

April 17, 2019

VIA CERTIFIED MAIL

Paypal, Inc.
ATTN: Litigation Department
Re: Notice of Dispute
2211 North First Street
San Jose, CA 95131

Re: VDARE Foundation, Notice of Dispute
Email on Account: donate@vdare.com
Phone Number on Account: (860) 361-6231

Dear Sir or Madam:

I represent the VDARE Foundation (“VDARE”) with respect to its claims against PayPal. I write to provide a formal notice of dispute, as required by PayPal’s User Agreement. Please direct any further correspondence on this matter to me. If this matter is not resolved to our satisfaction within 30 days, VDARE will initiate an arbitration against PayPal.

This matter arises from PayPal’s unilateral decision to permanently ban VDARE from using PayPal’s services, after VDARE had used PayPal for over a decade to receive contributions from supporters and donors.

In a 2018 interview, PayPal’s CEO, Dan Schulman, said that he wanted to start a “revolution in the way we think about financial services.” In Schulman’s view, “managing and moving money should be a right for every citizen,” and not a “privilege.” Repeatedly, Schulman emphasized that full and equal access to financial services was essential to “the ability to be a productive citizen”: “if you’re underserved or outside of the financial system, it’s very, very difficult.” Schulman linked exclusion from the financial system to growing political polarization in the U.S., observing that, “for the most part,” it is those who have been “excluded from the opportunities of the digital economy who rail against the system.” In his view, these individuals who had been denied the benefits of the digital economy were “not voting one way or another, just voting against the system because they feel the system has let them down. And in many ways, it has. So we really need to step up as companies.” Thus, Schulman announced, PayPal was “focusing our energy to try and democratize access to the digital economy”—that is, to have the ability to access financial services be regarded as “a right for all citizens” and no longer a “privilege” to be doled out by large banks and financial services providers as they chose.

This case tests whether PayPal will live up to the principle announced by its CEO, that full and equal access to payment processors should be regarded as “a right for every citizen,” or whether PayPal will pursue the very theory that its CEO identified as being antithetical to basic rights of modern citizenship and a direct threat to the long-term survival of our democracy: that access to financial services is a “privilege” that can be denied by large banks and other providers of financial services to the general public for any reason or no reason at all, including blatantly discriminatory reasons such as race, gender, or political belief. The answer will go a long way towards determining whether America can continue to survive as a free and democratic society where citizens enjoy the rights of a free speech, a free press, and self-rule.

I. BASIS FOR THE DISPUTE

a. VDARE Is an Immigrant-Founded, IRS-Certified Non-Profit Educational Organization That Provides Data, Analysis and Commentary on U.S. Immigration Policy from a Wide Array of Authors of Different Races, Nationalities and Political Views

VDARE is a non-profit educational organization that is exempt from federal income taxation under IRC section 501(c)(3). It is based in Connecticut. VDARE’s mission is education on two main issues: first, the unsustainability of current U.S. immigration policy and second, the “National Question,” which is the viability of the U.S. as a nation-state. VDARE does this through VDARE.com, a forum site that publishes data, analysis and editorial commentary critical of America’s immigration policies from a wide array of perspectives. It also promotes its educational mission through its publishing arm, VDARE Books, as well as through public speaking, conferences, debates and media appearances.

VDARE’s founder, Peter Brimelow, is a well-known magazine editor, political commentator, columnist and author whose career spans five decades. He has served as an editor and writer at the *Wall Street Journal*, *Financial Post*, *Macleans*, *Barrons*, *Fortune*, *Forbes*, *National Review*, and *MarketWatch*. He is a recipient of the Gerald Loeb Award for Distinguished Business and Financial Journalism, was a media fellow at the Hoover Institution, and has been described as “a star of the conservative movement in the 2000s.”¹ He is the author of four well-regarded books, including *Alien Nation: Common Sense About America's Immigration Disaster* (1995), a national bestseller in the U.S. He also wrote *The Patriot Game: National Dreams and Political Realities* (1986), a book on Canadian politics that is credited with spurring the creation of the Reform Party of Canada in 1987, as well as *The Wall Street Gurus: How You Can Profit*

¹ Mathew Hayday, *So They Want Us to Learn French: Promoting and Opposing Bilingualism in English-Speaking Canada* (UBC Press 2015), at p. 176.

from Investment Newsletters; and The Worm in the Apple: How the Teacher Unions Are Destroying American Education.

Throughout its existence, VDARE has published pieces that criticize current U.S. immigration policy for a wide variety of different reasons and from a wide variety of different angles and perspectives. VDARE's editorial position in favor of limiting immigration is not based on any sort of hatred or dislike of immigrants. VDARE's founder, Peter Brimelow, is himself an immigrant and a naturalized U.S. citizen. Many of VDARE's editors and contributors, current and former, are immigrants or foreign nationals.

Nor is VDARE's advocacy of limiting immigration based on racism or prejudice against particular races, religions, ethnicities or nationalities. Quite the contrary: a particular point of emphasis for VDARE has always been the devastating effect of current U.S. immigration policy on racial minorities and recently arrived immigrants. Throughout its nearly 20-year history, VDARE has published *countless* pieces on the negative effects of U.S. immigration policy on African-Americans, Hispanic-Americans, and Asian-Americans. It seeks to highlight the negative effects of U.S. immigration policy on American citizens of *all* social classes, races, ages and education levels.

VDARE has never urged, advocated or promoted hatred towards any racial, ethnic or national group. Throughout its nearly 20 year history, VDARE has published pieces by individuals of all races, religions, ethnicities and nationalities. It does not discriminate on these grounds, and has never done so. Indeed, as a 501(c)(3) nonprofit, it would be illegal for VDARE to practice such unlawful discrimination, as this would be grounds for revoking its non-profit status. Nor has VDARE ever urged, advocated or promoted violence, or any form of illegality. Its interest has been with protecting American citizens of every conceivable background from the dangers of current U.S. immigration policy.

Far from intolerant hatemongering appealing to a fringe audience, VDARE.com's consistent editorial perspective in favor of limiting immigration is identical to the position on immigration set forth by now-President Donald Trump in his August 15, 2015, speech on the issue and echoed in numerous public statements since that time. The same criticisms of current U.S. immigration policy that President Trump has made the centerpiece of his public speeches and popular appeals are the same ones that have formed the core of VDARE's criticism of U.S. immigration policy for nearly two decades. In the view of VDARE, and President Trump, America's post-1965 immigration policy depresses the incomes of American workers; undermines America's continued existence as a nation unified by a common culture, history and traditions; strains public services; and serves as a magnet for criminals and gang members who exploit our porous borders and lax immigration policies. These are not the views of a tiny, hateful fringe looking for a pretext to humiliate or terrorize others, nor are they disguised calls for violence and

illegal behavior. Instead, they are political perspectives with widespread appeal to Americans of all races, nationalities and backgrounds. They are the political views and perspectives that galvanized the 62 million who voted for President Trump in the 2016 election and that are ubiquitous on cable TV, talk radio, social media and nearly every other medium for political communication in modern America. Whether one agrees or disagrees with the views of President Trump and his supporters on immigration, to label the expression of these views as “the promotion of hate, violence, racial or other forms of intolerance that is discriminatory” is to strip these words of any meaning.

b. PayPal Bans VDARE From Using Its Services and Repeatedly Emails False and Misleading Statements To Its Donors With the Intention of Destroying Its Donor Base

As a non-profit educational foundation, VDARE relies on donations from the public to sustain its mission and activities. For many years VDARE used PayPal to collect these donations. One especially useful feature of PayPal was that it gave donors the ability to make recurring monthly, weekly or yearly donations using the service. These recurrent PayPal donations were essential in providing VDARE with a consistent revenue stream to fund its operations.

On August 15, 2017, VDARE’s Advancement Officer, Lydia Brimelow, received two emails from PayPal: one notifying her that the money in VDARE’s PayPal account was eligible for withdrawal, and another notifying her that PayPal had placed a “permanent limitation” on VDARE’s account. PayPal stated that due to “the nature of your activities” it had “chosen to discontinue service to you.” PayPal provided no further explanation or elaboration, nor did it specify what (if any) part of the User Agreement or Acceptable Use Policy that VDARE violated. Instead, PayPal presented the choice as a purely discretionary one taken without any cause. The letter requested that VDARE remove all references to PayPal from its website, including removing PayPal as a payment option and removing PayPal’s logo and shopping cart from its site. VDARE complied with these requests.

The letter directed VDARE to contact “the PayPal Brand Risk Management Department” if it had any questions. Ms. Brimelow contacted PayPal customer service in an attempt to get an explanation on why VDARE had been permanently banned from using PayPal, a service freely accessible to any member of the public the world over with an internet connection. But, as it turns out, PayPal’s “Brand Risk Management office” is not reachable by customers. Unable to reach the department PayPal had directed her to contact, Ms. Brimelow spoke with a representative at PayPal’s fraud department. The representative informed her that when accounts are suspended, a PayPal employee will fill out a form with a drop down box listing different kinds of violations, from fraudulent material to forbidden items. The representative was able to open VDARE’s form, but there

was no cause selected. There was only a note referencing the Acceptable Use Policy, but no further details as to why VDARE was permanently banned. This PayPal employee informed Ms. Brimelow that there was no way for VDARE to contact PayPal and request an explanation.

PayPal has never provided any explanation for the permanent ban whatsoever, either to VDARE or on its own internal forms, which list no cause for the ban. This is highly unusual, because PayPal employees are required to fill out an automated form that requires a cause for the action be selected from a drop-down menu before anyone is locked out of their account or barred from using PayPal's services. Indeed, PayPal suggested in the email informing VDARE of the permanent ban that this step was purely discretionary in nature and not prompted by any actual violation of its Acceptable Use Policy, User Agreement or any other contractual term.

The timing of the ban, coming a few days after the Unite the Right rally in Charlottesville, VA, indicates strongly that the motivation for the permanent ban was political in nature. Indeed, PayPal's CEO, Schulman, has admitted that it began blacklisting certain conservative accounts after the Unite the Right rally. However, VDARE never endorsed the Unite the Right rally, played no role whatsoever in planning or promoting it, and did not participate in the rally in any way.

In the same interview, Schulman admitted that PayPal works with the far-left advocacy group Southern Poverty Law Center (SPLC) in banning certain individuals and groups based on their political views. The SPLC's involvement in deciding which accounts to ban is highly problematic. The SPLC was recently forced to pay a \$3.375 million libel settlement and issue a public apology to Maajid Nawaz, an expert on counter-extremism who had advised Prime Ministers Tony Blair and Gordon Brown, after it had smeared Nawaz as a "notorious Muslim basher" and an "Anti-Muslim Extremist." It is currently the subject of multiple lawsuits for racketeering and libel. A June 22, 2018 *Washington Post* column titled "The Southern Poverty Law Center has lost all credibility" noted that the SPLC "has become a caricature of itself, labeling virtually anyone who does not fall in line with its left-wing ideology an 'extremist' or 'hate group.'" Indeed, the SPLC has labeled a wide swath of individuals and groups that it dislikes for political reasons—including the Family Research Council, the scholar Charles Murray, the ex-Muslim democracy advocate Ayaan Hirsi Ali, and the widely-respected Center for Immigration Studies—as "extremists," "white nationalists," and other pejoratives. PayPal's decision to permanently ban VDARE has been the subject of negative media attention, with the decision being denounced by Tucker Carlson on his TV show and Michelle Malkin.

At the time it was permanently banned, VDARE had numerous donors who relied on PayPal's automated recurring donation feature to contribute to VDARE regularly on a monthly, weekly or yearly basis. These donors provided a crucially important revenue

stream that VDARE relied upon to conduct its day-to-day activities. PayPal then proceeded to *repeatedly* email VDARE's recurring contributors each month and inform them, falsely and fraudulently, as follows: "We've tried to process your automatic payment several times, and it is now past the original due date. You should contact VDare.com to pay what you owe." This was false and misleading: PayPal knew very well that its failure to process these payments was the result of its own intentional act in permanently banning VDARE, and not the result of some unforeseen technical failure. And PayPal was fully aware that it had made no effort whatsoever to process those payments, much less having "tried several times" to do so. Indeed, PayPal configured its servers *specifically* so that contributors to VDARE would be frustrated in their efforts to donate to VDARE.

PayPal's instruction to VDARE's donors to "contact VDare.com to pay what you owe" was insulting and demeaning, implying both that these contributors owed VDARE their voluntary donations and that these individuals were so irresponsible that they would ignore a debt without having to be reminded to pay it. In addition to being insulting and false, it foreseeably led to confusion, distrust, and broken relationships with loyal longtime contributors that have never been repaired. VDARE was forced to explain to its contributors, over and over again, that VDARE was not refusing to process their donations, but instead that PayPal had permanently banned VDARE from using its services.

And these statements met an obvious, and unanswerable, response: Why on earth would PayPal be sending emails saying that they had made repeated attempts to process my contribution if VDARE had in fact been permanently banned? Why would PayPal tell such a blatant and obvious falsehood, even going to the trouble of fabricating a story about having tried repeatedly to process the contribution but having been unable to do so, and warning the customer that they should contact VDARE directly? Surely a large and respected corporation, one that is publicly traded and enjoys a sterling reputation, would not flat-out lie to customers like that?

To be clear, PayPal did not just send a few stray messages of this sort: it has repeatedly emailed these false and harassing statements to VDARE's regular contributors who had set up a recurring PayPal donation, right up to the present day.

Several of VDARE's contributors who were subjected to this harassment complained directly to PayPal. As with Ms. Brimelow, they were rebuffed. PayPal refused to explain why it had banned VDARE and why it was continuing to send false and fraudulent emails to its regular contributors each month. And it continued to send these emails to donors even after they complained specifically, and even after PayPal representatives acknowledged that the emails were false and misleading. For example, PayPal representatives acknowledged the emails were automatically-generated "spam"

messages and that they “did not fit the situation” (i.e., were misleading and false). Nonetheless, PayPal continued to send the false and misleading messages even after being notified of their falsity and that they were unwelcome.

PayPal’s unilateral decision to ban VDARE from its free and open payment processing platform, available to members of the general public the world over, without any warning, notice or explanation—indeed, while refusing to even discuss the matter with VDARE—foreseeably led to the severe diminution of its revenue stream and destroyed its goodwill with its donors. Many previous loyal and generous contributors expressed doubt that VDARE had been permanently banned and frustration at the fact that their donations seemed to have run into an inexplicable technical problem. This quite foreseeably led to contributors ending their recurring donations to VDARE, lest they be subjected to the same harassment PayPal inflicted upon them. Thus, despite VDARE’s best efforts, its monthly donations never recovered from its blacklisting by PayPal. It has suffered damages of \$121,909.16 in diminished revenues to date as a result of PayPal’s conduct.

II. LEGAL CLAIMS

VDARE asserts claims for relief against PayPal as follows.

a. Violation of the Unruh Act, Cal. Civ. Code § 51, et seq.

PayPal hosts a business establishment under the Unruh Civil Rights Act, California Civil Code § 51 et seq. The Unruh Act’s “fundamental purpose is to secure to all persons equal access to public accommodations no matter their personal characteristics.” *Candelore v. Tinder, Inc.* (2018) 19 Cal. App. 5th 1138, 1145 (internal quotation marks omitted). “Although its text identifies particular kinds of discrimination—such as sex, race, and national origin—this list is “illustrative, rather than restrictive,” and the Act’s proscription against arbitrary discrimination extends beyond these enumerated classes.” *Id.*

It is well-established that the Unruh Act prohibits discrimination against “persons of unusual political views.” *Marina Point, Ltd. v. Wolfson* (1982) 30 Cal. 3d 721, 730. The California Supreme Court has stated that the Unruh Act prohibits business establishments from excluding individuals merely on the basis of their “characteristics or associations,” such as those “who wear long hair or unconventional dress, who are black, who are members of the John Birch Society, or who belong to the American Civil Liberties Union, merely because of these characteristics or associations.” *In re Cox* (1970) 3 Cal. 3d 205, 217–18. “The personal characteristics protected by the Act are not defined by immutability,” and indeed the Unruh Act prohibits discrimination based on an individual’s “personal beliefs.” *Id.* (internal quotation marks omitted). *Candelore, supra*, 19 Cal. App. 5th at p. 1145.

Beginning with *Cox* nearly 50 years ago continuing to the present day, California courts have repeatedly listed “political affiliation” as a protected category under the Unruh Act. *Semler v. General Electric Capital Corp.* (2011) 196 Cal. App. 4th 1380, 1396; *Ingels v. Westwood One Broadcasting Services, Inc.* (2005) 129 Cal. App. 4th 1050; *Gray v. Kircher* (1987) 193 Cal. App. 3d 1069, 1075; *Rolon v. Kulwitzky* (1984) 153 Cal. App. 3d 289, 292. The Ninth Circuit explicitly held that political affiliation was a protected category under the Unruh Act in *McCalden v. California Library Ass’n* (9th Cir. 1992) 955 F.2d 1214, 1220-1221.

Under the Unruh Act, PayPal could not deny service to VDARE or its contributors on the basis of their political views. In violation of the Unruh Act, however, PayPal has permanently banned VDARE from using its services due to its political views.

b. Intentional Interference with Prospective Economic Advantage

The tort of intentional interference with prospective economic advantage has the following elements: 1) an economic relationship between the plaintiff and some third party, with the probability of future economic benefit to the plaintiff; 2) the defendant’s knowledge of the relationship; 3) intentional wrongful acts on the part of the defendant designed to disrupt the relationship; 4) actual disruption of the relationship; and 5) economic harm to the plaintiff proximately caused by the acts of the defendant. *Korea Supply Co. v. Lockheed Martin Corp.* (2003) 29 Cal. 4th 1134, 1153-1154.

In this case, VDARE had an economic relationship with its donors and the probability of future benefit. PayPal knew of these relationships and took intentional wrongful acts designed to disrupt them. It terminated VDARE from using PayPal’s payment processing services, which are freely available to members of the general public, based on its political beliefs, in violation of the Unruh Act. It did so without providing any sort of warning to VDARE. After it terminated VDARE, PayPal refused to provide any explanation to VDARE of why it was taking this action, despite repeated requests. PayPal then proceeded to send repeated, harassing emails to VDARE’s recurring donors, informing each donor that it had “tried to process your automatic payment several times, and it is now past the original due date,” and that the donor “should contact VDare.com to pay what you owe.” These emails were false and misleading. In fact, PayPal had made no effort to process these payments. And the donations could not be processed not because of some unforeseen failure, but because PayPal had intentionally banned contributors from donating to VDARE. PayPal has continued to send these harassing emails to VDARE’s contributors right through to the present day, despite having received complaints from VDARE’s donors and despite knowing the emails to be false. These acts disrupted VDARE’s relationship with its donors and directly caused VDARE economic

harm, as many donors expressed skepticism that VDARE had actually been banned and ended their recurrent donations altogether rather than suffer further harassment and abuse.

c. Violation of the Unfair Competition Law, Cal. Bus. & Prof. Code § 17200 et seq.

The Unfair Competition Law (UCL) prohibits “any unlawful, unfair or fraudulent business act or practice and unfair, deceptive, untrue or misleading advertising.” Cal. Civ. Code § 17200. “Because Business and Professions Code section 17200 is written in the disjunctive, it establishes three varieties of unfair competition—acts or practices which are unlawful, or unfair, or fraudulent. In other words, a practice is prohibited as ‘unfair’ or ‘deceptive’ even if not ‘unlawful’ and vice versa.” *Cel-Tech Commc’ns, Inc. v. Los Angeles Cellular Tel. Co.* (1999) 20 Cal. 4th 163, 180 (internal quotation marks omitted).

“The determination as to whether a business practice is deceptive is based on the likely effect such a practice would have on a reasonable consumer.” *Tucker v. Pacific Bell Mobile Services* (2012) 208 Cal. App. 4th 201, 225-226 (internal formatting and quotation marks omitted). “A perfectly true statement couched in such a manner that it is likely to mislead or deceive the consumer, such as by failure to disclose other relevant information, is actionable under these sections.” (*Id.* at p. 226) “The fraudulent business practice prong of the UCL has been understood to be distinct from common law fraud and relief under the UCL is available without individualized proof of deception, reliance and injury.” (*Id.* at p. 225 [internal quotation marks omitted].)

In this case, PayPal sent repeated, harassing emails to VDARE’s recurring donors, informing each donor falsely that it had “tried to process your automatic payment several times, and it is now past the original due date,” and that the donor “should contact VDare.com to pay what you owe,” when in truth PayPal had made no effort to process their payments and, in fact, the donations could not be processed not because of some unforeseen failure but because PayPal had intentionally banned contributors from donating to VDARE. PayPal has continued to send these emails directly to VDARE’s contributors to the present day, despite knowing that the emails are false and fraudulent. This was a fraudulent and unfair business practice, one which predictably disrupted VDARE’s relationship with its donors and directly caused VDARE economic harm.

III. CHOICE OF LAW

Although the User Agreement contains a Delaware choice of law clause, California law governs VDARE’s claims in this suit. PayPal’s decision to blacklist VDARE and other conservative groups based on their political beliefs was made at its California headquarters, and its actions implementing the ban were coordinated at and emanated

from its California headquarters. So too, the false and fraudulent emails sent to VDARE's contributors were conceived, reviewed and otherwise controlled from PayPal's California headquarters.

California follows Restatement (Second) of Conflict of Laws § 187 in cases involving contractual choice-of-law provisions. Under this approach,

“[T]he court must . . . determine whether the chosen state's law is contrary to a fundamental policy of California. If there is no such conflict, the court shall enforce the parties' choice of law. If, however, there is a fundamental conflict with California law, the court must determine whether California has a materially greater interest than the chosen state in the determination of the particular issue[.] If California has a materially greater interest than the chosen state, the choice of law shall not be enforced, for the obvious reason that in such circumstance we will decline to enforce a law contrary to this state's fundamental policy.” *Nedlloyd Lines B.V. v. Superior Court* (1992) 3 Cal. 4th 459, 466 (citation omitted).

“[T]he Unruh Act unquestionably embodies a fundamental public policy in this state.” *Schmidt v. Superior Court* (1989) 48 Cal. 3d 370, 383. It “expresses a state and national policy against discrimination on arbitrary grounds,” and its provisions “were intended as an active measure that would create and preserve a nondiscriminatory environment in California business establishments by ‘banishing’ or ‘eradicating’ arbitrary, invidious discrimination by such establishments.” *Angelucci v. Century Supper Club* (2007) 41 Cal. 4th 160, 167. The Unruh Act “stands as a bulwark protecting each person's inherent right to full and equal access to ‘all business establishments.’” *Id.* Delaware's anti-discrimination laws are not nearly as comprehensive. Allowing a California business establishment to escape the Unruh Act's protections through a choice-of-law provision would be contrary to California's fundamental public policy.

In addition, California “has a clear and substantial interest in preventing fraudulent practices in this state which may have an effect both in California and throughout the country” and “a legitimate and compelling interest in preserving a business climate free of fraud and deceptive practices.” *Diamond Multimedia Systems, Inc. v. Superior Court* (1999) 19 Cal. 4th 1036, 1063-1064. “[T]he UCL is not intended to protect California residents specifically, but to protect ‘the Public . . . from fraud and deceit.’” *Jonczyk v. First Nat'l Capital Corp.* (Jan. 22, 2014) 2014 U.S. Dist. LEXIS 17211, *12 (quoting *Barquis v. Merchants Collection Assn.* (1972) 7 Cal. 3d 94, 110) see *Rincon EV Realty LLC v. CP III Rincon Towers, Inc.* (2017) 8 Cal. App. 5th 1, 16 (refusing to enforce New York choice-of-law provision that would waive jury trial rights protected by California law; rejecting defendants' argument that “because plaintiffs are New York residents, California has ‘no interest in protecting *them* from the consequences’ of the

contractual jury waivers at issue.”) (emphasis in original); *Brack v. Omni Loan Co., Ltd.* (2008) 164 Cal. App. 4th 1312, 1329 (refusing to enforce Nevada choice-of-law clause in case brought by non-resident plaintiff where “application of Nevada law would deprive a substantial segment of the borrowing public in this state of the substantive and regulatory protection California affords all of its other consumers.”)

There can be no question that California has a far greater interest than Delaware in applying its consumer protection and anti-discrimination laws in this suit. California recognizes that “with respect to regulating or affecting conduct within its borders, the place of the wrong has the predominant interest.” *Hernandez v. Burger* (1980) 102 Cal. App. 3d 795, 802. “[W]hen the defendant is a resident of California and the tortious conduct giving rise to the . . . action occurs here, California’s deterrent policy of full compensation is clearly advanced by application of its own law.” *Hurtado v. Superior Court* (1974) 11 Cal. 3d 574, 584. Moreover, California’s “statutory remedies may be invoked by out-of-state parties when they are harmed by wrongful conduct occurring in California.” *Norwest Mortg., Inc. v. Superior Ct.* (1999) 72 Cal. App. 4th 214, 224-225; *see also Clothesrigger, Inc v GTE Corp* (1987) 191 Cal App 3d 605, 615 (recognizing California’s “fraud deterrence and consumer protection interests in applying its law to the claims of nonresident plaintiffs”). In this case, the tortious conduct by PayPal complained of in this suit—its decision to ban VDARE and other groups for their political beliefs—was conceived and implemented in California. *See Bias v. Wells Fargo & Co.* (N.D. Cal. 2013) 942 F. Supp. 2d 915, 929 (California law applied to UCL, despite Louisiana choice-of-law clause, because “the totality of Plaintiffs’ allegations sufficiently state that the scheme was initiated and perpetrated by executives in California.”)

By contrast, Delaware has scant interest in this suit. “California’s consumer protection laws are among the strongest in the country,” and “California’s more favorable laws may properly apply to benefit nonresident plaintiffs when their home states have no identifiable interest in denying such persons full recovery.” *Wershba v. Apple Computer, Inc.* (2001) 91 Cal. App. 4th 224, 242 (quoting *Clothesrigger, supra*, 191 Cal. App. 3d at p. 616.) The California Supreme Court has held that, in cases involving resident defendants, foreign states do not have a legitimate interest in limiting the amount of recovery for nonresident plaintiffs. *Hurtado*, 11 Cal. 3d at pp. 586-587. The California courts have repeatedly rejected the notion that non-resident plaintiffs must “persuasively articulate why California has a special obligation” to apply its law to their claims, holding that “[s]uch consideration [is] not proper under choice-of-law rules.” *Rutledge v. Hewlett-Packard Co.* (2015) 238 Cal. App. 4th 1164, 1188-1189.

IV. RELIEF REQUESTED

As relief for the aforementioned legal violations, VDARE requests the following relief:

1. Damages in the amount of \$121,606.19 representing lost revenue from the date of its account cancellation to the present in reduced donations;
2. Damages in the amount \$675,648.83 representing lost revenues for 10 years in the future, reduced to present value;
3. That its account be reinstated, and that VDARE and its donors once again be permitted to use PayPal's services;
4. That PayPal cease sending false and harassing email messages to VDARE's contributors stating that their payments could not be processed and directing them to "contact VDare.com to pay what you owe";
5. That PayPal notify all of VDARE's recurring donors that these emails were false, and that VDARE's account was unlawfully suspended but has now been restored;
6. That PayPal be enjoined from denying service to individuals and groups due to their political beliefs and affiliations, in violation of the Unruh Act, and that it restore any such accounts that have been unlawfully suspended;
7. Punitive damages, including an award of three times the amount of actual damages under the Unruh Act;
8. Statutory damages of not less than \$4,000;
9. A declaratory judgment that PayPal has violated the Unruh Act and the UCL, and intentionally interfered with VDARE's economic expectancy;
10. Reasonable attorney's fees and costs; and
11. Prejudgment and post-judgment interest.

I look forward to hearing from you.