

# Censorship Goes on Trial

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## STORY AT-A-GLANCE

- › Louisiana and Missouri v. Biden et al was filed May 2022 by the attorneys general of Missouri and Louisiana, and plaintiffs Dr. Jayanta Bhattacharya and Dr. Kulldorff – co-authors of the Great Barrington Declaration
- › The lawsuit alleges the Biden administration "colluded with social media giants Meta, Twitter, and YouTube to censor free speech in the name of combating so-called 'disinformation' and 'misinformation'"
- › The judge overseeing the case has allowed it to proceed and denied a motion from the government to dismiss it
- › Due to a federal court ruling, Dr. Anthony Fauci and other officials testified under oath at depositions about whether they colluded with Big Tech to censor certain users
- › Federal officials encouraged social media shutdowns targeting those injured by COVID-19 shots or speaking out against them; other social media posts deemed "misinformation" were shadow-banned, which refers to using algorithms to bury the posts so they're rarely, if ever seen

In what's being described as "the most important free speech lawsuit of this generation," the federal government is being sued for working with social media companies to censor Americans.<sup>1</sup>

The lawsuit – Louisiana and Missouri v. Biden et al – was filed May 2022 by the attorneys general of Missouri and Louisiana, and plaintiffs Dr. Jayanta Bhattacharya and

Dr. Kulldorff – co-authors of the Great Barrington Declaration, which scientifically critiqued the effects of prolonged lockdowns in response to COVID-19.<sup>2</sup>

The lawsuit alleges the Biden administration "colluded with social media giants Meta, Twitter, and YouTube to censor free speech in the name of combating so-called 'disinformation' and 'misinformation.'" In so doing, it suppressed and censored the truth "on a scale never before seen" on topics relating to COVID-19 shots, COVID-19's potential laboratory origins and Hunter Biden's laptop.<sup>3</sup> A joint statement regarding witness depositions reads:<sup>4</sup>

*"Plaintiffs allege Defendants have colluded with and/or coerced social media companies to suppress disfavored speakers, viewpoints, and content on social media platforms by labeling the content "dis-information," "mis-information," and "mal-information."*

*Plaintiffs allege the suppression of disfavored speakers, viewpoints, and contents constitutes government action and violates Plaintiffs' freedom of speech in violation of the First Amendment to the United States Constitution."*

## **Judge Denied Government's Motion to Dismiss**

This isn't the first lawsuit alleging that the government illegally censored Americans during the pandemic. Tablet magazine reported:<sup>5</sup>

*"The administration's public threats, combined with the corresponding campaign of social media censorship, prompted several prolific social media users to file lawsuits against the Biden administration and a number of federal agencies alleging that their First Amendment free speech rights had been violated.*

*... The plaintiffs in the social media cases argued that, since the First Amendment prohibits the government from censoring Americans for expressing certain views, government actors likewise cannot coerce, direct, or collude with*

*private social media platforms to suppress airing of perspectives disfavored by the United States government.”*

While many of the suits have been unsuccessful, the judge overseeing Louisiana and Missouri v. Biden et al has allowed it to proceed and denied a motion from the government to dismiss it. “In doing so,” Tablet reported:<sup>6</sup>

*“Judge Doughty recognized that federal government officials’ relentless pressure campaign to suppress the speech of Americans on social media that inconvenience the administration’s political agenda cannot be reconciled with the First Amendment.*

*In the judge’s words, the “significant encouragement and coercion” exhibited by federal officials such as Flaherty “convert[ed] the otherwise private conduct of censorship on social media platforms into state action.”*

Due to the federal court ruling, Dr. Anthony Fauci and other officials testified under oath at depositions about whether they colluded with Big Tech to censor certain users.<sup>7</sup> In addition to Fauci, other officials ordered to testify included:<sup>8</sup>

- Former White House press secretary Jen Psaki
- Director of White House digital strategy Rob Flaherty
- Surgeon General Vivek Murthy
- CISA director Jen Easterly
- FBI supervisory special agent Elvis Chan

## **Nearly 100 Officials Worked to Silence Americans**

In an article for Tablet magazine, Jenin Younes, litigation counsel at the New Civil Liberties Alliance (NCLA), who represents Drs. Bhattacharya, Kulldorff and other private plaintiffs in the Louisiana and Missouri v. Biden et al case, revealed one example of

White House officials strongarming social media companies to silence any information counter to the official narrative.<sup>9</sup>

It involved Rob Flaherty, White director of digital media, who sent an email to a Facebook executive in March 2021, with the subject, “You are hiding the ball,” and a link to a Washington Post article claiming Facebook knew it was helping “spread ideas that lead to vaccine hesitancy.”<sup>10</sup>

*“When the Facebook executive responded that there had been a “misunderstanding,” Flaherty replied that he did not think so: “We are gravely concerned that your service is one of the top drivers of vaccine hesitancy – period. ... We want to know that you’re trying, we want to know how we can help, and we want to know that you’re not playing a shell game ... this would all be a lot easier if you would just be straight with us.”*

*About a week later, the Facebook executive followed up with Flaherty in an obvious effort to appease the White House official, notifying him that Facebook had made the requisite policy changes which included “removing vaccine misinformation” and “reducing the virality of content discouraging vaccines that does not contain actionable misinformation.”*

*That included removal of “Groups, Pages and Accounts” containing, in the executive’s words, “often-true content” that “can be framed as sensation, alarmist, or shocking.”<sup>11</sup>*

Flaherty sent dozens of similar emails to social media giants and Google, as did close to 100 other federal officials. As this was going on behind the scenes, countless online support groups for those suffering adverse reactions from COVID-19 shots were shut down.

And a father, whose previously healthy 16-year-old son died five days after receiving Pfizer’s COVID-19 shot due to an “enlarged heart,” had his GoFundMe account, which was raising funds to share the story, removed.<sup>12</sup>

While some of the social media shutdowns targeting those injured by the shots or speaking out against them were blatant, others were shadow-banned, which refers to using algorithms to bury the posts so they're rarely, if ever, seen. "The cascade of shutdowns of support groups and accounts belonging to the vaccine injured on Facebook and other social media platforms continues to this day," Younes reported.<sup>13</sup>

## **COVID Lab Leak Theory Censored**

The plaintiffs allege that Fauci censored "speech backed by great scientific credibility and with enormous potential nationwide impact."<sup>14</sup> This includes information that COVID-19 was the result of a lab leak in Wuhan, China.

One of the major pieces of propaganda is "The Proximal Origin of SARS-CoV-2,"<sup>15</sup> a paper published in Nature Medicine in March 2020 that became the preeminent "proof" that SARS-CoV-2 had a natural origin and couldn't possibly have come from a lab. It was later revealed that Fauci, Wellcome Trust head Jeremy Farrar and Dr. Francis Collins, NIH director, had a hand in the paper.<sup>16</sup> As Children's Health Defense reported:<sup>17</sup>

*"If the lab leak theory were true, in turn, it would mean that Fauci could be potentially implicated in funding the research on viruses that caused the COVID-19 pandemic that killed millions of people worldwide, the plaintiffs argued. This is because he funded risky "gain-of-function" research at the Wuhan Institute of Virology through intermediaries such as EcoHealth Alliance.*

*In late January 2020 and early February 2020, Fauci was also in touch with Facebook CEO Mark Zuckerberg in oral communications about the government's COVID-19 response. Facebook then allegedly went on [to] censor the lab leak theory, according to the plaintiffs."*

I first [raised the lab leak theory](#) February 4, 2020, and it wasn't until June 2021 that Facebook finally reversed its censorship policy on this particular topic, stating, "In light of ongoing investigations into the origin of COVID-19 and in consultation with public

health experts, we will no longer remove the claim that COVID-19 is man-made or manufactured from our apps."<sup>18</sup>

February 26, 2023, The Wall Street Journal reported that the U.S. Energy Department had revised its assessment of the origin of SARS-CoV-2, concluding the pandemic "most likely arose from a laboratory leak."<sup>19</sup>

## **Discussion of Mask Efficacy, Lockdowns Silenced**

NCLA, which represents Bhattacharya and Kulldorff in the case, stated:<sup>20</sup>

*"Social media platforms, acting at the federal government's behest, repeatedly censored NCLA's clients for articulating views on those platforms in opposition to government-approved views on Covid-19 restrictions. This insidious censorship was the direct result of the federal government's ongoing campaign to silence those who voice perspectives that deviate from those of the Biden Administration.*

*Government officials' public threats to punish social media companies that did not do their bidding demonstrate this linkage, as do emails from the Centers for Disease Control and Prevention (CDC) and the Department of Homeland Security (DHS) to social media companies that only recently were made public."*

Collins sent an email to Fauci stating, "There needs to be a quick and devastating published take-down of its premises." In response, Fauci began to publicly criticize the Declaration, calling it "total nonsense" and "ridiculous."<sup>21</sup>

In other examples of extreme censorship, in a July 16, 2021, White House press briefing, press secretary Jen Psaki admitted the Biden administration is violating the First Amendment by alerting social media companies to posts and accounts it believes is peddling "misinformation" about COVID injections.<sup>22</sup>

This includes banning the 12 individuals, including yours truly, who were falsely deemed the "disinformation dozen" during the pandemic, from all available social medial

platforms.<sup>23</sup>

## **Facebook Employs Ex-Government Agents**

If there were any doubt that Big Tech is closely tied to federal officials, consider that many of the people in charge of moderating content at Facebook have been recruited from the government, including the Central Intelligence Agency, FBI and Department of Defense (DoD), according to journalist Alan Macleod.<sup>24</sup>

“Some might feel it becomes difficult to see where the U.S. national security state ends and Facebook begins,” he wrote.<sup>25</sup> Macleod’s investigation, for instance, uncovered the following ex-CIA agents at Facebook:<sup>26</sup>

- Deborah Berman, a trust and safety project manager for Meta, was an intelligence analyst at the CIA for 10 years
- Bryan Weisbard, now a director of trust and safety, security and data privacy for Meta, worked as a CIA intelligence officer from 2006 to 2010 before becoming a diplomat. While at the CIA, his job involved leading “global teams to conduct counter-terrorism and digital cyber investigations” and “Identif[ying] online social media misinformation propaganda and covert influence campaigns”
- Cameron Harris, a trust and safety project manager at Meta, was a CIA analyst until 2019

Former members of other government agencies are also common at Meta. Macleod revealed:<sup>27</sup>

- Emily Vacher, who Facebook/Meta recruited to be a director of trust and safety, worked at the FBI from 2001 to 2011, becoming a supervisory special agent
- Mike Bradow, employed as a misinformation policy manager at Meta since 2020, worked for the United States Agency for International Development (USAID) from 2010 to 2020. “USAID is a U.S. government-funded influence organization which has bankrolled or stage managed multiple regime change operations abroad,

including in Venezuela in 2002, Cuba in 2021, and ongoing attempts in Nicaragua,” Macleod noted<sup>28</sup>

- Neil Potts, Facebook’s vice president of trust and safety, is a former intelligence officer with the U.S. Marine Corps
- Sherif Kamal, trust and safety program manager at Meta, worked as a program manager at the Pentagon until 2020
- Joey Chan, trust and safety program manager at Meta, worked as a commanding officer for the U.S. Army until 2021, where he oversaw more than 100 troops in the Asia Pacific region

## **Will the Courts End This Government Overreach?**

Will social media companies’ flagging and censoring of posts cautioning against COVID-19 shots, mask efficacy or discussing the lab-leak theory – all at the federal government’s behest – be deemed unlawful? Will the government officials involved in censoring Americans’ free speech be held accountable? And will this flagrant example of government overreach be identified and punished so it doesn’t occur again? Younes explained:<sup>29</sup>

*“The lawsuit is still in its early stages. But Judge Doughty’s decision marks a crucial first step toward ensuring that going forward, government actors like Flaherty cannot use their clout to effectuate the removal of social media content or shut down online support groups.*

*Explicit judicial attention to such practices is necessary because it seems clear that, having enjoyed a taste of the censor’s power, political operatives and government bureaucrats see no reason to give it up. In fact, rather than retreating from its thus-far successful censorship activities, the government has been expanding its ambitions to encompass every corner of the public square.*



*... If the First Amendment stands for anything, it must mean that the government cannot be in the business of silencing ... inconvenient truths [that] threaten a political agenda. It is up to the courts to put an end to this egregious transgression of the First Amendment's guarantees, because if we have learned anything from history, it is that governments do not relinquish power voluntarily."*

## Sources and References

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- <sup>1, 3</sup> [Fox News March 29, 2023](#)
- <sup>2, 5, 6, 9, 10, 11, 12, 13, 29</sup> [Tablet April 10, 2023](#)
- <sup>4</sup> [Memorandum Order Regarding Witness Depositions, Pages 1-2](#)
- <sup>7, 14, 17</sup> [Children's Health Defense October 24, 2022](#)
- <sup>8</sup> [KTTN October 24, 2022](#)
- <sup>15</sup> [Nature Medicine volume 26, pages 450–452 \(2020\)](#)
- <sup>16</sup> [U.S. Right to Know September 14, 2022](#)
- <sup>18</sup> [Reason June 4, 2021](#)
- <sup>19</sup> [Wall Street Journal February 26, 2023 \(Archived\)](#)
- <sup>20</sup> [New Civil Liberties Alliance August 2, 2022](#)
- <sup>21</sup> [Memorandum Order Regarding Witness Depositions, Page 8](#)
- <sup>22</sup> [White House Press Briefing July 16, 2021](#)
- <sup>23</sup> [White House Press Briefing July 15, 2021](#)
- <sup>24, 26, 27, 28</sup> [MintPress News July 12, 2022](#)
- <sup>25</sup> [MintPress News, Alan Macleod, Meet the Ex-CIA Agents Deciding Facebook's Content Policy July 12, 2022](#)