## IN THE UNITED STATES DISTRICT COURT WESTERN DISTRICT OF LOUISIANA

The State of Missouri, et al.,

Plaintiffs,

v.

President Joseph R. Biden, Jr., in his official capacity as President of the United States of America, *et al.*,

Defendants.

Civil Action No. 22-cv-1213

MEMORANDUM IN SUPPORT OF DEFENDANTS' MOTION TO DISMISS
THE SECOND AMENDED COMPLAINT FOR LACK OF SUBJECT-MATTER
JURISDICTION AND FAILURE TO STATE A CLAIM



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	B.	Executive branch officials under the past two administrations have communicate with social media companies about promoting accurate information and the ham of misinformation online.						
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	A.	Plaintiffs lack Article III standing to bring any of their claims						
		i.	Plaintiffs do not identify an injury to the States that satisfies Article III. 18					
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			b.	The States fail to allege any direct injury to their interests as States				
		ii.		tiffs do not identify an injury to the individual Plaintiffs that satisfies le III				
		iii.	Plaintiffs do not allege any injury that is traceable to the conduct of Defendants as opposed to third-party social media companies not before this Court					
		iv.		tiffs do not allege injuries that would be redressed by the sweeping ctive relief they seek				



	В.	Plaintiffs do not identify a waiver of sovereign immunity for any of their claims against the Agency Defendants					
		i.	Plainti	nims against the Agency Defendants must be dismissed because of the first and the firs			
		ii.		PA claims against the Agency Defendants should be dismissed se Plaintiffs do not identify a "final agency action."			
II.	Plaintiffs' claims all fail on the merits.						
	A.	Plaintiffs fail to state a plausible First Amendment claim against any of the Defendants					
		i.	ouragement51				
			a.	Plaintiffs fail to plausibly allege that statements by federal officials in email correspondence with social media companies are coercive.			
			b.	No Defendant is plausibly alleged to have made an enforceable threat, regulatory or otherwise, based on a platform's content moderation choice			
			c.	The government speech doctrine requires rejection of Plaintiffs' coercion theory based on public policy statements.			
		ii.	Plaintiffs fail to allege that any Defendant specifically directed any social media company to take any specific action against a post by any Plaintiff or resident of a Plaintiff State				
		iii.	The labels Plaintiffs attach to Defendants' alleged conduct are also inadequate to plausibly allege joint "state action."				
		iv.	social	discussion of misinformation between federal agencies, or with media companies, does not constitute "coercion" or "joint action" nting to state action			
	B.	Plaintiffs fail to state plausible "ultra vires" claims.					
	C.	Plaintiffs fail to state plausible APA claims against the Agency Defendants					
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