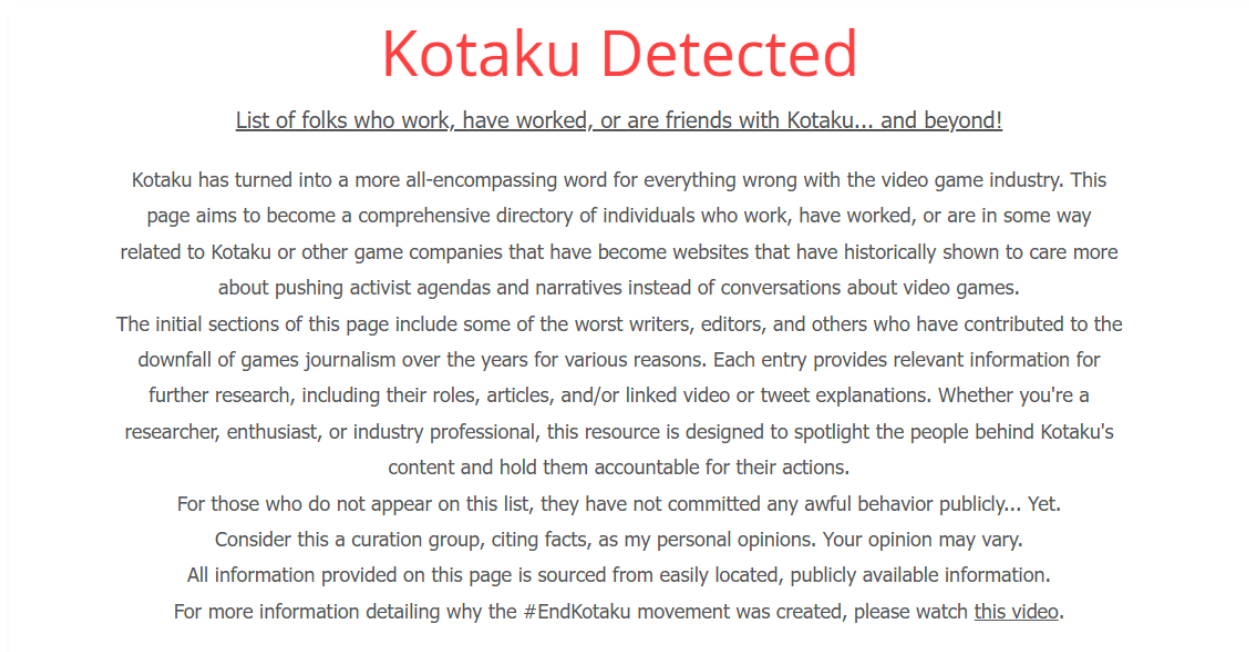


Figure 1, a screenshot from <http://www.smashjt.com/kotaku-detected>

10. The vast majority of the individuals listed on Tarzia’s “End Kotaku” page are women, people of color, non-binary individuals, people on the LGBTQ+ spectrum, and/or Jewish people.

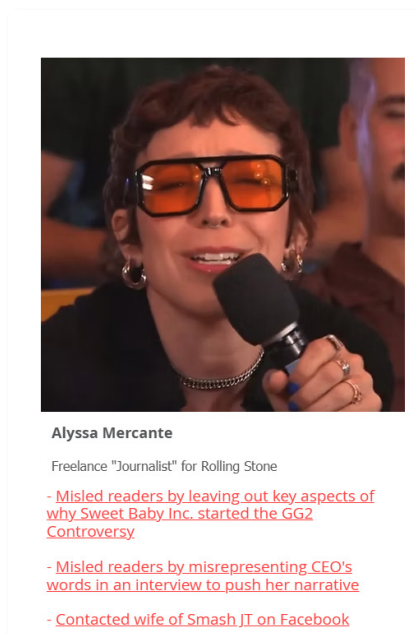


Figure 2 - Alyssa Mercante as she appears on End Kotaku

11. Tarzia is not a mere bystander or collateral commentator, by his own admission.⁸
12. He has exhorted his followers to “Join us in holding these individuals responsible for their contributions to the current state of games journalism.”⁹
13. Tarzia took aim at Alyssa after Mercante published an article refuting many of the lies, fabrications, and distortions around the consulting business of Sweet Baby, Inc.
14. Those clamoring for Sweet Baby, Inc’s demise chose the appellation “Gamergate 2.0” for themselves. Enterprising grifters tapped into that wave of

⁸ Jeff Tarzia, *Genshin Impact Conspiracy Blows Lid Off ‘DEI Mafia’*, SMASHJT (July 18, 2024), <https://www.smashjt.com/post/genshin-impact-conspiracy-blows-lid-off-dei-mafia> (last accessed November 26, 2024)

⁹ Jeff Tarzia, *Kotaku Detected Resource Created On SmashJT.com*, SMASHJT (May 24, 2024), <https://www.smashjt.com/post/kotaku-detected-resource-created-on-smashjt-com> (last accessed November 26, 2024)

rising outrage to lift their own profiles.

15. Mercante’s article debunking the conspiracy theory against Sweet Baby, Inc., led to Tarzia beginning a campaign of hatred and harassment against Mercante, making hundreds of posts and videos specifically about her.

16. Tarzia’s channel, and therefore his notoriety and revenue, grew exponentially due to his content about Mercante.

17. In the beginning, much of Tarzia’s content was legal: hyperbolic, vitriolic, incorrect, conspiratorial, paranoid, juvenile, and crass, but legal.

18. But in the fast-moving world of the outrage-driven Internet, unless content creators are providing fresh “salt”¹⁰ for their consumers, the consumers will move on to an outrage merchant who shouts louder, uses more profanity, and feeds their need for simulated hatred of a perceived enemy.

19. Thus, Tarzia was never going to be satisfied with simply criticizing Mercante. His desire and need to sustain his growth as an influencer meant that eventually he would cross the line from protected speech and conduct to illegal, unprotected speech and conduct.

20. On or about September 8, 2024, Tarzia was given an opportunity to recant his lies and reduce the vitriol in the discourse. Tarzia took this opportunity to double-down on his conduct, finding new ways to become even worse in tone, content, and directedness of his attacks and calls for harassment.¹¹

¹⁰ In the argot of the video game enthusiast, “salt” is manufactured drama that can be consumed vicariously, like reality programming or gossip journalism.

¹¹ Jeff Tarzia (@SmashJT), TWITTER, <https://x.com/SmashJT/status/1811621628968853559> (Jul 11, 2024) (last accessed November 26, 2024)



Figure 3 - in his own words

21. Tarzia was telling the truth: he was going to pull *every* lever, regardless of whether he knew doing so involved lying.

22. Since receiving an indication that his conduct was illegal and violated numerous state and federal laws, Tarzia has not only continued to produce content about Mercante but has continued the very same conduct which originally transgressed the rather lenient boundaries afforded to him.

23. Tarzia's conduct, which began with him, did not end with him.

24. That was by design.

25. As a result of his focus on Mercante and her rising star in video games journalism, she became a target for further harassment that eventually led to her resignation from Kotaku.

26. So, this case is not simply one of someone being mean to someone on the Internet. This is a case where an outrage merchant, looking to boost his own profile, has latched on to a journalist merely covering the noteworthy stories of the day, and made it his mission to lie, distort, and fabricate about her for views and clout until she leaves the industry. Rather than this being a case about the free

speech of Jeff Tarzia, this is about a coordinated outrage and harassment campaign ultimately aimed at silencing Alyssa Mercante via the old-fashioned, and illegal, tactics of yellow journalism: libel, harassment, violation of civil rights, and the intentional infliction of such emotional distress that people retire from the marketplace of ideas altogether, rather than face the daily attacks of a mindless and savage mob.

The Parties

27. Plaintiff, Alyssa Mercante, is a resident of the State of New York and the County of Kings. Alyssa Mercante's address is redacted herein due to threats made against her as the basis of this lawsuit, but such information will be revealed to the Court *in camera*. She may be served with any process through her counsel of record identified below.

28. Defendant, Jeff Tarzia, is a resident of the State of California and the County of San Diego. His address, where he may be served with process, is 13445 Buxton Ave., Poway, California 92064.

Jurisdiction and Venue

29. Jurisdiction in this case is based upon federal diversity under 28 U.S.C. § 1332.

30. Plaintiff Alyssa Mercante is a citizen of the State of New York.

31. Defendant Jeff Tarzia is a citizen of the State of California.

32. Defendant Jeff Tarzia has directed his activities towards the State of New York via his "#EndKotaku" campaign via his Twitter, website, and YouTube videos, all of which are accessible in the State of New York and targeted at the

people of the State of New York, sufficient to show that he has maintained such minimum contacts with the State of New York as not to offend traditional notions of fair play substantial justice.

33. The amount in controversy in this case is more than \$75,000.00, because Jeff Tarzia's commercial enterprise is largely built off of, and dedicated to, the disparaging, harassing, intimidating, and stalking of Alyssa Mercante. His income has exceeded \$75,000.00 in calendar year of 2024 alone, and at least \$75,000.00 of that is directly based upon factually false statements made by Tarzia about Alyssa Mercante. Additionally, the harms to Mercante because of the mob Tarzia has incited and the related harassment all far exceed \$75,000.00 in damages.

Facts

A. Background

1. A Brief History of Gamergate

34. In August 2014, a man named Eron Gjoni posted to his blog accusing his ex-girlfriend, Zoe Quinn, of sleeping with a Kotaku journalist for a favorable review of her independent video game "Depression Quest."¹²

35. That blog post spread to internet forums like 4chan, 8chan, and Reddit, where an organized harassment campaign formed against numerous targets, such as women in the gaming industry, games journalists perceived to be biased or who promoted a liberal or left-wing slant in their coverage, and game developers who produced video games seen as catering to audiences other than

¹² Abby Wilson, *What was Gamergate – and why are we still talking about it?*, THE WEEK (August 5, 2024), <https://theweek.com/culture-life/what-was-gamergate-and-why-are-we-still-talking-about-it> (last accessed November 26, 2024)

straight, white men.¹³

36. Actor Adam Baldwin described this harassment campaign as “Gamergate” on August 27, 2014. Prominent influencers within the videogame space adopted the term, which quickly entered widespread use.¹⁴

2. *Gamergate Targets Kotaku*

37. Kotaku rapidly became a central target of this movement, particularly through the reddit subforum “kotakuinaction.”¹⁵

38. Kotaku self describes as “an inclusive site for gamers of any ethnicity, gender or sexual orientation. We expect our writers and commenters to treat those they write about as they would if they met them in person. Not mistaking honesty with cruelty, approaching everything with good faith, and affording people grace are paramount to creating a good culture within this site.”¹⁶

39. Because Kotaku’s editorial position is left-of-center and inclusive, it is a lightning rod for the type of criticism wielded by Tarzia and his ilk.

40. As demonstrated by Tarzia’s stated mission to “End Kotaku,” Kotaku is itself a shibboleth in the gaming journalism industry; it is the idolon of the “enemy” for people like Tarzia.

¹³ [https://en.wikipedia.org/wiki/Gamergate_\(harassment_campaign\)](https://en.wikipedia.org/wiki/Gamergate_(harassment_campaign))

¹⁴ Aja Romano, *What we still haven’t learned from Gamergate*, VOX (Jan 7, 2021, 8:43 AM PST), <https://www.vox.com/culture/2020/1/20/20808875/gamergate-lessons-cultural-impact-changes-harassment-laws> (last accessed November 26, 2024)

¹⁵ REDDIT, <http://www.reddit.com/r/kotakuinaction> (last accessed November 26, 2024)

¹⁶ KOTAKU, <https://kotaku.com/whats-a-kotaku-who-works-here-458637663> (last accessed November 26, 2024)

3. Alyssa Mercante

41. Until Tarzia's campaign of harassment took the toll he intended it to take, Alyssa Mercante was a senior editor at Kotaku.

42. Alyssa Mercante has written for other publications, such as Jalopnik, Jezebel, GamesRadar, SFX, and Rolling Stone.

43. Mercante is also active on social media, where she is not a demure, wilting flower. She is bold, brassy, and opinionated.

44. Because of Mercante's prominent role, outspoken views, and position at Kotaku, she became a target for the ire of Tarzia and his ilk.¹⁷

45. Mercante, who as a female journalist active in the video game space lived through Gamergate the first time, is perfectly poised to report on its re-emergence.

46. As a result of the dedicated campaign against her, Mercante left her position at Kotaku.

47. Without Jeff Tarzia's relentless focus on Mercante, Kotaku's managerial staff would never have felt any pressure to part ways with her.

4. Jeff Tarzia

48. Jeff Tarzia is a former game industry worker, former recruiter, former game tester, and former game master at Sony in California who currently makes his living as an influencer within the video game and popular culture space, with

¹⁷ Jeff Tarzia, *Alyssa Mercante Sent Me a Cease & Desist...*, SMASHJT (September 26, 2024), <https://www.smashjt.com/post/alyssa-mercante-sent-me-a-cease-desist> (last accessed November 24, 2024)

his own website, YouTube channel, and various social media pages.

49. Tarzia covers video games and video game culture from a generally right-of-center to conservative point of view.

50. Tarzia fits within a cultural phenomenon known as the “alt-right,” or alternative right wing, a loosely affiliated group of mostly younger conservative pundits who eschew much of the traditional trappings of conservatism in favor of a more activist, more confrontational, style.¹⁸

51. Video games and video game culture have long been a fertile recruiting ground for right-wing politics, and there is certainly a lucrative demand for creators within that space.¹⁹

52. Tarzia markets himself to, and uses the language of, the alt-right within the space of video games and video games culture.

53. Tarzia operates a channel on the popular video sharing and publication platform YouTube under the name “SmashJT” (the “SmashJT YouTube Channel”).²⁰

54. Tarzia also operates a Twitter account under the username @SmashJT (the “SmashJT Twitter Account”).

55. Tarzia further operates a website at <http://www.SmashJT.com> (the

¹⁸ Southern Poverty Law Center, *Alt-Right*, <https://www.splcenter.org/fighting-hate/extremist-files/ideology/alt-right> (last accessed November 26, 2024)

¹⁹ Sean Burch, *How Steve Bannon Mined ‘Intense Young Men,’ From ‘World of Warcraft’ to the White House*, THE WRAP (August 21, 2017 at 5:03 PM), <https://www.thewrap.com/how-world-of-warcraft-propelled-steve-bannon-to-the-white-house/> (last accessed November 26, 2024)

²⁰ Jeff Tarzia (@SmashJT), YOUTUBE <https://www.youtube.com/@SmashJT> (last accessed November 26, 2024)

“SmashJT Website”).

56. On information and belief, Tarzia is the sole and exclusive publisher of content to the SmashJT YouTube Channel, the SmashJT Twitter Account, and the SmashJT Website. No other contributors are ever credited for the media produced by these outlets.

57. The content Tarzia publishes to the SmashJT YouTube Channel, the SmashJT Twitter Account, and the SmashJT Website is available and accessible throughout the United States, including in the state of New York.

58. Much of Tarzia’s content is targeted specifically at Alyssa Mercante and Kotaku by name.

B. Jeff Tarzia’s Escalating Campaign of Negativity Toward Alyssa Mercante

1. Jeff Tarzia attaches himself to Gamergate 2.0’s coattails.

59. Prior to March 13, 2024, Tarzia was a small-time pundit within a large pond of influencers.

60. During this time, Mercante wrote an article debunking a right-wing myth that a consulting agency, Sweet Baby, Inc., was exerting undue influence on video game design decisions to force left-wing views, diverse character casts, and other bugbears of the alt right upon video games.²¹

61. The reaction from reactionaries was predictable.²²

²¹ Alyssa Mercante, *Sweet Baby Inc. Doesn’t Do What Some Gamers Think It Does*, KOTAKU (March 6, 2024), <https://kotaku.com/sweet-baby-inc-consulting-games-alan-wake-2-dei-1851312428> (last accessed November 26, 2024)

²² ‘Sliver80’, *Kotaku Editor Alyssa Mercante Lies About Sweet Baby Inc. Backlash During CBC Radio*

62. Tarzia first rose to prominence on or about March 13, 2024, when he tweeted at video games journalist Paul Tassi to complain about Mercante.



Figure 4 - Tarzia first mentions Mercante

63. Prior to this tweet, Tarzia was out of work and had no source of income other than his YouTube channel, which had accumulated barely more than 20,000 subscribers since its inception in 2017.

Appearance, Claims Steam Curator List Was Made To “Prevent People From Buying And Playing These Games,” REDDIT (/r/kotakuinaction) (March 21, 2024), (https://www.reddit.com/r/KotakuInAction/comments/1bkay21/kotaku_editor_alyssa_mercante_lies_about_sweet/) (last accessed November 26, 2024)



Figure 5 - Tarzia posts a graph of his channel's popularity and subscriber numbers

64. His website was full of articles he had written that were getting no more than one or two views each.²³

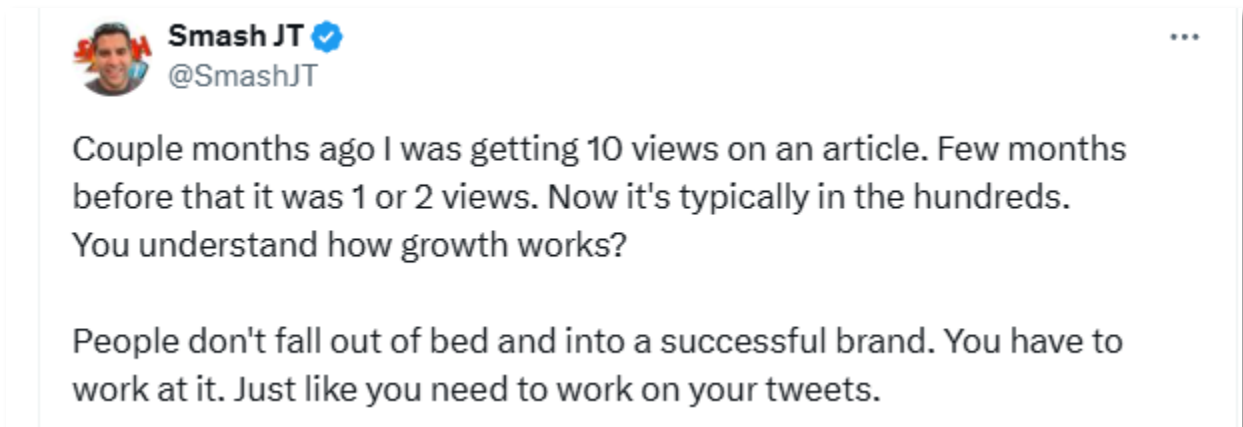


Figure 6 - Tarzia admits his growth is due to his attacks on Mercante

65. In early March, Tarzia published an article titled [“Sweet Baby Inc. Gaming Narratives EXPOSED”](#) in which he included a screenshot of one of Mercante’s Twitter posts with the caption “Of course Kotaku joins the cause.”²⁴

²³ Jeff Tarzia (@SmashJT), TWITTER, <https://x.com/SmashJT/status/1825352285062602945> (Aug 18, 2024 at 7:01 PM) (last accessed November 26, 2024)

²⁴ Jeff Tarzia, *Sweet Baby Inc. Gaming Narratives EXPOSED*, SmashJT (March 7, 2024),

66. When the term “Gamergate 2.0” was coined to describe this latest foray into the video game culture wars, Tarzia picked up on the label and began to use it in regard to Alyssa Mercante.

67. In early March 2024, Jeff Tarzia shared on X (formerly Twitter) a post that read “Kotaku accountability summed up” with a screenshot of a conversation between Ms. Mercante and Mark Kern, another right-wing popular culture influencer.

68. On March 9, 2024, Tarzia shared on X (formerly Twitter) a screenshot of popular video game developer and writer Jeff Grubb replying favorably to Ms. Mercante’s story with the caption “Never meet your heroes, kids.”²⁵

69. The locus of Tarzia’s disappointment seemed to be that Grubb was “biased” because he responded with “Thank you” to Mercante. Tarzia went on to complain that rather than provide Tarzia with a discussion or rebuttal, Grubb unceremoniously blocked Tarzia.

<https://www.smashjt.com/post/sweet-baby-inc-gaming-narratives-exposed> (Archive: <https://archive.is/PmADN>)

²⁵ Jeff Tarzia, *Jeff Grubb’s Self-Destruction*, SMASHJT (March 13, 2024) <https://www.smashjt.com/post/jeff-grubb-s-self-destruction> (last accessed November 26, 2024)



Figure 7 - in which Tarzia asks not to put it in the paper that he got mad.

70. On March 10, 2024, Jeff Tarzia posted a YouTube video titled “Eurogamer CAUGHT Defending Sweet Baby Inc. & Gamergate 2.0” and a tie-in story on his website.²⁶

71. On and after March 12, 2024 after drastically increasing his output on X, focused almost entirely on the Sweet Baby controversy, Tarzia posted a YouTube video called “The TRUTH behind Gamergate 2”²⁷ and a tie-in story on his website.²⁸

72. The YouTube video information reads: “Gamergate 2 is well underway,

²⁶ Jeff Tarzia, *Eurogamer EXPOSED By Community Notes For Defending Sweet Baby Inc.*, SMASH JT (March 10, 2024) <https://www.smashjt.com/post/eurogamer-exposed-by-community-notes-for-defending-sweet-baby-inc> (last accessed November 26, 2024)

²⁷ Jeff Tarzia (@SmashJT), *The TRUTH Behind Gamergate 2* (March 12, 2024), <https://www.youtube.com/watch?v=xX5oD2SYDJ4> (last accessed November 26, 2024)

²⁸ Jeff Tarzia, *Media Pushes Forward On Gamergate 2 Agenda*, SMASHJT (March 12, 2024), <https://www.smashjt.com/post/media-pushes-forward-on-gamer-gate-2-agenda> (last accessed November 26, 2024)

thanks to the narrative being pushed forth by the video game industry media agenda. It all started with Kotaku (shocker, I know).”

73. Tarzia threw all of his weight behind being one of the loudest voices behind the “Gamergate 2.0” drum, fueled almost entirely by commenting on the work of Alyssa Mercante.

2. *Tarzia’s star waxes as his vitriol increases.*

74. Throughout the remainder of March and April 2024, Tarzia continued to taunt Mercante specifically by name, ironically accusing her of being “obsessed” with him.

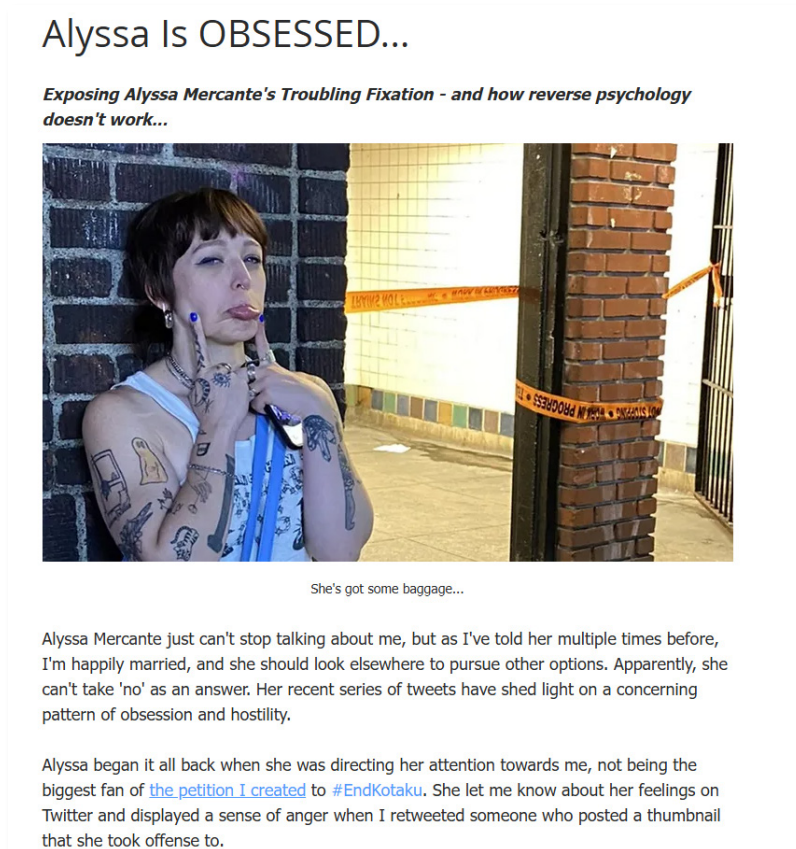


Figure 8 - Tarzia accuses Mercante of being obsessed with him

75. On or about May 18, 2024, Tarzia posted a rant about how Alyssa

Mercante was allegedly going to take legal action against him.²⁹

Recently, the X account for Alyssa Mercante (@Alyssa_Merc) has suggested they may take legal action against Smash JT regarding my coverage of developing stories in the video game industry. This announcement came through both public tweets and private direct messages, raising significant concerns for me and my family about the nature of the claims... and the potential implications for free speech and journalistic integrity. You know, that thing she claims to be.

My full statement posted to Twitter/X:



No Direct Communication Received

As of now, Smash JT has not received any requests for edits, redactions, deletions, or any other modifications to the videos or articles in question. This lack of information about what it is exactly that she has an issue with is concerning, as it leaves me in the dark about the specific grievances Alyssa Mercante has with my content.

Figure 9 - Tarzia admits he has not received any specific communications from Mercante.

3. #EndKotaku and Kotaku Detected

76. On May 6, 2024, Tarzia made his aims clear, stating on the SmashJT Website, “I want to shut down Kotaku”³⁰ along with the hashtag #EndKotaku in a post that called Mercante out by name.

²⁹ Jeff Tarzia, *Alyssa Mercante THREATENS Legal Action Against Smash JT*, SMASHJT (May 18, 2024) <https://www.smashjt.com/post/alyssa-mercante-threatens-legal-action-against-smash-jt> (last accessed November 26, 2024)

³⁰ Jeff Tarzia, *I Want to Shut Down Kotaku #EndKotaku*, SMASHJT (May 6, 2024), <https://www.smashjt.com/post/i-want-to-shut-down-kotaku-endkotaku> (last accessed November 26, 2024)

77. That same day, Tarzia created a petition at Change.org “to have Kotaku shut down,” stating “we demand accountability from Kotaku” and exhorting his viewers to “join this movement to uphold the standards we as a community deserve in the video game industry.”³¹

78. Tarzia did not stop there. On May 24, 2024, he created a page on his website called “Kotaku Detected,”³² where he maintains “a comprehensive directory of individuals who work, have worked, or are in some way related to Kotaku” with the intent to “spotlight the people behind Kotaku’s content and hold them accountable for their actions”³³ and declaring that Kotaku was “everything wrong with the video game industry.”

79. The vast majority of the individuals listed on Tarzia’s “End Kotaku” page are women, people of color, non-binary individuals, LGBTQ+ people, or Jewish people.

80. Tarzia is not a mere bystander or collateral commentator, by his own admission. He has exhorted his followers to “Join us in holding these individuals responsible for their contributions to the current state of games journalism.”

³¹ Jeff Tarzia, Demand the Shutdown of Kotaku for the Betterment of Video Game Journalism, CHANGE.ORG (May 6, 2024) <https://www.change.org/p/demand-the-shutdown-of-kotaku-for-the-betterment-of-video-game-journalism> (last accessed November 26, 2024) (archive: <https://archive.is/OJm1Z>)

³² Jeff Tarzia, *Kotaku Detected*, SMASHJT, <https://www.smashjt.com/kotaku-detected> (last accessed November 26, 2024) (archive: <https://archive.is/TM7F7>)

³³ “Hold them accountable,” in Tarzia’s terms, refers to removing said person or persons from the video game journalism industry through a combination effect of constant criticism, bullying, harassment, and threats to their person and livelihood through such means as revealing private information, posting personal matters publicly, and calling for viewers and fans to target those people specifically.

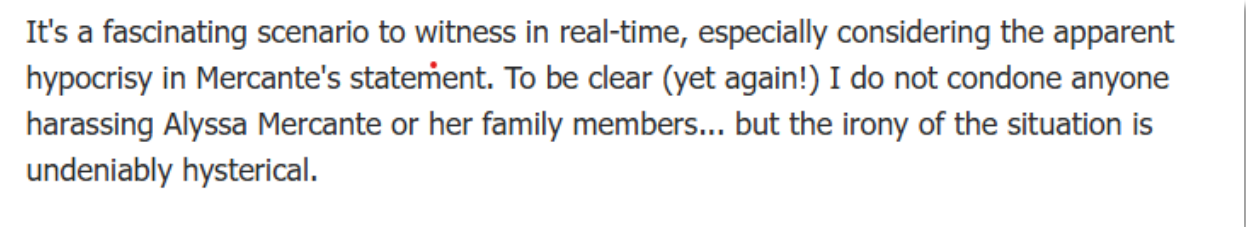
81. By “hold accountable,” Tarzia is speaking in code for “harass into silence.”

82. With one side of his mouth, Tarzia will feign that harassment is bad and warn his followers against it, while showing his actual approval of such tactics by: (1) his own actions and (2) liking or reacting publicly and positively to harassing statements made against his targets by others.

83. “Kotaku refuses to hold their own employees accountable for their abhorrent actions. If you want something done right, sometimes you have to do it yourself.”

84. On May 17, 2024, Tarzia posted a story about how a malefactor purchased a domain name, alanamercante.com,³⁴ and utilized that domain name to harass Mercante and her sister.³⁵

85. Tarzia attempted to distance himself from the harassment, but could not help egging it on.

A screenshot of a social media post with a white background and a thin grey border. The text is in a blue font and reads: "It's a fascinating scenario to witness in real-time, especially considering the apparent hypocrisy in Mercante's statement. To be clear (yet again!) I do not condone anyone harassing Alyssa Mercante or her family members... but the irony of the situation is undeniably hysterical." The text is centered and occupies most of the post's area.

It's a fascinating scenario to witness in real-time, especially considering the apparent hypocrisy in Mercante's statement. To be clear (yet again!) I do not condone anyone harassing Alyssa Mercante or her family members... but the irony of the situation is undeniably hysterical.

Figure 10 - Tarzia calls the harassment of Mercante and her sister “hysterical”

86. Tarzia’s public campaign did not include more conventional approaches

³⁴ Alana Mercante is Alyssa’s sister.

³⁵ Jeff Tarzia, *Alyssa Mercante Website HACKED: A Lesson In Hypocrisy & Consequences*, SMASHJT (May 17, 2024) <https://www.smashjt.com/post/alyssa-mercante-website-hacked-a-lesson-in-hypocrisy-consequences> (last accessed November 26, 2024)

to holding a corporation responsible (or, more conventional effort to, in some way, “end Kotaku”) such as contacting Kotaku’s sponsors, organizing a letter writing campaign to the editors, encouraging people to consume other media, and the like.

87. As stated in his May 17, 2024, article, Tarzia called Mercante’s reaction to the harassment of her and her sister “pure comedy gold.”³⁶

88. Tarzia again stated, with frank insincerity, that such harassment was “not an appropriate or mature response,” while nevertheless gloating that it “highlight[ed] the consequences of one’s actions.”

It's not uncommon for individuals in the public eye to face backlash for their actions, especially when those actions are perceived as unjust or harmful. In Mercante's case, her involvement in various controversies may have led some to believe that purchasing her sister's domain name was a form of poetic justice or retribution. While professionally I'd say this is not an appropriate or mature response, it... does certainly highlight the consequences of one's actions.

Figure 11 - consequences, in Tarzia’s world, are for his targets only, and never him.

89. Tarzia knew what the end result of his actions would be – financial, social, and employment consequences for Alyssa Mercante, which was his goal all along.

Kotaku is a mess

While her employer Kotaku has yet to publicly state any reprimanding for her actions, and in some cases, even defended her... it may have swung the internet into taking a response on for them. This is unfortunately what happens in a public space when an employer refuses to acknowledge or act appropriately to correct the issue. Let me take this moment to once again remind you that I have a petition going to [#EndKotaku](#) and it has already surpassed 3,500 signatures. If you haven't already, [please consider signing the petition here](#).

Figure 12 - Tarzia weaponized “the internet” for his personal vendetta.

³⁶ *Id.*

90. Tarzia’s work frequently generates comments that threaten to go after the people he writes about.



Figure 13 - Tarzia does nothing to stem this kind of ire.

91. Tarzia claims that his harassment campaigns have a real effect upon the industry, giving him every incentive to continue this behavior.³⁷

C. Jeff Tarzia Crosses the Line

1. Jeff Tarzia’s False Claims About Mercante

92. On or around March 30, 2024, Tarzia posted “Whorification”? What’s that? Like what @alyssa_merc does sucking dicks in her off time for money?” from the SmashJT Twitter Account.

93. On or about April 1, 2024, Tarzia published a video to the SmashJT YouTube Channel in which he stated, “Alyssa Mercante [...] has since come forward stating that she used to be a sex worker, sucking dicks for money before working at Kotaku.”³⁸

94. That same day, Tarzia repeated these claims on the SmashJT

³⁷ Jeff Tarzia, *Developers Now AFRAID To Hire Anyone Who’s Ever Worked For Sweet Baby Inc.*, SMASHJT (September 21, 2024) <https://www.smashjt.com/post/developers-afraid-to-hire-anyone-who-s-worked-for-sweet-baby-inc> (last accessed November 26, 2024)

³⁸ Jeff Tarzia (@SmashJT), YOUTUBE, *I Went Viral (and They HATE Me For It!)* (April 1, 2024), <https://www.youtube.com/watch?v=4d6VDhZqArA> at 08:20 (last accessed November 26, 2024)

Website.³⁹

95. Tarzia repeated these claims on the SmashJT Youtube Channel on May 1, 2024,⁴⁰ and May 3, 2024⁴¹.

96. Such conduct constitutes the crime of prostitution under New York Penal Law § 230, which is listed under Title M of the New York Penal Law (“Offenses Against Public Health and Morals”).

97. These claims are false.

98. Mercante has never engaged in the conduct described, nor in any other act of prostitution.

99. Nor has she ever “come forward stating” that she has ever engaged in such conduct.

100. On information and belief, at the time of publication of each of these statements, Tarzia knew that these claims were false.

101. Although many people requested the source of his claim that Mercante made these statements herself, Tarzia has never provided this source.

102. Tarzia’s statement was intended to give his audience the impression he had special access to something underlying the factual claim — namely, that he had seen and had access to some form of media where Mercante had “come forward

³⁹ Jeff Tarzia, *I Went Viral and Now the Internet Hates Me*, SMASHJT (April 1, 2024), <https://www.smashjt.com/post/i-went-viral-and-now-the-internet-hates-me> (last accessed November 26, 2024).

⁴⁰ Jeff Tarzia (@SmashJT), YOUTUBE, Streamer’s INSANE Death Threat Goes VIRAL (May 1, 2024), <https://www.youtube.com/watch?v=UMDTW7zZ1Ec> at 03:23 (last accessed November 26, 2024)

⁴¹ Jeff Tarzia (@SmashJT), YOUTUBE, CEO Leaked Discord EXPOSES Scary Kotaku Agenda.... (May 3, 2024), <https://www.youtube.com/watch?v=X1RxnkYZBP8> at 00:03 (last accessed November 26, 2024).

stating” she had engaged in “suck[ing] dicks for money.”

103. Tarzia’s claim has been adopted and rebroadcast by many other influencers.

104. As a direct and proximate result of Tarzia’s factually false statement about her, Alyssa Mercante has suffered the following damages: injury to her professional reputation; loss of employment; loss of status and goodwill in the industry she covers; injury to her personal reputation; loss of economic opportunity; loss of income; and mental anguish.

2. Jeff Tarzia’s Harassment of Mercante

105. On information and belief, Tarzia has made dozens of videos about Mercante since March 22, 2024.

106. One of these videos, published to the SmashJT YouTube Channel on or about June 5, 2024, is ironically titled “Alyssa Mercante is OBSESSED With Me . . .”⁴²

107. In this video (and in the companion article posted to the SmashJT Website), Tarzia gives an unusually straightforward and direct statement about how he understands internet harassment to work, stating that “intentionally invoking” a person’s name and identity serves as a “calculated strategy” to “incite” followers and “outsource the task of doxxing.”⁴³

⁴² Jeff Tarzia (@SmashJT), YOUTUBE, *Alyssa Mercante is OBSESSED with me...*, (June 5, 2024), <https://www.youtube.com/watch?v=r-9qRmGx-Gc> (last accessed November 26, 2024); see also Fig. 8, *supra*.

⁴³ “Doxxing” is a term of art referring to the intentional publication of an individual’s personally identifying information for the purposes of harassment or intimidation.

108. He further states that such conduct “creates a pathway for harassment and intimidation” and that this “reckless behavior underscores a disturbing trend of online aggression, where individuals weaponize personal information in pursuit of vendettas, highlighting the urgent need for accountability and responsible online conduct.”⁴⁴

109. That is, Tarzia makes clear he understands doing exactly what he has been doing to Mercante deliberately “creates a pathway for harassment and intimidation” by, among other things, “intentionally invoking” Mercante’s name as part of a “calculated strategy” to “incite” followers and “outsource the task of doxxing.”

110. Tarzia has posted over 100 tweets referring to Mercante by name on the SmashJT Twitter Account since March of 2024.

111. Tarzia has published more than 50 videos about Mercante on the SmashJT YouTube Channel since March of 2024.

112. Tarzia has posted more than 50 blog posts about Mercante on the SmashJT Website since March of 2020.

113. This course of conduct has continued even after Mercante blocked Tarzia on Twitter in an effort to reduce his ability to see her posts and tag her in his targeted harassment.

114. Tarzia’s course of conduct bore fruit in exactly the way he described

⁴⁴ Jeff Tarzia, *Alyssa Is OBSESSED...*, SMASHJT (June 5, 2024), <https://www.smashjt.com/post/alyssa-is-obsessed> (last accessed November 26, 2024)

and anticipated.

115. In or around July 2024, the notorious doxing website Kiwi Farms,⁴⁵ posted Alyssa Mercante’s private information.⁴⁶

116. Tarzia, immediately put out a video that Mercante had “fled” Twitter when “karma” came for her.⁴⁷

117. When Mercante sent a demand letter for retraction, Tarzia⁴⁸ and others posted the demand letter and increased their mockery and abuse toward Mercante.⁴⁹

118. On information and belief, this torrent of harassing communication was done with the intent to deprive Mercante of her chosen counsel and to punish her for attempting to remove her personally identifying information.

119. Tarzia utilized this opportunity to seek funds from what he termed a “serious threat” against “[his] livelihood, [his] family, and [his] career.”⁵⁰

⁴⁵ Kejsi Take, Victoria Zhong, Chris Geeng, Emmi Bevensee, Damon McCoy, and Rachel Greenstadt. 2024. *Stoking the Flames: Understanding Escalation in an Online Harassment Community*. Proc. ACM Hum.- Comput. Interact. 8, CSCW1, Article 176 (April 2024). <https://doi.org/10.1145/3641015>

⁴⁶ ‘WesternTackle159’, REDDIT, *Chuds have doxxed Alyssa Mercante*, r/GamingCircleJerk (May 10, 2024), https://www.reddit.com/r/Gamingcirclejerk/comments/1coqrfs/chuds_have_doxxed_alysa_mercante/ (last accessed November 26, 2024)

⁴⁷ Jeff Tarzia (@SmashJT), *Alyssa Mercante FLEES Twitter After Karma Comes Roaring Back...*, YOUTUBE (May 10, 2024), <https://www.youtube.com/watch?v=7oCK2B8TrmE> (last accessed November 26, 2024)

⁴⁸ Jeff Tarzia (@SmashJT), *Alyssa Mercante Sent Me a Cease & Desist...*, YOUTUBE (September 26, 2024), <https://www.youtube.com/watch?v=zY3LnIkL1h4> (last accessed November 26, 2024)

⁴⁹ John F. Trent, *Smash JT Responds To Kotaku Senior Editor Alyssa Mercante Sending Cease & Desist Letter To Him: “Will Counter Sue For Everything You’re Coming After Me With,”* THAT PARK PLACE (September 27, 2024), <https://thatparkplace.com/smash-jt-responds-to-kotaku-senior-editor-alyssa-mercante-sending-cess-desist-letter-to-him-will-counter-sue-for-everything-youre-coming-after-me-with/> (last accessed November 26, 2024)

⁵⁰ Jeff Tarzia, *Help Cover Legal Expenses*, GOFUNDME (September 27th, 2024),

120. That is, he admitted just how crucial continued harassment of Alyssa Mercante is to the profitability of Tarzia's erstwhile media empire.

121. As a direct and proximate result of Tarzia's direct harassment of Alyssa Mercante, as well as his constant knowing and intentional exhortation to his legion of followers to do the same, Alyssa Mercante has suffered the following damages: injury to her professional reputation; loss of employment; loss of status and goodwill in the industry she covers; injury to her personal reputation; loss of economic opportunity; loss of income; and mental anguish.

3. *Jeff Tarzia's Use of Mercante's Images to Advertise His Channel*

122. In his career as an influencer, Tarzia earns income from the videos he records, produces, and uploads to the SmashJT YouTube Channel.

123. Tarzia's income from the SmashJT YouTube Channel is determined by how many individual users watch his videos. The more views the videos get, the more Tarzia gets paid.

124. Tarzia, therefore, has a direct economic incentive to encourage people to view the videos on the SmashJT YouTube Channel.

125. Every video on YouTube has a placeholder image which is displayed along with its title when the video is linked or embedded within another web page or social media post, as well as on the YouTube channel page itself.

126. These images are known as "thumbnails," and they act as the public face of a video. A video's thumbnail has a significant impact on how many views it

<https://www.gofundme.com/f/help-cover-legal-expenses-against-alyssa-mercantes-attacks> (last accessed November 26, 2024)

will ultimately receive.

127. The thumbnail for the video thus acts as an advertisement for the video, engaging potential viewer's interest in the content of the video with the intent of causing these potential viewers to click on and watch the video.

128. The creator of the video has the option to create a custom thumbnail for the videos they upload to YouTube.

129. On information and belief, Tarzia exerts sole control over the thumbnail images for the videos on the SmashJT YouTube Channel.

130. Tarzia frequently uses Mercante's likeness in the thumbnails for the videos on the SmashJT YouTube channel.

131. Tarzia also frequently uses Mercante's name in the thumbnails and titles of the videos on the SmashJT YouTube Channel.

132. Tarzia has used Mercante's likeness in the thumbnails for videos on the SmashJT YouTube Channel no fewer than 37 times since March 13, 2024.

133. Tarzia has used Mercante's name in the thumbnails or titles for videos on the SmashJT YouTube Channel no fewer than 25 times since March 13, 2024.

134. Tarzia has neither sought nor received Mercante's consent for any of these uses of her likeness or name.

135. Tarzia's unauthorized use of Mercante's likeness and name has proved lucrative for him.

136. On September 10, 2024, Tarzia tweeted "Is this the 'find out' part that a certain activist keeps going on about in regards to me?" Accompanying the tweet

was an image of a line graph, rising over time from just under 19,000 at the beginning of 2024 to nearly 57,000 at the time the image was captured, with a sharp increase in the rate of growth beginning in approximately late March of 2024.



Figure 14 - Tarzia admits Mercante is key to his business strategy.

137. On information and belief, the “certain activist” referenced in Tarzia’s tweet was Mercante.

138. On information and belief, the graph which accompanied the tweet was a demonstration of the lifetime subscriber count of the SmashJT YouTube Channel, showing an increase of nearly 40,000 subscribers between late March 2024 and September 10, 2024.

139. Tarzia's first video about Mercante was published on March 22, 2024.

140. As a direct and proximate result of Tarzia's misappropriation of Mercante's likeness and identity, she has suffered damages including, but not limited to: mental anguish, loss of income, loss of employment, loss of goodwill, reputational injury, and more.

4. Jeff Tarzia's harassment goes beyond him

141. As with any rough beast born of fanning the flames of online hate, Tarzia's harassment campaign went beyond direct attacks upon Mercante on his channel.

142. As a part of her participation in online gaming culture, Mercante would sometimes appear with other online personalities, including Hasan Piker.⁵¹

143. Mercante published a feature at Kotaku covering "TwitchCon 2024," where Piker was present.⁵²

144. Piker is a popular left-wing political commentator and streamer, who is also of Turkish ethnicity.

145. Piker's commentary, particularly covering the Israel/Hamas War that began on October 7, 2023, has drawn ire from many sources.⁵³

⁵¹ WIKIPEDIA, *Hasan Piker*, https://en.wikipedia.org/wiki/Hasan_Piker (last accessed November 26, 2024)

⁵² Alyssa Mercante, *TwitchCon 2024 Was A Whirlwind*, KOTAKU (September 24, 2024), <https://kotaku.com/twitchcon-2024-san-diego-diary-recap-hasanabi-1851656399> (last accessed November 26, 2024)

⁵³ Kalhan Rosenblatt, *Twitch faces criticism over Israel-Gaza war content on platform*, NBC NEWS (November 4, 2024, 3:20 PM PST), <https://www.nbcnews.com/tech/twitch-faces-criticism-israel-gaza-war-content-rcna178663> (last accessed November 26, 2024)

146. Streamer “Destiny”⁵⁴ attacked Mercante for her coverage of Piker, digging up a two-year-old article written about Piker by Mercante.⁵⁵

147. Tarzia piled on, with a video and blog post amplifying Destiny’s derogatory comments about Mercante.⁵⁶

148. Tarzia used this controversy to push his pet conspiracy theory about Mercante: that she was not in the video games industry to “champion games or support gamers” but to push her supposed left-wing activism.

Ultimately, Alyssa’s behavior continues to reveal her true colors. She’s not in this industry to champion games or support gamers; she’s here to push her activism, and Hasan is just another tool for her to do so.

Figure 15 -- from Tarzia’s story about Piker and Mercante

149. Tarzia stated, in no uncertain terms, that he would continue to “call out” Mercante any time she wrote a piece that did not pass his personal sensibilities about what a video games journalist should do.

150. Ultimately, based on the actions of Tarzia, multiple persons contacted G/O Media to complain about “antisemitism” from Mercante for appearing with Piker.

151. Under pressure from G/O in the wake of this harassment campaign, Mercante agreed to resign her position at Kotaku.

⁵⁴ Destiny is the *nom de guerre* of Stephen Kenneth Bonnell, II. See WIKIPEDIA, *Destiny_(streamer)*, [https://en.wikipedia.org/wiki/Destiny_\(streamer\)](https://en.wikipedia.org/wiki/Destiny_(streamer)) (last accessed December 5, 2024)

⁵⁵ Alyssa Mercante, *The Year In Twitch Pol Himbo King Hasan Piker*, KOTAKU (December 29, 2022) <https://kotaku.com/hasan-piker-andrew-tate-sam-hyde-twitch-porsche-taycan-1849933722> (last accessed November 26, 2024)

⁵⁶ Jeff Tarzia, *Alyssa Mercante ‘Horny For Hasan’ Called Out By Destiny*, SMASHJT (October 17, 2024), <https://www.smashjt.com/post/alyssa-mercante-horny-for-hasan-called-out-by-destiny> (last accessed November 26, 2024)

152. Ever one to utilize the misfortune of others to prop himself up, Tarzia gloated that Mercante leaving Kotaku was a victory for his side, since he believes (hypocritically) that video games journalists should stick to “*pure* game analysis” and avoid “dives into sociopolitical commentary” as it “polariz[es] their readership.”

It's no secret that over the past few years, mainstream gaming outlets have shifted towards editorial content that strays far away from any kind of *pure* game analysis and dives into sociopolitical commentary... ultimately polarizing their readership at the end of the day. Mercante embodied this trend magnificently (to a fault), but many now see her departure as part of a potential broader reset in the gaming media landscape. As she leaves Kotaku, industry insiders and gamers alike have expressed a cautious hope that this signals a potential return to what many miss: authentic, unbiased, game-focused journalism.... BUT, and its a very big BUT...

Figure 16 - Tarzia is unable to see his own hypocrisy

153. Despite Tarzia himself engaging in divisive, sociopolitical commentary, he believes that there is space in the video game commentary community for voices like his, but not voices like Mercante's, for which he has stated he will always “call out.”

154. As set out above, Tarzia's form of calling out, among other things, always includes (to use his words) “intentionally invoking” a person's name and identity serves as a “calculated strategy” to “incite” followers and “outsource the task of doxxing.”

5. Jeff Tarzia's Pattern and Practice of Lying

155. Tarzia has a history and pattern of making false statements to sensationalize his reporting and commentary — and does so in particular when Mercante is involved.

156. Below is a partial history and account of that practice.

157. On September 26, 2024, just after receiving a retraction request for Mercante's counsel, Tarzia posted false statements regarding her counsel to his Twitter timeline, falsely claiming that her counsel did not work at the firm he claimed.

158. Tarzia further intimated that Mercante's counsel had "quite the reputation" in the legal industry, but did not elaborate any further.



Figure 17 - Tarzia lies about Mercante's counsel.

159. Even after another commenter pointed out that it was easily verifiable that Mercante's counsel worked for the firm claimed, Tarzia refused to amend or takedown his post, or provide clarification regarding his statements regarding reputation.

160. After Mercante's leaving of her position with Kotaku, Tarzia reported on the matter breathlessly, without pausing to check his sources or not make further unfounded speculation about Mercante's plans, such as allegedly going to work for Sweet Baby, Inc.

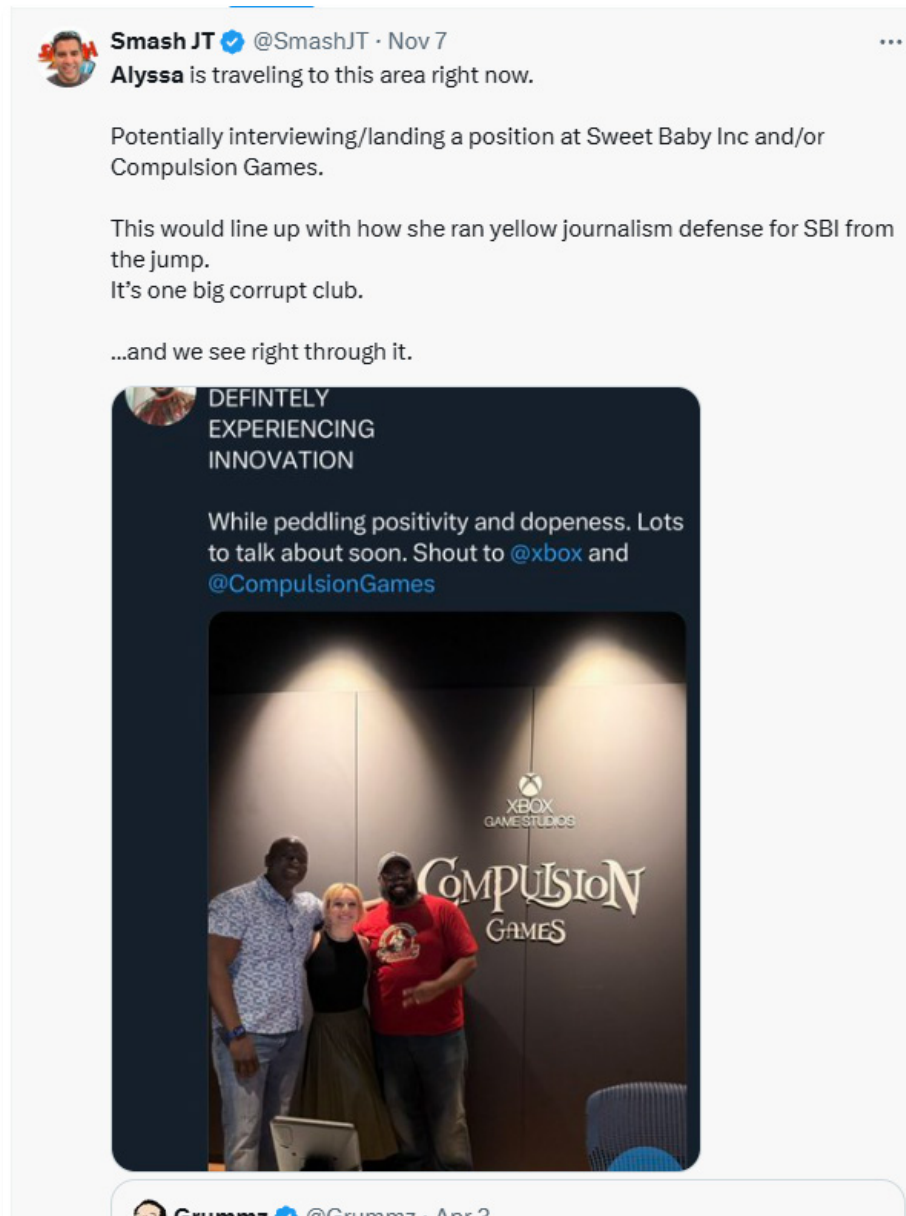


Figure 18 - Tarzia speculates on Mercante's employment plans.

161. Even when corrected about Mercante's plans, Tarzia implied that he

was in possession of facts which he refused to disclose in an attempt to substantiate his claims.



Figure 19 - Tarzia implies he knows facts that are not disclosed.

162. However, Tarzia is not simply immune to telling the truth or correcting the record when it serves to increase the harassment of his victims.



Figure 20 - Tarzia links to Mercante's account to direct harassment toward her.

163. When rumors began to spread that Tarzia had a post on a sexually explicit website, Tarzia pointed out that the person perpetrating the hoax⁵⁷ did so knowing it was false and bemoaning the amount of harassment he received.

⁵⁷ Alyssa Mercante is not in possession of any evidence which would substantiate that Jeff Tarzia and his wife participated in a website where they advertised for strange men to sleep with Tarzia's wife while Tarzia watched, and thus presumes that photographs and text generated in support of the hoax are in fact fake. They are reproduced here without sponsorship or endorsement by Alyssa or her counsel.

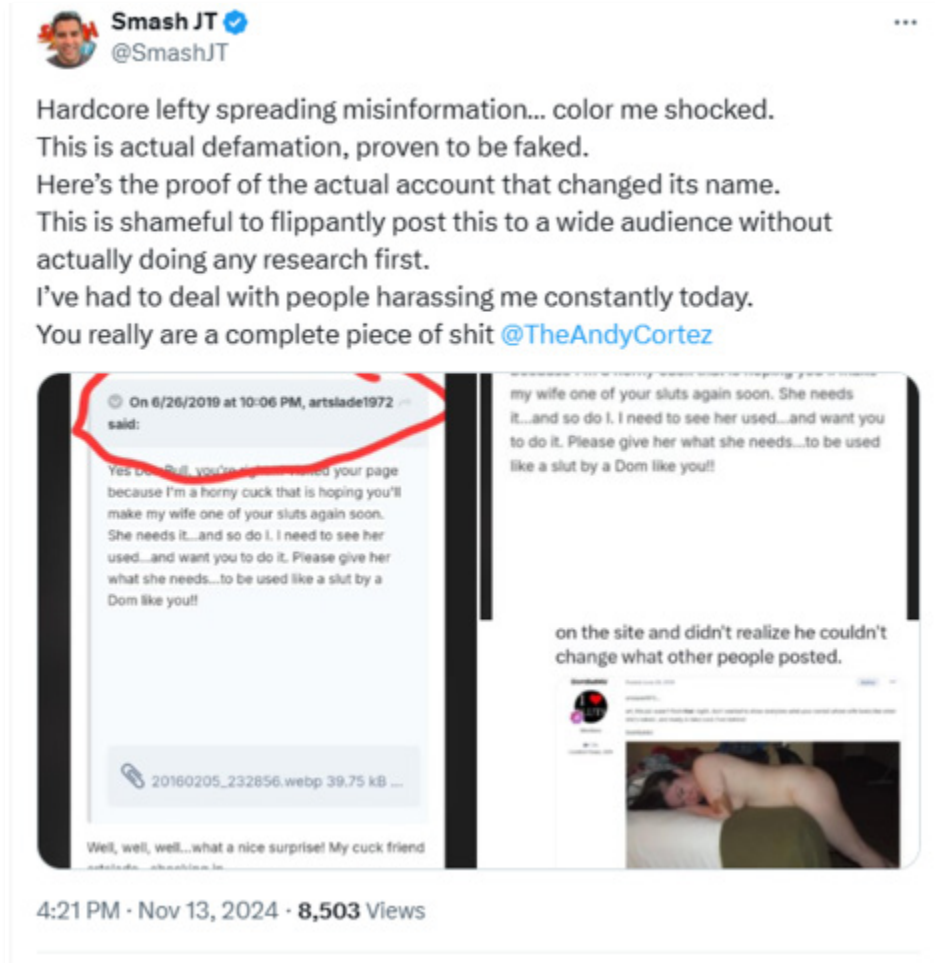


Figure 21 - Tarzia is upset by a hoax.

164. When the author of the hoax confessed, Tarzia's response was that a simple "I am sorry" would have sufficed.

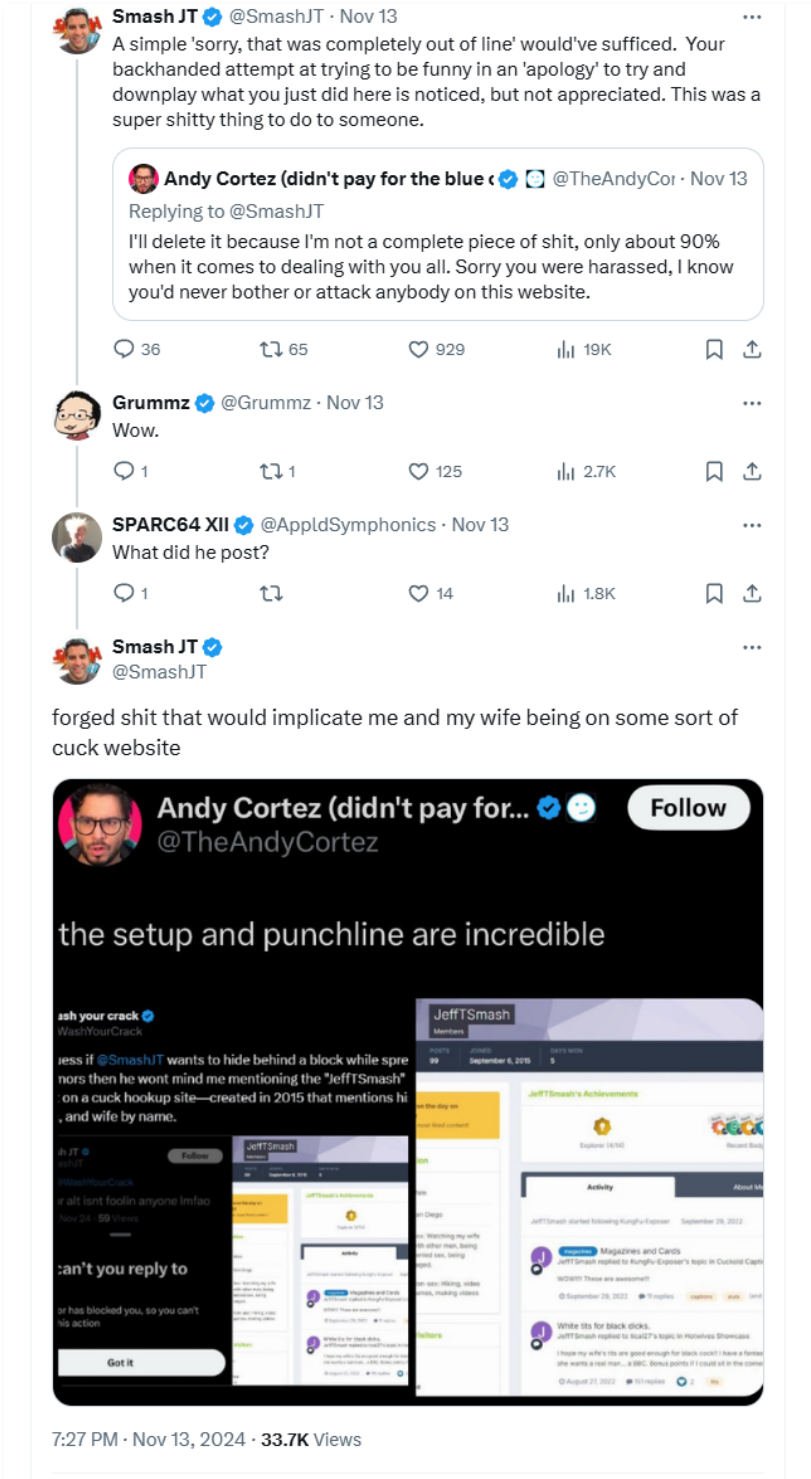


Figure 22 - Tarzia displays a lack of self-awareness.

165. Given his refusal to offer Mercante the same courtesy when it was requested, this statement is revealing.

166. On or about September 30, 2024, on a “Valiant Renegade” stream with Tarzia and his counsel Ron Coleman, Tarzia lied about not knowing Mercante and misrepresented his history with her.⁵⁸

167. Tarzia claimed that it was Mercante who approached him after he began his “EndKotaku” campaign, when, as shown in paragraphs 59-73, above, Tarzia had already targeted articles written by Mercante and called her out by name.

168. Tarzia repeated the same lies on another livestream with Coleman on or about October 1, 2024.⁵⁹

169. Tarzia also frequently shares a manipulated image of Mercante in a t-shirt but claims that the image has not been altered from the original. However, the original image by Mercante does not include the image and slogan which has been superimposed on the shirt. The image was first shared in his March 13, 2024, article regarding Jeff Grubb and Mercante, referenced in paragraphs 68 and 69.

⁵⁸ <https://www.youtube.com/watch?v=80gmQ8Fft5E>, last accessed December 9, 2024.

⁵⁹ <https://www.youtube.com/live/yLJ8KaSf6e0>, last accessed December 9, 2024.



Figure 23 - Tarzia knows this image is altered.

170. The photograph was taken from Mercante's Twitter feed and altered.



Figure 24 - the actual shirt

171. Tarzia knew that the statement contained on the shirt was false and has republished it anyway, as a part of his pattern or practice of publishing statements he knows to be false.

172. Tarzia has also commented on Mercante’s raising money for the “Trans Lifeline” charity, claiming that the charity itself is a scam and an “iceberg of hidden criminal activity.”⁶⁰

173. Trans Lifeline is a registered 501(c)(3) non-profit and is transparent in its finances.⁶¹

174. Charity Navigator, a site which investigates and ranks charities, gives Trans Lifeline a 96% rating.⁶²

175. No one associated with Trans Lifeline has been charged with a crime, although two former directors did agree to repay, independent of a lawsuit, funds that were diverted from the charity’s main mission. Such repayments were disclosed in the 2017 financial filings.⁶³

176. Such flippant and reckless disregard for the truth demonstrates that, at the time Tarzia made the defamatory statements about Mercante highlighted above, he knew they were false. He knew that he did not have any substantial basis for claiming they were true and had conscious knowledge the statements were not true.

177. Worse, at multiple points, Tarzia clearly implied that he was in possession of further facts that would substantiate his claims, which he never bothered to produce, because those facts did not exist.

⁶⁰ <https://www.youtube.com/watch?v=2zzgqllhX5A>, last accessed December 9, 2024.

⁶¹ <https://translifeline.org/about/#reports>, last accessed December 9, 2024.

⁶² <https://www.charitynavigator.org/ein/472097494>, last accessed December 9, 2024.

⁶³ <https://projects.propublica.org/nonprofits/organizations/472097494/201940289349300939/full>, last accessed December 9, 2024.

178. Tarzia fabricated those facts, knowing they were false.

179. As a direct and proximate result of Tarzia's harassment campaign against Mercante, she has suffered a loss of employment, a loss of income, and related damages.

First Cause of Action
Defamation and Defamation *Per Se*

180. This cause of action includes all the forgoing paragraphs, inclusive, by reference and incorporation.

181. On or around March 30, 2024, Tarzia tweeted “Whorification? What’s that? Like what @alyssa_merc does sucking dicks in her off time for money?” from the SmashJT Twitter Account.

182. On or about April 1, 2024, Tarzia published a video to the SmashJT YouTube Channel in which he stated, “Alyssa Mercante [...] has since come forward stating that she used to be a sex worker, sucking dicks for money before working at Kotaku.”⁶⁴

183. That same day, Tarzia repeated these claims on the SmashJT Website.⁶⁵

184. Tarzia repeated these claims on the SmashJT Youtube Channel on

⁶⁴ Jeff Tarzia (@SmashJT), YOUTUBE, I Went Viral (and They HATE Me For It!), YouTube (April 1, 2024), <https://www.youtube.com/watch?v=4d6VDhZqArA> at 08:20 (last accessed November 26, 2024)

⁶⁵ Jeff Tarzia, I Went Viral and Now the Internet Hates Me, SMASHJT (April 1, 2024), <https://www.smashjt.com/post/i-went-viral-and-now-the-internet-hates-me> (last accessed November 26, 2024).

May 1, 2024,⁶⁶ and May 3, 2024⁶⁷.

185. At the time Tarzia made the statements described with particularity above, those statements were false.

186. Tarzia made the statements with the intent to imply he had special access to some media in which Mercante had “come forward stating that she used to be a sex worker, sucking dicks for money.”

187. At the time Tarzia stated the above, he was aware that the statements were false, or upon information and belief, entertained serious doubts as to the truth of the statements prior to their publication.

188. Assuming, without conceding, that Alyssa Mercante is a public figure, Jeff Tarzia made factually false statements about her with actual malice.

189. Because Tarzia’s quoted statements are statements which impugns the chastity of Alyssa Mercante and accuse her of the commission of a crime of moral turpitude, to wit: prostitution under N.Y. Penal Law § 230, under New York Civil Rights Law § 77, is they are defamatory *per se* and special damages need not be plead.

190. Nevertheless, as a direct and proximate result of the false statement by Tarzia, Alyssa Mercante has suffered the following non-exclusive list of damages: injury to her professional reputation; loss of status and goodwill at her job; loss of

⁶⁶ Jeff Tarzia (@SmashJT), YOUTUBE, Streamer’s INSANE Death Threat Goes VIRAL (May 1, 2024), <https://www.youtube.com/watch?v=UMDTW7zZ1Ec> at 03:23 (last accessed November 26, 2024)

⁶⁷ Jeff Tarzia (@SmashJT), YOUTUBE, CEO Leaked Discord EXPOSES Scary Kotaku Agenda... (May 3, 2024), <https://www.youtube.com/watch?v=X1RxnkYZBP8> at 00:03 (last accessed November 26, 2024).

status and goodwill in the industry she covers; injury to her personal reputation; loss of economic opportunity; loss of income; and mental anguish.

Second Cause of Action
Bias Related Violence or Intimidation

191. This cause of action includes all the forgoing paragraphs, inclusive, by reference and incorporation.

192. Plaintiff, Alyssa Mercante, is a cisgender bisexual woman.

193. Defendant, Jeff Tarzia, is aware of Alyssa Mercante's gender presentation and sexual orientation.

194. Defendant, Jeff Tarzia, has engaged in a pattern of conduct that constitutes harassment under New York Penal Law 240.25, specifically, he has intentionally and repeatedly harassed Alyssa Mercante by engaging in a course of conduct that has reasonably put her in fear of physical injury.

195. Under New York Civil Rights Law § 79-n, Alyssa Mercante states upon information and belief that his selection of her for harassment is based upon Jeff Tarzia's belief or perception regarding Alyssa Mercante's race, color, gender, age, and/or sexual orientation.

196. Section 79-n provides a civil right of action against "Any person who intentionally selects a person or property for harm or causes damage to the property of another or causes physical injury or death to another, or subjects a person to conduct that would constitute harassment under section 240.25 of the penal law."

197. Under New York Civil Rights Law § 79-n, therefore, Alyssa Mercante requests all relief available, including injunctive relief, damages, and any other

relief available at law.

Third Cause of Action

Intentional Infliction of Emotional Distress

198. This cause of action includes all the forgoing paragraphs, inclusive, by reference and incorporation.

199. Tarzia has engaged in extreme and outrageous conduct. Not only has he committed individually the torts set forth in this Complaint, but his conduct has touched off a firestorm that has resulted in Alyssa having to daily face unwanted attention online from malefactors, both in public and private messages.



Figure 25 - an example of the messages Mercante received as a result of Tarzia's harassment campaign.

From: **Dan Marino** <temp@danmarino.ca>
Date: Wed, Oct 2, 2024 at 5:55 PM
Subject: OMG
To: <amercante@kotaku.com>

YOU are SO FUCKING UGLY!

LIKE, the REPULSIVE kind of UGLY. Not the I feel sorry for you ugly.

Seriously... there was bile in my throat after that gamer guy flashed your fucking picture.

Another blue-haired retarded bitch ruining gaming. I can't wait until your bubble bursts... reality will be so hard for you.

AND FOR CHRIST'S SAKE! Quit telling people you are ITALIAN! Italians don't want you.

Figure 26 - an email received by Mercante

200. This has always been Tarzia's intent. He knew before making a single statement about Mercante that some of his viewers would take it too far, and he made the statements he did understanding and believing that this type of conduct would result.

Kotaku is a mess
While her employer Kotaku has yet to publicly state any reprimanding for her actions, and in some cases, even defended her... it may have swung the internet into taking a response on for them. This is unfortunately what happens in a public space when an employer refuses to acknowledge or act appropriately to correct the issue. Let me take this moment to once again remind you that I have a petition going to [#EndKotaku](#) and it has already surpassed 3,500 signatures. If you haven't already, [please consider signing the petition here](#).

Figure 27 - Tarzia knew the results of his actions.

201. Because Tarzia intended his harassment and outrage campaign to be successful, he intended all of the foreseeable consequences of that campaign.

202. That includes the severe emotional distress suffered by Mercante, which has risen to the level that affects her livelihood and even her feeling of safety going out in public.

203. All of this is attributable to the words and actions of Tarzia on his

website, on his video channel, and on his social media profiles.

204. The direct and proximate result of Tarzia's actions and words is that Alyssa Mercante suffered compensable damages within the jurisdictional limits of this Court.

Fourth Cause of Action
Tortious Interference with Contract

205. This cause of action includes all the forgoing paragraphs, inclusive, by reference and incorporation.

206. Alyssa Mercante had a contract for employment with Kotaku, a video games industry website, as a senior editor.

207. Jeff Tarzia's harassment campaign, detailed above, intentionally sought to run Alyssa Mercante out of the video games journalism industry.

208. Jeff Tarzia's harassment was unlawful and tortious.

209. Jeff Tarzia's unlawful harassment was intended to interfere with Alyssa Mercante's employment.

210. Jeff Tarzia promoted the commentary by streamer Destiny related to Mercante's support of Hasan Piker, which led to people accusing Mercante of antisemitism.

211. As a direct and proximate result of Tarzia's unlawful harassment, Alyssa Mercante lost her job and had her contract bought out by her now-former employer.

212. Tarzia intentionally and knowingly tortiously interfered with Alyssa Mercante's contract with her employer.

213. As a result of the interference with that contract, Alyssa Mercante suffered damages within the jurisdictional limits of this Court.

Fifth Cause of Action

Common Law Stochastic Terrorism and/or Prima Facie Tort

214. This cause of action includes all the forgoing paragraphs, inclusive, by reference and incorporation.

215. Courts have the common law power to recognize new civilly actionable wrong when appropriate. New York has arguably codified that general power in its cause of action for prima facie tort.

216. Under either approach, however, the harassment campaign above is actionable, as set out below.

217. Other courts in this nation, including a Washington court, have recognized a new common law tort related to a pattern of escalating harassment, or “stochastic terrorism.”⁶⁸

218. According to the Washington court, and supported by similar principles in New York Law, courts should recognize new torts when they identify a trend in the law that justifies the adoption of a new cause of action.

219. Indeed, New York has already made harassment a crime. *See* New York Penal Law Section 240.

220. Likewise, New York has made bias-related intimidation or harassment

⁶⁸ *See* Default Judgment and Order at 5–6, *Bungie, Inc. v. Comer*, No. 22-2-10761-8 SEA (Wash. Super. Ct., July 11, 2023). *See also* Barnes, Alexander. Real-World Consequences for Online Actions: the Case for Expanding Employee Harassment Protection via Employers’ Rights of Action.48 SEATTLE U.L. REV. 165 (2024).

a civil cause of action. *See* New York Civil Rights Law § 79.

221. Jeff Tarzia’s conduct demonstrates an escalating pattern of harassing conduct directed specifically at Alyssa Mercante.

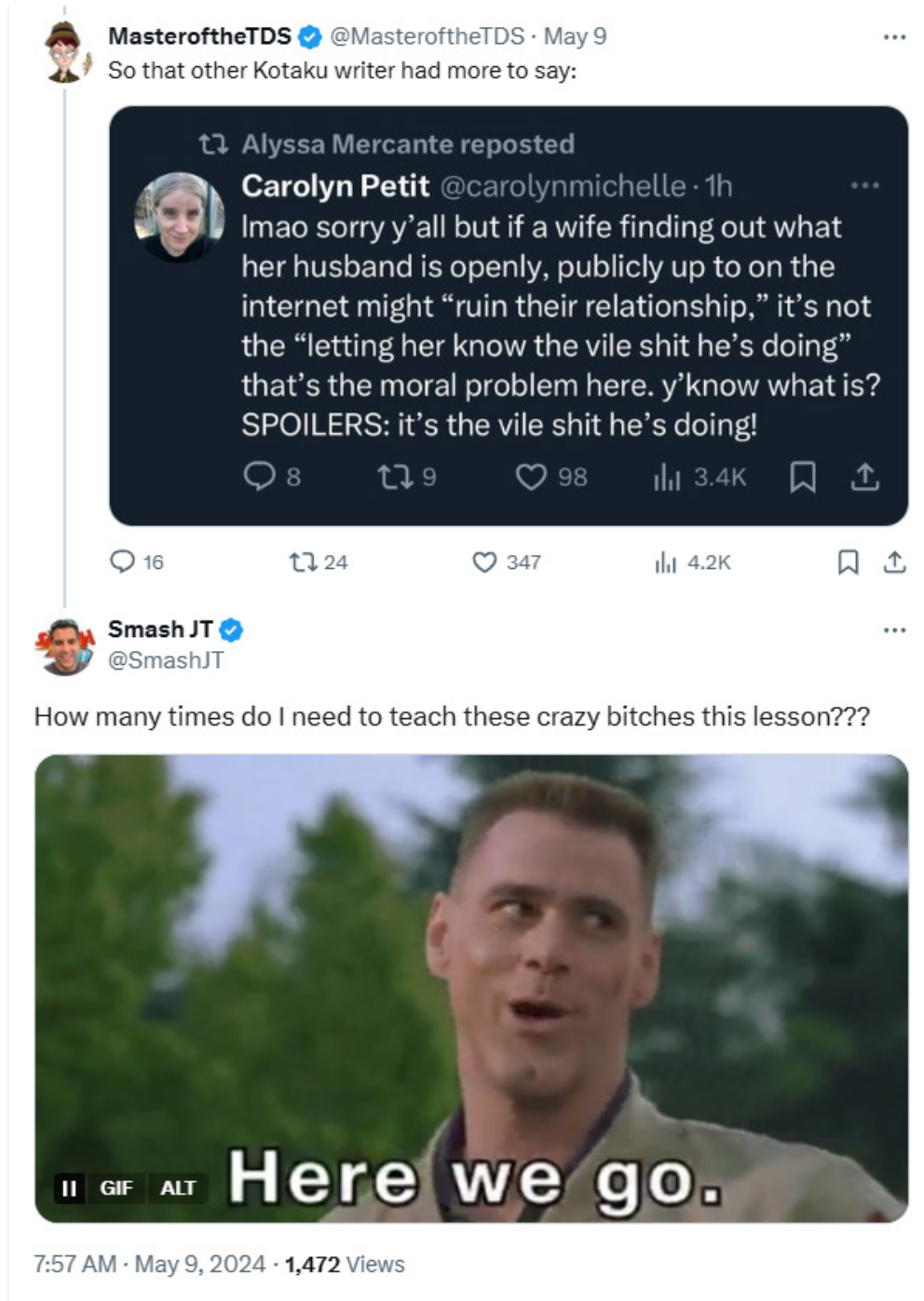


Figure 28 - Tarzia refers to Mercante as a "bitch."

222. That is, Tarzia’s aim is “teach[ing] these crazy bitches” — including Mercante — a “lesson.”

223. And he does so through stochastic harassment.

224. Tarzia claims that the basis for his campaign is the “betterment of the video games industry,” by which he means the removal of Mercante and people like her from that space.

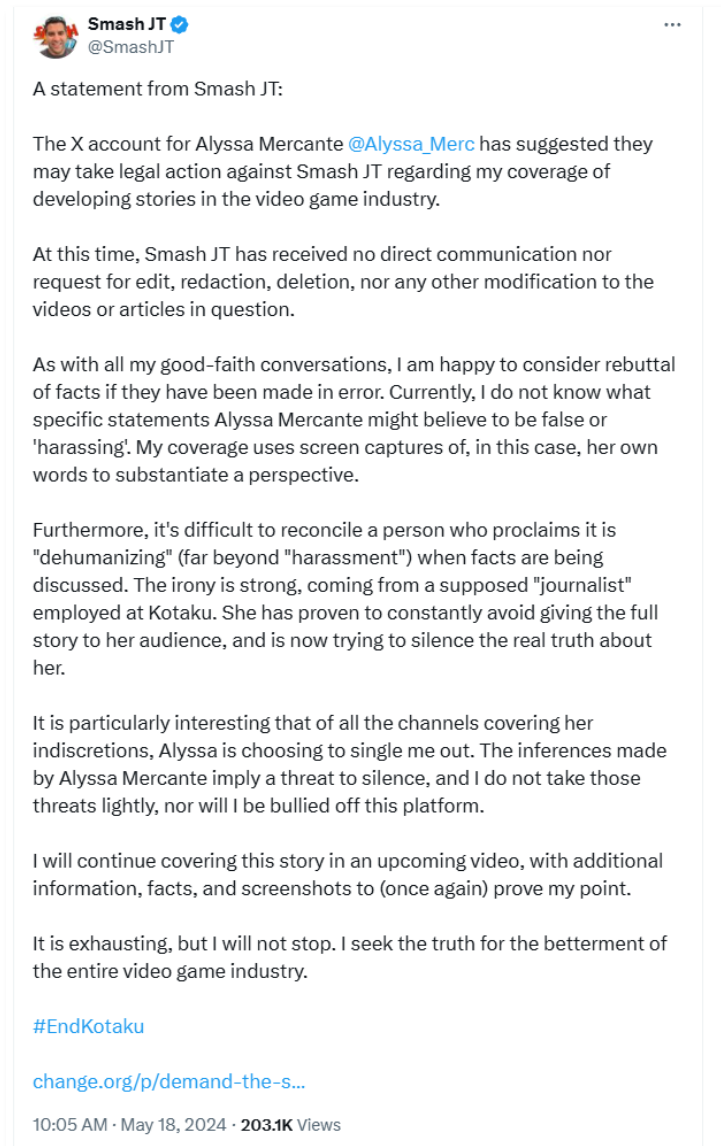


Figure 29 - Tarzia admits his goal is the silencing of people with whom he disagrees.

225. Despite his claim to consider a “rebuttal of facts” if he has made an error, Tarzia refuses to do so.

226. Tarzia refused to consider he was in error concerning Mercante’s counsel.

227. When it was pointed out to Tarzia that his statements against Mercante as highlighted in this complaint likely were defamatory, he ignored it.



Figure 30 - Tarzia ignores good advice.

228. Tarzia has been given opportunity after opportunity to de-escalate the situation. He has refused at every turn.

229. And that refusal has stoked harassment by his followers.

230. That stoking is by design.

231. In fact, Tarzia’s conduct has become more and more extreme, including

personal taunts directed at Mercante.

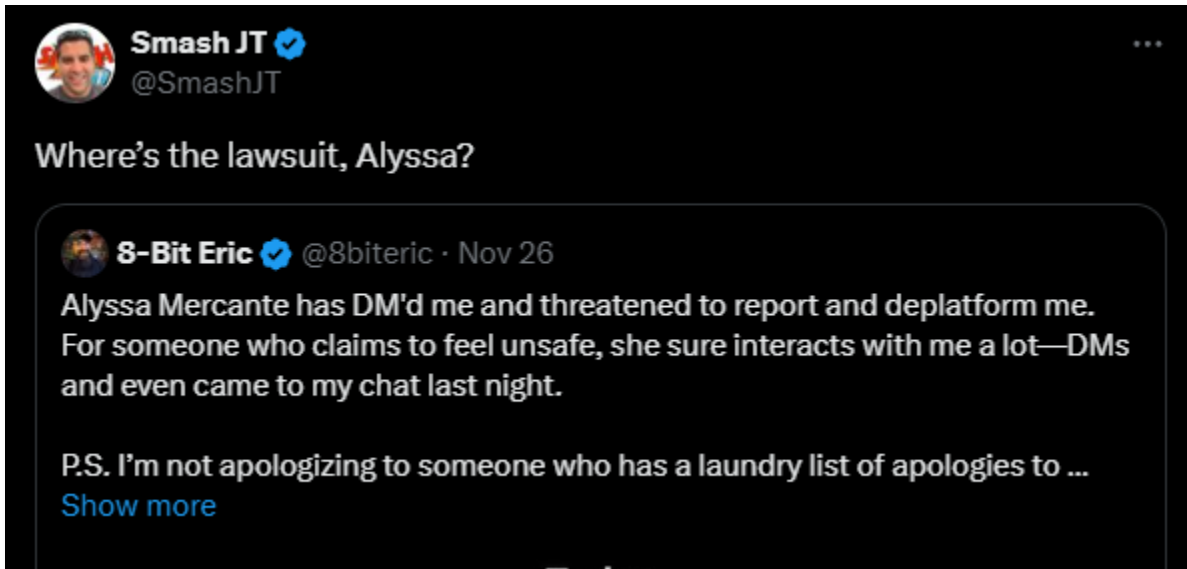


Figure 31 – Asking a question answered by this document.

232. New York and this Court should recognize a residual liability tort for stochastic terrorism where a person engaged in a targeted pattern of harassment directed at one person, with the express goal of otherwise tortiously interfering in that person's life or livelihood.

233. Because Tarzia has stated on multiple occasions that his goal is the removal of Alyssa Mercante from the video games journalism space, there is no doubt as to his intentions.

234. Jeff Tarzia cannot claim that he, as an influencer and political commentator, is merely participating in the marketplace of ideas when his sole goal is to remove or otherwise silence voices with which he disagrees.

235. Jeff Tarzia should be able to hide behind a pretense of free expression when the sum total of his actions have been to enable a targeted hate mob against one person, costing her livelihood, her peace, and her peace of mind.

236. Jeff Tarzia's actions are unusual, extreme, and malicious.

237. Jeff Tarzia relies upon false statements, sensationalism, outright lies, and implications that he possesses insider knowledge he never reveals or substantiates.

238. Jeff Tarzia relies upon the backing and presence of others within his social circle to harass and intimidate his critics.

239. When presented with conflicting views and evidence, Tarzia ignores them and doubles down upon his lies and prevarications.

240. Doing so has made Tarzia successful within his chosen space.

241. Tarzia therefore has little reason to change his behavior unless made to do so by the law.

242. This Court should impose new tort liability for stochastic terrorism, in accordance with its sister court in Washington, so that Jeff Tarzia's wrongs do not go unpunished.

243. In the alternative, the Court should use the elements of prima facie tort here: Tarzia has engaged in (1) intentional infliction of harm, (2) causing special damages, (3) without justification or excuse, (4) by otherwise lawful acts.⁶⁹

244. It is a truism in the law that where there is an injury, there must be a cause of action to vitiate it.

⁶⁹ Some, but not all, aspects of Tarzia's campaign are actionable as set out above under other theories. Given element (4) of prima facie tort, if the Court takes the prima facie tort approach, that approach would only cover the acts and damages not otherwise covered by a claim proceeding to trial — and this complaint pleads prima facie tort in that regard as an alternative to, not in conjunction with, the claims above that cover the same territory as far as damages or other relief.

245. Alyssa Mercante has undeniably suffered compensable damages within the jurisdiction of this court, including, but not limited to: lost wages, loss of business opportunity, loss of business goodwill, damage to reputation, loss of employment, mental anguish, and punitive damages, for which demand is now made.

Prayer for Relief

246. Based on the foregoing, Alyssa Mercante pleads for relief as set forth above, for damages within the jurisdictional limits of this Court, and for such other and further relief as this Court may deem just and proper.

Jury Demand

247. Plaintiff requests a trial by jury on all claims and issues so triable.

Respectfully submitted,

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