In the Supreme Court of the United States

Vivek H. Murthy, Surgeon General, et al., Petitioners,

STATE OF MISSOURI, ET AL., Respondents.

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE FIFTH CIRCUIT

BRIEF FOR REPRESENTATIVE JIM JORDAN AND 44 OTHER MEMBERS OF CONGRESS AS AMICI CURIAE IN SUPPORT OF RESPONDENTS

GENE P. HAMILTON REED D. RUBINSTEIN MICHAEL DING America First Legal Foundation 611 Pennsylvania Ave. SE #921

CHRISTOPHER E. MILLS $Counsel\ of\ Record$ Spero Law LLC 557 East Bay Street #22251 Charleston, SC 29413 (843) 606-0640 mille@snero.law

TABLE OF CONTENTS

Page
ntsi
ritiesii
ici Curiae1
e Argument3
6
ed States has coerced speech about
ed States has coerced speech about nily influence peddling
d States has coerced speech about
curity and Infrastructure Security CISA)23
tion Integrity Partnership (EIP)27
States is funding research and ole censorship at scale
36

unlawful conduct—the Court should

ARGUMENT

States has coerced speech about

ourt found, the federal government ative views" about COVID-related the origination of the virus, the and masks, and the adverse effects fectively forcing social media ce the government's view as "the e district court listed over twenty ernment engaging in coercive acts ıl media companies to bring about 05–09. And the government's worked. Facebook agreed to VID-related speech in response to den Administration, telling the acebook would rely on their mine what content to censor. White House's own description, ibed the government's direction nt choices as a "partner[ship]." rcuit agreed, finding that the s "not only continued to take icials flagged and

In the Supreme Court of the United States

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

Petitioners,

٧.

STATE OF MISSOURI, ET AL., Respondents.

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE FIFTH CIRCUIT

BRIEF FOR REPRESENTATIVE JIM JORDAN AND 44 OTF

GENE P. HAN

REED D. RUI

MICHAEL DI

America Fir

Foundation

611 Pennsy.

Washingtor

(202)964-3

gene.hamil

#231

6

the injunction below rightfully halts the Administration's unlawful conduct—the Court should affirm.

ARGUMENT

I. The United States has coerced speech about COVID.

As the district court found, the federal government "suppressed alternative views" about COVID-related matters, including the origination of the virus, the efficacy of vaccines and masks, and the adverse effects of lockdowns, effectively forcing social media companies to enforce the government's view as "the truth." J.A. 213. The district court listed over twenty examples of the government engaging in coercive acts directed toward social media companies to bring about censorship. J.A. 205–09. And the government's pressure campaign worked. Facebook agreed to

YouTube Employee

Q Okay. And at any point when you were doing these collaborations with government agencies, was the government agency coercing YouTube in any way to participate in those relationships?

A No.

14

Q Would you say it was voluntary on the part of YouTube and the government?

A Yes. This was our approach across the world was to help health authorities get the information out there.

Q And that's because YouTube on its own has identified that mission as something that's important to the corporate mission of Google and YouTube?

A Yes, that's a top priority.

In the Supreme Court of the United States

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

Petitioners,

٧.

STATE OF MISSOURI, ET AL., Respondents.

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE FIFTH CIRCUIT

BRIEF FOR REPRESENTATIVE JIM JORDAN AND 44 OTF AM

GENE P. HAN

REED D. RUI

MICHAEL DI

America Fir

Foundation

611 Pennsy

Washingtor

(202)964-3

gene.hamil

#231

6

the injunction below rightfully halts the Administration's unlawful conduct—the Court should affirm.

ARGUMENT

The United States has coerced speech abou COVID.

As the district court found, the federal governmer "suppressed alternative views" about COVID-relate matters, including the origination of the virus, the efficacy of vaccines and masks, and the adverse effect of lockdowns, effectively forcing social med... companies to enforce the government's view as "the truth." J.A. 213. The district court listed over twenty examples of the government engaging in coercive acts directed toward social media companies to bring about censorship. J.A. 205–09. And the government's pressure campaign worked. Facebook agreed to

Google Employee

- Q Okay. Did U.S. Government officials ever threaten you or any other Google employee with adverse actions if Google refused to take any particular action that the government official desired?
 - A I don't recall any scenario like that.
- Q Did any U.S. Government official ever ask Google employees, to your knowledge, to promote or remove any content based on political or ideological viewpoint that was expressed?
 - A Not that I'm aware.
- Q Did anyone working at the White House ever order you to remove a post, an account, or any content from Google's platforms?
 - A Not that I'm aware of.

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 FOR REPRESENTATIVE JIM JORDAN AND 44 OTF

GENE P. HAN

REED D. RUI

MICHAEL DI

America Fir

Foundation

611 Pennsy

Washingtor

(202)964-3

gene.hamil

#231

6

the injunction below rightfully halts t Administration's unlawful conduct—the Court shot affirm.

ARGUMENT

I. The United States has coerced speech about 6 COVID.

As the district court found, the federal governm 7 "suppressed alternative views" about COVID-rela matters, including the origination of the virus, efficacy of vaccines and masks, and the adverse effe of lockdowns, effectively forcing social me companies to enforce the government's view as truth." J.A. 213. The district court listed over twenty examples of the government engaging in coercive acts directed toward social media companies to bring about censorship. J.A. 205–09. And the government's pressure campaign worked. Facebook agreed to

Google Employee

Are you familiar with the claim made by -- I think it was raised at the very beginning today and also made writ large in other hearings that we've had by some of the committee's Republicans -- that the Federal Government has colluded with Google and other private companies to censor certain types of political and ideological speech?

- A And when you say "familiar," you mean am I aware of it?
 - Q Yes.

22

23

- A Then, yes, I have awareness of the claim.
- Q Based on your experience, personal experience at Google, do you have any experience with such collusion actually taking place?
- A In my experience, Google across its range of services through the years has consistently made its own independent decisions with regards to what policies, practices, or product development it designs.
 - Q Thank you.

In the Supreme Court of the United States

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

STATE OF MISSOURI, ET AL., Respondents.

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE FIFTH CIRCUIT

BRIEF FOR REPRESENTATIVE JIM JORDAN AND 44 OTF REMIDERS OF CONGRESS AS

GENE P. HAN

REED D. RUI

MICHAEL DI

America Fir

Foundation

611 Pennsy

Washingtor

(202)964-3

gene.hamil

#231

rightfully injunction below Administration's unlawful conduct—the Court affirm.

ARGUMENT

The United States has coerced speech COVID.

As the district court found, the federal gove "suppressed alternative views" about COVIDmatters, including the origination of the vir efficacy of vaccines and masks, and the adverse of lockdowns, effectively forcing social companies to enforce the government's view truth." J.A. 213. The district court listed over 12 examples of the government engaging in coercive acts directed toward social media companies to bring about censorship. J.A. 205-09. And the government's pressure campaign worked. Facebook agreed to

• GOVID related speech in response to

Meta Employee						
25	Q	And you were asked earlier about consequences that you expected to face				
1	if or that	Meta expected to face, or the company, if it did not align its policies with what				
2	those who	were frustrated wanted. Did anyone in the U.S. Government threaten to				
3	retaliate if t	the company did not broaden its policies or enforce them more aggressively as				
4	you were as	sked?				
5	Α	No, not to my awareness.				
6	Q	And, to your knowledge, did the company change its policies in response to				
7	pressure fro	om the U.S. Government?				
8	Α	Not to my knowledge, no.				
9	Q	And, to your knowledge, did the company enforce its policies, take down any				
10	content, ma	ake any decisions because of or at the request of or because of pressure from				
11	the U.S. Go	vernment?				

No, not to my knowledge.

In the Supreme Court of the United States

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

Petitioners,

٧.

STATE OF MISSOURI, ET AL., Respondents.

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE FIFTH CIRCUIT

BRIEF FOR REPRESENTATIVE JIM JORDAN AND 44 OTF AM

GENE P. HAN

REED D. RUI

MICHAEL DI

America Fir

Foundation

611 Pennsy

Washingtor

(202)964-3

gene.hamil

#231

6

the injunction below rightfully Administration's unlawful conduct—the affirm.

ARGUMENT

I. The United States has coerced sp. COVID.

As the district court found, the federal government "suppressed alternative views" about COVID-related matters, including the origination of the virus, the efficacy of vaccines and masks, and the adverse effects of lockdowns, effectively forcing social media companies to enforce the government's view as "the truth." J.A. 213. The district court listed over twenty examples of the government engaging in coercive acts directed toward social media companies to bring about censorship. J.A. 205–09. And the government's pressure campaign worked. Facebook agreed to

Meta Employee

Q To your knowledge, has anyone in the FBI or the State Department or any other government agency ordered Meta to take down an account, page, or other content?

- A Not to my knowledge.
- Q And to your knowledge, has anyone in the FBI or any other government agency tried to coerce or pressure Meta into taking an account down or other content?

Again, not to my knowledge.

In the Supreme Court of the United States

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

٧.

STATE OF MISSOURI, ET AL., Respondents.

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE FIFTH CIRCUIT

BRIEF FOR REPRESENTATIVE JIM JORDAN AND 44 OTF

GENE P. HAN

REED D. RUI

MICHAEL DI

America Fir

Foundation

611 Pennsy

Washingtor

(202)964-3

gene.hamil

#231

6

the injunction below rightfully halts the Administration's unlawful conduct—the Court should affirm.

ARGUMENT

The United States has coerced speech about COVID.

As the district court found, the federal government "suppressed alternative views" about COVID-related matters, including the origination of the virus, the efficacy of vaccines and masks, and the adverse effects of lockdowns, effectively forcing social media companies to enforce the government's view as "the truth." J.A. 213. The district court listed over twenty examples of the government engaging in coercive acts directed toward social media companies to bring about censorship. J.A. 205–09. And the government's pressure campaign worked. Facebook agreed to

Meta Employee

1	5	Q	Okay. So that relationship began at least during the Trump administration	
-	6 or was active during the Trump administration.			
	7	Α	My memory is that that relationship began around when the task force was	
	8	created.		
天人	9	Q	And do you know when that was?	
	10	Α	I don't remember exactly, but it was during the Trump administration, yes.	
	11	Q	Thank you.	
	12	And	Meta's communication with the task force and relationship with the task	
	13	force is a voluntary choice that Meta makes, correct?		
	14	Α	Yes.	
	15	Q	You could choose not to receive information from them if you wanted to.	
	16	Α	True.	
	17	Q	And you could choose not to have members of your team attend their	
	18	meetings.		
	19	Α	Correct.	
	20	Q	And did any government official ever tell Meta that it was required to work	
	21	with or communicate with the task force?		
	22	Α	No.	
	23	Q	Why did Meta choose to work with the task force?	
	24	Α	We generally look to receive information from external parties. We would	
	25	much rather get information than not get it so that we can then subsequently conduct		
	1	our own investigation. And if we identify something that violates our policies, we then		
	2	take action.		