

No. 23-411

In the Supreme Court of the United States

VIVEK H. MURTHY, SURGEON GENERAL, ET AL.,
Petitioners,

v.

STATE OF MISSOURI, ET AL.,
Respondents.

*On Writ of Certiorari to the
United States Court of Appeals for the Fifth Circuit*

**BRIEF OF *AMICI CURIAE*
THE MANHATTAN INSTITUTE, REACT19, AND
THREE VACCINE-INJURED INDIVIDUALS IN
SUPPORT OF RESPONDENTS**

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QUESTION PRESENTED

Respondents allege a pattern of collusion between the government and technology companies to stifle free speech about important matters of public concern. *Amici* address the second of three questions that the Court is now considering:

Whether the government's challenged conduct transformed private social-media companies' content-moderation decisions into state action and violated respondents' First Amendment rights.

TABLE OF CONTENTS

QUESTION PRESENTED..... i

TABLE OF AUTHORITIES.....iii

INTEREST OF *AMICI CURIAE* 1

SUMMARY OF ARGUMENT 2

ARGUMENT..... 3

I. COLLUSION BETWEEN THE GOVERNMENT
AND SOCIAL-MEDIA PLATFORMS WARPS
PUBLIC DISCOURSE..... 3

II. FREE AND OPEN PUBLIC DISCOURSE IS
ESSENTIAL TO CIVIC WELFARE,
ESPECIALLY WHEN IT CONCERNS
SCIENCE 9

 A. A Basic Purpose of the First Amendment
 Is to Preserve the Marketplace of Ideas 9

 B. An Open Marketplace of Ideas Is Particularly
 Important for a Healthy Public Discourse
 Regarding Science..... 10

III. THE INDIVIDUAL *AMICI* HAVE SUFFERED
IRREPARABLE INJURY BECAUSE THE
GOVERNMENT COMPELLED SOCIAL-MEDIA
PLATFORMS TO CENSOR INFORMATION
REGARDING COVID VACCINES..... 12

 A. Brianne Dressen 12

 B. Denise Malik 14

 C. Louis Traub..... 18

CONCLUSION 31

TABLE OF AUTHORITIES

Cases

<i>Backpage.com v. Dart</i> , 807 F.3d 229 (7th Cir. 2015).....	4-5, 6, 7
<i>Bantam Books v. Sullivan</i> , 372 U.S. 58 (1963)	4
<i>Blum v. Yaretsky</i> , 457 U.S. 991 (1982).....	5
<i>Columbia Broad. Sys., Inc. v. Democratic Nat’l Comm.</i> , 412 U.S. 94 (1973)	7
<i>Connick v. Myers</i> , 461 U.S. 138 (1983)	10, 12
<i>Dun & Bradstreet v. Greenmoss Builders</i> , 472 U.S. 749 (1985).....	3
<i>Elrod v. Burns</i> , 427 U.S. 347 (1976)	12
<i>Fairley v. Andrews</i> , 578 F.3d 518 (7th Cir. 2009)	7
<i>Hague v. Comm. for Indus. Org.</i> , 307 U.S. 496 (1939).....	7, 8
<i>McCullen v. Coakley</i> , 573 U.S. 464 (2014)	4, 9
<i>Miller v. California</i> , 413 U.S. 15 (1973)	10
<i>Missouri v. Biden</i> , 83 F.4th 350 (5th Cir. 2023)	2-3, 5, 6

<i>Missouri v. Biden</i> , Case No. 3:22-CV-01213 (W.D. La. 2023)	2
<i>N.Y. Times Co. v. Sullivan</i> , 376 U.S. 254 (1964)	3, 11, 12
<i>Okwedy v. Molinari</i> , 333 F.3d 339 (2d Cir. 2003)	5
<i>Packingham v. North Carolina</i> , 582 U.S. 98 (2017)	8
<i>R.A.V. v. St. Paul</i> , 505 U.S. 377 (1992)	4
<i>Red Lion Broad. Co. v. F.C.C.</i> , 395 U.S. 367 (1969)	7
<i>Reed v. Town of Gilbert</i> , 576 U.S. 155 (2015)	3, 4, 9
<i>Roberts v. Louisiana Downs, Inc.</i> , 742 F.2d 221 (5th Cir. 1984)	5, 6
<i>Rosenberger v. Rector and Visitors of the University of Virginia</i> , 515 U.S. 819 (1995)	3
<i>San Diego v. Roe</i> , 543 U.S. 77 (2004)	10, 12
<i>Smith v. United States</i> , No. 3:23-cv-1425 (W.D. La. Dec. 21, 2023) (Dkt. 35)	13
<i>Snyder v. Phelps</i> , 562 U.S. 443 (2011)	10, 12
<i>U.S. v. Alvarez</i> , 567 U.S. 709 (2012)	9, 11

Rules and Statutes

88 Fed. Reg. 76048, 76056 (Nov. 3, 2023)	8
47 U.S.C. § 230	6

Other Authorities

Alan Z. Rozenshtein, <i>Moderating the Fedverse: Content Moderation on Distributed Social Media</i> , 3 J. Free Speech L. 217 (2023)	8
Anuj Desai, <i>Regulating Social Media in the Free- Speech Ecosystem</i> , 73 Hastings L.J. 1481 (2022)	7-8
Brandy Zadrozny, “Covid Vaccines for Children Are Coming. So is Misinformation,” NBC News (Nov. 3, 2021)	20
Cato’s Letters No. 15	3,9
Cato’s Letters No. 38	9
James R. Ferguson, <i>Scientific Inquiry and the First Amendment</i> , 64 Cornell L. J. 637 (1979) ...	11
“Large COVID-19 Vaccine Injury Study Investigating the Biology Behind Serious Adverse Events,” TrialSite News (Feb. 21, 2023)	29
Louie Traub, “Real, Not Rare Rally—Washington D.C.,” YouTube (Nov. 3, 2021)	19
“News: Experts and Injured Testify in Washington D.C.,” React19 (Nov. 2, 2021)	19

Rebecca Coombes and Madlen Davies, “Facebook Versus the BMJ: When Fact Checking Goes Wrong,” <i>BMJ</i> 2022;376;o95 (Jan. 19, 2022)	18
“Scientific Publications Directory: Collection of Peer Reviewed Case Reports and Studies Citing Adverse Effects Post COVID Vaccination,” React19	23
Special Committee on COVID-19 Pandemic, European Parliament (Oct. 10, 2022)	27
Stkirsh, <i>Silence, The Story of COVID Vaccine Victims</i> (Jan. 20, 2022)	21

INTEREST OF AMICI CURIAE¹

The Manhattan Institute for Policy Research (“MI”) is a nonpartisan public policy research foundation whose mission is to develop and disseminate new ideas that foster greater economic choice and individual responsibility. To that end, MI has historically sponsored scholarship and filed briefs opposing government overreach. MI, whose scholars have been targets of speech suppression, has a particular interest in defending constitutional speech protections.

React19 is a 501(c)(3) nonprofit patient-advocacy organization dedicated to providing physical, emotional, and financial support for those suffering lasting side effects from Covid-19 vaccination. This all-volunteer group has come to represent more than 36,000 Covid-19 vaccine-injured people in the United States and has teamed up with an international coalition of similar organizations representing tens of thousands of other people. A significant part of the support these groups provide is via interaction among the vaccine-injured on social-media platforms and in-person gatherings arranged on those platforms. And yet React19 and other groups were censored in their communications and remain under constant threat of being shut down. Discussions on developments in research have been pulled as “misinformation,” people’s pleas for help discussing nothing more than a rash are removed for violating “community standards,” and awareness videos asking for help are deleted for “dangerous acts.”

¹ Rule 37 statement: All parties were timely notified of this filing. No part of this brief was authored by any party’s counsel, and no person or entity other than *amici* funded its preparation or submission.

Brianne Dressen, who co-founded React19, was seriously injured by a Covid-19 vaccine in November 2020 while participating in a clinical trial.

Denise Malik was also seriously injured by a Covid-19 vaccine, and co-founded a support group that became part of the React19 network.

Louie Traub was also seriously injured by a Covid-19 vaccine, and became React19’s social-media manager. In that capacity, Mr. Traub experienced the petitioners’ censorship most directly.

This case interests *amici* because it involves extraordinary examples of governmental overreach and censorship via collusion with and coercion of private companies. In addition, the individual *amici* were directly harmed by the actions at the heart of the case.

SUMMARY OF ARGUMENT

This case involves a profound attack on free speech by government officials, who repeatedly and flagrantly pressure social-media companies to remove constitutionally protected speech. Sometimes the companies are more than happy to do the government’s bidding because the individual corporate actors agree with those policies—but that willing cooperation doesn’t lessen the First Amendment injury.

The district court found that the federal government used “unrelenting pressure” to suppress “millions of protected free speech postings by American citizens.” *Missouri v. Biden*, Case No. 3:22-CV-01213 (W.D. Louisiana, 2023). The Fifth Circuit affirmed, noting that the government had engaged in a “coordinated campaign . . . orchestrated by federal officials that jeopardized a fundamental aspect of American life.” *Missouri*

v. Biden, 83 F.4th 350, 387 (5th Cir. 2023), and this Court granted *certiorari*.

Collusion between the federal government and social media platforms warps public discourse and threatens a free marketplace of ideas. Such governmental coercion and censorship are especially worrying when the speech at issue concerns science. The individual *amici* here were irreparably harmed by the government’s coercive conduct. Their speech was silenced, their social media posts were removed, and they suffered loss of followers and reputational harms.

ARGUMENT

I. COLLUSION BETWEEN THE GOVERNMENT AND SOCIAL-MEDIA PLATFORMS WARPS PUBLIC DISCOURSE

“Freedom of speech is the great bulwark of liberty.” Cato’s Letters No. 15. “[S]peech on matters of public concern . . . is at the heart of the First Amendment’s protection.” *Dun & Bradstreet v. Greenmoss Builders*, 472 U.S. 749, 758-759 (1985) (Powell, J., plurality op.). And the First Amendment guarantees “a profound national commitment” to this principle—“that debate on public issues should be uninhibited, robust, and wide-open.” *N.Y. Times Co. v. Sullivan*, 376 U.S. 254, 270 (1964). That’s why viewpoint restrictions, “an egregious form of content discrimination,” are virtually always “presumed impermissible.” *Rosenberger v. Rector and Visitors of the University of Virginia*, 515 U.S. 819, 829-830 (1995). And content restrictions, even when *not* based on viewpoint, “must satisfy strict scrutiny.” *Reed v. Town of Gilbert*, 576 U.S. 155, 174 (2015) (Alito, J., concurring).

Content restrictions are subject to especially exacting scrutiny for two “important and related reasons”: “to preserve an uninhibited marketplace of ideas in which truth will ultimately prevail,” *Id.* at 181 (Kagan, J., concurring in the judgment) (quoting *McCullen v. Coakley*, 573 U.S. 464, 476), and “to ensure that the government has not regulated speech ‘based on hostility—or favoritism—towards the underlying message expressed.’” *Id.* (quoting *R.A.V. v. St. Paul*, 505 U.S. 377, 386 (1992)). To safeguard the fundamental right of the people to speak on matters of public concern and to preserve that marketplace of ideas, the Court must be extra vigilant that the government doesn’t stifle discourse because it objects to the content expressed.

This is not the first time the government has attempted to coerce private entities to chill speech. More than 60 years ago, a Rhode Island state commission identified and sought to halt distribution of “objectionable” books. *Bantam Books v. Sullivan*, 372 U.S. 58, 58 (1963). The government sent a letter to the proprietor of Bantam Books, thanking him “in advance, for his ‘cooperation’ with the Commission.” *Id.* at 62. A police officer dutifully followed up with the establishment to “learn what action” Bantam Books had taken. *Id.* at 63.

This Court recognized the situation for what it was: coercion. The incentive for this backdoor policy was clear. The Commission would never have been able to enforce their “radically [constitutionally] deficient” restrictions directly against the offending books. Instead, they went after the distributors. The “potential cost” intermediaries incur at the hands of government action—possibly entailing “criminal or civil liability” and “negative press”—can easily be “very high” and make or

break a business. *Backpage.com v. Dart*, 807 F.3d 229, 236 (7th Cir. 2015).

Blum v. Yaretsky, decided 19 years after *Bantam Books*, attempted to articulate a more concrete standard for determining when this covert censorship occurs: whether a “sufficiently close nexus between the State and the challenged action” has been established, such that the latter, ostensibly private action, “may be fairly treated as that of the State itself.” 457 U.S. 991, 1004 (1982). This test is frustratingly vague, and, if too conservatively applied, potentially error-prone. *See id.* at 1014-1015 (Brennan, J., dissenting). But circuit courts have helpfully clarified relevant standards in subsequent decisions. Words of command—“demand,” “compels,” “sever [all] ties”—indicate coercion. *Dart*, 807 F.3d at 233. So does “continuous and intimate involvement.” *Roberts v. Louisiana Downs, Inc.*, 742 F.2d 221, 224 (5th Cir. 1984). Threats to “employ coercive state power to stifle protected speech violate[] a plaintiff’s First Amendment rights”—including when the state targets “a third party that is publishing or otherwise disseminating the plaintiff’s message.” *Okwedy v. Molinari*, 333 F.3d 339, 344 (2d Cir. 2003).

Here, the Fifth Circuit was right to focus on—and find—coercion, as well encouragement, which it defined as exercising “active, meaningful control” and “entangl[ing] themselves in the platforms’ decision-making process.” *Missouri v. Biden*, 83 F.4th 350, 387 (5th Cir. 2023).

What’s really at issue is a concept known as “jawboning.” Jawboning occurs when the government applies pressure to private companies to take certain actions. Regarding social media, elected and appointed

officials increasingly demand that platforms refrain from publishing disfavored speech, or to limit its spread. Sometimes they threaten tech companies with punitive legislation and antitrust investigations. But the pressure can also be more informal, cajoling these private actors to curry favor with powerful people.

Social media presents the most dangerous case of jawboning ever to reach this Court. “It might seem that large companies”—especially behemoths like Twitter, Facebook, and YouTube—“would not knuckle under” to government pressure. *Dart*, 807 F.3d at 236. But that impulse misses the point. Social media depends on Section 230 of the Communications Decency Act for a shield from defamation and other “liability” for content it hosts. *Dart*, 807 F.3d at 236. Threats to repeal that protection, including from the president of the United States, pose a real risk to platforms’ continued livelihood. Dressen Compl. ¶107. And the Justice Department’s threatened antitrust suits, *id.*, would almost certainly bring “negative press.” *Dart*, 807 F.3d at 236. Even social-media giants depend on the government’s beneficence for their continued operational success.

The court below found that the government pressured social-media platforms to censor posts and other communications that contradicted its Covid-vaccine rollout, involving itself enough to become “practically ‘responsible’ for that decision.” *Missouri v. Biden*, 83 F.4th at 374. And indeed, the record is replete with evidence of government coercion and entanglement.

The Biden administration displayed “continuous and intimate involvement,” *Roberts*, 742 F.2d at 224, and used a fair number of “words of command.” *Dart*, 807 F.3d at 233. Its involvement amounted to a “prior

restraint”—“the quintessential first-amendment violation”—“[t]hreatening penalties” for *amici*’s and other dissidents’ “future speech.” *Dart*, 807 F.3d at 235 (quoting *Fairley v. Andrews*, 578 F.3d 518, 525 (7th Cir. 2009)). The record shows communications, “phrased virtually as orders” and “reasonably understood as such” by the platforms, that entailed “follow[ing] up” with government officials—in essence identical to the situations in *Bantam Books* and *Dart*.

What makes this example of jawboning the most dangerous ever to reach the court is social media platforms’ social function. Preserving individuals’ ability to “communicat[e] thoughts . . . and discuss[] public questions,” as well as the integrity of public discourse, depends on the preservation of public forums. *Hague v. Comm. for Indus. Org.*, 307 U.S. 496, 515 (1939). But while the traditional public forums are the “streets and parks . . . held in trust for the use of the public,” *id.*, new technologies have made digital spheres the primary realms for most discussions. If “[t]he First Amendment values of individual self-fulfillment through expression and individual participation in public debate . . . central to our concept of liberty . . . are to survive in the age of technology, it is essential that individuals” are able to “express their views on public issues over the electronic media.” *Columbia Broad. Sys., Inc. v. Democratic Nat’l Comm.*, 412 U.S. 94, 201 (1973) (Brennan, J., dissenting). And the Supreme Court unanimously held, in the context of radio, that the “people as a whole retain their interest in free speech . . . and their collective right to have the medium function consistently with the ends and purposes of the First Amendment.” *Red Lion Broad. Co. v. F.C.C.*, 395 U.S. 367, 390 (1969); *see also* Anuj Desai,

Regulating Social Media in the Free-Speech Ecosystem, 73 *Hastings L.J.* 1481, 1485 (2022) (discussing how social-media platforms have been socially constructed as an important conduit for the public’s communication).

Because social-media platforms host so much of the public’s speech, they must be understood as the “modern public square.” *Packingham v. North Carolina*, 582 U.S. 98, 107 (2017). About 35% of the daily average “seven hours” internet users spend online “is spent on closed social-media platforms”—and large social media platforms like “Facebook, YouTube,” “Twitter,” “Instagram, WhatsApp, and TikTok came to dominate the Internet habits of most users.” Alan Z. Rozenshtein, *Moderating the Fedverse: Content Moderation on Distributed Social Media*, 3 *J. Free Speech L.* 217, 220 (2023).

The Biden administration recognizes that “social media websites and other platforms particularly have become important platforms for free expression, political engagement, and social activism.” *Safeguarding and Securing the Open Internet*, 88 *Fed. Reg.* 76048, 76056 (Nov. 3, 2023). Because social media has taken on the role of the modern public square, government coordination with social-media platforms to remove speech it doesn’t like will meaningfully harm public discourse. The core aim of the First Amendment articulated in *Hague*, “communicating thoughts between citizens, and discussing public questions,” will be lost at the hands of the government’s content and viewpoint discrimination. 307 U.S. at 515.

II. FREE AND OPEN PUBLIC DISCOURSE IS ESSENTIAL TO CIVIC WELFARE, ESPECIALLY WHEN IT CONCERNS SCIENCE

A. A Basic Purpose of the First Amendment Is to Preserve the Marketplace of Ideas

Robust public discourse requires lively intellectual exchange from all corners; it cannot withstand government action to crowd out ideas or experiences of which it disapproves. Preserving the marketplace of ideas is one of the primary aims of the First Amendment, emphasized as sacrosanct even by those arguing for applying a looser standard of scrutiny to content restrictions. *See Reed*, 576 U.S. at 181 (Kagan, J., concurring in the judgment) (quoting *McCullen*, 573 U.S. at 476). “The remedy for speech that is false is speech that is true. This is the ordinary course in a free society. The response to the unreasoned is the rational; to the uninformed, the enlightened; to the straightout lie, the simple truth.” *U.S. v. Alvarez*, 567 U.S. 709, 727 (2012).

Free inquiry leads to a healthy polity in another way: by giving the public a reason to interest itself in public affairs. Free discourse ensures that the “minds of men” will not be “terrified by unjust power” and “degenerate” into merely repeating the government’s talking points. Cato’s Letters No. 15. “[I]t is the duty of every individual to be concerned for the whole” citizenry, “in which himself is included.” Cato’s Letters No. 38. Put more simply, the prior restraint created by ongoing censorship diminishes the quality and quantity of public discourse and disincentivizes free thought. When we are unable to engage with a range of viewpoints and experiences, we lose our ability to make a rational, informed decision. When we are

unable to contribute to the public discourse, others lose out on our perspective and become less informed.

“Speech on public issues occupies the highest rung of the hierarchy of First Amendment values, and is entitled to special protection.” *Snyder v. Phelps*, 562 U.S. 443, 452 (2011) (quoting *Connick v. Myers*, 461 U.S. 138, 145 (1983)). “Speech deals with matters of public concern when it can ‘be fairly considered as relating to any matter of political, social, or other concern to the community.’” *Snyder*, 562 U.S. at 453 (quoting *Connick*, 461 U.S. at 146). Speech is also considered reasonably to concern public issues when it is about “a subject of legitimate news interest; that is, a subject of general interest and of value and concern to the public.” *Snyder*, 562 U.S. at 453 (quoting *San Diego v. Roe*, 543 U.S. 77, 83-84 (2004)). And “in the area of freedom of speech and press, the courts must always remain sensitive to any infringement on genuinely serious literary, artistic, political, or scientific expression.” *Miller v. California*, 413 U.S. 15, 22-23 (1973). Preserving the integrity of the marketplace of ideas when it comes to such serious and public issues is one of the First Amendment’s highest priorities.

B. An Open Marketplace of Ideas Is Particularly Important for a Healthy Public Discourse Regarding Science

In 1633, the Italian government hauled Galileo before an inquisitor for proposing Copernican and heliocentric theories in violation of prevailing doctrine, and ended up confining him to his home for the rest of his days. Galileo’s ideas were ultimately vindicated. Their suppression by the government merely prevented the

truth from emerging organically—and punished scientific inquiry.

That’s dangerous. “Even when there is a wide scholarly consensus concerning a particular matter, the truth is served by allowing that consensus to be challenged without fear of reprisal. Today’s accepted wisdom sometimes turns out to be mistaken.” *Alvarez*, 567 U.S. at 752 (Alito, J., dissenting). “Even a false statement may be deemed to make a valuable contribution to public debate, since it brings about ‘the clearer perception and livelier impression of truth, produced by its collision with error.’” *N.Y. Times Co. v. Sullivan*, 376 U.S. at 279 n. 19 (quoting J. Mill, *On Liberty* 15 (R. McCallum ed. 1947)). Simply put, “[a]llowing the state to proscribe false statements” on matters of public concern “opens the door for the state to use its power for political ends.” *Alvarez*, 567 U.S. at 752 (Alito, J., dissenting). Government conduct “prohibiting false statements about . . . science” would thus imperil “valuable speech.” *Id.*

Indeed, the public has a strong interest in the “free flow of scientific information.” James R. Ferguson, *Scientific Inquiry and the First Amendment*, 64 *Cornell L. J.* 637, 647 (1979). It enables the people to “draw on” relevant information and experiences, and to “test the validity of hypotheses against current data and opposing views.” *Id.* Such discourse “confer[s] the power of informed intervention in the vital area[] of biomedicine.” *Id.* at 642. And it’s especially important that people can make informed decisions regarding their medical care, considering how intimate such decisions are.

In America, Galileo’s statements would certainly have constituted matters of public concern—and so

would the individual *amici*'s statements on the Covid-19 vaccines. Both constituted "subject[s] of legitimate news interest," *Snyder*, 562 U.S. at 453 (quoting *San Diego*, 543 U.S. at 83-84), and matters of "political" or "social . . . concern." *Snyder*, 562 U.S. at 453 (quoting *Connick*, 461 U.S. at 146). Even if *amici*'s concerns about the vaccines had been ultimately misplaced—which they proved not to be—allowing them to contribute to the public debate would've helped elucidate the truth. See *N.Y. Times*, 376 U.S. at 279. And yet the government here, acting with and through the social-media companies, not only censored their opinions or analyses of medical reports, but *their completely factual accounts of their own injuries*.

III. THE INDIVIDUAL AMICI HAVE SUFFERED IRREPARABLE INJURY BECAUSE THE GOVERNMENT COMPELLED SOCIAL-MEDIA PLATFORMS TO CENSOR INFORMATION REGARDING COVID VACCINES

Governmental coercion of social media and suppression of free speech have caused *amici* irreparable harm. "The loss of First Amendment freedoms, for even minimal periods of time, unquestionably constitutes irreparable injury." *Elrod v. Burns*, 427 U.S. 347, 373 (1976). Three persons greatly affected by the government's egregious behavior are Brianne Dressen, Denise Malik, and Louie Traub.

A. Brianne Dressen

Ms. Dressen was seriously injured by a Covid-19 vaccine in November 2020 while participating in an AstraZeneca clinical trial. Her reaction began within an hour of her injection and quickly devolved into

more than 20 debilitating symptoms, leaving her confined to her bedroom, away from any light and sound, including the sounds of her small children. After four ER visits and a hospital stay, Ms. Dressen received a diagnosis of “anxiety due to the COVID vaccine” at which point her legs were failing, and she had become incontinent. Months later, the National Institutes of Health revised her diagnosis to “Post-Vaccine Neuropathy” and “Postural Orthostatic Tachycardia Syndrome,” after in-person evaluation at NIH headquarters.

Ms. Dressen remains disabled with neuropathy, autonomic dysfunction, and CIDP (Chronic Inflammatory Demyelinating Polyneuritis) that results in debilitating fatigue, internal vibrations, limb weakness, food sensitivities, and cardiac abnormalities. She will be dependent on expensive medications for the rest of her life which now cost more than \$400,000 per year.

Under the PREP Act, Ms. Dressen and any other Covid-vaccine-injured American do not have the right to sue the drug company nor the federal government for any claims related to her vaccine injury. Her only recourse was to file in the Countermeasures Intervention Compensation Program (“CICP”), the sole compensation program available for Covid-19 vaccine injuries. The CICP reportedly has a 98% rejection rate. See *Smith v. United States*, No. 3:23-cv-1425, at 29 (W.D. La. Dec. 21, 2023) (Dkt. 35).

Being one of the first Americans injured by a Covid-19 vaccine, Ms. Dressen felt alone and had no idea how to manage her new injured state or how to find any relief from her symptoms. After more than a year of growing frustrated with her inability to gather information, communicate, and heal, and left with nowhere

else to turn, Ms. Dressen and Joel Wallskog, MD (a physician who was diagnosed with transverse myelitis as a result of the Moderna Covid-19 vaccine), started a registered 501(c)(3) non-profit in November 2021, called “React19.” React19 has grown to represent more than 36,000 people, providing physical, emotional, and financial support for those injured by Covid-19 vaccination. And yet its discussions on developments in research were pulled as “misinformation” and members’ pleas for help with lasting side effects were removed for violating “community standards.”

As described in *amici*’s statement of interest *supra*, a significant part of the support React19 provides is through personal interaction among the vaccine-injured on social-media platforms, as well as using those platforms to arrange online and in-person gatherings. And yet, the group remains under constant threat of being shut down again by government censorship.

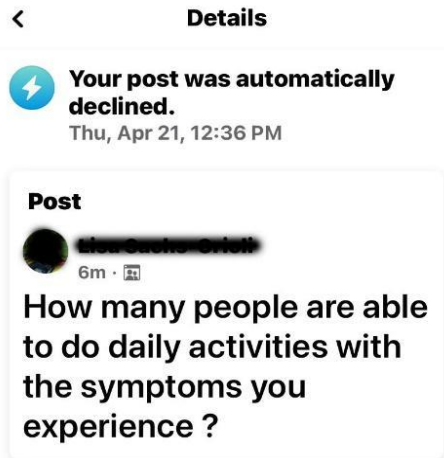
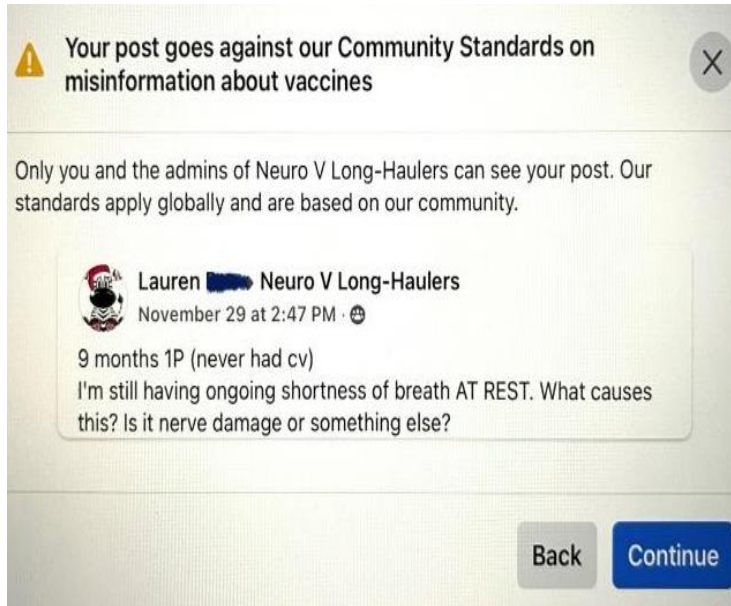
B. Denise Malik

Like Ms. Dressen, Denise Malik also suffered greatly from the Covid vaccine. Ms. Malik was a healthy public-school teacher of 24 years, wife, and mother of two. She volunteered to be vaccinated to, she thought, protect her family and students. Within two days, she suffered an adverse reaction and went to the emergency room. Almost three years later, she still suffers from neuropathy, muscle spasms, headaches, mast cell activation syndrome, heart palpitations and sleep disturbances. Her quality of life and ability to care for her children have substantially declined.

Because so few resources existed to cope with Covid-19-vaccination-related injuries Ms. Malik co-founded a private support group for only vaccine-

injured individuals. This group, which became part of the React19 network on various social-media platforms, was—and remains—their only connection for support. These platforms were a lifeline for many people who were confined to their homes but were relieved to find others with similar symptoms and finally attain mutual understanding. But Facebook shut down the group in June 2021. Ms. Malik and her peers relaunched and renamed the group twice to keep it in operation and to protect its members from censors. Members were required to talk “in code” to avoid the group being shut down, like something out of the Soviet world of *samizdat*. Having to skirt government censors by practicing self-censorship further harmed those already suffering unexpected vaccine side-effects.

This censorship didn’t only affect the group as a whole, but each individual member that depended on it. From summer 2021 through 2023, members’ posts would be censored for discussing symptoms or asking if anyone else was experiencing the same physical phenomena. Some of these posts would be automatically prevented from being published at all, as shown in the following screen captures.



Not only was Facebook, in concert with the government, rejecting real questions and restricting scientific discourse, but it would then suspend the person making such posts, and the entire support group. This level

of censorship discouraged people from reaching out to get help, for fear of direct and collective punishment.

Facebook even restricted discussions of the findings of a leading medical journal, *British Medical Journal* (BMJ), which reviewed inconsistencies in Pfizer’s clinical trials. React19 and Ms. Malik’s support group were then penalized for allowing such posts. *BMJ* investigated this censorship and concluded that Facebook’s “independent” fact-checkers were not medically or scientifically trained, but were still free to accuse top scientific minds of spreading “patently false information.”

← Missing Context

Partly False Information in Your Group

Antonio González shared information that's been reviewed by Lead Stories. We've added **a notice to the post** so others can see that it's partly false. [Learn more](#) about how fact-checking works on Facebook.

From Independent Fact-Checkers

Lead Stories **Fact-Check**

Fact Check: The British Medical Journal Did NOT Reveal Disqualifying And Ignored Report...

If a group repeatedly shares false news, Facebook may push all of that group's content down in News Feed, which may mean fewer people visit the group. Facebook may also stop suggesting that people join the group.

Visit Group Quality to see a summary of actions Facebook has taken on content in your group.

[Go to Group Quality](#)

See Rebecca Coombes and Madlen Davies, “Facebook Versus the BMJ: When Fact Checking Goes Wrong,” *BMJ* 2022;376;o95 (Jan. 19, 2022) <http://tinyurl.com/52bj29d6>.

In the span of 18 months, Ms. Malik learned of at least five Covid-vaccine-injury support groups that were shut down, affecting tens of thousands of people who relied on these communities.

In September 2021, Ms. Malik co-produced an advocacy and awareness campaign made by the vaccine-injured, asking for help and acknowledgement from the health agencies. YouTube removed the video for “violating community standards.” TikTok also pulled the video for “dangerous acts.” As difficult as Ms. Malik’s new illness has been, the trauma of being shut out of the public discourse by the government’s collusion with technology companies has been worse. By silencing vaccine messages on social media, the government denied Ms. Malik’s experience and deprived her of the ability to grieve with similarly situated others.

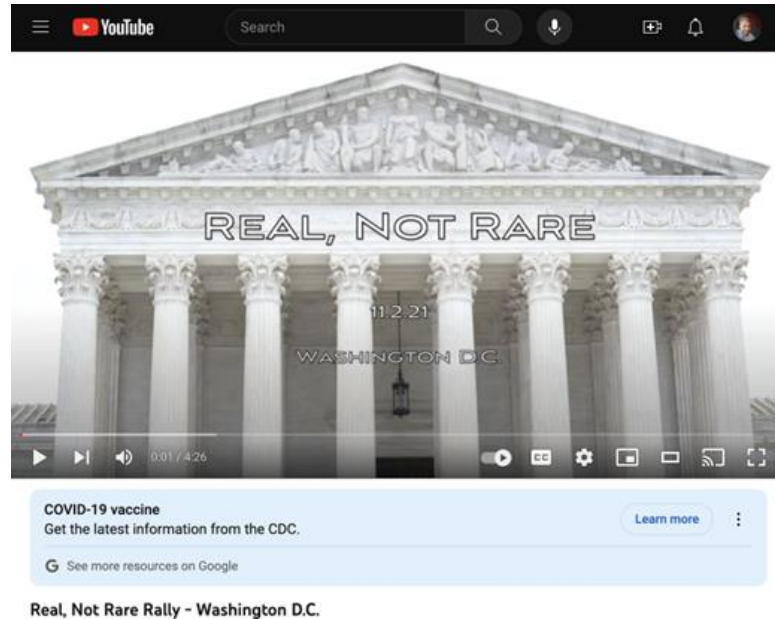
C. Louis Traub

Mr. Traub was likewise catastrophically injured by the Covid-19 vaccine, being diagnosed with pulmonary disease. Mr. Traub began following React19’s social-media accounts and sharing his personal experiences on Twitter. His posts quickly gained traction, and as a result Ms. Dressen asked him to become React19’s social-media manager. In that role, Mr. Traub experienced the petitioners’ censorship most directly.

When Mr. Traub became React19’s social-media manager, he had to link his personal Facebook and Instagram accounts to React19’s accounts. Activity on

one account may thus affect the account status of other linked accounts, which dynamic magnified the harm to Mr. Traub personally every time React19 was censored, as the following events detail.

On November 2, 2021, React19 members participated in a hearing in the U.S. Senate regarding Covid-19-vaccine injury and government censorship, where they shared their first-hand experience and asked for help. See “News: Experts and Injured Testify in Washington D.C.,” React19 (Nov. 2, 2021), <http://tinyurl.com/ye9fb6ys>. No one from the Food and Drug Administration (FDA) or the Centers for Disease Control and Prevention (CDC) attended the hearing. After the hearing, Mr. Traub posted a video on YouTube documenting React19 members’ participation in a rally immediately following the hearing titled, “Real Not Rare,” where people shared their first-hand accounts of vaccine injury. Louie Traub, “Real, Not Rare Rally—Washington D.C.,” YouTube (Nov. 3, 2021), <http://tinyurl.com/3xkn25zb>. YouTube tagged the video with a Covid-19 information disclaimer, citing and linking to a CDC website, as shown in the following graphic.



The next day, NBC published a slanted article portraying the vaccine-injured participants in the Senate hearing and rally as harbingers of misinformation. Brandy Zadrozny, “Covid Vaccines for Children Are Coming. So is Misinformation,” NBC News (Nov. 3, 2021), <http://tinyurl.com/bp6h36m8>. And Mr. Traub’s contemporaneous posting about the event on his personal Instagram account (@louietraub) was removed for going against community guidelines on the basis that it contained “harmful false information.”

Mr. Traub also published an awareness video on React19’s YouTube channel about the vaccine-injured entitled “Silence,” which featured self-submitted stories of vaccine-injured people. YouTube removed the video for violating “our medical misinformation policy”

by “contradict[ing] expert consensus from local health authorities.”²

On March 2, 2022, Mr. Traub tweeted about his 24th vaccine-injury-related doctor appointment, when he got his pulmonary-disease diagnosis. The post quickly exceeded 475,000 impressions and had more than 40,000 engagements.

On March 4, 2022, Mr. Traub tweeted about his 25th vaccine-related appointment, encouraging vaccine-injured people to continue advocating for themselves. This post also had more than 40,000 engagements.

That same day, Facebook removed a video of the November 2021 rally that Mr. Traub had shared in a private group because it “goes against community standards on misinformation that could cause physical harm.” Facebook’s warning note stated, “We encourage free expression, but don’t allow false information about COVID-19.” The post had been live for over four months before being removed. Mr. Traub expressed his incredulity at this move on Twitter:

² The video is still available on a different platform. Stkirsh, *Silence, The Story of COVID Vaccine Victims* (Jan. 20, 2022), <http://tinyurl.com/yd4v82dh>.



Louie Traub

@louietraub



Facebook "fact checkers" say this video is "false information that could contribute to physical harm" despite mounds of evidence that adverse reactions are real, not rare. Who's fact checking the fact checkers?




3:07 PM · Mar 4, 2022

Following the removal of his Facebook post, Mr. Traub shared the video he had recorded during the November 2021 “Real, Not Rare” rally by directly uploading and embedding it into a tweet. Within the caption, Mr. Traub mentioned that the video had been removed from Facebook. In less than 24 hours, the video was also removed by Twitter.

On April 13, 2022, a year after he received the Covid vaccine, Mr. Traub made a tweet-thread detailing the previous year’s events, including his health struggles and extensive medical treatment, and an account of the censorship to which he had fallen victim after going public about his injury. The initial tweet made more than three million impressions:

× **Post Analytics**

 **Louie Traub** @louietraub · Apr 13, 2022
 Today is my one year "regretiversary" of the vaccine that ruined my life. So to celebrate the fact it hasn't killed me (yet), here's a thread attempting to summarize the rollercoaster ride this last year has been...


31.32K


12.28K


1.34K

Impressions ⓘ

3M

Engagements ⓘ

602K

Detail expands ⓘ

482K

As a result of the online attention, Mr. Traub was blocked on Twitter by doctors, scientists, and journalists for telling his story and sharing scientific evidence on Covid-19 vaccine injuries. *See, e.g.*, “Scientific Publications Directory: Collection of Peer Reviewed Case Reports and Studies Citing Adverse Effects Post COVID Vaccination,” React19, <https://react19.org/science> (last visited Feb.3, 2024). He also received numerous hateful comments that were not removed by Twitter, despite going against Twitter’s hateful-conduct policy. *See* Hateful Conduct Policy, Twitter, <http://tinyurl.com/5n7tpwk2> (captured as of Apr. 15, 2022).

On April 24, 2022, Mr. Traub made a Twitter post tagging Ernest Ramirez (@rgvranner01), a fellow React19 member. The post acknowledged the one-year anniversary of the death of Mr. Ramirez’s son five days after receiving a Pfizer Covid vaccine:



Thereafter, Mr. Traub’s Twitter account was again temporarily locked for “spreading misleading and potentially harmful information related to COVID-19.”

On May 18, 2022, Mr. Traub tweeted out details of the symptoms he experienced immediately after vaccination, the diagnosis he received as a result, the government’s response, and the censorship he faced. One of the posts in that thread quoted a “post Covid vaccine syndrome” diagnosis from Mr. Traub’s neurologist:

 **Louie Traub**
@louietraub

Throughout the fall/winter I saw immunology, cardiology and neurology, all of which quietly admitted they see vax-injured patients daily, but had no idea what was going on or how to help, other than run tests that aren't made for this new diagnosis: Post-COVID Vaccine Syndrome.

 **Misleading**
Learn why health officials consider COVID-19 vaccines safe for most people. [Find out more](#)

10:52 AM · 5/18/22 · [Twitter Web App](#)

Chief Complaint/Reason For Visit

Date of Service: 02/22/2022
Patient presents for palpitations.

Assessment & Plan

41-year-old gentleman referred here with post Covid vaccine syndrome

Chief Complaint/Reason for Visit

Date of Service: 01/04/2022
Patient presents for numbness and Post COVID vaccine neurologic symptoms.

History of Present Illness

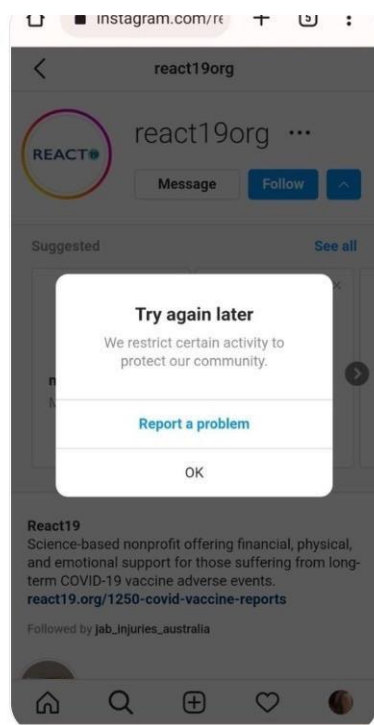
Mr. Traub is a 41-year-old gentleman who is here today for evaluation. He received his second dose of Covid vaccination on 4/13/2021 and developed reactions attributed to the shot. His symptoms at this time include linnitus, feeling his heartbeat in his brain, hearing loss, tingling, muscle atrophy, numbness of his tongue and limbs, muscle spasms, tremors, heart pressure, brain fog, excessive sweating, head pain.

5. Discussed avoidance of vaccines (outside of tetanus) for now given his ongoing symptoms and response

After hundreds of thousands of impressions, the post was flagged as misleading. Mr. Traub received his third Twitter strike, locking his account for 24 hours.

Soon thereafter, Mr. Traub engaged with a Twitter user who asked what supplements and medications he had been prescribed by his doctor. Mr. Traub's response resulted in his fourth Twitter strike for "misleading" and his account was locked for another 24 hours.

Around the same time, the React19 Instagram account was restricted and Mr. Traub began receiving messages from users stating that they were unable to follow React19's account:



Instagram won't let me follow your page! Keep getting this message!!!

I wonder how many others are being blocked from following this page 😊

Mr. Traub received his fifth Twitter strike after re-tweeting and commenting on a “Reuters Fact Check post” about Covid-19 vaccine safety. His account was locked for seven days.


On September 28, 2022, React19’s director of legal affairs Christopher Dreisbach (a lawyer) sent a letter to Vijaya Gadde, Twitter’s general counsel, requesting clarification after React19’s Twitter account was

instantly locked after a tweet that detailed a Covid-vaccine-injured woman's symptoms and the treatments that helped her get her life back. Mr. Dreisbach asked how this post had violated Twitter's policies. He received no response.

In October 2022, Facebook removed a React19 post and issued an account warning that lasted several months, restricting the visibility and interactivity of React19's account. The post at issue was a video reporting on a Covid-19 hearing before the European Parliament wherein a senior Pfizer executive stated that the vaccine had never been tested for its ability to stop the transmission of the virus. *See* Special Committee on COVID-19 Pandemic, European Parliament (Oct. 10, 2022), <http://tinyurl.com/5n8bzkjr>, at 15:22:58-15:23:19, 15:31:47-15:33:39 (testimony of Janine Small, Pfizer's president of international markets).

From December 2022 through November 2023, Mr. Traub's personal Facebook account and React19's account were restricted multiple times. These actions blocked him from being able to interact in any support groups or even make phone calls on the platform:

< Account Status X





Louie Traub
Account Restricted
Your posts will be moved lower in Feed for 22 days
[See Why](#)

Things You Manage




 **React19** >
Page · Warning

History X

Mar 2023

-  **You can't start or join calls** >
Ended on Mar 21, 2023 · Expired
-  **You can't use groups** >
Ended on Mar 21, 2023 · Expired

Dec 2022


-  **You can't use groups** >
Ended on Dec 10, 2022 · Expired
-  **You can't start or join calls** >
Ended on Dec 10, 2022 · Expired
-  **You can't post or comment** >
Ended on Dec 10, 2022 · Expired

This first restriction came after a post featuring a Japanese doctor who testified to the Japan’s Ministry of Health regarding vaccine harms. Following a six-day review, Facebook deemed the post “false information”:

Restriction Overview ×

- Dec 9, 2022
Your account is restricted for 24 hours

Why is your account restricted?
 Your previous posts didn't follow our Community Standards, so you can't do things like post or comment.



Louie Traub
 You shared this as **React19**
OPEN · Dec 9, 2022

>

The post repeats false information about COVID-19 that goes against our Community Standards.

Dr. Masanori Fukushima, Professor Emeritus at Kyoto University, warns about vaccine harms to the Japanese Ministry of Health: "The people who have the disease right now are not the ones..."

More recently, Facebook restricted Traub after he posted an article detailing the latest research being done by a well-respected scientist in Canada. *See* “Large COVID-19 Vaccine Injury Study Investigating the Biology Behind Serious Adverse Events,” *TrialSite News* (Feb. 21, 2023), <http://tinyurl.com/4bs23b8j>:



React19’s social-media growth continues to be at risk because of “flagged content that could mean we can’t recommend you anymore,” according to Facebook.

* * *

In the darkest moments of their lives, Ms. Dressen, Ms. Malik, Mr. Traub, and tens of thousands of others were silenced by the government at every turn. In collusion with private companies, the government deprived these injured people of their fundamental constitutional rights—just for sharing their personal experiences, seeking support, and seeking answers—all because their injuries contradicted a political narrative about the Covid-19 pandemic. The government added constitutional insult to medical injury.

CONCLUSION

The restrictions suffered by the individual *amici* parallel those suffered by the respondents. Time and again, React19 and its members were punished for spreading what the government deemed “misinformation,” preventing thousands of vaccine-injured people from receiving reliable medical resources and emotional support—sometimes with tragic consequences.

Indeed, the psychological trauma endured by members of Ms. Malik’s group and others in React19’s network at the hands of the government’s information control has contributed to suicides. It also dramatically impeded React19’s mission to provide support for this community. The government’s ongoing censorship regime, conducted through social-media platforms, continues to abridge First Amendment rights, depriving people of the opportunity to seek comfort in their times of crisis and destroying their ability to communicate relevant information about their condition.

Reversing the injunction would allow the government to perpetuate that information deficit regarding any issue of public concern. The Court should affirm.

Respectfully submitted,

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