

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

DONALD J. TRUMP, the Forty-Fifth
President of the United States, KELLY
VICTORY, AND AUSTEN FLETCHER,
INDIVIDUALLY AND ON BEHALF OF
THE CLASS,

Plaintiffs,

v.

YOUTUBE, LLC., and SUNDAR PICHAJ

Defendants.

**CLASS ACTION
COMPLAINT FOR:**

FIRST AMENDMENT VIOLATION

JURY TRIAL REQUESTED

COMPLAINT FOR INJUNCTIVE AND DECLARATORY RELIEF

INTRODUCTION

1. Plaintiff, Donald J. Trump, the Forty-Fifth President of the United States, individually, and on behalf of those similarly situated Putative Class Members, by and through the undersigned counsel, brings this action against YouTube, LLC. (“YouTube”), and Sundar Pichai, the Chief Executive Officer of Google, Inc. and Alphabet, Inc. The allegations herein of Plaintiff and Putative Class Members are based upon personal knowledge and belief as to their own acts, upon the investigation of their counsel, and upon information and belief as to all other matters.

2. Defendant YouTube has accumulated an unprecedented concentration of power, market share, and ability to dictate our nation’s public discourse. YouTube generated \$19.7

billion in revenue in 2020, up from \$80 million in 2010. Over 2.3 billion people access YouTube at least once every month. YouTube's owner is Alphabet, which is also the parent of Google. YouTube ranks second in global engagement behind Facebook. YouTube could be worth \$140-300 Billion if "spun into" its own company, according to Business of Apps, citing VentureBeat.

3. Defendant YouTube has increasingly engaged in impermissible censorship resulting from threatened legislative action, a misguided reliance upon Section 230 of the Communications Act, 47 U.S.C. § 230, and willful participation in joint activity with federal actors. Defendant YouTube's status thus rises beyond that of a private company to that of a state actor. As such, Defendant is constrained by the First Amendment right to free speech in the censorship decisions it makes regarding its Users.

4. Legislation passed twenty-five (25) years ago intended to protect minors from the transmission of obscene materials on the Internet, and to promote the growth and development of social media companies, has enabled Defendant YouTube to grow into a commercial giant that now censors (flags, demonetization, bans, etc.) and otherwise restricts with impunity the constitutionally protected free speech of the Plaintiff and the Putative Class Members.

5. The immediacy of Defendants' threat to its Users' and potentially every citizen's right to free speech, cannot be overstated. Defendants' callous disregard of its Users' constitutional rights is no better exemplified than in the matter currently before the Court.

6. On January 12, 2021, Defendants indefinitely banned the sitting President of the United States from its platform for exercising his constitutional right of free speech on his YouTube channel.

7. Censorship runs rampant against the Putative Class Members, and the result is a chilling effect cast over our nation's pressing political, medical, social, and cultural discussions.

8. Plaintiff, a sitting President of the United States, was banned by the Defendants, as were Putative Class Members, using non-existent or broad, vague, and ever-shifting standards. While YouTube's ban and prior restraint of Plaintiff are well-documented, the untold stories of Putative Class Members are now stirring the public conscience.

9. Using the unconstitutional authority delegated to them by Congress, Defendants have also mounted an aggressive campaign of censorship against a multitude of Putative Class Members through censorship (flagging, demonetizing, banning, etc.) resulting from legislative coercion.

10. Defendants deplatformed Plaintiff, and Putative Class Members, at the behest of, with cooperation from, and the approval of, Democrat lawmakers.

11. Akin to forcing a round peg into a square hole, YouTube declared that specific uploads of Plaintiff had violated YouTube's self-imposed "Community Guidelines." Countless other YouTube Users have not been as fortunate, with YouTube taking detrimental action against their entire video library with no explanation whatsoever.

12. If Defendants reliance on an unconstitutional delegation of authority to regulate free speech and under pressure from Congress, can effectively censor, and impose a prior restraint on the protected political speech of a sitting President of the United States, then the threat to Putative Class Members, our citizens, and our United States Constitution and form of government, is imminent, severe, and irreparable.

13. Plaintiff respectfully asks this Court to declare that Section 230 on its face is an unconstitutional delegation of authority and that the Defendants' actions directed at the Plaintiff and the Putative Class Members are a prior restraint on their First Amendment right to free speech, to order the Defendants to restore the YouTube channel of Plaintiff, as well as those deplatformed Putative Class Members, and to prohibit Defendants from exercising censorship,

editorial control or prior restraint in its many forms over the uploads of President Trump, and Putative Class Members.

JURISDICTION AND VENUE

14. This Court has jurisdiction over this action pursuant to 28 U.S.C. § 1331, 1332, 28 U.S.C. §§ 2201-2202, and the Constitution of the United States for the unconstitutional violation of the First Amendment right to free speech as pleaded below.

15. This Court has jurisdiction over the subject matter of this action pursuant to 28 U.S.C. § 1332.

16. Jurisdiction is also proper in this Court pursuant to the Class Action Fairness Act 28 U.S.C. § 1332(d) (“CAFA”), because: (i) the proposed class consists of well over 1,000,000 Members; (ii) the Members of the proposed Class, including the Plaintiff, are citizens of states different from Defendant’s home states; and (iii) the aggregate amount in controversy exceeds \$5,000,000, exclusive of interest and costs.

17. Venue is proper in this Court under 28 U.S.C. § 1391(b)(2), (d), and (e)(1). A substantial part of the events giving rise to this claim occurred in this District, and Plaintiff brings this suit for actions taken by Defendants that occurred while Plaintiff was serving in his capacity as President of the United States, and the Defendants’ prior restraint of Plaintiff’s speech continues to this day.

PARTIES

Plaintiff

18. Donald J. Trump (“Plaintiff”), the 45th President of the United States, is a private citizen and is domiciled in Palm Beach, Florida.

19. Kelly Victory (“Plaintiff”), a United States citizen, domiciled in the state of Colorado.

20. Austen Fletcher (“Plaintiff”), a United States citizen, domiciled in the state of Florida.

Class

21. All YouTube platform Users (“Putative Class Members”) who have resided in the United States between June 1, 2018, and today and had their YouTube channels censored by Defendants and were damaged thereby.

Defendants

22. Defendant, YouTube, LLC (“YouTube”), is a foreign limited liability company with its principal place of business located at 901 Cherry Avenue, San Bruno, California, and conducts business in the State of Florida, throughout the United States, and internationally.

23. Defendant, Defendant, Sundar Pichai (“Pichai”), is the Chief Executive Officer of Google, Inc. and Alphabet, Inc. and is responsible for the acts alleged herein of YouTube.

STATEMENT OF FACTS

I. DEFENDANTS YOUTUBE AND PICHAJ

A. Defendant YouTube

24. YouTube was conceived as a dating site but quickly became a video streaming service. The site went live in 2005 and had its first one (1) million videos viewed that same year.

25. By 2006, YouTube was one of the fastest-growing sites on the Internet. In less than one year, the platform went from 4.9 million to 19.6 million users. In October 2006, Google acquired the video-sharing platform for \$1.65 billion.

26. YouTube operates as a wholly-owned subsidiary of Google and Alphabet.

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