

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF FLORIDA**

DONALD J. TRUMP, the Forty-Fifth President  
of the United States, KELLY VICTORY,  
AUSTEN FLETCHER, AMERICAN  
CONSERVATIVE UNION, ANDREW  
BAGGIANI, MARYSE VERONICA JEAN-  
LOUIS, NAOMI WOLF AND FRANK  
VALENTINE, INDIVIDUALLY AND ON  
BEHALF OF THOSE SIMILARLY SITUATED,

Plaintiffs,

v.

YOUTUBE, LLC and SUNDAR PICHAI

Defendants.

Civil Action No. 1:21-cv-22445-KMM-LFL

**MOTION FOR PRELIMINARY INJUNCTION WITH MEMORANDUM OF LAW  
IN SUPPORT OF PLAINTIFF'S MOTION INCORPORATED HEREIN**

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## INTRODUCTION

Pursuant to Rule 65 of the Federal Rules of Civil Procedure, Plaintiff Donald J. Trump respectfully moves for a preliminary injunction directing, inter alia, Defendant YouTube, LLC, and all persons acting in privity, in concert, or on YouTube's behalf, to reinstate Plaintiff's access to Defendant's social media platform.

Coerced by members of the United States Congress, operating under an unconstitutional immunity granted by a permissive federal statute, and acting directly with federal officials, Defendant is censoring Plaintiff, a former President of the United States. On January 12, 2021, Defendant indefinitely banned Plaintiff from its platform, a major avenue of public discourse. Defendant's censorship and prior restraint of Plaintiff's speech violate the First Amendment to the United States Constitution and likewise violates Florida's newly enacted Social Media Platforms Act.

Defendant YouTube is one of many companies exercising a degree of power and control over public political discourse in this country that is immeasurable, historically unprecedented, and profoundly dangerous to open democratic debate. Defendant not only banned Plaintiff from its platform but has extended its prior restraint to innumerable Subscribers who post videos of or discuss the views of Plaintiff. Such total censorship continues to cause Plaintiff irreparable harm, endangers democracy, stifles public debate, and may well tip the balance of the 2022 Congressional Elections and the 2024 Presidential Election.

Defendant's censorship of Plaintiff becomes state action for First Amendment purposes when it is a result of "the State's exercise of 'coercive power;' the State's 'significant encouragement, either overt or covert,' in Defendant's censorship conduct; and when Defendant acted as a 'willful participant in joint activity'" with the government in censoring Plaintiff. *United Brentwood Acad. v. Tenn. Secondary Sch. Athletic Ass'n*. 531 U.S. 288, 296 (2001) (Thomas, J.

dissent (citations omitted). All three factors—coercion, significant encouragement, and willful participation in a joint activity—are in operation here. Defendant’s censorship of Plaintiff evidences a pattern of viewpoint-based prior restraint, carrying the heaviest presumptions against constitutional validity, and violates Florida’s newly enacted Stop Social Media Censorship Act.

Thus, on both constitutional and state law grounds, Plaintiff is entitled to an injunction requiring YouTube to reinstate Plaintiff’s access to his channel(s) on YouTube.

### **FACTUAL STATEMENT**

#### **A. The Donald J. Trump YouTube Channel**

Plaintiff established the Donald J. Trump YouTube channel in May of 2015 and initially used the channel to engage with the general public. (Ibrahim Decl. Exh. A ¶¶ 14, 15, 16.) When Defendant indefinitely suspended the Donald J. Trump channel on January 26, 2021, that channel had approximately 2.79 million Subscribers. (Ibrahim Decl. Exh. A ¶¶ 6, 17, 24.)

#### **B. Defendant’s Censorship And Prior Restraint Of Plaintiff**

During Plaintiff’s presidency, often without any explanation, Defendant targeted Plaintiff’s YouTube channel with restrictions, removals, and other forms of censorship. In late 2019, Defendant removed over 300 Trump Campaign advertisements from YouTube. (Ibrahim Decl. Exh. A ¶¶ 17, 18) An egregious example of censorship occurred on or about July 9, 2021, when Defendant removed an episode of the American Conservative Union’s (“ACU”) “America UnCanceled” program on the Conservative Political Action Conference (“CPAC”) Now channel. (Ibrahim Decl. Exh. A ¶¶ 7, 19, 20.)

The most severe and fundamental prior restraint imposed by Defendant on Plaintiff was its decision on January 26, 2021, to permanently suspend Plaintiff’s YouTube channel. (Ibrahim Decl. Exh. A ¶ 22.) Defendant never identified any content uploaded by Plaintiff that putatively justified its action. [Id.] Instead, in its public statements, YouTube stated, “In light of concerns

about the ongoing potential for violence, the Donald J. Trump channel will remain suspended.” (Ibrahim Decl. Exh. A ¶ 23.) This permanent suspension not only prevents Plaintiff from uploading new content, it prevented his Subscribers from posting comments. (Ibrahim Decl. Exh. A ¶ 24.) Plaintiff’s remarks on January 6, 2021, in Washington, D.C., are a matter of public record, and Defendant’s ban of Plaintiff’s speech is a prior restraint of his First Amendment right that persists to this day. (Ibrahim Decl. Exh. A ¶ 25.)

### **ARGUMENT**

#### **LEGAL STANDARD APPLICABLE TO MOTIONS FOR A PRELIMINARY INJUNCTION**

To obtain a preliminary injunction, Plaintiff must establish: “(1) a substantial likelihood of success on the merits of his claim; (2) an irreparable injury unless the injunction [is] granted; (3) that the harm from the threatened injury outweigh[s] the harm the injunction would cause [defendants]; and (4) that the injunction would not be adverse to the public interest.” *Parsons v. Regna*, 847 F. App’x 766, 771 (11th Cir. Mar. 17, 2021) (citing *Gonzalez v. Governor of Ga.*, 978 F.3d 1266, 1270–71 (11th Cir. 2020)). “A substantial likelihood of success on the merits requires a showing of only *likely* or *probable*, rather than *certain*, success.” *Id.* at 1271 n.12 (quoting *Schiavo ex rel. Schindler v. Schiavo*, 403 F.3d 1223, 1232 (11th Cir. 2005) (emphasis in original)).

#### **POINT I PLAINTIFF IS LIKELY TO SUCCEED ON THE MERITS OF HIS FIRST AMENDMENT CLAIM**

The Internet is “the modern public square.” *Packingham v. North Carolina*, 137 S. Ct. 1730, 1732 (2017). For billions of people, it is the most important source and medium for news, information, culture, and communication. *Id.* It is, moreover, “perhaps the most powerful mechanism available to a private citizen to make his or her voice heard.” *Id.* at 1738. (Ibrahim Decl. Exh. A ¶¶ 5,26(a).) Defendant’s censorship of Plaintiff’s views violated the First

Amendment when Defendant became a state actor because governmental involvement in that conduct took one or more impermissible forms, all of which are present here. *See Biden v. Knight First Amendment Institute*, 141 S. Ct. 1220, 1222 (2021) (“Mr. Trump often used the account to speak in his official capacity. And, as a governmental official, he chose to make the comment threads on his account publicly accessible, allowing any Twitter user—other than those whom he blocked—to respond to his posts.”) (Thomas, J. concurrence.) Although discussing Plaintiff’s Twitter account, there is a parallel public access to YouTube; *see also Amalgamated Food Employees Union v. Logan Valley Plaza*, 391 U.S. 308, 325 (1968) (“The more an owner, for his advantage, opens up his property for use by the public in general, the more do his rights become circumscribed by the statutory and constitutional rights of those who use it.”)

**A. Legal Standards Applicable To A State Action Finding**

The Supreme Court has held that state action exists “when [the private party’s conduct] results from the State’s exercise of ‘coercive power,’ when the State provides ‘significant encouragement, either overt or covert,’ or when a private actor operates as a ‘willful participant in joint activity’” with the government. *United Brentwood Acad.*, 531 U.S. at 296 (citations omitted) (emphasis added); *see Focus on the Family v. Pinellas Suncoast Transit Auth.*, 344 F.3d 1263, 1277 (11th Cir. 2003). Private party conduct can also become state action when the government has passed a statute or regulation immunizing that conduct from state law liability and has made plain its “strong preference” for the immunized conduct to be engaged in. *See, e.g., Skinner v. Railway Labor Executives’ Ass’n*, 489 U.S. 602, 615 (1989).

Private party conduct is state action when it results from a “symbiotic relationship” between the private party and the government. *See, e.g., Burton v. Wilmington Parking Auth.*, 365 U.S. 715, 725 (1961); *Focus on the Family*, 344 F.3d at 1278; *Pasadena Republican Club v.*

*Western Justice Ctr.*, 985 F.3d 1161, 1167 (9th Cir. 2021); *Perkins v. Londonderry Basketball Club*, 196 F.3d 13, 18 (1st Cir. 1999); *Dobyns v. E-Systems, Inc.*, 667 F.2d 1219, 1227 (5th Cir. 1982). Moreover, state action always exists when the government deliberately “induces, encourages, or promotes persons to accomplish what it is constitutionally forbidden to accomplish.” *Norwood v. Harrison*, 413 U.S. 455, 465 (1973). When government officials violate this principle, state action exists, and the private parties who intentionally assist them may be liable for violating constitutional rights. *See, e.g., George v. Edholm*, 752 F.3d 1206, 1215 (9th Cir. 2014).

Satisfaction of any one of the above tests “is sufficient to find state action.” *Pasadena Republican Club*, 985 F.3d at 1167; *Barrios-Velazquez v. Asociacion De Empleados Del Estado Libre Asociado*, 84 F.3d 487, 493 (1st Cir. 1999). But courts may also view these indicia of governmental involvement in private conduct as cumulative factors, weighing in favor of finding state action. *See, e.g., Rawson v. Recovery Innovations, Inc.*, 975 F.3d 742, 754-55 (9th Cir. 2020). State action is indisputable when all such factors come together in a single case, as they do here.

The determination of whether private party conduct constituted governmental action is “necessarily a fact-bound inquiry,” *United Brentwood Acad.*, 531 U.S. at 296, requiring a “totality of the circumstances” analysis. *Evans v. Valero Energy Corp.*, No. CV F 07-0130, 2007 U.S. Dist. Lexis 21402 at \* 9 (E.D. Cal. Mar. 6, 2007); *Bass v. Parkwood Hosp.*, 180 F.3d 234, 242 (5th Cir. 1999).

Defendant’s censorship of Plaintiff resulted from: (a) coercive pressure imposed on Defendant by federal actors, including numerous Democrat members of Congress; (b) significant encouragement, both overt and covert, by the federal government, including the enactment of a statutory provision, Section 230 of the Communications Decency Act of 1996, 47 U.S.C. §230

(“Section 230”) immunizing social media platforms’ suppression of constitutionally protected speech; and (c) Defendant’s willful participation in joint activity with federal actors, including a federal agency and the White House.

**B. Federal Actors Repeatedly And Coercively Pressured Defendant To Censor Speech And To De-Platform Plaintiff**

While government officials are permitted to express their, or the government’s, preferences about what a private company should or should not do, they cannot exert coercive pressure on private parties to censor others’ speech. *E.g.*, *Bantam Books, Inc. v. Sullivan*, 372 U.S. 58, 66-67 (1963). Such coercion converts private party conduct into state action. *United Brentwood Acad.*, 531 U.S. at 298; *Carlin Communications, Inc. v. Mountain States Tel. & Tel. Co.*, 827 F.2d 1291, 1295 (9th Cir. 1987) (finding state action in private telephone company’s suspension of account due to coercive threats made by state official).

The test in such cases is whether the “comments of governmental officials can reasonably be interpreted as intimating that some form of punishment or adverse regulatory action will follow failure to accede to the officials’ request.” *E.g.*, *Hammerhead Enters., Inc. v. Brezenoff*, 707 F.2d 33, 39 (2d Cir. 1983). When governmental actors have exerted such coercive pressure, state action exists regardless of whether the officials’ threat “was the real motivating force” behind the private party’s conduct and even if the private party “would have acted as he did independently.” *Carlin Communications*, 827 F.2d at 1295.

“[A] public official who tries to shut down an avenue of expression of ideas and opinions through ‘actual or threatened imposition of government power or sanction’ is violating the First Amendment.” *Backpage.com, LLC v. Dart*, 807 F.3d 229 (7th Cir. 2015) (citing, *American Family Association, Inc. v. City & County of San Francisco*, 277 F.3d 1114, 1125 (9th Cir. 2002)). Written and verbal threats of the kind in *Backpage*, similar to those in this case, create an irreparable injury

because they are designed to coerce, not persuade. *Id.* at 239. Judge Richard Posner, writing for the Court in *Backpage*, found that the sheriff’s threatening statements constituted prior restraint, “[t]hreatening penalties for future speech goes by the name of ‘prior restraint,’ and a prior restraint is the quintessential first amendment violation.” *Id.* at 235 (citing, *Fairley v. Andrews*, 578 F.3d 518, 525 (7th Cir. 2009)).

In *Okwedy v. Molinari*, 333 F.3d 339, 344 (2d Cir. 2003) (per curiam), the Second Circuit made clear that subtle or soft language does not obviate the threat, reasoning, “[w]hat matters is the distinction between attempts to convince and attempts to coerce.” *Id.* at 344. The “intent” of the letter [threat] controlled, not its formal language. *Id.* Further, in *Okwedy*, the Court reasoned, “[b]ased on this letter, [Plaintiff] could reasonably have believed that [the official] intended to use his official power to retaliate against it if it did not respond positively to his entreaties. . . . [Plaintiff] could reasonably have feared that [the official] would use whatever authority he does have, as Borough President, to interfere with the ‘substantial economic benefits’ [Plaintiff] derived from its billboards.” *Id.*

Courts have long held that threats by government officials violate the First Amendment, which “unquestionably constitutes irreparable injury” to the victim or recipient of the threat. *Backpage.com, LLC*, 807 F.3d at 239. The Ninth Circuit described this form of impermissible state action as follows: “If the First Amendment means anything, however, the Commission has no right to accompany its suggestions with vague or explicit threats of regulatory action should broadcasters consider and reject them. The Commission has no right whatsoever to demand or secure commitments from broadcasters to accept its suggestions. It has no right to launch orchestrated campaigns to pressure broadcasters to do what they do not wish to do.” *Writers Guild of America, West, Inc. v. FCC*, 423 F. Supp. 1064, 1150 (1976) (*rev’d on other grounds*). Using

nearly identical analysis, employer speech cases are treated substantially the same. For example, because employers oversee employees, courts “must take into account the economic dependence of the employees on their employers, and the necessary tendency of the former, because of that relationship, to pick up *intended implications* of the latter that might be more readily dismissed by a more disinterested ear.” *NLRB v. Gissel Packing Co.*, 395 U.S. 575, 617 (1969) (emphasis added).

Since 2019, Democrat members of the United States Congress, as well as now-President Joe Biden and Vice President Kamala Harris, have subjected the social media companies and their CEOs, including Defendant, to systematic and increasing pressure to censor disfavored online speech, and to promote favored speech, or else face catastrophic legislative and/or regulatory consequences. (Ibrahim Decl. Exh. A ¶¶ 26(b), 27,28, 29,30, 31, 32, 33, 34.)

On or about April 10-11, 2019, Speaker of the House Nancy Pelosi warned that a “new era” of regulating social media was coming and that Section 230 could be “in jeopardy.” (Ibrahim Decl. Exh. A ¶28.) Speaker Pelosi further commented that “the era of self-regulation” in this country for social media companies is “probably” over, and that “[w]hen we come to 230, you really get their attention . . . it is not out of the question that that could be removed” because “for the privilege of 230, there has to be a bigger sense of responsibility on it.” (Ibrahim Decl. Exh. A ¶ 32.) (See examples of coercive statements by Chairman Schiff, President Biden, Speaker Pelosi, Congressman Raskin, and Sen. Blumenthal) (Ibrahim Decl. Exh. A ¶¶ 29, 30, 31, 32, 35, 36, 37, 38, 39, 41, 43.)

These coercive methods had the desired results. By early January of 2021, the Federal Trade Commission and the U.S. Department of Justice were investigating social media companies

for antitrust violations and had launched an antitrust action against Facebook, which Facebook CEO Mark Zuckerberg described as an “existential threat.” (Ibrahim Decl. Exh. A Decl. ¶ 42.)

Chairman Frank Pallone, Jr.’s publicly released “memorandum” from a March 25, 2021, House Energy and Commerce Committee hearing indicated that a principal topic of the hearing was the “role” of “Facebook, Google, and Twitter” in “the dissemination and amplification of misinformation and extremist content.” (Ibrahim Decl. Exh. A ¶ 44.) (See additional examples of coercive statements at Ibrahim Decl. Exh. A ¶¶ 8, 45.)

As a result of the coercive pressure created by Congress and the Executive Branch, Defendant censor Plaintiff. Such censorship would have been an unconstitutional deprivation of Plaintiff’s free speech if federal officials had taken that action directly. (Ibrahim Decl. Exh. A ¶¶ 45, 46.)

**C. Defendant’s Censorship Of Plaintiff Resulted From Significant Encouragement By The Federal Government**

Private party conduct also becomes governmental action “when the State provides ‘significant encouragement, either overt or covert.’” *United Brentwood Acad.*, 531 U.S. at 296 (citations omitted); *see also Focus on the Family* 344 F.3d at, 1278. The coercive and threatening statements made by congressional and executive branch members described above in Point I B, applying pressure on and threatening consequences against YouTube if it failed to censor, amounted at a minimum to significant encouragement. Democrat members of Congress, as well as President Biden himself, repeatedly encouraged Defendant to censor and restrain Plaintiff’s views or face catastrophic legal and regulatory consequences. (Ibrahim Decl. Exh. A ¶ 45.)

Section 230 (c) itself is a significant encouragement to censor constitutionally protected speech. Section 230 (c)(2) immunizes social media companies from liability for any action taken in good faith to “restrict” speech they or their Subscribers deem “objectionable,” even if that

speech is “constitutionally protected.” 47 U.S.C. § 230 (c)(2)(A). The express “intent of Congress in enacting § 230 (c)(2) was to *encourage* efforts by Internet service providers to eliminate [‘objectionable’] material by immunizing them from liability.” *Goddard v. Google, Inc.*, No. C 08-2738 JF, U.S. Dist. Lexis 101890 at \*6 (N.D. Cal. Dec. 17, 2008) (emphasis added); *see also*, e.g., Dawn Nunziato, *The Death of the Public Forum in Cyberspace*, 20 BERK. TECH. L.J. 1115, 1129 (2005) (through Section 230 (c)(2), “Congress *encouraged* private Internet actors to do what it could not do itself” (emphasis added)). Every act by YouTube in censoring Plaintiff’s speech was significantly encouraged by, and in reliance upon, the immunity granted by Section 230 (c)(2).

In at least two cases, the Supreme Court has held that federal statutes immunizing private conduct from liability turned what would otherwise be private action into state action. *See Skinner*, 489 U.S. at 614-15; *Railway Employees’ Dep’t v. Hanson*, 351 U.S. 225, 232 (1956). In *Hanson*, the Court found state action in private employers’ closed-shop agreements—contracts between the employer and a union requiring all employees to be union members—because a federal statute, superseding all conflicting state laws, prevented such agreements from being “made illegal . . . by any provisions of the laws of a State.” *Id.* The statute did not require employers to have such agreements; it merely permitted them. *Id.* Similarly, Section 230 permits (but does not require) companies like YouTube to censor speech deemed “objectionable” and preempts all conflicting state laws, preventing such censorship from being “made illegal . . . by any provisions of the laws of a State.” *Id.*

In *Skinner*, the Court found state action in certain employee urine and breath tests to be conducted by private railroad companies after the federal government enacted regulations immunizing those companies from liability if they performed such tests. Again, the pertinent regulations (called Subpart D) were, like Section 230, “permissive”—they did not compel such

testing but merely permitted it. *Skinner*, 489 U.S. at 611. Nevertheless, the Court held that these regulations turned the private companies' conduct into state action, emphasizing that: (1) the regulations "removed all legal barriers" to such testing by preempting any conflicting state laws (immunizing the railways from liability); and (2) the government had "made plain" a "strong preference" for such testing. *Id.* at 615. Similarly, Section 230 (c)(2) "remove[s] all legal barriers" to YouTube's refusal to carry content it deems to be hate speech, or "misinformation," or dangerous, by preempting conflicting state laws and immunizing social media companies from liability for such censorship.

The federal government has "made plain" a "strong preference" for the censoring of COVID-19 "misinformation," or other content Congressional Democrats deem dangerous, and of Plaintiff himself. On July 17, 2021, President Biden excoriated social media companies for carrying so-called COVID-19 "misinformation," stating that they are "killing people" and demanded that they block it. (Ibrahim Decl. Exh. A ¶ 46.)

Thus, under *Hanson* and *Skinner*, the delegation of permissive activity and immunity in Section 230 weighs heavily in favor of a finding of state action in the regulation of the content of speech on the Internet. Indeed, Section 230(c)(2) violates the "axiomatic" constitutional principle set forth by the Supreme Court almost 50 years ago: that the government "may not induce, encourage or promote private persons to accomplish what it is constitutionally forbidden to accomplish." *Norwood*, 413 U.S. at 465. When the government violates this "axiomatic" rule, state action exists, and private parties who intentionally assist the government may be liable for constitutional violations. *George*, 752 F.3d at 1215.

**D. Defendant Has Willfully Participated In Joint Activity With Federal Governmental Actors To Censor Plaintiff's Constitutionally Protected Speech**

Defendant's censorship of Plaintiff's speech, including its censorship of his July 11, 2021 CPAC speech announcing the instant lawsuit, were based on the putative ground that Plaintiff was disseminating COVID-19 related "misinformation." (Ibrahim Decl. Exh. A ¶ 9, 21.) In censoring Plaintiff's COVID-19 related speech, Defendant was acting as a willful participant in joint activity with federal actors, including the Department of Health and Human Services ("HHS"), and the White House. White House Press Secretary Jennifer Psaki acknowledged this joint activity, stating that White House senior staff were engaging with social media platforms to combat the spread of misinformation, specifically on the pandemic, and playing an active role in flagging content deemed by the Biden Administration to be problematic. The next day, Psaki stated that the Biden Administration's goal is to ban individuals who spread COVID-19 misinformation from all social media platforms. (Ibrahim Decl. Exh. A ¶¶ 9, 50.) The Centers for Disease Control ("CDC") and Defendant have openly admitted this collaboration between social media companies and the CDC. The CDC has publicly stated that it acts with "social media" "partners" to "curb the spread of vaccine misinformation." (Ibrahim Decl. Exh. A ¶¶ 9, 47, 48, 49.)

Not a hair's breadth separates "direct engagement" between governmental and private actors to achieve an objective from "willful participation in joint activity." By their own admissions, the White House and social media companies reached a mutual understanding, agreeing to "work together" to "get rid" of disfavored speech. Therefore, state action exists under *United Brentwood Acad.* See also, e.g., *Bendiburg v. Dempsey*, 909 F.2d 463, 468 (11th Cir. 1990) ("[P]rivate defendants can be held liable [as state actors] if they act in concert with [government] officials in depriving a plaintiff of constitutional rights."); cf. *Sun v. Girardot*, 237 Fed. Appx. 415, 417 (11th Cir. 2007) (defendants are state actors if they "reached an understanding" with

government officials “to violate [plaintiff’s] rights”); *Rowe v. City of Ft. Lauderdale*, 279 F.3d 1271, 1283 (11th Cir. 2002) (defendants are state actors if there was an “agreement” with government officials). Moreover, the federal government reaps and knowingly accepts substantial benefits from this partnership. These benefits include, without limitation: the “effective and inexpensive” communication, as the CDC puts it, of government-approved health information to large numbers of people; suppression of information suggesting or showing flaws in federal government policy and orthodoxy; boosting the CDC’s reputation as reliable and authoritative in its factual and policy determinations; creating a false impression of unequivocal support in the scientific community for governmental directives; and suppression of opinions and information that might lead people to take actions contrary to the government’s preferences. *See, e.g., Focus on the Family*, 344 F.3d at 1278. Where coercive governmental pressure, significant governmental encouragement, and joint governmental activity are all present in a single case, state action must be found; otherwise, every constitutional right could easily be circumvented.

**E. Defendant’s Acts Violated The First Amendment**

The First Amendment paradigmatically prohibits prior restraints. *Near v. Minnesota*, 283 U.S. 697, 713-14 (1931). “Any system of prior restraints of expression comes to this Court bearing a heavy presumption against its constitutional validity.” *New York Times Co. v. the United States*, 403 U.S. 713, 714 (1971). Because prior restraints are presumptively unconstitutional, the burden to show that Plaintiff’s speech is unprotected by the First Amendment rests heavily on Defendant: “the burden . . . of proving that the material is unprotected, must rest on the censor.” *Southeastern Promotions v. Conrad*, 420 U.S. 546, 560 (1975); *See Neb. Press Ass’n v. Stuart*, 427 U.S. 539 (1976), citing, *Pittsburgh Press Co. v. Human Rel. Comm’n*, 413 U.S. 376, 396 (1973) (Courts have long “condemn[ed] prior restraint as presumptively unconstitutional”).

Further, prior restraint present an injury that occurs repetitively until remedied, *New York Times Co.*, 403 U.S. at 715 (prior restraint “amounts to a flagrant, indefensible, and continuing violation of the First Amendment”). The existence of other venues for Plaintiff to speak does not cure the First Amendment violation. *Conrad*, 420 U.S., at 560. In addition, the First Amendment does not permit governmental actors to discriminate against speech on the basis of the viewpoints, ideas, or opinions they express. *Iancu v. Brunetti*, 139 S. Ct. 2294, 2299 (2019) (identifying as a “core postulate of free speech law” that the “government may not discriminate against speech based on the ideas or opinions it conveys”). Injunctions cannot facilitate the suppression of speech from one side of a political debate, but instead must serve to promote as much speech as possible since public debate, rather than partisan government objectives, serves the national interest. in *Madsen v. Women’s Health Ctr.*, 512 U.S. 753, 774 (1993) (“As a general matter, we have indicated that in public debate our own citizens must tolerate insulting, and even outrageous, speech in order to provide adequate breathing space to the freedoms protected by the First Amendment.”) (citing *Boos v. Barry*, 485 U.S. 312, 322 (1988)).

The First Amendment prohibits establishing a “Ministry of Truth,” blocking speech that the government deems false. See *United States v. Alvarez*, 567 U.S. 709, 723 (2012) (plurality opinion) (citing GEORGE ORWELL, NINETEEN EIGHTY-FOUR (1949)). “The mere potential for the exercise of that power casts a chill, a chill the First Amendment cannot permit if free speech, thought, and discourse are to remain a foundation of our freedom.” *Id.* Yet, Defendant, working jointly with a federal agency and the White House, has converted its platform into a Ministry of Truth, particularly with respect to COVID-19.

As a government actor, Defendant’s prior restraint of Plaintiff is a violation of the First Amendment, and Plaintiff is therefore entitled to injunctive relief under the federal courts’

longstanding power to “grant equitable relief for constitutional violations.” *Mitchum v. Hurt*, 73 F.3d 30, 35 (3rd Cir. 1995) (Alito, J.)

**POINT II**  
**SECTION 230, AS APPLIED TO THESE**  
**FACTS, VIOLATES THE FIRST AMENDMENT**

Section 230 is not a valid defense to this action and is unconstitutional as applied to the facts of this case. Section 230 only protects YouTube for (1) causes of action in which third-party speech is an element and (2) its content moderation for specific reasons outlined in 47 U.S.C. § 230 (c)(2). Here, Plaintiff’s constitutional claims against YouTube involve neither third-party speech nor the sorts of content specified in Section 230. Further, a binding precedent has determined Section 230 offers platforms no protection from suits brought under the Florida Deceptive and Unfair Trade Practices Act (“FDUTPA”)

**A. Neither Section 230(c)(1) Nor Section 230(c)(2) Protects YouTube From Its Discriminatory Treatment Of Plaintiff In Violation Of The First Amendment**

The Supreme Court has confirmed this essential structure: Section 230(c)(1) relieves platforms of liability from third-party speech, and Section 230(c)(2) relieves platforms for removing or moderating content. This precedent recognizes that if Section 230(c)(1) protects removal decisions, it would “swallo[w] the more specific immunity in (c)(2)[.]”. *Malwarebytes, Inc. v. Enigma Software Grp. USA, LLC*, 141 S. Ct. 13, 17 (2020) (referencing and quoting to *e-ventures Worldwide, LLC v. Google, Inc.*, No. 2:14–cv–646–FTM–PAM–CM, 2017 WL 2210029, \*3 (MD Fla., Feb. 8, 2017). “[B]y construing § 230 (c)(1) to protect *any* decision to edit or remove content, courts have curtailed the limits Congress placed on decisions to remove content . . . .” *Id.*(internal citation omitted).

Allowing Section 230(c)(1) to swallow Section 230(c)(2) violates the fundamental canon of statutory construction against surplusage. This interpretive rule requires courts to give effect to

all portions of a statute, particularly provisions that follow one another. *Corley v. United States*, 556 U.S. 303, 314 (2009) (“[A] statute should be construed so that effect is given to all its provisions so that no part will be inoperative or superfluous, void or insignificant...” (quoting *Hibbs v. Winn*, 542 U.S. 88, 101 (2004))). The Supreme Court emphasizes that the canon “is strongest when an interpretation would render superfluous another part of the same statutory scheme.” *Marx v. Gen. Revenue Corp.*, 568 U.S. 371, 386 (2013).

To read Section 230(c)(1) to protect Defendant’s decision to censor Plaintiff would eliminate Congress’s express limitations. Thus, Florida federal courts have recognized Section 230’s specific structure: Section 230(c)(1) protects against liability from causes of action which have as their elements platforms publishing or speaking third party content. Section 230(c)(2) protects content moderation for specified reasons. Neither provision applies to this case.

**1. Section 230(c)(1) Does Not Protect YouTube From Liability For Its Unlawful Deprivation Of First Amendment Rights And Unfair Trade Practices**

Where a platform works or “materially contributes” to create unlawful content or pursue unlawful schemes, Section 230 does not apply. *Florida Abolitionist v. Backpage.com LLC*, No. 6:17-CV-218-ORL-TBS, 2018 WL 1587477, at \*5 (M.D. Fla. March 31, 2018). The Eleventh Circuit states, “where a complaint contained allegations illustrating defendant’s involvement in creating or developing the alleged” unlawful content, Section 230 immunity is inappropriate. *Whitney Info. Network, Inc. v. Xcentric Venture, LLC*, 199 Fed. Appx. 738, 744 (11th Cir. 2006). Here, it is alleged that YouTube worked with the government to violate Plaintiff’s First Amendment rights. YouTube’s actions are at issue—not the speech of third-party Subscribers of its platform. Such claims have no “immunity under the [Section 230].” *Alvi Armani Med., Inc. v. Hennessey*, 629 F. Supp. 2d 1302, 1306–07 (S.D. Fla. 2008).

**2. Section 230(c)(2) Does Not Protect YouTube From Liability For Its Unlawful Deprivation Of Plaintiff’s First Amendment Rights And Unfair Trade Practices**

As Florida federal courts have ruled, consistent with most courts, Section 230(c)(2) is not a carte blanche to remove content for any reason. Rather, these terms refer to specific types of content regulable in 1996, and “otherwise objectionable” is a catchall term that, under the *ejusdem generis* canon of statutory construction, refers to types of content Congress thought regulable in 1996. *See Nat’l Numismatic Certification, LLC. v. eBay, Inc.*, No. 6:08-CV-42-ORL-19GJK, 2008 WL 2704404, at \*25 (M.D. Fla. July 8, 2008) (“One may find an array of items objectionable; for instance, a sports fan may find the auction of a rival team’s jersey objectionable. However, Congress provided guidance on the term ‘objectionable’ by providing a list of seven examples and a statement of the policy behind Section 230.”).

Accordingly, the Court concludes that ‘objectionable’ content must, at a minimum, involve or be similar to pornography, graphic violence, obscenity, or harassment.” *Song fi Inc. v. Google, Inc.*, 108 F. Supp. 3d 876, 883 (N.D. Cal. 2015) (“Given the list preceding ‘otherwise objectionable,’—‘obscene, lewd, lascivious, filthy, excessively violent, [and] harassing . . .’—it is hard to imagine that the phrase includes, as YouTube urges, the allegedly artificially inflated view count associated with ‘Luv ya.’ On the contrary, even if the Court can ‘see why artificially inflated view counts would be a problem for . . . YouTube and its Subscribers,’ the terms preceding ‘otherwise objectionable’ suggest Congress did not intend to immunize YouTube from liability for removing materials from its website simply because those materials pose a ‘problem’ for YouTube.”); *Goddard*, 2008 WL 5245490, at \*6 (relying on *National Numismatic* to conclude that Google rules requiring various advertisers to “provide pricing and cancellation information regarding their services” “relate to business norms of fair play and transparency and are beyond the scope of § 230(c)(2)”); *Google, Inc. v. MyTriggers.com*, 2011-2 Trade Cases ¶ 77,662, 2011

WL 3850286, at \*4 (Ohio Ct. Com. Pl.) (“The examples preceding the phrase ‘otherwise objectionable’ clearly demonstrate the policy behind the enactment of the statute and provide guidance as to what Congress intended to be ‘objectionable’ content.”). Section 230(c)(2) is not a bar to Plaintiff’s lawsuit, which alleges that Defendant removed content in violation of the First Amendment and other laws.

**B. Section 230 Offers No Protection For Defendant’s Own Unlawful Speech**

YouTube is liable for its own speech as well as its own actions. When YouTube works as a partner with the government to stifle its Subscribers’ First Amendment rights, YouTube is legally accountable for its deeds. Similarly, when YouTube speaks and editorializes, Section 230 offers no protection because “[a]n interactive service provider remains liable for its own speech” and for “its own unlawful conduct.” *Airbnb, Inc. v. City of Boston*, 386 F. Supp. 3d 113, 119, (2019) (citations omitted). Because it is the Defendant’s own speech, YouTube’s statements, tags, warnings, and editorializing receive no protection under Section 230. YouTube’s false statements deprived Plaintiff of his First Amendment rights.

In addition, these false statements are unfair trade and deceptive practices, as Subscribers joined YouTube with the expectation that they would be treated fairly and without slander. In reasonable reliance upon YouTube’s representations and the expectation of fair business dealings, Subscribers built businesses, political careers, entertainment personae, and public reputations on YouTube. YouTube then changed the rules, arbitrarily censoring and de-platforming people in violation of its own representations. As courts have ruled, section 230 provides no protection for unfair and deceptive trade practices.

**C. Section 230 Is Unconstitutional As Applied**

Where “plaintiffs seek to vindicate their own rights, the challenge is as-applied.” *Rubenstein v. Fla. Bar*, 72 F. Supp. 3d 1298, 1309 (S.D. Fla. 2014) (quoting *Jacobs v. The Fla. Bar*, 50 F.3d 901, 906 (11th Cir. 1995)). “In an as-applied challenge, the plaintiff contends that application of the statute in the particular context in which he has acted, or in which he proposes to act, would be unconstitutional. Therefore, the constitutional inquiry in an as-applied challenge is limited to the plaintiff’s particular situation.” *Id.* (referencing and quoting to *Ross v. Duggan*, 402 F.3d 575, 583 (6th Cir. 2004)). “When evaluating an as-applied challenge, the court’s inquiry and potential relief focuses only on the particular challenged application. . . .” *Id.* at 1309.

Section 230, as applied, encourages Defendant to censor disfavored speech on the basis of viewpoint and is unconstitutional. The Supreme Court has held that federal statutes immunizing private conduct from liability transform typical private action into state action. *Skinner*, 489 U.S. at 611. Following this precedent, when Section 230 is used to engage in government viewpoint discrimination to stifle First Amendment rights, it is unconstitutional as applied. Section 230 permits, but does not require, companies like YouTube to censor speech deemed “objectionable” and preempts all conflicting state laws, preventing such censorship from being “made illegal . . . by any provisions of the laws of a State.” *Ry. Emp. Dep’t v. Hanson*, 351 U.S. 225, 232, 76 S. Ct. 714, 718, 100 L. Ed. 1112 (1956). Like Section 2 of the Railway Labor Act, Section 230 gives firms the choice to impose the law. But its choice, when rendered with government joint action to stifle First Amendment rights, makes Section 230 as applied, unconstitutional viewpoint discrimination.

In *Skinner*, the Court held that the regulations therein turned the private companies’ conduct into state action, because the regulations “removed all legal barriers” to such testing by

preempting any conflicting state laws (immunizing the railways from liability); and (2) the government had “made plain” a “strong preference” for such testing. *Id.* at 615. Just as with the Federal Railway Safety Act, Section 230(c)(2) “remove[s] all legal barriers” to YouTube’s refusal to carry content it deems “objectionable.” *Skinner*, 489 U.S. at 603. Numerous government actors, as with the testing protected in Subpart D of the Act regulations in *Skinner*, “made plain” a “strong preference” for censoring certain types of content, including those of Plaintiff.

Section 230, as applied, violates the fundamental principle the Supreme Court has long recognized: government “may not induce, encourage or promote private persons to accomplish what it is constitutionally forbidden to accomplish.” *Norwood*, 413 U.S. at 465. (quoting *Lee v. Macon County Board of Education*, 267 F.Supp. 458, 475-76 (M.D. Ala. 1967).

**POINT III**  
**PLAINTIFF IS LIKELY TO SUCCEED**  
**ON HIS FLORIDA DECEPTIVE AND UNFAIR TRADE PRACTICES ACT CLAIM**

The injunctive relief sought by Plaintiff speaks to the purpose of the Florida Deceptive and Unfair Trade Practices Act (“FDUTPA”): protecting the public from deceptive practices. Defendant has engaged in the systematic practice of limiting the distribution of Plaintiff’s content. Other Subscribers—whose content fits the preferred perspective of government actors who have the power to modify Section 230—remain on the platform despite promoting content clearly in violation of the standards applied to Plaintiff. These inconsistent actions are manifestly deceptive practices.

**A. Florida Deceptive And Unfair Trade Practices Act Standards**

FDUTPA prohibits deceptive acts or practices. Fla. Stat. § 501.204(1). Deception is “a representation, omission, or practice that is likely to mislead the consumer acting reasonably in the circumstances, to the consumer’s detriment.” *PNR Inc. v. Beacon Prop. Mgmt., Inc.*, 842 So.2d

773, 777 (Fla. 2003) (referencing and quoting to *Millennium Communications & Fulfillment, Inc. v. Office of the Attorney Gen.*, 761 So.2d 1256, 1263 (Fla. 3d DCA 2000)). FDUTPA must be “construed liberally” to “protect the consuming public and legitimate business enterprises . . .” from unfair or deceptive business practices. *Howard Morris v. ADT Sec. Servs.*, 2009 U.S. Dist. LEXIS 150309 at \*24424 (S.D. Fla. Sept. 11, 2009).

A party aggrieved by a violation of FDUTPA may seek injunctive relief. Importantly, Florida courts have held that an aggrieved party need only be one who is “angry or sad on grounds of perceived unfair treatment.” *Ahearn v. Mayo Clinic*, 180 So. 3d 165, 172 (Fla. 1st DCA 2015.); Fla. Stat §501.211(1). The authority for injunctions under FDUTPA “is broadly worded to authorize declaratory and injunctive relief even if those remedies might not benefit the individual consumers who filed the suit.” *Gastaldi v. Sunvest Cmtys. USA, LLC*, 637 F. Supp. 2d 1045,1057 (S.D. Fla. 2009) (internal citation omitted). FDUTPA “is designed to protect not only the rights of litigants but also the rights of the consuming public at large.” *Id.*

**B. Defendant Has Inconsistently Applied Its Standards**

Defendant has offered various rationales for removing content uploaded by Plaintiff, but comments related to election integrity, COVID-19, and violence have been the predominant bases cited by Defendant for the removal of Plaintiff’s content.

**1. Election Integrity**

Plaintiff had content removed or flagged for videos allegedly in violation of YouTube’s standards regarding election-related content. (Ibrahim Decl. Exh. A ¶ 51.) Defendant’s policy states that it will remove content “that advances false claims that widespread fraud, errors, or glitches changed the outcome of any past U.S. presidential election.” (Ibrahim Decl. Exh. A ¶ 51.) Defendant’s actions show that these standards are inconsistently applied to ensure that only disfavored content is removed from its platform. All of the speakers incorporated herein by

Declaration have not faced disciplinary sanctions from Defendant. (Ibrahim Decl. Exh. A ¶¶ 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64.)

If Defendant was committed to a consistent application of their standards regarding election integrity issues, Defendant would have taken similar disciplinary action against the YouTube channels belonging to the third parties listed above.

## **2. COVID-19**

Plaintiff had content removed or flagged for alleged violations of Defendant’s standards related to COVID-19.<sup>1</sup> YouTube’s policies state that it prohibits content in contradiction of the standards promulgated by the World Health Organization (“WHO”), content that discourages people from seeking medical advice, content that guarantees a prevention method for COVID-19, or content that disputes guidance regarding physical distancing to reduce transmission of COVID-19. Defendant’s practices reflect the inconsistent application of each of these specific provisions. (Ibrahim Decl. Exh. A ¶¶ 65, 66, 67, 68, 69, 70.)

Numerous news organizations have made inconsistent reports about the effects of large protests on the spread of COVID-19. Specifically, in relation to the large gatherings during the protests of the summer of 2020, several news organizations’ articles incorporated herein by Declaration have all run articles suggesting these events would not cause an increase in virus infections. Contrariwise, these exact same national media organizations each ran articles suggesting the events of January 6, 2021, would cause an increase in virus infections. (Ibrahim Decl. Exh. A ¶¶ 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81.) (See Also: Ibrahim Decl. Exh. A ¶ 82.)

The suggestions contained within these articles—that large gatherings are unlikely to cause an increase in virus infections—run contrary to general guidance related to COVID-19. This

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<sup>1</sup> YouTube’s policies related to COVID-19-19 can be found here: <https://support.google.com/youtube/answer/9891785?hl=en>

inconsistency reflects Defendant's efforts to placate government actors who generally approved of the protests of the summer of 2020, generally disapproved of the events of January 6, 2021, and have expressed a great desire and willingness to affect Defendant's fortunes through manipulation of the protections afforded by Section 230.

The true thread behind all of Defendant's censorship decisions is whether the content being discussed was favored by Democrats about to take control of Congress and the White House. Defendant makes no effort to apply an objective standard for COVID-19, and thus it is deceptively misleading its Subscribers as to the reliability of the content they might find on YouTube.

### **3. Violence**

Defendant claims to prohibit content when it incites, "others to commit violent acts against individuals or a defined group of people," when it encourages "others to go to a particular place to commit violence," or targets "specific individuals or groups with violence." However, as detailed in the incorporated Declaration, YouTube has taken no disciplinary action against speakers that maintain YouTube channels and whose statements clearly run afoul of Defendant's standards (Ibrahim Decl. Exh. A ¶¶ 10, 11, 12, 13, 84, 85, 86, 87.) Defendant also engages in selective enforcement of age-gating restrictions for politically disfavored viewpoints. (Ibrahim Decl. Exh. A ¶¶ 89, 90.)

In 2020, the city of Portland, Oregon, witnessed over one hundred (100) nights of riots, burning of the federal courthouse, arrests, vandalism, and even the death of a supporter of Plaintiff. (Ibrahim Decl. Exh. A ¶ 88.) Despite the fact that Defendant's policies state that it prohibits the use of its platform to encourage parties to go to a particular place to commit violence, Defendant permitted its platform to be used to livestream the violence at the courthouse.

If Defendant's standards as applied to Plaintiff were objectively applied to all content providers, none of the speakers referenced in the Declaration would be allowed to upload content

to YouTube. This disparate treatment is reflective of Defendant's desire to remove politically disfavored content. The determination of what is or is not "politically disfavored" is dictated by the calls from government actors for Defendant to take action or face punitive regulatory or legislative action *supra* .1, Part 2, pg. 13-14.

**C. Defendant's Inconsistent Application Of Its Standards Demonstrates Plaintiff's Entitlement To Preliminary Injunctive Relief**

By publishing its standards on its website, Defendant is promising its Subscribers that it will live up to them. Defendant has failed to do so, thus deceiving its Subscribers into thinking that Defendant applies these standards with total viewpoint neutrality.

The failure of Defendant to state that it modifies its content moderation standards to placate government actors is a material misrepresentation. Subscribers might think that parties who have been suspended, age-restricted, demonetized, or otherwise have run afoul of Defendant's standards are somehow less trustworthy than the content they do find across the platform. Conversely, Subscribers may think that the content they see on the platform is consistent with an objective application of Defendant's standards.

Plaintiff is ideally suited to bring this action for injunction relief. Plaintiff invested time and money in developing a presence on YouTube— which was mutually beneficial to Defendant. On the other hand, Defendant cannot possibly reconcile the punitive censorship of Plaintiff with the favored treatment of other speakers who violated the same norms. Defendant has systematically removed politically disfavored content on pretextual grounds. Plaintiff has been aggrieved by these actions, and Plaintiff respectfully submits that he has established a substantial likelihood of success on the merits of his FDUTPA claim.

**PLAINTIFF IS LIKELY TO SUCCEED ON THE MERITS  
OF HIS STOP SOCIAL MEDIA CENSORSHIP ACT CLAIM**

In Count IV of the Amended Complaint, Plaintiff seeks relief under the provisions of the Stop Social Media Censorship Act. While housed within FDUTPA, the elements for a Stop Social Media Censorship Act claim have a subtle but significant variation from the elements of the injunction claim in Count III. Specifically, Count III alleges that the discriminatory practices of Defendant were based on a policy of removing politically disfavored content and that this policy was deceptively omitted from its statements to Subscribers. Plaintiff's allegations in Count IV, however, rest on the very straightforward premise that—regardless of any deceptive practice—Defendant inconsistently applied its own standards.

Under the provisions of the Florida Statutes § 501.2041(2)(b), the inconsistent application of censorship, de-platforming, and shadow banning standards—regardless of any deception—is a violation of FDUTPA. Subsection (2)(b) of the Stop Social Media Censorship Act states that:

A social media platform must apply censorship, deplatforming, and shadow banning standards in a consistent manner among its users on the platform.<sup>2</sup>

Plaintiff asserts that the allegations raised in the Amended Complaint and detailed above demonstrate that Defendant has failed to enforce its standards for censoring, de-platforming, and shadow banning content in a consistent manner.

As noted above, the provisions of Subsection (2)(b) hold that a social media company's inconsistent application of standards is a violation of Florida Statutes § 501.204. As the Stop Social Media Censorship Act is housed within FDUTPA, the corpus of FDUTPA law detailed above in Point II, Subsection I A, is equally applicable to the Stop Social Media Censorship Act. The same

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<sup>2</sup> Censorship, deplatforming, and shadow banning are defined at Florida Statutes § 501.2041(1)(b), (c), and (f), respectively

principles hold that FDUTPA must be “construed liberally” to “protect the consuming public and legitimate business enterprises” from unfair or deceptive business practices. *Howard Morris* 2009 U.S. Dist. LEXIS 150309 at \*24424 (S.D. Fla. Sep 11, 2009).

The law was challenged in an action brought in the Northern District of Florida by technology industry trade associations. In a decision dated June 30, 2021, Judge Hinkle of the Northern District enjoined several state agencies from enforcing provisions of the Stop Social Media Censorship Act—it does not address private litigation. *Netchoice, LLC, v. Moody* 2021 U.S. Dist. Lexis 121951 (N.D. Fla. June 30, 2021). Moreover, in a decision 31 pages long, only about five paragraphs were directed to the provision under which Count IV is brought. *Id.*

While Judge Hinkle held that Section 230 preempted the Stop Social Media Censorship Act, he relied on a Second Circuit opinion that, since the entry of his order, was vacated and replaced. Relying on *Domen v. Vimeo*, 991 F.3d 66 (2d. Cir. March 11, 2021) (amended and superseded on rehearing by *Domen v. Vimeo, Inc.*, 2021 WL 3072778 (2d Cir. July 21, 2021)), which was entered March 11, 2021, Judge Hinkle stated that Section 230 preempts claims based on the inconsistency of content removal. *Netchoice* at 20. However, the March 2021 *Vimeo* opinion was vacated and replaced with a decision issued on July 21, 2021. The revised opinion states that the “imperfect exercise of content-policing discretion does not, without more, suggest that enforcement of content policies was not done in good faith;” the necessary implication is that Section 230 immunities disappear when a plaintiff can establish bad faith. *Domen*, 2021 WL 3072778 at \*17. Further, the Second Circuit stated, “Our decision should not be read to confer immunity on providers acting in circumstances far afield from the facts of this case. Courts have rejected Section 230 defenses against claims for false advertising, deceptive trade practices, and tortious interference.” *Id.* at 18.

Judge Hinkle’s decision should at most be read to state that Section 230 might be a defense that could be raised by a defendant, not that it preempts the law. Section 230 remains a fact-based defense, and the Defendants, in this case, are not entitled to its protections.

**POINT IV**  
**PLAINTIFF WILL SUFFER IRREPARABLE**  
**HARM IF AN INJUNCTION IS NOT GRANTED**

By its own admission, YouTube is an essential platform for communicating in today’s global environment. With the volume of content on the platform combined with the power of their search functions, YouTube is a premier destination for Subscribers seeking information. As important as YouTube is for commercial branding, it is no less important for those engaged in political speech. For candidates, it offers outstanding outreach to potential voters. YouTube states that “YouTube Ads uses Google data to match your message to the right people at the right moment.”

The continuing irreparable harm to Plaintiff, absent an injunction, is indisputable as a matter of law. *Elrod v. Burns*, 427 U.S. 347, 373 (1976) (“The loss of First Amendment freedoms, for even minimal periods of time, unquestionably constitutes irreparable injury.”) Here, the wisdom expressed in *New York Times Co.*, *supra*, comes to bear as “[e]very moment’s continuance of the injunctions against [those censored] amounts to a flagrant, indefensible, and continuing violation of the First Amendment” 403 U.S. at 715 (Black, J., concurring with *aff*’ 446 F.2d 1327 and *rev*’ 444 F.2d 544).

Defendant has placed “its finger on the scale” by eliminating Plaintiff’s views and content from voters, and “led to the demise of the Trump Campaign merchandising and fundraising program.” (Corey Decl. Exh. B ¶ 27 and Mahfouz Decl. Exh. C ¶ 25) The First Amendment rights of Plaintiff’s millions of YouTube Subscribers—to receive his messages and to comment to one

another thereon—will be irreparably injured as well. At the same time, by de-platforming the presumptive head and most popular member of the Republican Party, cutting him off from one of the most effective, direct forms of communication with potential voters, Defendant is threatening irreparable damage to the Republican Party’s prospects in the 2022 and 2024 elections.

Similarly, a preliminary injunction on Plaintiff’s FDUTPA and Stop Social Media Censorship Act claims will benefit many more parties than just Plaintiff. Billions of Subscribers rely on Defendant’s statements regarding the criteria by which content is permitted to remain on YouTube or removed.

**POINT V**  
**THE BALANCE OF HARDSHIPS FAVORS PLAINTIFF**

While YouTube faces no harm from the reinstatement of Plaintiff’s access to its platform, Plaintiff faces irreparable injury; thus, the balance of hardships manifestly favors a preliminary injunction. Plaintiff faces loss of his donor and merchandising platforms and ability to communicate his views, content, and endorsements of local candidates. (Mahfouz Decl. Exh. C ¶¶ 16 and Corey Decl. Exh. B ¶¶ 14, 15) Defendant’s First Amendment freedoms will not suffer if this Court orders it to reinstate Plaintiff’s access to its platform(s). Defendant was and is operating as a governmental actor in censoring Plaintiff, and governmental actors do not have First Amendment rights. While Defendant undoubtedly has the First Amendment right to express its own opinion and carry messages its favors, the First Amendment does not protect Defendant when it functions as a censorship arm of federal lawmakers and officials.

**POINT VI**  
**AN INJUNCTION WOULD NOT**  
**BE ADVERSE TO THE PUBLIC INTEREST**

Defendant cannot seriously argue that access to its platform is not an issue of public interest. The terms of access to YouTube require clear and transparent disclosure to Defendant’s

Subscribers, who need to know if the terms of service they have agreed to are, in fact, the terms applied by Defendant to leave up, or pull down, content. YouTube’s elimination of Plaintiff’s views and content creates a “significant and negative impact on political debate” and “constitutes a prior restraint in the vitality of the ‘marketplace of ideas’ in American politics” (Corey Decl. Exh. B ¶ 27.)

The country does not benefit from attempts to suppress political speech. Still less does it benefit from attempts to muzzle political speakers. Even those most passionately antagonistic to Plaintiff’s views are not well-served by attempts to silence him. Such, at least, has always been the fundamental principle of the First Amendment. “That Amendment rests on the assumption that the widest possible dissemination of information from diverse and antagonistic sources is essential to the welfare of the public. . . .” *Associated Press v. United States*, 326 U.S. 1, 20 (1945). Although this principle is under assault today throughout the United States, it can still be saved by—and perhaps only by—the Nation’s courts. Accordingly, granting this preliminary injunction will manifestly be in the public interest.

### **CONCLUSION**

For the foregoing reasons, Plaintiff respectfully requests that the Court grant the injunctive relief prayed for above.

### **Request for Relief**

Plaintiff respectfully requests the Court to issue a preliminary injunction at the earliest possible date and enter the following Order:

A. Enjoining and restraining Defendant and its officers, agents, servants, employees, attorneys, and other persons who are in active concert or participation with anyone falling under the direct or general control or supervision of Defendant from enforcing the suspension of Plaintiff’s access to its platform.

B. Directing Defendant immediately, and no later than forty-eight (48) hours following the issuance of the Court's Order, to reinstate Plaintiff's access to his YouTube channel and lift all temporary or permanent bans on Plaintiff's YouTube channel.

C. Directing Defendant immediately, and no later than forty-eight (48) hours following the issuance of the Court's Order, to lift the ban recently imposed on certain uploaded videos identified in greater detail in the Memorandum of Law submitted herewith.

D. Enjoining and declaring that Section 230 (c) of the Communications Decency Act of 1996 is unconstitutional as applied to the facts of this case, as it violates Plaintiff's right to free speech under the First Amendment.

E. Directing Defendant to permit Plaintiff's sale of merchandise on his channel in the normal course as it was conducted for years before the unlawful censorship occurred.

F. Granting such other and further relief as the Court may deem just, proper, and equitable.

Date: August 23, 2021

Signature of Counsel

/s/ Matthew Lee Baldwin

Matthew L. Baldwin, Esq.

Florida Bar No. 27463

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**CERTIFICATE OF SERVICE**

Motion for Preliminary Injunction and Memorandum of Law Incorporated Herein and the Amended Complaint will be served on Defendants YouTube, LLC, and Sundar Pichai, as soon as possible. Proof of service will be filed with this Honorable Court when service is completed.

*/s/ Matthew Baldwin, Esq*

Matthew L. Baldwin, Esq.

Florida Bar No. 27463

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**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA**

Civil Action No. 1:21-cv-22445-KMM-LFL

DONALD J. TRUMP, the Forty-Fifth President of the United States, KELLY VICTORY, AUSTEN FLETCHER, AMERICAN CONSERVATIVE UNION, ANDREW BAGGIANI, MARYSE VERONICA JEAN-LOUIS, NAOMI WOLF AND FRANK VALENTINE, INDIVIDUALLY AND ON BEHALF OF THOSE SIMILARLY SITUATED,

Plaintiffs,

v.

YOUTUBE, LLC and SUNDAR PICHAI,

Defendants.

**DECLARATION IN SUPPORT OF PLAINTIFF'S MOTION FOR PRELIMINARY  
INJUNCTION**

I, Rafiya Ibrahim, declare as follows:

1. I am over the age of 18 years.
2. I am a Research Analyst employed by Brosnan Risk Consultants, Ltd., and have been employed there since 2012.
3. Brosnan Risk Consultants, Ltd. was retained to verify the accuracy, authenticity and source for each of the facts cited in Plaintiff's Motion for Preliminary Injunction in the above-captioned matter.
4. I have personal knowledge of the matters set forth in this Declaration, and if called as a witness, I could and would testify under oath as follows.

5. On August 23, 2021, I visited the following website: <https://www.datanyze.com/market-share/online-video--12/youtube-market-share>, a true and accurate capture of which is annexed hereto as Exhibit A, and found this information contained therein: YouTube has an approximately seventy-six percent (76%) share of the online video market and approximately two billion Subscribers.

6. On August 23, 2021, I visited the following website: <https://www.cnn.com/2021/01/12/google-suspends-trumps-youtube-account-disables-comments.html>, a true and accurate capture of which is annexed hereto as Exhibit B, and found this information stated therein: Defendants banned Plaintiff from their platform.

7. On August 23, 2021, I visited the following website: <https://www.lifesitenews.com/news/youtube-suspends-conservative-network-after-streaming-trumps-cpac-speech/>, a true and accurate capture of which is annexed hereto as Exhibit C, and found this information stated therein: In the last month, YouTube blocked videos of a speech Plaintiff delivered at the Conservative Political Action Conference (“CPAC”).

8. On August 23, 2021, I visited the following website: <https://twitter.com/frankpallone/status/1346972626670006274?lang=en>, a true and accurate capture of which is annexed hereto as Exhibit D, and found this information stated therein: On January 6, 2021, Rep. Frank Pallone, Jr., Chairman of the House Commerce Committee, tweeted that “Trump is inciting violence and spreading dangerous misinformation” and called on social media companies “to remove Trump from their platforms.”

9. On August 23, 2021, I visited the following websites: [https://wwwnc.cdc.gov/eid/article/27/2/20-3139\\_article](https://wwwnc.cdc.gov/eid/article/27/2/20-3139_article), a true and accurate capture of which is annexed hereto as Exhibit E(i), <https://www.reuters.com/article/us-health-coronavirus-white->

[house-exclus/exclusive-white-house-working-with-facebook-and-twitter-to-tackle-anti-vaxxers-idUSKBN2AJ1SW](https://www.whitehouse.gov/briefing-room/press-briefings/2021/07/15/press-briefing-by-press-secretary-jen-psaki-and-surgeon-general-dr-vivek-h-murthy-july-15-2021/), and a true and accurate capture of which is annexed hereto as Exhibit E(ii), [https://www.whitehouse.gov/briefing-room/press-briefings/2021/07/15/press-briefing-by-press-secretary-jen-psaki-and-surgeon-general-dr-vivek-h-murthy-july-15-2021/](https://www.whitehouse.gov/briefing-room/press-briefings/2021/07/16/press-briefing-by-press-secretary-jen-psaki-july-16-2021/), a true and accurate capture of which is annexed hereto as Exhibit E(iii), and <https://www.whitehouse.gov/briefing-room/press-briefings/2021/07/16/press-briefing-by-press-secretary-jen-psaki-july-16-2021/>, and a true and accurate capture of which is annexed hereto as Exhibit E(iv), and found this information stated therein: The Centers for Disease Control (“CDC”) “partners” with social media companies including YouTube to remove COVID “misinformation.” On February 20, 2021, a senior Administration official disclosed that the Administration was acting in “direct engagement” with “social media” companies to “get rid” of what the Administration sees as “misinformation and disinformation” online. On July 15 and 16, 2021, White House Press Secretary Jennifer Psaki stated that the Administration is acting to pressure social media companies to de-platform Users who disseminate what the Administration labels COVID misinformation.

10. On August 23, 2021, I visited the following website: <https://www.youtube.com/watch?v=Mn1br0MQFG4&t=13s>, a true and accurate capture of which is annexed hereto as Exhibit F, and a true and accurate capture of which is annexed hereto as Exhibit F, and found this information stated therein: On or about April 18, 2021, Rep. Maxine Waters called for protesters to “stay on the street” and “get more confrontational” against law enforcement during the trial of Minneapolis police officer Derek Chauvin for the murder of George Floyd.

11. On August 23, 2021, I visited the following website: <https://www.youtube.com/watch?v=jFEGOIR7KEo>, a true and accurate capture of which is

annexed hereto as Exhibit G, and found this information stated therein: In August of 2020, Rep. Ayanna Pressley said there “needs to be unrest in the streets.”

12. On August 23, 2021, I visited the following website: [https://www.youtube.com/watch?v=gM\\_DtU14p-s](https://www.youtube.com/watch?v=gM_DtU14p-s), a true and accurate capture of which is annexed hereto as Exhibit H, and found this statement of fact truly and accurately stated therein: On June 14, 2018, Speaker of the House of Representatives Nancy Pelosi said, “I just don’t even know why there aren’t uprisings all over the country. Maybe there will be.”

13. On August 23, 2021, I visited the following website: <https://www.youtube.com/watch?v=3OprxD5njXo>, a true and accurate capture of which is annexed hereto as Exhibit I, and found this information stated therein: On March 26, 2019, Rep. Ilhan Omar told Muslims in the United States to “raise hell and make people uncomfortable.”

14. On August 23, 2021, I visited the following website: <https://www.youtube.com/DonaldTrump/about>, a true and accurate capture of which is annexed hereto as Exhibit J, and found this information stated therein: Plaintiff established the Donald J. Trump YouTube channel in May of 2015 (Joined March 16, 2015).

15. On August 23, 2021, I visited Exhibit J, and found this statement of fact truly and accurately stated therein: After announcing his campaign for the presidential nomination of the Republican Party in June of 2015, Plaintiff used his YouTube channel to engage with the general public.

16. On August 23, 2021, I visited the following website: <https://www.usatoday.com/story/tech/news/2021/01/26/youtube-ban-former-president-trumps-channel-remain-suspended/4265336001/>, a true and accurate capture of which is annexed hereto as Exhibit K, and found this information stated therein: When Defendants indefinitely suspended

the Donald J. Trump channel on January 26, 2021, that channel had approximately 2.9 million (2.8 million) subscribers.

17. On August 23, 2021, I visited the following websites: <https://www.cnn.com/2019/12/02/tech/youtube-trump-ads/index.html>, a true and accurate capture of which is annexed hereto as Exhibit L(i), and <https://www.wsj.com/articles/youtubes-assault-on-covid-accountability-11617921149>, a true and accurate capture of which is annexed hereto as Exhibit L(ii) and found this information stated therein: Defendants removed hundreds of Trump Campaign advertisements from YouTube for remarks made by Plaintiff related to COVID-19, which YouTube censored on the grounds of falsity.

18. On August 23, 2021, I visited the following websites: [www.msn.com/en-us/news/politics/youtube-ceo-on-removing-video-of-trump-making-false-covid-19-claim/vi-BB19Wlhj](http://www.msn.com/en-us/news/politics/youtube-ceo-on-removing-video-of-trump-making-false-covid-19-claim/vi-BB19Wlhj), a true and accurate capture of which is annexed hereto as Exhibit M(i), and <https://www.bloomberg.com/news/newsletters/2020-08-07/facebook-fact-police>, a true and accurate capture of which is annexed hereto as Exhibit M(ii), [https://www.jpeds.com/article/S0022-3476\(20\)31023-4/fulltext](https://www.jpeds.com/article/S0022-3476(20)31023-4/fulltext), a true and accurate capture of which is annexed hereto as Exhibit M(iii): <https://pediatrics.aappublications.org/content/pediatrics/early/2020/05/22/peds.2020-004879.full.pdf>, a true and accurate capture of which is annexed hereto as Exhibit M(iv), <https://www.acsh.org/news/2020/11/18/covid-infection-fatality-rates-sex-and-age-15163>, a true and accurate capture of which is annexed hereto as Exhibit M(v), and <http://www.remedypublications.com/open-access/children-are-safe-to-return-to-school-6330.pdf>, a true and accurate capture of which is annexed hereto as Exhibit M(vi), and found this information stated therein: In August of 2020, YouTube censored a Fox News interview in which Plaintiff,

while acknowledging very rare instances of childhood deaths from COVID, stated that schools should reopen in part because children overall are “almost immune” to the disease.

19. On August 23, 2021, I visited the following websites: <https://www.conservative.org/youtube-censors-cpacs-america-uncanceled-episode-removed-video-of-former-president-donald-j-trumps-major-class-action-against-big-tech/>, a true and accurate capture of which is annexed hereto as Exhibit N(i), <https://hillreporter.com/trumps-lies-get-american-conservative-union-banned-from-youtube-106625>, a true and accurate capture of which is annexed hereto as Exhibit N(ii), and found this information stated therein: On or about July 9, 2021, YouTube removed an episode of the American Conservative Union’s (“ACU”) “America UnCanceled” program on the CPAC Now network.

20. On August 23, 2021, I visited the following websites: <https://www.bbc.com/news/53559938>, a true and accurate capture of which is annexed hereto as Exhibit O(i), <https://www.marketwatch.com/story/why-twitter-facebook-and-youtube-are-taking-down-that-hydroxychloroquine-video-and-suspending-accounts-including-donald-trump-jr-that-shared-it-2020-07-28>, a true and accurate capture of which is annexed hereto as Exhibit O(ii), <https://debatepolitics.com/threads/youtube-deletes-trump-video-for-saying-that-hydroxychloroquine-is-effective-in-combating-the-virus.454228/>, a true and accurate capture of which is annexed hereto as Exhibit O(iii), and <https://www.henryford.com/news/2020/07/hydro-treatment-study>, a true and accurate capture of which is annexed hereto as Exhibit O(iv), and found this information stated therein: The episode featured coverage of this lawsuit and also a statement by Plaintiff that “Doctors and medical groups have been barred from these platforms for posting about therapeutics such as hydroxychloroquine... now, most recent studies say [the drug is] effective in combating the virus.”

21. On August 23, 2021, I visited Exhibit N(i) and Exhibit N(ii), and found this information stated therein: On or about July 11, 2021, YouTube removed the livestream video of the entirety of a major speech delivered by Plaintiff at CPAC.

22. On August 23, 2021, I visited the following websites: <https://www.theguardian.com/us-news/2021/jan/26/youtube-trump-ban-suspension>, a true and accurate capture of which is annexed hereto as Exhibit P(i), <https://news.slashdot.org/story/21/01/26/221226/youtube-extends-trumps-suspension-for-a-second-time>, a true and accurate capture of which is annexed hereto as Exhibit P(ii), and <https://www.cnn.com/2021/01/19/youtube-extends-trump-suspension-for-another-week.html>, a true and accurate capture of which is annexed hereto as Exhibit P(iii), and found this information stated therein: Defendants decided on January 26, 2021, to permanently suspend Plaintiff's YouTube channel.

23. On August 23, 2021, I visited Exhibit P(i), Exhibit K, Exhibit P(ii), and Exhibit P(iii), and found this information stated therein: YouTube stated, "In light of concerns about the ongoing potential for violence, the Donald J. Trump channel will remain suspended."

24. On August 23, 2021, I visited Exhibit P(iii) and found this information stated therein: This permanent suspension prevents Plaintiff from uploading new content and disables his 2.79 million subscribers from posting comments and thereby communicating with one another.

25. On August 23, 2021, I visited the following website: <https://www.wsj.com/articles/no-trump-isnt-guilty-of-incitement-11610303966>, a true and accurate capture of which is annexed hereto as Exhibit Q, and found Plaintiff's remarks on January 6, 2021.

26. On August 23, 2021, I visited the following websites: <https://www.eff.org/deeplinks/2017/06/attack-net-neutrality-attack-free-speech>, a true and accurate capture of which is annexed hereto as Exhibit R(i), and <https://law.stanford.edu/courses/media-technology-and-the-first-amendment/>, a true and accurate capture of which is annexed hereto as Exhibit R(ii), and found the following information stated therein: the Internet is “perhaps the most powerful mechanism available to a private citizen to make his or her voice heard”

27. On August 23, 2021, I visited the following website: <https://www.washingtonpost.com/news/powerpost/paloma/the-technology-202/2019/04/09/the-technology-202-lawmakers-plan-to-ratchet-up-pressure-on-tech-companies-content-moderation-practices/5cabee50a7a0a475985bd372/>, a true and accurate capture of which is annexed hereto as Exhibit S, and found this information stated therein: In April of 2019, representatives social media companies were summoned before the House Judiciary Committee. After that hearing, Congressman Cedric Richmond warned social media companies that they had “better” restrict what he and other members of Congress deemed dangerous or harmful content or, “we’re going to make [regulation] swift, we’re going to make it strong, and we’re going to hold them very accountable.” Democrat Congressman and Chairman of the House Judiciary Committee Jerrold Nadler also stated: “Let’s see what happens by just pressuring them.”

28. On August 23, 2021, I visited the following websites: <https://thehill.com/policy/technology/438652-pelosi-warns-its-a-new-era-for-regulating-big-tech>, a true and accurate capture of which is annexed hereto as Exhibit T(i) and <https://thehill.com/policy/finance/overnights/438667-on-the-money-cain-expected-to-withdraw-from-consideration-for-fed>, a true and accurate capture of which is annexed hereto as Exhibit T(ii),

and found this information stated therein: On or about April 10-11, 2019, Speaker of the House Nancy Pelosi warned that a “new era” of regulating tech giants was coming and that Section 230 could be “in jeopardy.” Speaker Pelosi further commented that “the era of self-regulation” in this country for big tech social media companies is “probably” over, and that “[w]hen we come to 230, you really get their attention . . . it is not out of the question that that could be removed” because “for the privilege of 230, there has to be a bigger sense of responsibility on it.”

29. On August 23, 2021, I visited the following websites: <https://www.youtube.com/watch?v=1ArPEDS0GTA>, a true and accurate capture of which is annexed hereto as Exhibit U(i), and <https://www.axios.com/social-media-immunity-section-230-fl5ac071-32e9-4e33-81e6-4c7ebadaea5e.html>, a true and accurate capture of which is annexed hereto as Exhibit U(ii), and found this information stated therein: In June of 2019, Rep. Schiff told reporters that “if the social media companies can’t exercise a proper standard of care when it comes to a whole variety of fraudulent or illicit content, then we have to think about whether that immunity still makes sense. These are not nascent industries or companies that are struggling for viability; they’re now behemoths, and we need them to act responsibly.”

30. On August 23, 2021, I visited the following websites: <https://reason.com/2019/11/13/joe-biden-has-officially-joined-the-misguided-crusade-against-online-free-speech/>, a true and accurate capture of which is annexed hereto as Exhibit V(i), and <https://www.theverge.com/2020/1/17/21070403/joe-biden-president-election-section-230-communications-decency-act-revoke>, a true and accurate capture of which is annexed hereto as Exhibit V(ii), and found this information stated therein: On or about November 11, 2019, now-President Biden stated publicly, “I, for one, think we should be considering taking away their

exemption [under Section 230.]” In January of 2020, Biden announced his plans for revoking Section 230 for “Zuckerberg and other platforms” if they continued “propagating falsehoods.”

31. On August 23, 2021, I visited the following websites: <https://threadder.app/thread/1272881670430035975>, a true and accurate capture of which is annexed hereto as Exhibit W(i), and <https://www.pressgazette.co.uk/nancy-pelosi-social-media-bosses-have-utterly-failed-to-combat-covid-19-disinformation/>, a true and accurate capture of which is annexed hereto as Exhibit W(ii), and found this information stated therein: In June of 2020, Speaker Pelosi declared that “social media executives have utterly failed to stop the spread of disinformation on their platforms.” She then warned that Congress and others “must send a message to social media executives: You will be held accountable for your misconduct.”

32. On August 23, 2021, I visited the following websites: <https://www.theverge.com/2020/7/29/21335706/antitrust-hearing-highlights-facebook-google-amazon-apple-congress-testimony>, a true and accurate capture of which is annexed hereto as Exhibit X(i), and <https://www.congress.gov/event/116th-congress/house-event/LC65920/text?s=5&r=23>, a true and accurate capture of which is annexed hereto as Exhibit X(ii), and found this information stated therein: In July of 2020, the House Judiciary Committee questioned the CEOs of the largest Internet platforms, Facebook, Twitter, and Google/YouTube. At those hearings, Democrat Congressman Jamie Raskin accused the social media companies of not taking strong enough action to block speech that he and other Democrat members of Congress deemed dangerous. *See* Exhibit X(ii). In the committee report, Defendants expressly referred to the failure of social media companies to curb such content as evidence of the lack of meaningful competition in their markets. *See* Exhibit X(ii).

33. On August 23, 2021, I visited the following websites: <https://apnews.com/article/technology-50e69e921c6699a3edbd730c12292436>, a true and accurate capture of which is annexed hereto as Exhibit Y(i), <https://judiciary.house.gov/news/documentsingle.aspx?DocumentID=3429>, a true and accurate capture of which is annexed hereto as Exhibit Y(ii), and found this information stated therein: The report issued by the Judiciary Committee in early October of 2020, specifically found that the social media companies had monopoly power in their markets and proposed breaking up those companies under either existing federal antitrust law or under proposed reforms thereto.

34. On August 23, 2021, I visited the following websites: <https://abcnews.go.com/Business/wireStory/ceos-social-media-giants-testify-senate-hearing-73433414>, a true and accurate capture of which is annexed hereto as Exhibit Z(i), <https://www.cnbc.com/2020/10/28/facebook-google-and-twitter-ceos-testify-in-congress-over-section-230-live-updates.html>, a true and accurate capture of which is annexed hereto as Exhibit Z(ii), and <https://www.c-span.org/video/?476686-1/social-media-content-moderation>, a true and accurate capture of which is annexed hereto as Exhibit Z(iii), and found this statement of fact truly and accurately stated therein: In October of 2020, the Senate Commerce Committee held a hearing on the failure of social media companies to curb “misinformation” online, subpoenaing the CEOs of Facebook, Twitter, and Google to testify. Democrat Congressmen threatened adverse legal consequences against the major social media platforms if they did not engage in “more content moderation.”

35. On August 23, 2021, I visited Exhibit Z(ii) and found this information stated therein: At the October 28, 2020, hearing, Democrat Senators demanded that social media companies “commit” to censoring Plaintiff. During the hearing, Sen. Edward Markey said, “Mr.

Zuckerberg, can you commit that, if the President goes on Facebook and encourages violence after election results are announced, that you will make sure your company's algorithms don't spread that content and you will immediately remove those messages?"

36. On August 23, 2021, I visited the following websites: <https://twitter.com/senblumenthal/status/1321552006541152257?lang=en>, a true and accurate capture of which is annexed hereto as Exhibit AA(i), and <https://www.commerce.senate.gov/2020/10/does-section-230-s-sweeping-immunity-enable-big-tech-bad-behavior>, a true and accurate capture of which is annexed hereto as Exhibit AA(ii), and found this information stated therein: Sen. Richard Blumenthal said, "Frankly, President Trump has broken all the norms, and he has put on your platforms potentially dangerous and lethal misinformation and disinformation. I want to know whether you have a plan Facebook, Twitter, Google, a plan, if the President uses your platforms to say on the day of the election that there is rigging or fraud without any basis in evidence."

37. On August 23, 2021, I visited the following websites: <https://www.rev.com/blog/transcripts/mark-zuckerberg-jack-dorsey-testimony-transcript-senate-tech-hearing-november-17>, a true and accurate capture of which is annexed hereto as Exhibit BB(i), <https://www.nexttv.com/news/senate-commerce-to-big-tech-change-is-coming>, a true and accurate capture of which is annexed hereto as Exhibit BB(ii), <https://www.facebook.com/watch/?v=374538930427440>, a true and accurate capture of which is annexed hereto as Exhibit BB(iii), and found this information stated therein: On November 17, 2020, at a Senate committee hearing Sen. Blumenthal stated:

"Change must come to social media. The fact is we meet today in an unprecedented and precarious moment in American history. Daily, the President shocks our conscience and shakes the very foundations of our democracy using a powerful megaphone, social media. The President has used this microphone to spread vicious falsehoods and an apparent

attempt to overturn the will of voters. Every day, he posts new threats and conspiracy theories about mail-in ballots and voting machines, lies that contradict his own election security officials and his lawyers. He uses this megaphone potentially to block a peaceful transition of power. Now, Mr. Zuckerberg and Mr. Dorsey, you have built terrifying tools of persuasion and manipulation with power far exceeding the robber barons of the last Guided [sic] Age.”

38. On August 23, 2021, I visited the following website: <https://www.wired.com/story/what-eu-gets-right-us-wrong-antitrust/>, a true and accurate capture of which is annexed hereto as Exhibit CC, and found this information stated therein: At the November 17, 2020 hearing, Sen. Blumenthal further stated: “I have urged, in fact, a breakup of tech giants because they’ve misused their bigness and power. . . . And indeed Section 230 reform, meaningful reform, including even possible repeal in large part because their immunity is way too broad, and victims of their harms deserve a day in court.”

39. On August 23, 2021, I visited the following websites: <https://www.washingtonpost.com/news/powerpost/paloma/the-technology-202/2019/04/09/the-technology-202-lawmakers-plan-to-ratchet-up-pressure-on-tech-companies-content-moderation-practices/5cabee50a7a0a475985bd372/>, a true and accurate capture of which is annexed hereto as Exhibit DD, and found this information stated therein: On or about November 17, 2020, President-elect Biden announced that Congressman Cedric Richmond, would be joining the White House in January of 2021 to serve as a Senior Advisor to the President.

40. On August 23, 2021, I visited the following website: <https://news.bloomberglaw.com/esg/fcc-chair-says-hes-dropping-social-media-order-trump-demanded?context=search&index=3>, a true and accurate capture of which is annexed hereto as Exhibit EE, and found this information stated therein: On January 6, 2021, Chairman of the House Commerce Committee, Rep. Frank Pallone, Jr., tweeted, “[e]nough is enough! Trump is inciting violence and spreading dangerous misinformation that is undermining our democracy and our way

of life. Social media continues to amplify his anti-democratic rhetoric. It's time for @jack and Mark Zuckerberg to remove Trump from their platforms." Similarly, Sen. Blumenthal said, "[d]espite repeated red flags and demands for fixes, these companies failed to act until well after blood and glass lay in the halls of the Capitol. Yesterday's events will renew and focus the need for Congress to reform Big Tech's privileges and obligations."

41. On August 23, 2021, I visited the following websites: <https://kfor.com/news/washington-dc-bureau/lawmakers-urge-twitter-to-join-other-social-media-platforms-suspend-trumps-account-indefinitely/>, a true and accurate capture of which is annexed hereto as Exhibit FF(i), and <https://www.warner.senate.gov/public/index.cfm/2021/1/statement-of-u-s-sen-mark-r-warner-on-emergency-lending-under-the-cares-act>, a true and accurate capture of which is annexed hereto as Exhibit FF(ii), and found this information stated therein: Sen. Markey demanded that social media companies ban Plaintiff "for the safety of our country." On January 7, 2021, Sen. Mark Warner stated that Facebook's and Twitter's suspension of Plaintiff was "both too late and not nearly enough" given "the President's sustained misuse of their platforms to sow discord and violence."

42. On August 23, 2021, I visited the following website: <https://slate.com/technology/2020/12/facebook-antitrust-ftc-breakup-whatsapp-instagram-zuckerberg.html>, a true and accurate capture of which is annexed hereto as Exhibit GG, and found this information stated therein: By early January 2021, the Federal Trade Commission and the U.S. Department of Justice were investigating social media companies for antitrust violations and had launched an antitrust action against Facebook, which Facebook CEO Mark Zuckerberg described as an "existential threat."

43. On August 23, 2021, I visited the following website: <https://energycommerce.house.gov/newsroom/press-releases/ec-committee-announces-hearing-with-tech-ceos-on-the-misinformation-and>, a true and accurate capture of which is annexed hereto as Exhibit HH, and found this information stated therein: In February of 2021, the House Committee on Energy and Commerce summoned Big Tech CEOs to testify at another hearing on the “misinformation and disinformation plaguing online platforms. In a joint public statement on February 18, 2021, announcing the March hearing, the House committee chairs asserted: “These online platforms have allowed misinformation to spread, intensifying national crises with real-life, grim consequences for public health and safety. This hearing will continue the Committee’s work of holding online platforms accountable for the growing rise of misinformation and disinformation”.

44. On August 23, 2021, I visited the following websites: <https://energycommerce.house.gov/committee-activity/hearings/hearing-on-disinformation-nation-social-medias-role-in-promoting>, a true and accurate capture of which is annexed hereto as Exhibit II(i), <https://docs.house.gov/meetings/IF/IF16/20210325/111407/HHRG-117-IF16-20210325-SD002.pdf>, a true and accurate capture of which is annexed hereto as Exhibit II(ii), [https://energycommerce.house.gov/sites/democrats.energycommerce.house.gov/files/documents/Opening%20Statement\\_Pallone\\_CAT-CPC\\_2021.3.25\\_0.pdf](https://energycommerce.house.gov/sites/democrats.energycommerce.house.gov/files/documents/Opening%20Statement_Pallone_CAT-CPC_2021.3.25_0.pdf), a true and accurate capture of which is annexed hereto as Exhibit II(iii), [https://energycommerce.house.gov/sites/democrats.energycommerce.house.gov/files/documents/Opening%20Statement\\_Doyle\\_CAT-CPC\\_2021.3.25.pdf](https://energycommerce.house.gov/sites/democrats.energycommerce.house.gov/files/documents/Opening%20Statement_Doyle_CAT-CPC_2021.3.25.pdf), a true and accurate capture of which is annexed hereto as Exhibit II(iv), and found this information stated therein: On March 25, 2021, in

his opening statement for the House Energy and Commerce Committee hearing Chairman Pallone said:

“Five years ago, . . . Facebook, Google, and Twitter were warned about – but simply ignored – their platforms’ role in spreading disinformation. Since then, the warnings have continued, but the problem has only gotten worse. . . . It is now painfully clear that neither the market nor public pressure will force these social media companies to take the aggressive action they need to take to eliminate disinformation and extremism from their platforms. And, therefore, it is time for Congress and this Committee to legislate and realign these companies’ incentives to effectively deal with disinformation . . . . It’s crucial to understand that these companies aren’t just mere bystanders – they are playing an active role in the meteoric rise of disinformation and extremism. . . . The Committee is going to consider all these options so that we can finally align the interests of these companies with the interests of the public and hold the platforms, and their CEOs, accountable when they stray. The time for self-regulation is over. It is time we legislate to hold you (i.e., Mr. Zuckerberg, Mr. Pichai, and Mr. Dorsey) accountable.”

45. On August 23, 2021, I visited the following websites:

<https://news.bloomberglaw.com/tech-and-telecom-law/house-to-confront-tech-ceos-over-online-spread-of-false-info>, a true and accurate capture of which is annexed hereto as Exhibit JJ(i),

<https://www.klobuchar.senate.gov/public/index.cfm/2021/2/senator-klobuchar-introduces-sweeping-bill-to-promote-competition-and-improve-antitrust-enforcement>, a true and accurate

capture of which is annexed hereto as Exhibit JJ(ii), and found this information stated therein: In an email sent ahead of the March 25 hearing, Consumer Protection and Commerce Committee Chair Jan Schakowsky (D-Ill.), wrote “this hearing is really a call to action. We need to make these companies more accountable to the American people.” Rep. Schakowsky added that this goal would be accomplished by her bill, the Online Consumer Protection Act, which would cut back social media companies’ Section 230 immunity, provide for FTC enforcement, and allow consumer lawsuits. Sen. Amy Klobuchar, Chair of the Senate Judiciary antitrust committee, has introduced legislation that would enable the federal government to impose unprecedented, billion-dollar fines and liability on social media companies under federal antitrust law.

46. On August 23, 2021, I visited the following website: <https://www.cnn.com/2021/07/16/politics/biden-facebook-covid-19/index.html>, a true and accurate capture of which is annexed hereto as Exhibit KK, and found this information stated therein: On July 17, 2021, President Biden excoriated social media companies for carrying so-called COVID “misinformation” stated that they are “killing people” and demanded that they block it.

47. On August 23, 2021, I visited Exhibit N(i) and the following website: <https://www.conservative.org/youtube-censors-cpacs-america-uncanceled-episode-removed-video-of-former-president-donald-j-trumps-major-class-action-against-big-tech/>, a true and accurate capture of which is annexed hereto as Exhibit LL, and found this information stated therein: Defendant’s censorship of Plaintiff’s speech, including its censorship of his July of 2021 CPAC speech announcing the instant lawsuit, was based on the putative ground that Plaintiff was disseminating COVID-related “misinformation.”

48. On August 23, 2021, I visited the following websites: <https://support.google.com/youtube/answer/9891785?hl=en>, a true and accurate capture of which is annexed hereto as Exhibit MM(i), [https://wwwnc.cdc.gov/eid/article/27/2/20-3139 article](https://wwwnc.cdc.gov/eid/article/27/2/20-3139_article), a true and accurate capture of which is annexed hereto as Exhibit MM(ii), and <https://www.cdc.gov/vaccines/partners/downloads/Vaccinate-Confidently-2019.pdf>, a true and accurate capture of which is annexed hereto as Exhibit MM(iii), and found this information stated therein: YouTube’s COVID policy states that the platform will block any “content that contradicts . . . local health authorities’ guidance on: treatment, prevention, diagnosis, the CDC has publicly stated that it acts with social media partners” to “curb the spread of “clampdown” on so-called

“COVID misinformation.” vaccine misinformation.” transmission, social distancing and self-isolation guidelines, and the existence of COVID-19.

49. On August 23, 2021, I visited the following website:

<https://www.reuters.com/article/us-health-coronavirus-white-house-exclus/exclusive-white-house-working-with-facebook-and-twitter-to-tackle-anti-vaxxers-idUSKBN2AJ1SW>, a true and accurate capture of which is annexed hereto as Exhibit NN, and found this information stated therein: On February 20, 2021, an Administration official disclosed that the White House had been conducting “direct engagement” with “social media” companies, specifically including Google, to “clamp down” on so-called “COVID-19 misinformation.” The Administration official further stated: “Disinformation that causes vaccine hesitancy is going to be a huge obstacle to getting everyone vaccinated, and there are no larger players in that than the social media platforms. We are talking to them . . . so they understand the importance of misinformation and disinformation and how they can get rid of it quickly.”

50. On August 23, 2021, I visited the following websites:

<https://www.youtube.com/watch?v=2jpl0Jjh6No>, a true and accurate capture of which is annexed hereto as Exhibit OO(i), <https://www.whitehouse.gov/briefing-room/press-briefings/2021/07/15/press-briefing-by-press-secretary-jen-psaki-and-surgeon-general-dr-vivek-h-murthy-july-15-2021/>, a true and accurate capture of which is annexed hereto as Exhibit OO(ii), and <https://www.whitehouse.gov/briefing-room/press-briefings/2021/07/16/press-briefing-by-press-secretary-jen-psaki-july-16-2021/>, a true and accurate capture of which is annexed hereto as Exhibit OO(iii), and found this information stated therein: On July 15, 2021, when White House Press Secretary Jennifer Psaki said “White House senior staff were engaging with ‘social media platforms’ to combat the spread of ‘misinformation specifically on the pandemic’” and playing an

active role in “flagging” content deemed by the Administration to be “problematic.” The next day, Psaki offered more details on the Administration’s interaction with social media companies and stated that the Administration’s goal was to have individuals who spread COVID misinformation “banned” from *all* social media platforms.

51. On August 23, 2021, I visited the following websites: <https://support.google.com/youtube/answer/10835034?hl=en>, a true and accurate capture of which is annexed hereto as Exhibit PP(i) and <https://www.youtube.com/howyoutubeworks/our-commitments/supporting-political-integrity/>, a true and accurate capture of which is annexed hereto as Exhibit PP(ii), and found this information stated therein: YouTube’s policy states that it will remove content, “that advances false claims that widespread fraud, errors, or glitches changed the outcome of any past U.S. presidential election.”

52. On August 23, 2021, I visited the following website: <https://www.youtube.com/watch?v=XQesfLJycJw>, a true and accurate capture of which is annexed hereto as Exhibit QQ, and found this information stated therein: Former Secretary of State Hillary Clinton stated that:

“I believe he knows he’s an illegitimate president. . . He knows, he knows that there were a bunch of different reasons why the election turned out the way it did. . . I know that he knows that this wasn’t on the level. I don’t know that we’ll know everything that happened, but clearly, we know a lot and we’re learning more every day.”

53. On August 23, 2021, I visited the following website: <https://www.youtube.com/watch?v=PSfAPr-C90c>, a true and accurate capture that is annexed hereto as Exhibit RR, and found this information stated therein: Former Secretary of State Hillary Clinton stated that “Obviously, I can beat him again.”

54. On August 23, 2021, I visited the following website: [https://www.youtube.com/watch?v=-qIN1-z\\_JqQ](https://www.youtube.com/watch?v=-qIN1-z_JqQ), a true and accurate capture of which is annexed

hereto as Exhibit SS and found this information stated therein: Former Secretary of State Hillary Clinton stated that, “espionage attacks . . . come from the highest levels of the Kremlin” were “designed to influence” the 2016 election.

55. On August 23, 2021, I visited the following websites: <https://www.youtube.com/watch?v=0id4jaP7ZoM>, a true and accurate capture of which is annexed hereto as Exhibit TT(i) and [https://www.washingtonpost.com/local/virginia-politics/democratic-congressman-from-virginia-will-not-attend-inauguration/2017/01/16/b7e8e650-dc54-11e6-acdf-14da832ae861\\_story.html](https://www.washingtonpost.com/local/virginia-politics/democratic-congressman-from-virginia-will-not-attend-inauguration/2017/01/16/b7e8e650-dc54-11e6-acdf-14da832ae861_story.html), a true and accurate capture of which is annexed hereto as Exhibit TT(ii), and found this information stated therein: Rep. Don Beyer stated, “Yes, I treasure the peaceful transfer of power . . . Yes, I will respect the constitutional prerogatives of the presidency. But I will not be part of normalizing or legitimizing a man whose election may well have depended on the malicious foreign interference of Russia’s leaders . . . It would be the height of hypocrisy for me to pretend to be part of this inaugural celebration.”

56. On August 23, 2021, I visited the following websites: <https://www.dnainfo.com/chicago/20170118/rogers-park/chicago-congress-trump-inauguration-boycott-jan-schakowsky-feminist-womens-march/>, a true and accurate capture of which is annexed hereto as Exhibit UU(i) and <https://www.cosmopolitan.com/politics/a8619658/why-these-congress-members-did-not-attend-the-inauguration/>, a true and accurate capture of which is annexed hereto as Exhibit UU(ii), and found this information stated therein: Rep. Jan Schakowsky stated, “I have decided to join the growing group of my colleagues who will not attend the inauguration in protest of a President who used bigotry, fear, and lies to win an election that was

tainted by foreign interference and voter suppression — and who intends to betray the interests of the ordinary working people who put him in office.”

57. On August 23, 2021, I visited the following websites: <https://www.youtube.com/watch?v=AqZwXp5Gp5M>, a true and accurate capture of which is annexed hereto as Exhibit VV(i), and [https://thefederalistpapers.org/us/flashback-democrats-railed-voting-machines-admitted-can-hacked-votes-can-switched?ff\\_source=Email&ff\\_medium=PostBottomSharingButtons&ff\\_campaign=websitesharingbuttons&ff\\_content=2018-04-23](https://thefederalistpapers.org/us/flashback-democrats-railed-voting-machines-admitted-can-hacked-votes-can-switched?ff_source=Email&ff_medium=PostBottomSharingButtons&ff_campaign=websitesharingbuttons&ff_content=2018-04-23), a true and accurate capture of which is annexed hereto as Exhibit VV(ii), and found this information stated therein: Rep. Adam Schiff stated that “Our voting machines are too vulnerable.”

58. On August 23, 2021, I visited the following websites: <https://jacksonlee.house.gov/media-center/press-releases/congresswoman-sheila-jackson-lee-joined-by-house-democrats-calls-upon>, a true and accurate capture of which is annexed hereto as Exhibit WW(i), and <https://www.govinfo.gov/content/pkg/CHRG-109hrg28627/html/CHRG-109hrg28627.htm>, a true and accurate capture of which is annexed hereto as Exhibit WW(ii), and found this information stated therein: Rep. Sheila Jackson Lee stated, “Our resources have repeatedly demonstrated that ballot recording machines and other voting systems are susceptible to tampering.”

59. On August 23, 2021, I visited the following website: <https://www.govinfo.gov/content/pkg/CHRG-115hrg30295/html/CHRG-115hrg30295.htm>, a true and accurate capture of which is annexed hereto as Exhibit XX, and found this information stated therein: Rep. Val Demings stated, “Even hackers with limited prior knowledge, tools, and resources are able to breach voting machines in a matter of minutes.”

60. On August 23, 2021, I visited the following websites: <https://www.politico.com/story/2019/03/14/wyden-voting-machine-election-security-1221639>, a true and accurate capture of which is annexed hereto as Exhibit YY(i), and <https://www.wyden.senate.gov/news/press-releases/wyden-questions-voting-machine-manufacturer-on-security-weakness-posed-by-remote-access>, a true and accurate capture of which is annexed hereto as Exhibit YY(ii), and found this information stated therein: Sen. Ron Wyden stated, “The biggest seller of voting machines is doing something that violates cyber security 101 . . . Directing that you install remote access software, which would make a machine like that a magnet for fraudsters and hackers. . . . 43 percent of American voters use voting machines that researchers have found have serious security flaws, including back doors.”

61. On August 23, 2021, I visited the following website: <https://www.facebook.com/watch/?v=531080293755295>, a true and accurate capture of which is annexed hereto as Exhibit ZZ, and found this information stated therein: Rep. Ted Lieu stated, “These voting machines can be hacked quite easily. . . The workers were able to easily hack into the elections voting machines. It was possible to switch votes. In a close presidential election, they just need to hack one swing state or maybe one or two, or maybe just a few counties in one swing state.”

62. On August 23, 2021, I visited the following website: <https://theamericanreport.org/2021/04/26/absolute-interference-cybersecurity-experts-chinese-cyberwarfare-attacks-flipped-u-s-election-from-trump-to-biden-chinese-made-tcl-alcatel-phones-distributed-to-georgia-poll-managers-secretly-conn/>, a true and accurate capture of which is annexed hereto as Exhibit AAA, and found this information stated therein: Sen. Amy Klobuchar stated, “You could very easily hack into them. It makes it seem like all these states are doing

different things, but in fact, three companies are controlling that. . . I am very concerned that you could have a hack that finally went through.”

63. On August 23, 2021, I visited the following websites: <https://notthebee.com/article/enjoy-this-2-minute-compilation-of-democrats-including-vp-harris-spouting-all-sorts-of-conspiracy-theories-about-voting-machines-that-would-get-you-labeled-an-extremist-on-the-right-and-kicke>, a true and accurate capture of which is annexed hereto as Exhibit BBB(i), and <https://www.c-span.org/video/?446920-1/justice-homeland-security-officials-testify-election-security>, a true and accurate capture of which is annexed hereto as Exhibit BBB(ii), and found this information stated therein: Sen. Kamala Harris stated, “There are a lot of states that are dealing with antiquated machines, right, which are vulnerable to being hacked” and “I actually held a demonstration for my colleagues here at the capital, um, where we brought in folks who before our eyes hacked election machines, um, those that are not, those that are being used in many states.”

64. On August 23, 2021, I visited the following website: <https://www.govinfo.gov/content/pkg/CHRG-115shrg29480/html/CHRG-115shrg29480.htm>, a true and accurate capture of which is annexed hereto as Exhibit CCC and found this information stated therein: Sen. Mark Warner stated, “We know how vulnerable now all our systems were. We know, I know, hackathon that took place last year, where virtually every machine was broken into fairly quickly.” YouTube’s policies state that they prohibit content in contradiction of the standards promulgated by the World Health Organization (“WHO”). Furthermore, they also state, in pertinent part, that the policies prohibit content that discourages people from seeking medical advice, guarantees a prevention method for COVID-19, or claims that dispute guidance regarding physical distancing to reduce transmission of COVID-19.

65. On August 23, 2021, I visited the following website: <https://www.youtube.com/watch?v=DsCIrNUnNMI>, a true and accurate capture of which is annexed hereto as Exhibit DDD, and found this information stated therein: On or about September 24, 2020, when he asked if the covid vaccine is safe, New York Governor Andrew Cuomo stated, “Frankly, I’m not going to trust the federal government’s opinion. And I’m not going to recommend to New Yorkers based on the federal government’s opinion.”

66. On August 23, 2021, I visited the following website: <https://www.youtube.com/watch?v=40eZeXPYJ0g>, a true and accurate capture of which is annexed hereto as Exhibit EEE, and found this information stated therein: In October 2020, Kamala Harris stated that “If Donald Trump tells us to take [the vaccine], then I’m not taking it.”

67. On August 23, 2021, I visited the following website: <https://www.youtube.com/watch?v=sy3qJVD1Izg>, a true and accurate capture of which is annexed hereto as Exhibit FFF, and found this information stated therein: When asked whether she would get a vaccine if it were released before the 2020 election, Kamala Harris said, “Well, I think that’s gonna be an issue for all of us.”

68. On August 23, 2021, I visited the following website: <https://www.youtube.com/watch?v=iCpyx2T-IDA>, a true and accurate capture of which is annexed hereto as Exhibit GGG, and found this information stated therein: President-elect Joe Biden stated, “If and when the vaccine comes, it’s not likely to go through all the tests . . . and trials that are needed to be done.”

69. On August 23, 2021, I visited the following website: [https://www.youtube.com/watch?v=3V\\_xv9cGFRo](https://www.youtube.com/watch?v=3V_xv9cGFRo), a true and accurate capture of which is annexed hereto as Exhibit HHH, and found this information stated therein: President-elect Joe

Biden stated, “When we finally do, God willing, get a vaccine, who’s gonna take the shot? Who’s gonna take the shot? Are you gonna be the first one to say ‘sign me up.’”

70. On August 23, 2021, I visited the following website: <https://www.youtube.com/watch?v=t7WwDLzG--Y>, a true and accurate capture of which is annexed hereto as Exhibit III, and found this information stated therein: President Joe Biden stated that “You’re not going to get COVID if you have these vaccinations.”

71. On August 23, 2021, I visited the following websites: <https://www.youtube.com/channel/UCLXo7UDZvByw2ixzpQCufnA>, a true and accurate capture of which is annexed hereto as Exhibit JJJ(i), <https://www.vox.com/2020/6/26/21300636/coronavirus-pandemic-black-lives-matter-protests>, a true and accurate capture of which is annexed hereto as Exhibit JJJ(ii), and <https://www.vox.com/2021/1/10/22223579/capitol-riot-congressional-physician-memo-coronavirus-risk>, a true and accurate capture of which is annexed hereto as Exhibit JJJ(iii), and found this information stated therein: “The effect of Black Lives Matter protests on coronavirus cases, explained – Coronavirus cases are increasing, but Black Lives Matter protests may not be to blame. Here’s why” on June 26, 2020. “The attack on the Capitol may have also been a super spreader event – Lawmakers may have been exposed to the coronavirus during Wednesday’s riot” on January 10, 2021.

72. On August 23, 2021, I visited the following websites: <https://www.youtube.com/channel/UCP6HGa63sBC7-KHtkme-p-g>, a true and accurate capture of which is annexed hereto as Exhibit KKK(i); <https://www.usatoday.com/story/news/investigations/2020/06/19/so-far-george-floyd-protests-not-behind-surges-coronavirus/3226033001/>, a true and accurate capture of which is annexed

hereto as Exhibit KKK(ii), and <https://www.usatoday.com/story/news/health/2021/01/09/covid-update-capitol-riot-surge-new-strain-chicago-schools/6599001002/>, a true and accurate capture of which is annexed hereto as Exhibit KKK(iii), and found this information stated therein: USA Today published: “Coronavirus surges aren’t linked to Black Lives Matter protests” on June 19, 2020. “Wednesday’s storming of the U.S. Capitol will likely be a ‘surge event’ for the coronavirus, said Dr. Robert Redfield, director of the Centers for Disease Control and Prevention” on January 9, 2021.

73. On August 23, 2021, I viewed the following websites: [https://www.youtube.com/channel/UCcyq283he07B7\\_KUX07mmtA](https://www.youtube.com/channel/UCcyq283he07B7_KUX07mmtA), a true and accurate capture of which is annexed hereto as Exhibit LLL(i), <https://www.businessinsider.com/black-lives-matter-protests-are-not-fueling-coronavirus-outbreaks-2020-6>, a true and accurate capture of which is annexed hereto as Exhibit LLL(ii), and <https://www.businessinsider.com/capitol-riot-spurred-covid-19-superspreading-event-among-lawmakers-2021-1>, a true and accurate capture of which is annexed hereto as Exhibit LLL(iii), and found this information stated therein: “Don’t blame Black Lives Matter protests for the spike in coronavirus cases across the US” on July 17, 2020. “The Capitol insurrection seems to have caused a super spreader event among lawmakers. Some Republicans refused to mask up” on January 13, 2021.

74. On August 23, 2021, I visited the following websites: [https://www.youtube.com/channel/UChd62-u\\_v4DvJ8TCFtpi4GA](https://www.youtube.com/channel/UChd62-u_v4DvJ8TCFtpi4GA), a true and accurate capture of which is annexed hereto as Exhibit MMM(i), [https://www.washingtonpost.com/health/protests-probably-didnt-lead-to-coronavirus-spikes-but-its-hard-to-know-for-sure/2020/06/30/d8179678-baf5-11ea-8cf5-9c1b8d7f84c6\\_story.html](https://www.washingtonpost.com/health/protests-probably-didnt-lead-to-coronavirus-spikes-but-its-hard-to-know-for-sure/2020/06/30/d8179678-baf5-11ea-8cf5-9c1b8d7f84c6_story.html), a true and accurate capture of which is annexed hereto as Exhibit MMM(ii), and <https://www.washingtonpost.com/health/2021/01/08/capitol->

[coronavirus/](#), a true and accurate capture of which is annexed hereto as Exhibit MMM (iii), and found this information stated therein: “Protests probably didn’t lead to coronavirus spikes, but it’s hard to know for sure.” June 30, 2020. “Storming of Capitol was textbook potential coronavirus super spreader, experts say” on January 8, 2021.

75. On August 23, 2021, I visited the following websites: <https://www.youtube.com/user/forbes>, a true and accurate capture of which is annexed hereto as Exhibit NNN(i), <https://www.forbes.com/sites/nicholasreimann/2020/07/05/researchers-say-protests-didnt-increase-covid-19-spread-but-republicans-are-still-blaming-them/?sh=43fa16e139f2>, a true and accurate capture of which is annexed hereto as Exhibit NNN(ii), <https://www.forbes.com/sites/sarahhansen/2021/01/10/lawmakers-sheltering-during-capitol-riot-may-have-been-exposed-to-coronavirus/>, a true and accurate capture of which is annexed hereto as Exhibit NNN (iii), and found this information stated therein: Forbes announced: “Research Determines Protests Did Not Cause Spike in Coronavirus Cases.” July 5, 2020. “Lawmakers Sheltering During Capitol Riot May Have Been Exposed to Coronavirus” on January 10, 2021.

76. On August 23, 2021, I visited the following websites: <https://www.youtube.com/user/cnn>, a true and accurate capture of which is annexed hereto as Exhibit OOO(i), <https://www.cnn.com/2020/06/24/us/coronavirus-cases-protests-black-lives-matter-trnd/index.html>, a true and accurate capture of which is annexed hereto as Exhibit OOO(ii), <https://www.cnn.com/2021/01/24/politics/capitol-police-riot-coronavirus/index.html>, a true and accurate capture of which is annexed hereto as Exhibit OOO(iii), and found this information stated therein: CNN reported: “Black Lives Matter protests have not led to a spike in coronavirus cases,

research says.” June 24, 2020. 38 Capitol Police officers test positive for Covid-19 after Capitol riot,” updated January 24, 2021.

77. On August 23, 2021, I visited the following websites: <https://www.youtube.com/user/theverge>, a true and accurate capture of which is annexed hereto as Exhibit PPP(i), <https://www.theverge.com/2020/6/3/21278340/protestors-coronavirus-spread-police-violence-health-racism>, a true and accurate capture of which is annexed hereto as Exhibit PPP(ii), and <https://www.theverge.com/2021/1/19/22239408/capitol-riot-covid-cases-superspreader-arrests>, a true and accurate capture of which is annexed hereto as Exhibit PPP(iii), and found this information stated therein: From The Verge: “Blaming protesters for COVID-19 spread ignores the bigger threats to health” on June 3, 2020. “COVID-19 cases in the Capitol are only the tip of the iceberg.” January 19, 2021.

78. On August 23, 2021, I visited the following websites: [https://www.youtube.com/channel/UC52X5wxOL\\_s5yw0dQk7NtgA](https://www.youtube.com/channel/UC52X5wxOL_s5yw0dQk7NtgA), a true and accurate capture of which is annexed hereto as Exhibit QQQ(i), <https://apnews.com/article/health-us-news-ap-top-news-virus-outbreak-public-health-5a283df1b23ecc5c4b19803d320d0ebc>, a true and accurate capture of which is annexed hereto as Exhibit QQQ(ii), and <https://www.usnews.com/news/health-news/articles/2021-01-10/possible-virus-exposure-for-lawmakers-sheltering-during-riot>, a true and accurate capture of which is annexed hereto as Exhibit QQQ(iii) and found this information stated therein: AP News: “Little evidence that protests spread coronavirus in US” on July 1, 2020. “Possible virus exposure for lawmakers sheltering during riot – Lawmakers make have been exposed to someone testing positive for COVID-19 while they sheltered at an undisclosed location during the Capitol siege on Wednesday” on January 10, 2021.

79. On August 23, 2021, I visited the following websites: <https://www.youtube.com/channel/UCK7tptUDHh-RYDsdxO1-5QQ>, a true and accurate capture of which is annexed hereto as Exhibit RRR(i), <https://www.wsj.com/articles/recent-protests-may-not-be-covid-19-transmission-hotspots-11592498020>, a true and accurate capture of which is annexed hereto as Exhibit RRR(ii), and <https://www.wsj.com/articles/at-least-three-lawmakers-test-positive-for-covid-19-after-capitol-attack-11610473977>, a true and accurate capture of which is annexed hereto as Exhibit RRR(iii), and found this information stated therein: The Wall Street Journal: “Early Data Show No Uptick in Covid-19 Transmission From Protest” on June 18, 2020. “At Least Three Lawmakers Test Positive for Covid-19 After Capitol Attack” on January 12, 2021.

80. On August 23, 2021, I visited the following websites: <https://www.youtube.com/channel/UCBi2mrWuNuyYy4gbM6fU18Q>, a true and accurate capture of which is annexed hereto as Exhibit SSS(i), <https://abcnews.go.com/US/minnesota-sees-rise-covid-19-cases-tied-protests/story?id=71393938>, a true and accurate capture of which is annexed hereto as SSS(ii), and <https://abcnews.go.com/Health/capitol-hill-riot-prove-covid-19-superspreader-event/story?id=75134968>, a true and accurate capture of which is annexed hereto as Exhibit SSS(iii), and found this information stated therein: ABC News: “Minnesota sees no rise in COVID-19 cases tied to protests: Health officials” on June 22, 2020. “Capitol Hill riot could prove to be COVID-19 super spreader event, experts say” on January 9, 2021.

81. On August 23, 2021, I visited the following websites: [https://www.youtube.com/channel/UCrp\\_UI8XtuYfpqiluWLD7Lw](https://www.youtube.com/channel/UCrp_UI8XtuYfpqiluWLD7Lw), a true and accurate capture of which is annexed hereto as Exhibit TTT(i), <https://www.cnbc.com/2020/06/29/house-gop-leader-suggests-without-evidence-that-protests-are-driving-up-coronavirus-cases.html>, a true and accurate capture of which is annexed hereto as Exhibit TTT(ii),

<https://www.cnn.com/2021/01/09/covid-killing-nearly-3000-in-us-cdc-warns-of-surge-event-from-capitol-riots.html>, a true and accurate capture of which is annexed hereto as Exhibit TTT(iii), and found this information stated therein: CNBC: “House GOP leader suggests without evidence that protests are driving up coronavirus cases” on June 29, 2020. “Covid killing nearly 3,000 in U.S. every day as CDC warns of ‘surge event’ from Capitol riots” on January 9, 2021.

82. On August 23, 2021, I visited the following websites: <https://drive.google.com/file/d/1Jyfn4Wd2i6bRi12ePghMHtX3ys1b7K1A/view>, a true and accurate capture of which is annexed hereto as Exhibit UUU(i), <https://www.cnn.com/2020/06/05/health/health-care-open-letter-protests-coronavirus-trnd/index.html>, a true and accurate capture of which is annexed hereto as Exhibit UUU(ii), and <https://www.uwmedicine.org/specialties/allergy-immunology>, a true and accurate capture of which is annexed hereto as Exhibit UUU(iii), and found this information stated therein: In June of 2020, One Thousand (1,000) health and medical professionals, including individuals from elite medical schools such as Boston University and Johns Hopkins University, penned a letter expressing concern about the risks associated with the spread of the virus during the protests of that summer. The letter suggested that the risks of spreading the virus should be weighed against the benefits of public assembly for important causes. Over sixty (60) of those signatories were associated with the University of Washington, and it has been reported that many of the signatories were members of the University of Washington’s Department of Allergy and Immunology. Many other signatories were also associated with medical schools, including but not limited to the University of California San Francisco, the University of California Los Angeles, the University of California San Diego, the University of Colorado, Johns Hopkins University, Northwestern University, and Boston University.

83. On August 23, 2021, I visited the following websites: <https://www.wsj.com/articles/youtubes-political-censorship-11600126230>, a true and accurate capture of which is annexed hereto as Exhibit VVV(i), <https://www.tampabay.com/news/florida-politics/2021/04/09/youtube-removes-video-of-desantis-coronavirus-roundtable/>, a true and accurate capture of which is annexed hereto as Exhibit VVV(ii); <https://www.youtube.com/channel/UCi09SPwnkMZ54X3Y8b9LZMA/about>, a true and accurate capture of which is annexed hereto as Exhibit VVV(iii), <https://www.youtube.com/channel/UCpricipiXNXTzJYJfN02rHsA>, a true and accurate capture of which is annexed hereto as Exhibit VVV(iv), [https://www.youtube.com/channel/UC9w1NPCLjmTkVyJaQSPU\\_Dg](https://www.youtube.com/channel/UC9w1NPCLjmTkVyJaQSPU_Dg), a true and accurate capture of which is annexed hereto as Exhibit VVV(v), <https://www.youtube.com/channel/UCATNzbTbfeoMhNonZGZmrhA>, a true and accurate capture of which is annexed hereto as Exhibit VVV(vi), <https://www.youtube.com/channel/UCQG9oDqDHT7a3SQHmHHUDkA>, a true and accurate capture of which is annexed hereto as Exhibit VVV(vii), <https://www.youtube.com/user/UCLAGeffenSOM>, a true and accurate capture of which is annexed hereto as Exhibit VVV(viii), <https://www.youtube.com/user/NUFeinbergMed>, a true and accurate capture of which is annexed hereto as Exhibit VVV(ix), and <https://www.youtube.com/channel/UCovnxKJ6MQdpdDRhyZywdw>, a true and accurate capture of which is annexed hereto as Exhibit VVV(x), and found this information stated therein: Dr. Scott Atlas, of the Hoover Institute, gave a June 2020 a talk discussing the effects and merits of the then considerable restrictions put in place to combat the virus that was removed by the Defendants in September 2020, a few weeks after Dr. Atlas had been appointed a special advisor to Plaintiff

President Trump. Similarly, in April 2021, the Defendants removed a video wherein Florida Governor Ron DeSantis engaged in a conversation with Dr. Atlas, as well as Dr. Martin Kulldorff of Harvard University, Dr. Sunetra Gupta of Oxford University, and Dr. Jay Bhattacharya of Stanford Medical School.

84. On August 23, 2021, I visited the following websites: [https://www.youtube.com/watch?v=87uZ\\_atahP8](https://www.youtube.com/watch?v=87uZ_atahP8), a true and accurate capture of which is annexed hereto as Exhibit WWW(i), <https://www.youtube.com/watch?v=KKzSJzqnsuU>, a true and accurate capture of which is annexed hereto as Exhibit WWW(ii), <https://www.youtube.com/watch?v=nnt0XvM3bLo>, a true and accurate capture of which is annexed hereto as Exhibit WWW(iii), <https://www.deccanherald.com/content/640804/snoop-dogg-stands-over-trumps.html>, a true and accurate capture of which is annexed hereto as Exhibit WWW(iv), <https://www.youtube.com/watch?v=3fsG5tyxRjw>, a true and accurate capture of which is annexed hereto as Exhibit WWW(v), <https://www.youtube.com/watch?v=tJCDe7vdFfw>, a true and accurate capture of which is annexed hereto as Exhibit WWW(vi), <https://www.youtube.com/watch?v=tYsh1G4B92Y>, a true and accurate capture of which is annexed hereto as Exhibit WWW(vii), <https://www.youtube.com/watch?v=ZzXS8r4SpnQ>, a true and accurate capture of which is annexed hereto as Exhibit WWW(viii), <https://www.youtube.com/watch?v=CLpPWiyilqQ>, a true and accurate capture of which is annexed hereto as Exhibit WWW(ix), <https://www.youtube.com/watch?v=5H1wQwIVMWY>, a true and accurate capture of which is annexed hereto as Exhibit WWW(x), <https://www.youtube.com/watch?v=ZYAe6-JIT6s>, a true and accurate capture of which is annexed hereto as Exhibit WWW(xi), <https://twitter.com/KamalaHarris/status/1267555018128965643>, a true and accurate capture of

which is annexed hereto as Exhibit WWW(xii), and <https://www.youtube.com/watch?v=x8inQZ750-k>, a true and accurate capture of which is annexed hereto as Exhibit WWW(xiii), and found this information stated therein: On or about January 22, 2017, Madonna, stated that she has, “thought an awful lot about blowing up the White House.” In 2017, Rep. Maxine Waters stated that she would, “go and take Trump out tonight.” In 2017, Kathy Griffin held up a replica of Plaintiff Donald J. Trump’s severed head. In a music video from March of 2017, Snoop Dogg shot a clown version of Donald Trump. In November of 2017, Snoop Dogg featured an album cover that depicted the image of a corpse with a tag on the foot that said Trump. On or about June 14, 2018, Rep. Nancy Pelosi stated, “I just don’t even know why there aren’t uprising all over the country. On or about June 23, 2018, Rep. Maxine Waters urged people to “create a crowd, and you push back on them, and you tell them they are not welcome,” when they see members of the Trump Administration in restaurants, department stores, or gas stations. On or about July 25, 2018, Sen. Corey Booker, urged people to “go to the Hill today, please, get up in the face of some Congresspeople.” On or about October 9, 2018, Former Secretary of State Hillary Clinton stated that “You cannot be civil with a political party that wants to destroy what you stand for, what you care about.” On or about July 23, 2019, Sen. Corey Booker stated that, “my testosterone sometimes makes me want to feel like punching him [Trump].” On or about August 23, 2019, Rep. Nancy Pelosi stated that, “you have to be ready to throw a punch for the children.” On or about March 4, 2020, Sen. Charles Schumer stated that “I want to tell you, Gorsuch. I want to tell you, Kavanaugh. You have released the whirlwind, and you will pay the price.” Sen. Kamala Harris encouraged people to donate to an online platform that would assist in the release of those charged with criminal offenses in Minnesota.

85. On August 23, 2021, I visited the following websites: <https://www.forbes.com/sites/jemimamcevoy/2020/06/08/14-days-of-protests-19-dead/?sh=156c6abc4de4>, a true and accurate capture of which is annexed hereto as Exhibit XXX(i), <https://nypost.com/2020/06/08/more-than-700-officers-injured-in-george-floyd-protests-across-us/>, a true and accurate capture of which is annexed hereto as Exhibit XXX(ii), <https://apnews.com/article/american-protests-us-news-arrests-minnesota-burglary-bb2404f9b13c8b53b94c73f818f6a0b7>, a true and accurate capture of which is annexed hereto as Exhibit XXX(iii): <https://www.axios.com/riots-cost-property-damage-276c9bcc-a455-4067-b06a-66f9db4cea9c.html>, a true and accurate capture of which is annexed hereto as Exhibit XXX(iv): <https://www.usatoday.com/story/news/factcheck/2020/09/01/fact-check-kamala-harris-said-protests-arent-going-stop/5678687002/>, a true and accurate capture of which is annexed hereto as XXX(v), and found this information stated therein: On or around June 18, 2020, the Black Lives Matter riots had dramatically increased in size and scope with at least 19 deaths, over Seven Hundred (700) injured police officers, over Ten Thousand (10,000) arrests, and over \$1,000,000,000.00 in insurance claims for damage (the largest such claim in United States history); nevertheless, then Sen. Kamala Harris stated that the protests are, “not gonna stop before Election Day in November, and they’re not gonna stop after Election Day. Everyone should take note of that, on both levels, that they’re not going to let up – and they should not. And we should not[.]”

86. On August 23, 2021, I visited the following websites: <https://www.youtube.com/watch?v=jFEGOIR7KEo>, a true and accurate capture of which is annexed hereto as Exhibit YYY(i), and <https://www.youtube.com/watch?v=pxj2cLFJVfc>, a true and accurate capture of which is annexed hereto as YYY(ii), and found this information stated therein: Regarding Vice President Harris’ urging of followers to contribute to the Minnesota

Freedom Fund, Defendant YouTube currently places a label titled “Independent Fact Check” which states that for the claim, “Kamala Harris helped violent rioters in Minnesota get out of jail to do more damage” users are provided the response, “Rating: Needs context.” This is an unsolicited label, placed by YouTube when a user simply puts the inquiry “Kamala Harris Minnesota Freedom Fund” in the YouTube search bar.

87. On August 23, 2021, I visited the following website: <https://www.factcheck.org/2020/02/trump-has-condemned-white-supremacists/>, a true and accurate capture of which is annexed hereto as ZZZ, and found this information stated therein: This is particularly noteworthy when compared to Defendant YouTube’s search results when a User enters the phrase “Donald Trump fails to condemn white supremacists.” This claim was specifically made by President Joe Biden, and Factcheck.org declared the claim to be incorrect and wrongly made. Nevertheless, despite this specific fact check claim, Defendant, unsurprisingly, fail to provide a warning label for Plaintiff as it does for Vice President Kamala Harris.

88. On August 23, 2021, I visited the following websites: <https://apnews.com/article/virus-outbreak-ap-top-news-race-and-ethnicity-id-state-wire-or-state-wire-b57315d97dd2146c4a89b4636faa7b70>, a true and accurate capture of which is annexed hereto as Exhibit AAAA(i), <https://www.opb.org/news/article/portland-federal-courthouse-fence-taxpayer-cost/>, a true and accurate capture of which is annexed hereto as Exhibit AAAA(ii), <https://pamplinmedia.com/pt/9-news/481167-388210-portland-protest-arrests-top-out-at-nearly-1000-for-now>, a true and accurate capture of which is annexed hereto as Exhibit AAAA(iii), <https://www.newsweek.com/portland-protesters-damage-cost-federal-buildings-1566821>, a true and accurate capture of which is annexed hereto as Exhibit AAAA(iv), and <https://www.opb.org/article/2021/03/12/protesters-vandalize-portlands-federal-courthouse->

again, a true and accurate capture of which is annexed hereto as Exhibit AAAA(v), and found this information stated therein: In 2020 the city of Portland, Oregon, witnessed over 100 nights of protests, marked by arrests, vandalism, and even the death of a supporter of President Donald Trump. The Mark O. Hatfield federal courthouse was a central focus of these protests; the intensity of the protests required the installation of a \$200,000.00 security fence. By September 2020, nearly One Thousand (1,000) people had been arrested. Estimates to repair the damage done to the courthouse and nearby federal buildings in Portland have run to just over \$2,000,000.00. The protests were not limited to 2020; just a few days after the security fence around the federal courthouse was removed in March of 2021, protestors returned, smashing windows and spray-painting parts of the stone façade. Despite the fact that Defendant YouTube's policies state that it prohibits the use of the platform to encourage parties to go to a particular place to commit violence, Defendant permitted its platform to be used to livestream the violence at the courthouse.

89. On August 23, 2021, I visited the following websites: <https://www.vox.com/recode/2020/7/21/21332653/portland-oregon-protests-feds-dhs-youtubelivestream?fbclid=IwAR1TEpZjMzriaPFagNzil2ufJulCVQII0FQwBnybcy3mCut4EoJtY3TP7jM>, a true and accurate capture of which is annexed hereto as Exhibit BBBB(i), <https://www.youtube.com/c/AnterosLive/featured>, a true and accurate capture of which is annexed hereto as Exhibit BBBB(ii), <https://www.koin.com/news/protests/portland-protest-night-100-pioneer-courthouse-square-waterfront-park-09052020/>, a true and accurate capture of which is annexed hereto as Exhibit BBBB(iii) and found this information stated therein: By late July, there had been over fifty (50) consecutive nights of protests in Portland. One channel on Defendant's platform was actively engaged in providing livestreamed footage of the nightly protests. This channel provided livestreams of these protests near the federal courthouse well into the fall of

2020. By the fall of 2020, there were over One Hundred (100) consecutive nights of protests resulting in arrests, the use of Molotov cocktails, and the frequent deployment of crowd dispersal devices such as tear gas.

90. On August 23, 2021, I visited the following websites: <https://www.youtube.com/watch?v=IS-Qlih7jXk>, a true and accurate capture of which is annexed hereto as Exhibit CCCC(i), <https://www.nationalreview.com/news/youtube-removes-anti-blm-livestream-of-heather-mac-donald-citing-unspecified-violation-of-community-guidelines/>, a true and accurate capture of which is annexed hereto as Exhibit CCCC(ii), and <https://support.google.com/youtube/answer/2802167?hl=en>, a true and accurate capture of which is annexed hereto as Exhibit CCCC(iii) and found this information stated therein: In July of 2020, Heather MacDonald, a fellow at the Manhattan Institute, delivered a speech on police use of force across the Nation that was posted to YouTube by the Center for the American Experiment, a think tank located in Minnesota. Shortly after the speech was posted, it was removed from the platform. After an appeal from the Center for the American Experiment, it was re-posted, but this time it was age-restricted for sensitive content. YouTube's standards for age-restricted content center content that could lead to minors injuring themselves, adult themes, and vulgar language. Ms. McDonald's speech involved her analysis of criminal justice statistics and the use of force by the police. It was delivered via zoom and accompanied by numerous graphs and charts. In addition to Ms. MacDonald's speech, other videos discussing the use of force by the police and gun violence put forward by conservative-leaning entities have been age-gated by YouTube.

91. On August 23, 2021, I visited the following website: <https://www.youtube.com/watch?v=zWoy0I-4iok>, a true and accurate capture of which is annexed hereto as Exhibit DDDD, and found this information stated therein: A video posted on the Black

Lives Matter YouTube channel discussed defunding the police. During the presentation, reference was made to the volume of incidents involving the use of force by the police. The video contained the statement that the police are “out of control.” Defendant has not age-gated or restricted access to the video.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct

Executed on this 23rd day of August 2021, in Greenwich, Connecticut.

  
Rafiya Ibrahim

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF FLORIDA**

DONALD J. TRUMP, the Forty-Fifth President of the  
United States, KELLY VICTORY, AUSTEN  
FLETCHER, AMERICAN CONSERVATIVE  
UNION, ANDREW BAGGIANI, MARYSE  
VERONICA JEAN-LOUIS, NAOMI WOLF AND  
FRANK VALENTINE, INDIVIDUALLY AND ON  
BEHALF OF THOSE SIMILARLY SITUATED,

Plaintiffs,

v.

YOUTUBE, LLC and SUNDAR PICHAI

Defendants.

Civil Action No. 1:21-cv-22445-KMM-LFL

**DECLARATION OF COREY LEWANDOWSKI**

**DECLARATION OF COREY LEWANDOWSKI**

I, Corey R. Lewandowski, declare that the matters stated herein are true and correct and based upon my own personal knowledge, and if called to testify I would state as follows:

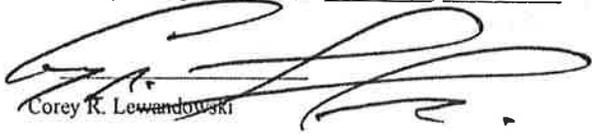
1. I have been a manager for political campaigns for approximately twenty-five (25) years.
2. During this time, I have been involved with hundreds political campaigns, at the local, state, and national levels.
3. The campaigns I have managed involved the coordination of communications between my candidate(s) and the general electorate via television, radio, print, and the Internet.
4. I have managed, or been involved in, political campaigns whose combined budgets exceeded five hundred (500) million dollars.
5. Some Campaign expenditures were paid for as a result of fundraising efforts I oversaw.
6. I have seen the rapid growth in the importance of communicating the views, policies, and campaign content of candidates through social media platforms.
7. The first campaign that I managed was at the local level, the total expenditures for Internet related advertising for my candidate was less than approximately ten (10) dollars.
8. Twenty-five years later, when I was the manager of President Trump's 2016 primary presidential campaign, the total expenditures on social media advertising exceeded fifty (50) million dollars.
9. Today's political reality is that maintaining a presence on social media, with campaign related sites on these platforms, has become an essential element of any successful political campaign.
10. Any aspirant for elected office, at any level of government, needs to establish a presence on social media, and in particular on the three main platforms: YouTube, Twitter, and Facebook. (Commonly referred to as "Big Tech")
11. These social media platforms are an essential source of knowledge of current affairs for the general public and frequently constitute the primary source of information for the general electorate on political issues and candidates.
12. Today's voters looking to educate themselves on a political candidate's views would very likely visit one of the above social media platforms.
13. Any voter who is unable to locate a candidate on any social media sites they subscribe to would likely conclude that the candidate might not be a serious candidate for office.
14. In my campaign experience, I have learned that voters viewing a candidate's profile on YouTube, Twitter, and Facebook, will expect to find references to a candidate's view on issues, personal background, and endorsements.
15. Research and polling have found that these three categories – political positions, personal history, and endorsements – are quite possibly the three most important criteria in determining a candidate's viability.
16. During my career, I have seen the power of political views and content of YouTube, Twitter, and Facebook fundamentally alter the entire landscape of political campaigns for candidates and voters.
17. Previously, expensive advertising campaigns in the mainstream media were used to convey a candidate's messages to voters. However, social media platforms now offer a free and passive means of public discourse where candidates can convey their views to those who visit the candidate's site on the platform.
18. The power of this transformation in messaging in the Internet age can be seen in the remarkable, successful effect President Trump had in numerous political campaigns across the country.

19. In Republican Party primary races across a gambit of state and federal offices, endorsements from President Trump, relayed to potential voters through his own use of YouTube, Twitter, and Facebook and their endorsed candidate's promotion of the president's endorsement through the same platforms, frequently saw dramatic, positive increases in that candidate's polling numbers in each of the following races:
  - a. 2018 – Florida Governor's Race
  - b. 2020 – New Hampshire US Senate Race
  - c. 2020 Tennessee US Senate Race
  - d. 2020 Texas 13<sup>th</sup> Congressional District
  - e. 2021 – Ohio 15<sup>th</sup> Congressional District
20. President Trump is the unquestioned leader of the Republican Party and continues to be one of the most influential figures in current American politics.
21. His inability to engage with YouTube, Twitter, and Facebook has significantly impacted political discourse in the United States.
22. Regardless of a voter's affinity for the views of President Trump, American voters wants to know if President Trump does, or does not, endorse a candidate.
23. The efforts by YouTube, Twitter, and Facebook to eliminate any reference to the views and content of President Trump from their platforms creates a significant, and negative, impact on political debate in the United States.
24. The value of an endorsement from President Trump can confidently be measured as being worth hundreds of thousands – even millions – of dollars' worth of conventional mainstream media advertising expenditures.
25. President Trump has been de-platformed from his Facebook, YouTube and Twitter accounts since January 2021, and does not have the ability to create new accounts on these platforms.
26. President Trump cannot post new content or messages to his followers/viewers on his old account, nor can his former followers/viewers post comments or talk to each other.
27. It is my opinion that President Trump's continued absence from YouTube, Twitter, and Facebook constitutes a prior restraint in the vitality of the "marketplace of ideas" in American politics. Social media has placed "its finger on the scale" for voters who need to weigh the views and content of President Trump in making decisions on Congressional candidates in 2022, and the presidential election in 2024.

I declare under penalty of perjury, under the laws of the state New Hampshire \_\_\_\_\_, that the foregoing is true and correct.

Date this 16th day of August 16, 2021, at \_\_\_\_\_.

By:

  
Corey R. Lewandowski

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF FLORIDA**

Civil Action No. 1:21-cv-22445-KMM-LFL

DONALD J. TRUMP, the Forty-Fifth President of the United States, KELLY VICTORY, AUSTEN FLETCHER, AMERICAN CONSERVATIVE UNION, ANDREW BAGGIANI, MARYSE VERONICA JEAN-LOUIS, NAOMI WOLF AND FRANK VALENTINE, INDIVIDUALLY AND ON BEHALF OF THOSE SIMILARLY SITUATED,

Plaintiffs,

v.

YOUTUBE, LLC and SUNDAR PICHAI

Defendants.

**DECLARATION OF CHRISTL PITRE MAHFOUZ**

Pursuant to 28 U.S.C. § 1746, I hereby declare as follows:

1. My name is Christl Pitre Mahfouz, and I am the Manager, CEO, and sole Member of Ace Specialties, L.L.C., a Louisiana limited liability company domiciled in Lafayette, Louisiana (“Ace Specialties”).
2. In my capacity as Manager, CEO, and Member of Ace, I am responsible for managing and overseeing all operations of Ace Specialties and have personal knowledge of the matters contained in this Declaration.

3. Ace Specialties was formed in 2007 and provided workwear and promotional products for oilfield businesses along the Gulf Coast.
4. Ace Specialties' business grew and thrived until the economic downturn of 2015 when Louisiana's oil and gas industry was hit especially hard. In 2015, Ace Specialties was on the brink of closing its business due to the downturn.
5. On June 16, 2015, I watched Donald J. Trump take his famous ride down the escalator in Trump Tower as he announced his candidacy for President of the United States. I knew Eric Trump from his efforts to raise money for St. Jude Children's Research Hospital in conjunction with Sky High, Inc. d/b/a Sky High for St. Jude's, a nonprofit organization I helped start with friends and business acquaintances. With this connection, I and my team immediately began designing logos, printing products, and creating a merchandise site with the hope of Ace Specialties potentially doing business with Donald J. Trump's campaign.
6. On July 22, 2015, I pitched Ace Specialties' business to Donald J. Trump's campaign team in Trump Tower.
7. After committing to starting operations within a week, the pitch was a success, and Ace Specialties became the exclusive distributor of campaign merchandise for the Donald J. Trump campaign, breathing new life into Ace Specialties' business, as well as the Trump presidential campaign.
8. Ace Specialties has served as the exclusive distributor of campaign merchandise for the Donald J. Trump campaign since 2015 under contracts with certain campaign entities, including Donald J. Trump for President, Inc. and Trump Make America Great Again Committee, a federal joint fundraising committee composed of and authorized by the

Republican National Committee and Donald J. Trump for President (collectively referred to as "the Trump Campaign").

9. The Trump Campaign procured and maintained the domain name and website [www.shop.donaldjtrump.com](http://www.shop.donaldjtrump.com) which operated as its website for soliciting and raising federal political contributions for the Trump Campaign's participating committees in exchange for various merchandise and products to be shipped to donors.
10. Ace Specialties warehoused, fulfilled, packaged, managed and distributed all merchandise for the Trump Campaign, including serving as distributor of all merchandise at the rallies for the Trump Campaign throughout the United States.
11. All merchandise for the Trump Campaign was required to be made in the USA and was sourced from various businesses in the United States, including CaliFame of Carson, California who manufactured all MAGA headwear.
12. Examples of Trump Campaign merchandise distributed by Ace Specialties is attached as Exhibit A *in globo*.
13. All Trump Campaign merchandise was required to be shipped via U.S. Postal Service, and Ace Specialties therefore utilized USPS exclusively for all Trump Campaign merchandise shipping.
14. The Trump Campaign contracted with Shopify to provide the platform (i.e., ecommerce store website) for the Trump Campaign, which included the merchandise distributed by Ace Specialties. Ace Specialties therefore directly utilized Shopify's services and tied into Shopify's platform. The Trump Campaign also utilized WinRed's platform.
15. The Trump Campaign contracted with Stripe, Inc. to provide the payment processing platform for the Trump Campaign's Shopify website which served to process all payments

to the Trump Campaign. Stripe, Inc. also provided payment processing services for the WinRed platform.

16. The Trump Campaign led the promotion and online marketing for the Trump Campaign and its merchandise, and Ace Specialties was kept apprised of merchandise-related promotional and marketing efforts, including the Trump Campaign's regular use of Facebook, Twitter, and YouTube to promote campaign merchandise.
17. The Trump Campaign's advertising on social media sites such as Facebook, Twitter, Instagram, and YouTube utilized links in which prospective donors were led to the Trump Campaigns' Shopify and WinRed donation and merchandise platforms.
18. A report generated by Shopify of Trump Campaign donations "by sales channel" for the year 2020 reported significant donations from "Facebook," "Twitter," and "YouTube." This report does not include donations linked to WinRed's platform via Facebook, Twitter, or YouTube.
19. On or about January 7, 2021, Ace Specialties was made aware that Facebook blocked President Trump's ability to utilize his Facebook account.
20. On or about January 7, 2021, Shopify shut down the Trump Campaign's donation and merchandise website, on information and belief and based on news reports, following Facebook's lead.
21. On or about January 8, 2021, Ace Specialties was made aware that Twitter had permanently suspended President Trump's account "@realDonaldTrump."
22. On or about January 10, 2021, Ace Specialties was made aware that Stripe, Inc. had unilaterally terminated payment processing for the Trump Campaign's websites.

23. On or about January 12, 2021, Ace Specialties was made aware that Google had suspended President Trump's YouTube account.
24. To my knowledge, Facebook, Google, Twitter, and other social platforms did not block or prevent the promotion or sales of Trump-related merchandise through parties other than the Trump Campaign ("knockoffs").
25. The foregoing actions taken by the big tech companies, including the blocking and/or suspension of President Trump's Facebook, Twitter and YouTube accounts, led to the demise of the Trump Campaign merchandising and fundraising program, and caused Ace Specialties to suffer a devastating interruption and loss of revenue. The U.S. vendors which supplied merchandise for the Trump Campaign also suffered an immediate interruption and loss of business as well.
26. After January 6, 2021, Ace Specialties has been unable to realize any revenue, and the Trump Campaign and has suffered financial losses as a result.
27. As a result of the loss of Trump Campaign business by big tech censorship, Ace Specialties also lost its volume discount with the U.S. Post Office.
28. Despite Ace Specialties beginning to perform similar distribution services for Trump-related merchandise in April 2021 for Save America JFC, a joint fundraising committee of Save America and Make America Great Again ("Save America"), Ace Specialties will be unable to recover the economic losses sustained due to the loss of revenue from the Trump Campaign. Ace revenue loss is directly linked to the Trump donation losses.
29. In 2015, the Trump Campaign saved and revitalized my small, woman-owned business. However, due to the foregoing actions of the big tech companies, Ace Specialties has suffered substantial financial losses.

30. I declare under penalty of perjury that the foregoing is true and correct.

Executed on the 13<sup>th</sup> day of August, 2021.

  
CHRISTL PITRE MAHFOUZ

**EXHIBIT A**  
**to Declaration of Christl Pitre Mahfouz**



