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8 **UNITED STATES DISTRICT COURT**  
9 **NORTHERN DISTRICT OF CALIFORNIA**  
10 **SAN FRANCISCO DIVISION**

11 Colleen Huber,

12 Plaintiff,

13 v.

14 Joseph Biden, Jr., in his official capacity as  
15 President of the United States of America;  
16 Twitter, Inc.; Jack Dorsey, in his official  
17 capacity as Chief Executive Officer of Twitter  
18 and in his individual capacity; and John  
19 Doe(s), in their official capacity as officials in  
20 the White House and in their individual  
21 capacities,

22 Defendants.

Civil Action No. 3:21-cv-06580-EMC

**FIRST AMENDED  
CLASS ACTION COMPLAINT**

**JURY TRIAL DEMANDED**

23 Plaintiff Colleen Huber (“Plaintiff” or “Dr. Huber”), individually and on behalf of all other  
24 persons similarly situated, by and through undersigned counsel, brings this First Amended  
25 Complaint against the above-named Defendants, their employees, agents, and successors in office,  
26 and in support thereof alleges the following based upon her own personal knowledge as to herself  
27 and her own acts, together with information and belief as to all other matters, which in turn are  
28 based upon, *inter alia*, the investigation conducted by and through her attorneys, which included,  
among other things, a review of public reporting and other public documents.

**INTRODUCTION**

1. This case, at its core, is a civil conspiracy between and among Defendants to  
deprive Plaintiff and a class of private citizens who are similarly situated of their fundamental

1 rights protected by the U.S. Constitution.

2 2. It is a federal civil rights class action in which Plaintiff, for herself and others  
3 similarly situated, seeks to be free from unlawful discrimination based upon her and their  
4 respective political beliefs and views and her and their respective beliefs and views on public  
5 issues and matters of public concern.

6 3. Defendants Twitter and Dorsey, conspiring and operating jointly with Defendants  
7 Biden and other federal government officials in the Biden Administration (Defendant John  
8 Doe(s)), are engaging in viewpoint discrimination—the most egregious form of content  
9 discrimination—in violation of the First and Fifth Amendments to the U.S. Constitution.

10 4. Plaintiff seeks, *inter alia*, declaratory and injunctive relief, declaring  
11 unconstitutional and enjoining Section 230 of the Communications Decency Act, which permits  
12 Defendants Dorsey and Twitter to engage in government-sanctioned discrimination and the  
13 suppression of free speech. Plaintiff seeks to prevent Section 230 from being used as a “sword”  
14 to suppress speech and as a “shield” from liability in this and similar litigation.

15 5. Plaintiff seeks a preliminary and permanent injunction enjoining Defendants from  
16 unlawfully suspending Plaintiff’s, and all others similarly situated, Twitter accounts, as set forth  
17 in this First Amended Complaint. Plaintiff, on her behalf and all those similarly situated, also  
18 seeks nominal and compensatory damages against certain Defendants and reasonable costs and  
19 fees, including reasonable attorneys’ fees as against all Defendants.

20 **JURISDICTION AND VENUE**

21 6. This action arises under the Constitution and laws of the United States. Jurisdiction  
22 is conferred on this Court pursuant to 28 U.S.C. § 1331.

23 7. Plaintiff’s claims for declaratory and injunctive relief are authorized by 28 U.S.C.  
24 §§ 2201 and 2202, by Rules 57 and 65 of the Federal Rules of Civil Procedure, and by the general  
25 legal and equitable powers of this Court.

26 8. Venue is appropriate in this district pursuant to 28 U.S.C. § 1391(b)(2) and (e)(1)  
27 because a substantial part of the events giving rise to Plaintiff’s claim occurred in this district.

**PARTIES**

1  
2 9. Plaintiff Colleen Huber is a United States citizen who resides in Maricopa County,  
3 Arizona. She is a naturopathic medical doctor licensed in Arizona for fourteen years.

4 10. Plaintiff utilizes social media platforms, including Twitter, to share her medical  
5 knowledge and engage in other forms of free speech.

6 11. Defendant Twitter is a privately-owned, Delaware corporation with its principal  
7 office in San Francisco, California.

8 12. Defendant Twitter hosts the social media platform www.twitter.com.

9 13. Defendant Jack Dorsey was at all times relevant to this First Amended Complaint  
10 Chief Executive Officer of Twitter and its controlling shareholder. He is sued in both his official  
11 and his individual capacities.

12 14. Defendant President Biden was at all times relevant to this First Amended  
13 Complaint, and remains so today, the President of the United States of America and as such is the  
14 highest supervisory official of the Executive Branch of the federal government and directs and  
15 ultimately controls the actions of Defendant John Doe(s) conducted in and during the ordinary  
16 course of administration business.

17 15. Defendant John Doe(s) were at all times relevant to this First Amended Complaint  
18 officials in the White House who conspired and/or engaged in joint action with Twitter  
19 individually and collectively at the behest of Defendant President Biden and on his behalf to  
20 deprive Plaintiff and all others similarly situated of their fundamental rights. Defendant John  
21 Doe(s) are sued in both their official and individual capacities.

22 16. The true names and addresses of the defendants sued herein as John Doe(s) are  
23 unknown to Plaintiff, who therefore sues said Defendants by such fictitious names. If necessary,  
24 Plaintiff will seek leave of Court to amend this First Amended Complaint to state the John Does’  
25 true names when they are discovered.

**FACTUAL ALLEGATIONS**

**Twitter—A Forum for Speech**

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27  
28 17. The Internet is an international network of interconnected computers. It is a

1 unique and relatively new medium of worldwide human communication.

2 18. Anyone with access to the Internet may take advantage of a wide variety of  
3 communication and information retrieval methods. These methods are constantly evolving and  
4 difficult to categorize precisely. All of these methods can be used to transmit text; most, like  
5 Twitter, can transmit sound, pictures, and moving video images. Taken together, these tools  
6 constitute a unique medium—known to its users as “cyberspace”—located in no particular  
7 geographical location but available to anyone situated anywhere in the world with access to the  
8 Internet.

9 19. At any given time, millions of users are engaging in conversations on a huge  
10 range of subjects. It is no exaggeration to state that the content on the Internet is as diverse as  
11 human thought.

12 20. The Internet is thus comparable, from the user’s viewpoint, to a vast library  
13 including millions of readily available and indexed publications, a sprawling mall offering goods  
14 and services, or a vast public forum providing an opportunity to speak and/or learn about issues  
15 of great public concern. Thus, the Internet constitutes a vast platform and forum from which to  
16 address and hear from a world-wide audience of hundreds of millions of speakers, readers,  
17 viewers, researchers, sellers, and consumers.

18 21. This dynamic, multifaceted category of communication includes not only  
19 traditional print and news services, but also audio, video, and still images, as well as interactive,  
20 real-time dialogue.

21 22. Through the use of Twitter, any person with access to the Internet can become a  
22 town crier with a voice that resonates farther than it could from any soapbox.

23 23. Through the use of Twitter, the same individual can become a pamphleteer.

24 24. In sum, the Internet has become the new marketplace of ideas and one with a global  
25 and instantaneous reach.

26 25. Today, the impact of the Internet as a medium of worldwide human communication  
27 cannot be overstated.

28 26. Consequently, social media, particularly including Twitter, is exceedingly

1 important for worldwide human communication and thus provides important forums for that  
2 communication.

3 27. As, as stated by the U.S. Supreme Court:

4 While in the past there may have been difficulty in identifying the most  
5 important places (in a spatial sense) for the exchange of views, today the  
6 answer is clear. It is cyberspace—the “vast democratic forums of the  
7 Internet” in general, and social media in particular. . . . In short, social  
8 media users employ these websites to engage in a wide array of protected  
9 First Amendment activity on topics “as diverse as human thought.”

10 *Packingham v. N.C.*, 137 S. Ct. 1730, 1735-36 (2017) (citations omitted).

11 28. Unlike the conditions that prevailed when Congress first authorized regulation of  
12 the broadcast spectrum, the Internet can hardly be considered a “scarce” expressive commodity.  
13 It provides relatively unlimited, low-cost capacity for communication of all kinds.

14 29. Denying a person access to this important social media forum based on the content  
15 and viewpoint of the person’s speech on matters of public concern is an effective way of silencing  
16 or censoring speech and depriving the person or organization of political influence and business  
17 opportunities.

18 30. Due to the importance of social media to political, social, and commercial  
19 exchanges, the censorship at issue in this First Amended Complaint is an unmatched form of  
20 censorship.

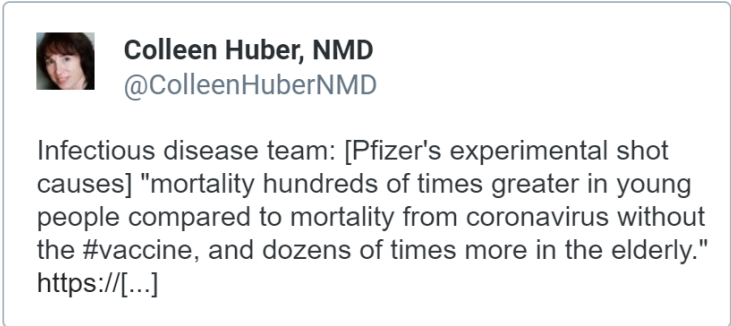
21 31. Consequently, there is no basis for qualifying the level of First Amendment scrutiny  
22 that should be applied in this case.

### 23 **Censorship of Plaintiff and Those Similarly Situated**

24 32. Dr. Huber is an avid Twitter user who uses social media to exercise her First  
25 Amendment rights to her 19,000 followers (individuals who get updates on her Twitter posts).

26 33. On her Twitter account, and prior to the censorship set forth herein, Dr. Huber  
27 posted her opinions on a broad spectrum of matters, including her viewpoint on current events  
28 and politics. She sought, and continues to desire to share, information, informed by her medical  
background, to her followers.

1           34. On or about February 19, 2021, Dr. Huber posted a quote from a news article to her  
2 Twitter account. The Tweet was as follows:



10           35. The Tweet contained a quote from a news article from a reputable Israeli news  
11 source, Arutz Sheva (Israel National News). The article is available at  
12 <https://www.israelnationalnews.com/News/News.aspx/297051> (last visited May 24, 2021).

13 [Remainder of page left blank.]

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1 36. Shortly after posting the Tweet, Dr. Huber received the following email:



4 Hello Colleen Huber, NMD,

5 Your account, ColleenHuberNMD has been suspended  
6 for violating the [Twitter Rules](#).

7 Specifically, for:

8 **[Violating our policy on spreading misleading  
9 and potentially harmful information related to  
10 COVID-19.](#)**

11 We understand that during times of crisis and instability,  
12 it is difficult to know what to do to keep yourself and your  
13 loved ones safe. Under this policy, we require the  
14 removal of content that may pose a risk to people's  
15 health, including content that goes directly against  
16 guidance from authoritative sources of global and local  
17 public health information.

18 For more information on COVID-19, as well as guidance  
19 from leading global health authorities, please refer to the  
20 following links:

21 [Coronavirus disease \(COVID-19\) advice for the public  
22 from the WHO](#)  
23 [FAQs about COVID-19 from the WHO](#)



26 **Colleen Huber, NMD**  
27 @ColleenHuberNMD

28 Infectious disease team: [Pfizer's experimental shot  
causes] "mortality hundreds of times greater in young  
people compared to mortality from coronavirus without  
the #vaccine, and dozens of times more in the elderly."  
[https://\[...\]](#)

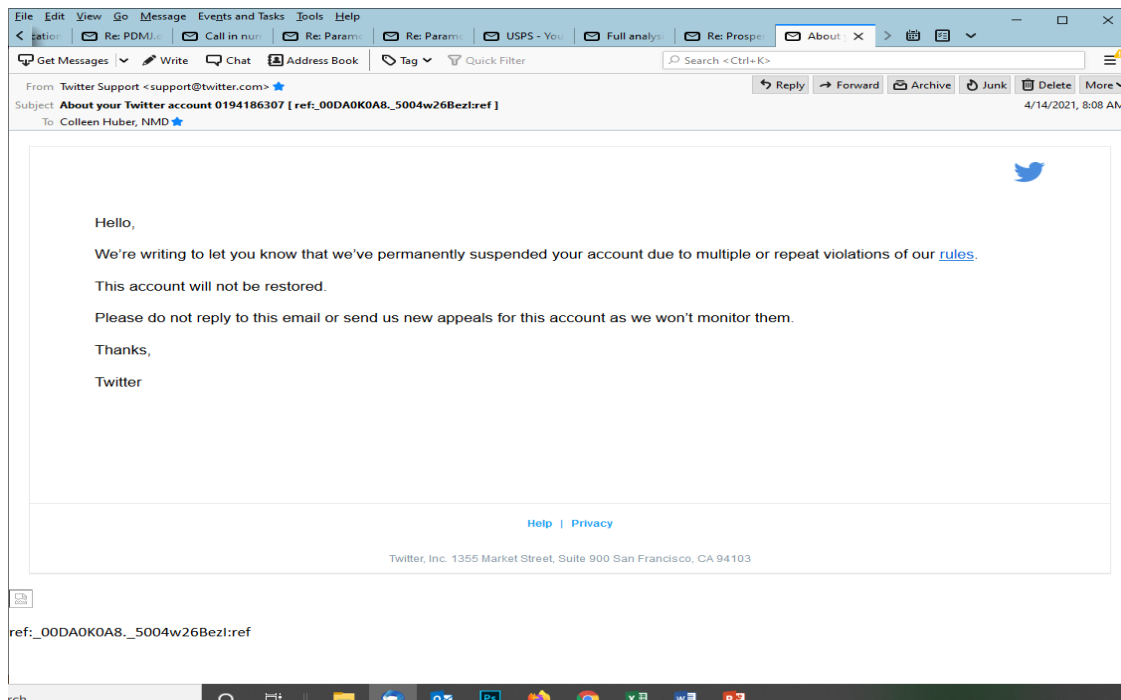
Note that if you attempt to evade a permanent  
suspension by creating new accounts, we will suspend  
your new accounts. If you wish to appeal this  
suspension, please contact our [support team](#).

37. The Twitter email, which was an overt act in furtherance of the conspiracy between  
and among Defendants as set forth in this First Amended Complaint, informed Dr. Huber that her

1 Twitter account had been suspended indefinitely because she allegedly violated “Twitter Rules”  
 2 by “[v]iolating [Twitter’s] policy on spreading misleading and potentially harmful information  
 3 related to COVID-19” (“Twitter COVID-19 Policy”).

4 38. The enforcement of the Twitter COVID-19 Policy against Plaintiff was in  
 5 furtherance of the conspiracy between and among Defendants to silence Plaintiffs and others who  
 6 engage in speech with which Defendants disagree.

7 39. Dr. Huber immediately began the appeal process. However, Twitter responded by  
 8 informing her in an email, which was an overt act in furtherance of the conspiracy between and  
 9 among Defendants as set forth in this First Amended Complaint, that she had been permanently  
 10 suspended and that Twitter would entertain no appeals. That email is as follows:



23 40. In furtherance of the conspiracy between and among Defendants as set forth in this  
 24 First Amended Complaint, Dr. Huber has been locked out of her Twitter account since February  
 25 19, 2021. She cannot post to her followers. She cannot share any content with her followers.  
 26 She is prohibited from doing anything on Twitter except viewing other people’s and organizations’  
 27 pages.

28 41. As set forth in this First Amended Complaint, Dr. Huber’s suspension from Twitter



1 was an overt act in furtherance of the conspiracy and/or joint action between Twitter and unknown  
2 officials in the White House, sued herein as John Doe(s), who have engaged in the unlawful  
3 conduct alleged herein pursuant to their official government capacities under the direction and,  
4 ultimately, control of Defendant President Biden.

5 42. Prior to Dr. Huber’s suspension from Twitter, unknown White House officials, in  
6 their official capacities, spoke to, conspired and agreed with, Twitter to “clamp[] down on COVID  
7 misinformation and getting their help to stop it from going viral.” See  
8 [https://www.reuters.com/article/us-health-coronavirus-white-house-exclus/exclusive-white-](https://www.reuters.com/article/us-health-coronavirus-white-house-exclus/exclusive-white-house-working-with-facebook-and-twitter-to-tackle-anti-vaxxers-idUSKBN2AJ1SW)  
9 [house-working-with-facebook-and-twitter-to-tackle-anti-vaxxers-idUSKBN2AJ1SW](https://www.reuters.com/article/us-health-coronavirus-white-house-exclus/exclusive-white-house-working-with-facebook-and-twitter-to-tackle-anti-vaxxers-idUSKBN2AJ1SW).

10 43. In other words, prior to Dr. Huber’s suspension from Twitter, Defendants entered  
11 into an agreement to silence the speech of speakers on Twitter, including Dr. Huber and others  
12 similarly situated, with which Defendants disagreed and which was contrary to the political  
13 agenda of the Biden administration.

14 44. Twitter does not ban all speech addressing the topic of COVID-19, including  
15 COVID-19 vaccines. As a subject matter, COVID-19, including COVID-19 vaccinations, is a  
16 permissible topic. Rather, pursuant to the agreement entered into between and among Defendants,  
17 Twitter only bans speech addressing the topic of COVID-19, including COVID-19 vaccines, that  
18 is contrary to the political agenda of the Biden administration. This fact demonstrates that the  
19 speech restriction is viewpoint based, and this fact is further evidence of the agreement between  
20 and among Defendants to censor certain speech based on its viewpoint and thus evidence of the  
21 conspiracy set forth in this First Amended Complaint.

22 45. Thus, in addition to public news sources, the facts and circumstances set forth in  
23 this First Amended Complaint and all of the inferences drawn from them demonstrate the  
24 existence of the conspiracy between and among Defendants to censor speech based on viewpoint,  
25 including Plaintiff’s speech and the speech of others similarly situated.

26 46. Proof of a conspiracy can be provided by either direct or circumstantial evidence,  
27 taking into account the inferences drawn from such evidence. As case law makes clear, seldom  
28 do you have evidence of an *express* agreement between co-conspirators. But such evidence is not

1 required to prove a conspiracy. The direct and circumstantial evidence set forth in this First  
2 Amended Complaint and all inferences drawn from such evidence demonstrate the existence of  
3 the conspiracy between and among Defendants to engage in viewpoint discrimination that  
4 benefits the Biden administration, thereby causing harm to Plaintiff and others similarly situated  
5 as set forth in this First Amended Complaint.

6 47. Defendants mutually benefit from the conspiracy set forth in this First Amended  
7 Complaint. The conspiracy promotes and benefits the Biden administration’s political agenda,  
8 an agenda shared and promoted by all Defendants, including Defendant Dorsey, and the  
9 conspiracy financially benefits Twitter, including Defendant Dorsey, as Twitter receives  
10 favorable treatment by and publicity from the Biden administration.

11 48. According to a senior White House official, the Biden administration is “talking to”  
12 social media companies “so they understand the importance of misinformation and disinformation  
13 and how they can get rid of it quickly.” *Id.*

14 49. “The Biden White House is especially trying to make sure such material ‘does not  
15 start trending on such platforms and become a broader movement,’” the official said. *Id.*

16 50. The White House “wants to stop [anti-vaccination] events,” like “the anti-vaccine  
17 protests at Dodger Stadium in Los Angeles in early February” which was organized on social  
18 media. *Id.*

19 51. “A Twitter spokesman said the company is ‘in regular communication with the  
20 White House on a number of critical issues including COVID-19 misinformation.’” *Id.* The  
21 “company” referenced here specifically includes Defendant Dorsey.

22 52. Indeed, Twitter has publicly admitted that the talks culminated in a “partnership  
23 with the White House” (*i.e.*, a conspiracy) to implement these goals (*i.e.*, the objective of the  
24 conspiracy—to silence speech that is contrary to the political agenda of the Biden administration),  
25 which specifically includes censoring the speech of Dr. Huber and of others similarly situated  
26 that is critical of COVID-19 vaccinations (*i.e.*, overt acts in furtherance of the conspiracy). *See,*  
27 *e.g.*, [https://www.theverge.com/2021/4/18/22391004/twitter-facebook-snap-white-house-](https://www.theverge.com/2021/4/18/22391004/twitter-facebook-snap-white-house-vaccine-campaign)  
28 [vaccine-campaign](https://www.theverge.com/2021/4/18/22391004/twitter-facebook-snap-white-house-vaccine-campaign).

1           53.    Consequently, the evidence and all inferences drawn from the evidence show that  
2 the White House's involvement is not merely to provide approval or acquiescence, subtle  
3 encouragement, or permission of a private choice. Rather, all Defendants are willing participants  
4 in a conspiracy to deprive Plaintiff and others similarly situated of their constitutional rights, and  
5 overt acts were committed in furtherance of this conspiracy that caused harm to Plaintiff and  
6 others similarly situated.

7           54.    Thus, Twitter and the federal government are working in tandem and with a unified  
8 and coordinated agreement, plan, and purpose following a meeting of the minds to partner  
9 together (*i.e.*, conspire) to suppress Dr. Huber's speech and the speech of others similarly situated  
10 based on its viewpoint.

11           55.    Twitter's Terms of Service do not authorize Twitter to conspire with the federal  
12 government to restrict the speech of users of Twitter, such as Plaintiff and other similarly situated  
13 persons, because the speech is contrary to the political agenda of the White House. In other words,  
14 Twitter's Terms of Service do not authorize Twitter to engage in a civil conspiracy to unlawfully  
15 deprive private citizens of their constitutional rights. Thus, Plaintiff and other similarly situated  
16 users of Twitter did not agree to have their viewpoints on public issues censored by Twitter  
17 because the viewpoints are contrary to the political agenda of the Biden administration as set forth  
18 in this First Amended Complaint.

19           56.    Employees at Twitter, acting pursuant to instruction by and at the specific direction  
20 of Defendant Dorsey and officials in the White House, came to an agreement to suspend Twitter  
21 accounts, specifically accounts like Dr. Huber's and others similarly situated, that post viewpoints  
22 on COVID-19 with which they disagree and then suspended these Twitter accounts, including Dr.  
23 Huber's, depriving the holders of these accounts of their right to freedom of speech and depriving  
24 them of the equal protection of the law.

25           57.    White House officials jointly conspired and engaged with Twitter to silence Twitter  
26 accounts that post information on COVID-19 contrary to the White House's political agenda.

27           58.    Twitter and its CEO Defendant Dorsey were willful and active participants in the  
28 conspiracy with the White House officials to silence protected speech.

1           59. Twitter, and its CEO Defendant Dorsey, and White House officials came to an  
2 agreement, meeting of the minds, and/or common understanding to violate the constitutional  
3 rights of Plaintiff and the constitutional rights of others who are similarly situated.

4           60. Twitter and White House officials shared the common objective to silence  
5 viewpoints on COVID-19 with which they disagree and work in partnership to achieve the White  
6 House's goals of censoring the speech of Dr. Huber and others similarly situated.

7           61. Prior to her suspension, Dr. Huber was an active Twitter user who used her account  
8 to exercise her right to free speech. Now, because of the actions of Defendants, she is prohibited  
9 from reaching her 19,000 followers, gaining new followers, or interacting in any way with other  
10 Twitter users.

11           62. Defendants have discriminated, and continue to do so, against Plaintiff based on  
12 the viewpoint of her speech—*i.e.*, the viewpoint expressed in a news article that COVID-19  
13 vaccinations may be unsafe. This is a restriction on Plaintiff's right to free speech.

14           63. Under Rules 23(a) and 23(b) of the Federal Rules of Civil Procedure, Plaintiff  
15 brings this action on behalf of herself and other similarly situated people who have been or will  
16 be suspended from their Twitter accounts as a result of the conspiracy between and among  
17 Defendants to censor viewpoints that are contrary to the political agenda of the Biden  
18 administration with respect to COVID-19 and are thus censored for violating "Twitter Rules" by  
19 "[v]iolating [Twitter's] policy on spreading misleading and potentially harmful information  
20 related to COVID-19." The Plaintiff Class is defined as:

21           All Twitter account holders who have posted or intend to post on Twitter content  
22 deemed by Defendants to be misleading or potentially harmful information related to COVID-19  
23 following the agreement, meeting of the minds, and/or common understanding between and  
24 among Defendants to illegally suppress such speech based upon its viewpoint ("Class Period").

25           64. The Plaintiff Class is so numerous that joinder of all the members would be  
26 impracticable. Twitter has 187 million users. As reported by media outlets, and upon information  
27 and belief, approximately 11.5 million accounts have been notified or suspended for violating the  
28 Twitter COVID-19 Policy. (*See, e.g.*, "Twitter to boot users who persist with Covid-19 lies" [at](#)

1 [https://www.livemint.com/technology/apps/twitter-to-boot-users-who-persist-with-covid-19-](https://www.livemint.com/technology/apps/twitter-to-boot-users-who-persist-with-covid-19-lies-11614691253346.html)  
2 [lies-11614691253346.html](https://www.livemint.com/technology/apps/twitter-to-boot-users-who-persist-with-covid-19-lies-11614691253346.html) and “Twitter to permanently ban users who spread COVID  
3 misinformation” at [https://www.aljazeera.com/news/2021/3/2/twitter-to-permanently-ban-users-](https://www.aljazeera.com/news/2021/3/2/twitter-to-permanently-ban-users-who-spread-covid-misinformation.)  
4 [who-spread-covid-misinformation.](https://www.aljazeera.com/news/2021/3/2/twitter-to-permanently-ban-users-who-spread-covid-misinformation.)).

5 65. Plaintiff’s claims for prospective relief are typical of the members of the Plaintiff  
6 Class because Plaintiff and the Plaintiff Class have had their free speech rights restricted and/or  
7 chilled by Defendants’ actions as set forth in this First Amended Complaint.

8 66. Plaintiff will fairly and adequately protect the interests of the Plaintiff Class.  
9 Plaintiff has no conflicts involving other class members or Defendants. Plaintiff understands her  
10 role as a class representative and her duties to the class in this litigation. Plaintiff is represented  
11 by competent and skilled counsel whose interests are fully aligned with the interests of the class.

12 67. Questions of law and fact are common to the class. These legal questions include  
13 but are not limited to:

- 14 a. Does it violate the First Amendment for the government to conspire with a  
15 private entity to silence or chill viewpoints with which it disagrees?
- 16 b. Does it violate the First Amendment for the government to engage in joint  
17 action with a private entity to silence or chill unfavorable viewpoints?
- 18 c. Does it violate the Fifth Amendment for the government to conspire with a  
19 private entity to treat as less favorable certain viewpoints and thus deprive those  
20 speakers of a forum to express such viewpoints?
- 21 d. Does it violate the Fifth Amendment for the government to engage in joint  
22 action with a private entity to treat as less favorable certain viewpoints and thus  
23 deprive those speakers of a forum to express such viewpoints?

24 68. Maintaining individual actions would create a risk of “inconsistent or varying  
25 adjudications with respect to individual class members that would establish incompatible  
26 standards of conduct for the party opposing the class.” Fed. R. Civ. P. 23(b)(1)(A). Multiple  
27 courts issuing multiple injunctions governing the constitutionality of Defendants’ actions,  
28 specifically including Defendants’ conspiracy to silence disfavored viewpoints via the Twitter

1 COVID-19 Policy as set forth in this First Amended Complaint, would be entirely untenable.  
2 Doing so would only contribute to a state of uncertainty and confusion that allows the  
3 constitutional violations described in the First Amended Complaint to continue.

4 69. This case involves “adjudications with respect to individual class members that, as  
5 a practical matter, would be dispositive of the interests of the other members not parties to the  
6 individual adjudications.” Fed. R. Civ. P. 23(b)(1)(A).

7 70. Finally, “the party opposing the class has acted or refused to act on grounds that  
8 apply generally to the class, so that final injunctive relief or corresponding declaratory relief is  
9 appropriate respecting the class as a whole[.]” Fed. R. Civ. P. 23(b)(1)(A). There is no allegation  
10 that Plaintiff has been targeted because of anything unique to her as an individual. Rather, she  
11 has been repeatedly targeted because of her membership in a class of people who seek to post  
12 information on COVID-19 that Defendants oppose. Plaintiff’s targeting exists only by virtue of  
13 a broader pattern and practice of unconstitutional conduct directed at this class by Defendants as  
14 a result of the civil conspiracy set forth in this First Amended Complaint. Logically, injunctive  
15 relief for the “class as a whole” is the only mechanism available to afford relief in light of conduct  
16 directed specifically to the class.

### 17 **Section 230 of the Communication Decency Act**

18 71. The civil conspiracy and/or joint action set forth in this First Amended Complaint,  
19 which specifically includes Twitter’s censorship of Dr. Huber’s speech and the speech of others  
20 similarly situated, is made possible by § 230 of the Communications Decency Act (“CDA”).

21 72. Section 230 of the CDA provides, in relevant part, as follows:

22 (c) Protection for “Good Samaritan” blocking and screening of offensive  
23 material.

24 (1) Treatment of publisher or speaker. No provider or user of an  
25 interactive computer service shall be treated as the publisher or speaker  
26 of any information provided by another information content provider.

27 (2) Civil liability. No provider or user of an interactive computer service  
28 shall be held liable on account of—

1 (A) any action voluntarily taken in good faith to restrict access to or  
2 availability of material that the provider or user considers to be  
3 obscene, lewd, lascivious, filthy, excessively violent, harassing, or  
4 otherwise objectionable, whether or not such material is  
5 constitutionally protected; or

6 (B) any action taken to enable or make available to information  
7 content providers or others the technical means to restrict access to  
8 material described in paragraph (1) [subparagraph (A)].

9 47 U.S.C. § 230(c).

10 73. Section 230 further provides the following: “State law. Nothing in this section shall  
11 be construed to prevent any State from enforcing any State law that is consistent with this section.  
12 No cause of action may be brought and no liability may be imposed under any State or local law  
13 that is inconsistent with this section.” *Id.* at § 230(e)(3).

14 74. Section 230 further states as follows:

15 (f) Definitions. As used in this section:

16 (1) Internet. The term “Internet” means the international computer  
17 network of both Federal and non-Federal interoperable packet switched  
18 data networks.

19 (2) Interactive computer service. The term “interactive computer  
20 service” means any information service, system, or access software  
21 provider that provides or enables computer access by multiple users to  
22 a computer server, including specifically a service or system that  
23 provides access to the Internet and such systems operated or services  
24 offered by libraries or educational institutions.

25 (3) Information content provider. The term “information content  
26 provider” means any person or entity that is responsible, in whole or in  
27 part, for the creation or development of information provided through  
28 the Internet or any other interactive computer service.

1 (4) Access software provider. The term “access software provider”  
2 means a provider of software (including client or server software), or  
3 enabling tools that do any one or more of the following:

4 (A) filter, screen, allow, or disallow content;

5 (B) pick, choose, analyze, or digest content; or

6 (C) transmit, receive, display, forward, cache, search, subset,  
7 organize, reorganize, or translate content.

8 47 U.S.C. § 230(f).

9 75. Neither before nor after the enactment of the CDA have the vast democratic forums  
10 of the Internet been subject to the type of government supervision and regulation that has attended  
11 the broadcast industry. Moreover, the Internet is not as invasive as radio or television.

12 76. As set forth in this First Amended Complaint, by way of § 230 of the CDA, the  
13 federal government is empowering discrimination and the censorship of speech in these vast  
14 democratic forums.

15 77. Section 230 permits content- and viewpoint-based censorship of speech. By its  
16 own terms, § 230 permits Twitter “to restrict access to or availability of material that [they]  
17 consider[] to be obscene, lewd, lascivious, filthy, excessively violent, harassing, or otherwise  
18 objectionable.”

19 78. Section 230 confers broad powers of censorship, in the form of a “heckler’s veto,”  
20 upon Twitter censors, who can censor constitutionally protected speech and engage in  
21 discriminatory business practices with impunity by virtue of this power conferred by the federal  
22 government. In other words, Section 230 aids Defendants in accomplishing the objectives of the  
23 civil conspiracy set forth in this First Amended Complaint.

24 79. The interest in encouraging freedom of expression in a democratic society  
25 outweighs any benefit of censorship conferred upon Twitter by the federal government.

26 80. Section 230 is not tied to a specific category of speech that is generally proscribable  
27 (*i.e.*, obscenity), nor does it provide any type of objective standard whatsoever. The statute does  
28 permit the restriction of obscenity, but it also permits censorship of speech that is “otherwise



1 objectionable, whether or not such material is constitutionally protected.” 47 U.S.C. §  
2 230(c)(2)(A). Further, the subjective “good faith” of the censor does not remedy the vagueness  
3 issue, it worsens it.

4 81. Twitter falls under the provisions of Section 230 and is therefore permitted to  
5 engage in its discriminatory practices by the federal government in furtherance of the conspiracy  
6 set forth in this First Amended Complaint.

7 82. Section 230, as applied, operates as a government-enforced heckler’s veto.

8 83. Section 230 is vague and overbroad and lacks any objective criteria for suppressing  
9 speech.

10 84. Section 230 permits Twitter to engage in government-sanctioned discrimination  
11 and censorship of free speech in furtherance of the conspiracy set forth in this First Amended  
12 Complaint.

13 85. State action lies in the enactment of a statute such as Section 230 because it alters  
14 legal relations between persons, including the selective withdrawal from one group of legal  
15 protections against private acts, regardless of whether the private acts are attributable to the State.

16 86. Section 230 is a statute that alters the legal relations between Plaintiff and Twitter,  
17 resulting in the withdrawal from Plaintiff of legal protections against private acts. Consequently,  
18 state action lies in Plaintiff’s challenge.

19 **FIRST CLAIM FOR RELIEF**

20 **(First Amendment—Freedom of Speech)**

21 87. Plaintiff hereby incorporates by reference all stated paragraphs as though fully set  
22 forth herein.

23 88. As set forth in this First Amended Complaint, Defendants entered into an agreement  
24 to deprive Plaintiff and other persons similarly situated of their First Amendment right to freedom  
25 of speech. Defendants engaged in an overt act in furtherance of the conspiracy. And the  
26 conspiracy did in fact deprive Plaintiff and other persons similarly situated of their First  
27 Amendment right to freedom of speech, thereby causing harm to Plaintiff and other persons  
28 similarly situated.

1 89. As set forth in this First Amended Complaint, there was a plan and/or agreement  
2 among and between Defendants, the co-conspirators (Defendants) shared in the conspiratorial  
3 objective, and an overt act was committed in furtherance of the conspiracy that caused injury to  
4 Plaintiff and other persons similarly situated.

5 90. By reason of the aforementioned acts, policies, practices, procedures, and/or  
6 customs, created, adopted, and enforced under color of federal law, Defendants have deprived  
7 Plaintiff of the right to freedom of speech in violation of the First Amendment to the United States  
8 Constitution.

9 91. Defendants' First Amendment censorship, facially and as applied to Plaintiff's  
10 speech activity and the speech activity of those similarly situated, as set forth in this First  
11 Amended Complaint, intends to, and does in fact, suppress speech with which Defendants  
12 disagree and as such violate the First Amendment.

13 92. Defendants engaged in a conspiracy to suspend Plaintiff and those similarly situated  
14 from Twitter, depriving them of their free speech rights and discriminating against them based on  
15 their viewpoint in violation of the First Amendment.

16 93. Defendants also engaged in joint action to suspend Plaintiff from Twitter, depriving  
17 her of her free speech rights and discriminating against Plaintiff based on her viewpoint in  
18 violation of the First Amendment.

19 94. Defendants have caused, and will continue to cause, Plaintiff and those similarly  
20 situated to suffer undue hardship and irreparable injury.

21 95. As a direct and proximate result of Defendants' conspiracy and/or joint action to  
22 violate the First Amendment, Defendants' First Amendment restrictions, facially and as applied  
23 to Plaintiff's speech activity and the speech activity of those similarly situated, offend the First  
24 Amendment by granting public officials and their co-conspirators/joint actors unbridled  
25 discretion to suppress viewpoints that do not serve Defendants' political agendas.

26 96. Section 230 of the CDA, facially and as applied, is a content- and viewpoint-based  
27 restriction on speech in violation of the First Amendment.

28 97. Section 230 of the CDA, facially and as applied, is vague and overbroad and lacks

1 any objective criteria for suppressing speech in violation of the First Amendment.

2 98. Section 230 of the CDA, facially and as applied, permits Defendants Twitter and  
3 Dorsey to engage in government-sanctioned discrimination and censorship of speech in violation  
4 of the First Amendment.

5 99. Section 230 of the CDA, facially and as applied, confers broad powers of  
6 censorship, in the form of a “heckler’s veto,” upon Defendant Twitter, which can censor  
7 constitutionally protected speech and engage in discriminatory business practices with impunity  
8 by virtue of this power conferred by the federal government in violation of the First Amendment.

9 100. Section 230 of the CDA, facially and as applied, grants Defendant Twitter and its  
10 officers, agents, and employees unbridled discretion to censor Plaintiff’s speech, and the speech  
11 of those similarly situated, such that their decision to limit Plaintiff’s speech, and the speech of  
12 those similarly situated, is not constrained by objective criteria, but may rest on ambiguous and  
13 subjective reasons in violation of the First Amendment.

14 101. Section 230 of the CDA, facially and as applied, permits Defendant Twitter to  
15 restrict Plaintiff’s speech, and the speech of those similarly situated, based on the content and  
16 viewpoint expressed by Plaintiff’s message, and the respective messages of those similarly  
17 situated, in violation of the First Amendment.

18 102. Section 230 has caused, and will continue to cause, Plaintiff and those similarly  
19 situated to suffer undue hardship and irreparable injury, entitling Plaintiff and those similarly  
20 situated to declaratory and injunctive relief.

21 103. Plaintiff and those similarly situated lack an adequate or available administrative  
22 remedy.

23 104. Plaintiff and those similarly situated have no adequate remedy at law to correct the  
24 continuing deprivation of their legal rights.

25 105. As a direct and proximate result of Defendants’ violation of the First Amendment,  
26 Plaintiff and those similarly situated have suffered irreparable harm, including the loss of their  
27 constitutional rights, entitling them to declaratory and injunctive relief as against all Defendants  
28 and nominal and compensatory damages proximately caused during the Class Period against

1 Defendants in their individual capacities.

2 **SECOND CLAIM FOR RELIEF**

3 **(Fifth Amendment—Equal Protection)**

4 106. Plaintiff hereby incorporates by reference all stated paragraphs as though fully set  
5 forth herein.

6 107. As set forth in this First Amended Complaint, Defendants entered into an agreement  
7 to deprive Plaintiff and other persons similarly situated of the equal protection of the law  
8 guaranteed by the Fifth Amendment. Defendants engaged in an overt act in furtherance of the  
9 conspiracy. And the conspiracy did in fact deprive Plaintiff and other persons similarly situated  
10 of the equal protection of the law, thereby causing harm to Plaintiff and other persons similarly  
11 situated.

12 108. As set forth in this First Amended Complaint, there was a plan and/or agreement  
13 among and between Defendants, the co-conspirators (Defendants) shared in the conspiratorial  
14 objective, and an overt act was committed in furtherance of the conspiracy that caused injury to  
15 Plaintiff and other persons similarly situated.

16 109. By reason of the aforementioned acts, policies, practices, procedures, and/or  
17 customs, created, adopted, and enforced under color of federal law, Defendants have deprived  
18 Plaintiff of the equal protection of the law guaranteed under the Fifth Amendment to the United  
19 States Constitution.

20 110. Because Defendants are operating under the color of federal law, the Fifth  
21 Amendment is applicable.

22 111. The U.S. Supreme Court's approach to Fifth Amendment equal protection claims  
23 has always been precisely the same as to equal protection claims under the Fourteenth  
24 Amendment. Consequently, case law interpreting the Equal Protection Clause of the Fourteenth  
25 Amendment is applicable when reviewing an equal protection claim arising under the Fifth  
26 Amendment.

27 112. By granting use of a forum (the Internet and Twitter) to people whose views  
28 Defendants find acceptable, but denying or restricting use to those expressing less favored or

1 more controversial views, such as those expressed by Plaintiff and others similarly situated,  
2 Defendants have violated the equal protection guarantee of the Fifth Amendment.

3 113. As set forth in this First Amended Complaint, Defendants' use of the Twitter  
4 COVID-19 Policy to suppress Plaintiff's speech has deprived Plaintiff and those similarly situated  
5 of the equal protection guarantee of the Fifth Amendment.

6 114. As set forth in this First Amended Complaint, Defendants' conspiracy and/or joint  
7 action to censor speech about COVID-19 on Twitter that Defendants disfavor violates the equal  
8 protection guarantee of the Fifth Amendment.

9 115. As a direct and proximate result of Defendants' violation of the Fifth Amendment,  
10 Plaintiff and those similarly situated have suffered irreparable harm, including the loss of their  
11 constitutional rights, entitling them to declaratory and injunctive relief as against all Defendants  
12 and nominal and compensatory damages proximately caused during the Class Period against  
13 Defendants in their individual capacities.

14 **PRAYER FOR RELIEF**

15 WHEREFORE, Plaintiff asks this Court:

16 A) That this Court declare that Defendants' conspiracy and/or joint action to suppress  
17 Plaintiff's speech, and the speech of others similarly situated, as set forth in this First Amended  
18 Complaint, violates Plaintiff's rights protected by the First and Fifth Amendments;

19 B) That this Court enjoin Defendants from suppressing Plaintiff's speech and the  
20 speech of others similarly situated on Twitter as set forth in this First Amended Complaint;

21 C) That this Court declare that Defendants' censorship of speech addressing public  
22 issues and matters of public concern, as set forth in this First Amended Complaint, violates the  
23 First and Fifth Amendments.

24 D) That this Court enjoin Defendants' censorship of speech addressing public issues  
25 and matters of public concern as set forth in this First Amended Complaint;

26 E) That this Court declare that § 230 of the Communications Decency Act, facially  
27 and/or as applied to Plaintiff's speech and/or the speech of others similarly situated, violates the  
28 First and Fifth Amendments as set forth in this First Amended Complaint;

1 F) That this Court enjoin § 230 of the Communications Decency Act, facially and/or  
2 as applied to Plaintiff's speech and/or the speech of others similarly situated, as set forth in this  
3 First Amended Complaint;

4 G) That this Court award Plaintiff and Plaintiff Class nominal and compensatory  
5 damages against Defendant Dorsey named in his individual capacity only for the past loss of  
6 Plaintiff's and Plaintiff Class's constitutional rights during the Class Period as set forth in this  
7 First Amended Complaint;

8 H) That this Court award Plaintiff and Plaintiff Class their reasonable attorney fees,  
9 costs, and expenses as against all Defendants pursuant to 28 U.S.C. § 2412 and other applicable  
10 law;

11 I) That this Court grant such other and further relief as it deems equitable and just  
12 under the circumstances.

13 **DEMAND FOR JURY TRIAL**

14 Pursuant to Rule 38(b) of the Federal Rules of Civil Procedure, Plaintiff hereby demands  
15 a trial by jury of all issues triable of right by a jury.

16  
17 Respectfully submitted,

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