

**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, ELIZABETH
ALBERT, KIYAN AND BOBBY
MICHAEL, AND JENNIFER HORTON,
INDIVIDUALLY AND ON BEHALF OF
THE CLASS,

Plaintiffs,

v.

FACEBOOK, INC., and MARK
ZUCKERBERG,

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 Defendant Facebook, Inc., (“Facebook”), and its Chief Executive Officer, Defendant Mark Zuckerberg, individually. The allegations herein of Plaintiff and Putative Class Members are based upon personal knowledge and belief as to their own acts, and upon the investigation of their counsel, and upon information and belief as to all other matters.

2. As stated in its Community Standards, Defendant Facebook promotes itself as a service for people “to talk openly about the issues that matter to them, even if some may disagree or find them objectionable.” Defendant Facebook’s power and influence are immense. It

currently boasts close to three (3) billion registered Users worldwide and over 124 million Users in the United States. Defendant Facebook had \$86.0 billion in total revenue, for a net profit margin of 33.9%, in fiscal year 2020.

3. Defendant Facebook 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 Facebook’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 Facebook to grow into a commercial giant that now censors (flags, removes, shadow 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 7, 2021, Defendants indefinitely banned the sitting President of the United States for exercising his constitutional right of free speech.

7. Defendants extended their conditional and unconstitutional prior restraint of Plaintiff’s right to free speech as a private citizen until at least January of 2023.

8. Defendants then served warnings to members of President Trump’s family, Team Trump, other Facebook Users, and Putative Class Members that its ban extends to anyone attempting to post Donald J. Trump’s “voice.” 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.

9. 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 Facebook's ban and prior restraint of Plaintiff are well-documented, the untold stories of Putative Class Members are now stirring the public conscience.

10. Using 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, shadow banning, etc.) resulting from legislative coercion.

11. Defendants deplatformed Plaintiff at the behest of, with cooperation from, and the approval of, Democrat lawmakers.

12. Akin to forcing a round peg into a square hole, Facebook declared that specific posts of Plaintiff had violated Facebook's self-imposed "Community Standards." Countless other Facebook Users have not been as fortunate, with Facebook taking detrimental action against their accounts with no explanation whatsoever.

13. 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.

14. Plaintiff respectfully asks this Court to declare that Section 230 on its face is an unconstitutional delegation of authority, 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 Facebook account 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 posts of President Trump, and Putative Class Members.

JURISDICTION AND VENUE

15. 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.

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

17. 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.

18. 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

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

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

21. Kiyan and Bobby Michael (“Plaintiffs”), United States citizens, domiciled in the state of Florida.

22. Jennifer Horton (“Plaintiff”), a United States citizen, domiciled in the state of Michigan.

Class

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

Defendants

24. Defendant Facebook is a foreign corporation with a principal place of business at 1601 Willow Road, Menlo Park, California, and conducts business in the State of Florida, throughout the United States, and internationally. Facebook has forty-one (41) offices in the United States and forty-five (45) offices located worldwide. Facebook has been registered in Florida as a foreign profit corporation since 2011.

25. Defendant Mark Zuckerberg (“Zuckerberg”), is the Chairman and Chief Executive Officer of Facebook, Inc. Zuckerberg owns a controlling interest in Facebook’s stock, and upon information and belief, resides in Palo Alto, California.

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