

**IN THE UNITED STATES DISTRICT COURT FOR  
THE DISTRICT OF DELAWARE**

NINA JANKOWICZ, )  
)  
Plaintiff, )  
)  
v. ) C.A. No. 23-cv-513-CFC  
)  
FOX NEWS NETWORK, LLC, and )  
FOX CORPORATION, )  
)  
Defendants. )  
)

**FIRST AMENDED COMPLAINT**

1. In the spring of 2022, Defendants Fox News Network, LLC, and Fox Corporation (collectively, “Fox”), which hold Fox out as a trusted news organization, began a malicious campaign of destruction against Plaintiff Nina Jankowicz because hounding her was good for Fox’s bottom line. Over the course of eight months in 2022, Fox talked about Jankowicz more than 300 times. Across its broadcast and online publications, Fox’s employee hosts and commentators derided and lied about Jankowicz on repeat—and continue to do so even today.
2. The story Fox fabricated about Jankowicz sprang from the creation of a government entity—the Disinformation Governance Board (the “Board”)—nested in the Department of Homeland Security (“DHS”), and from Jankowicz’s appointment as the Board’s Executive Director.

3. As soon as DHS announced the Board's creation and Jankowicz's appointment, Fox became obsessed. In the week that followed, about 70 percent of Fox's one-hour segments mentioned Jankowicz or the Board, always in false, melodramatic, and venomous terms. Fox recklessly disregarded the truth.
4. Among other things, Fox made three categories of repeated false claims about Jankowicz. First, over the course of over a year, Fox built a narrative calculated to lead consumers to believe that Jankowicz intended to censor Americans' speech. Anyone consuming Fox starting in April 2022 understood that Fox was telling them that Jankowicz and the Board were out to censor them and that they should be afraid of her.
5. Second, Fox hosts, guests, and/or commentators said that Jankowicz was fired from DHS. In fact, as Fox knew, Jankowicz had resigned due to harassment arising from Fox's defamation.
6. Third, Fox hosts, guests, and/or commentators said that Jankowicz wanted to give verified Twitter users the power to edit others' tweets. They relied extensively on an obviously manipulated video—the full version of which was publicly available—to transform her description (and indeed, skepticism) of a developing beta feature on Twitter into a false declaration that she would supposedly police online speech on the platform.

7. Fox enfolded these lies in ugly language that could have no other purpose than to denigrate Jankowicz's character and professional reputation, particularly since they continued long after Jankowicz's resignation from government. By turns, Fox described Jankowicz as moronic, an embarrassment to her parents and employers, and a "self-obsessed social media neophyte." Hosts and commentators referred to Jankowicz as, *inter alia*, "low IQ," "illiterate," "Miss TikTok meets America's Got No Talent," "disinfo overlord," "disinformation czaress," "minister of truth," "Scary Poppins," a "useful idiot," "janko-half-witz," a "lunatic," and "the wicked witch."
8. None of Fox's false claims about Jankowicz were the product of honest mistakes in its reporting. Rather, Fox intentionally trafficked in malicious falsehoods to pad its profits at the expense of Jankowicz's safety, reputation, and well-being.
9. The Board had no operational capabilities—and certainly no ability to censor. It existed to study how other components of DHS with operational authority responded to disinformation, recommend best practices that complied with constitutional and other civil liberties, and coordinate operational DHS components' discussion of their work concerning disinformation threatening national security. In short, the Board existed to advise on how other components of DHS could guard *against* censorship, not to perpetrate it.

10. If there was ever any question about Jankowicz's desire to be a censor, her copious record of public statements made clear she did not believe in censorship as a solution to the problem of disinformation threatening national security—or any other policy issue.
11. And if there were ever any question as to what the Board could or could not do, it was quickly resolved through public statements from DHS, current and former DHS officials, the White House, and—after she resigned amid the deluge of harassment and threats Fox's false coverage had instigated—later Jankowicz herself. Each of these statements made clear that the Board and Jankowicz as its Executive Director couldn't do anything operational with respect to disinformation, including supposed censorship, even if either the Board or Jankowicz had wanted to.
12. These public statements were further confirmed when the Board's charter was released publicly, describing its and Jankowicz's corresponding minimal scopes of authority.
13. But Fox never corrected its past statements, added additional context, or pushed back on the statements of its guests, which continued to describe Jankowicz as an Orwellian censor with seemingly infinite and actual authority to surveil and censor Americans, making operational and unilateral decisions about who to censor and what was true. Long after the Board was shelved,

Jankowicz resigned, and public sources showed the truth, Fox continued to accuse Jankowicz personally of being a government censor. None of it was ever true.

14. This commitment to stay the course even as readily available information contradicted statements of fact made on Fox's platforms, and as other platforms stopped covering the Board or Jankowicz in the same way (if they continued to at all), is consistent with Fox's practices in other contexts, including in its election denialism and the related defamation of Dominion Voting Systems<sup>1</sup> as well as other individuals such as Seth Rich.<sup>2</sup>
15. Fox's lies harmed Jankowicz by making her the public face of a fake and manufactured conspiracy about the Board. She was harassed, stalked, and received constant death threats. Jankowicz was forced to hire multiple attorneys to defend her in lawsuits baselessly accusing her of conspiracies and

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<sup>1</sup> Dominion's Combined Opp'n to Fox News Network, LLC's & Fox Corp.'s Rule 56 Mots. for Summ. J., *US Dominion, Inc. et al. v. Fox News Network, LLC*, No. N21C-03-257 EMD, at 17–33 (Del. Sup. Ct. Feb. 8, 2022; Redacted Public Version filed Feb. 27, 2023) (discussing what Fox knew and what it reported contemporaneously).

<sup>2</sup> *See Rich v. Fox News Network, LLC*, 939 F.3d 112, 117 (2d Cir. 2019) (reversing the lower court's grant of a motion to dismiss and finding that plaintiffs—the family of Democratic National Committee staffer Seth Rich who was murdered in 2016—had adequately alleged claims for intentional infliction of emotional distress, among other things, against Fox).

censorship, and to pursue protective orders against a threatening individual, all inspired by Fox's coverage.

16. As a policy expert, consultant, and academic focused on malicious actors' use of disinformation and how organizations can counter that disinformation, Fox's decision to describe her—contrary to all evidence—as taking on the authority and having the desire and ability to censor Americans' speech tangibly and directly harmed Jankowicz's business prospects in her chosen profession.
17. Furthermore, Fox's false coverage caused broader harm by distorting public debate and engendering conspiracy theories about a tyrannical government.
18. Threatening and harassing communications directed to Jankowicz were regularly linked to Fox's coverage of Jankowicz and nearly always premised on Fox's false statement that Jankowicz intended to police online speech and censor Americans. The barrage of threats and harassment constitute an actual threat to Jankowicz's and her family's safety, causing severe and foreseeable distress.
19. Fox and its agents have admitted that ratings—and profit—are their priority, and that they are willing to repeatedly publish demonstrably false statements of fact in pursuit of higher ratings and more profit. Fox's audience believed these statements about Jankowicz. They had no reason not to, because Fox

intentionally withheld information that refuted its claims. Moreover, Fox knows that its audience believes its hosts and commentators, even when they do not tell the truth.

20. Fox's coverage of Jankowicz was neither news nor political commentary; it was cheap, easy entertainment untethered from the facts, designed to make consumers believe that Jankowicz could and would suppress their speech. Fox chose to lie about Jankowicz deliberately. Its statements were false and calculated to cause harm, and they did. The First Amendment does not protect those who, like Fox, publish false statements of fact with knowledge or reckless disregard of the truth. Nor does it protect publishers that, as here, make or publish purposeful defamatory inferences.

### **PARTIES**

21. Plaintiff Nina Jankowicz, a resident of Virginia, is an internationally recognized expert in disinformation and author of two books: *How to Lose the Information War: Russia, Fake News and the Future of Conflict* and *How to Be a Woman Online: Surviving Abuse and Harassment, and How to Fight Back*. Through her professional experience and scholarship, Jankowicz explores bad actors' use of disinformation campaigns to obfuscate truth and harassment to silence women. As a result of Fox's malicious publications of

false statements of fact regarding Jankowicz, she found herself in the crosshairs of a business model predicated on disinformation and bullying.

22. For just a few short months, from March 2, 2022, through May 18, 2022, Jankowicz served as Executive Director of the Board. She resigned, and the Board's work was paused, as a result of Fox's false statements and the ensuing harassment.
23. Prior to her appointment to the Board, Jankowicz was, *inter alia*: a Fulbright fellow in Kyiv, Ukraine, where she worked with the Ukrainian Foreign Ministry on issues relating to Russian disinformation; a disinformation fellow at the nonpartisan Wilson Center; and a supervisor at the nonpartisan National Democratic Institute, where she oversaw programs centered in Russia and Belarus.
24. Jankowicz's published writings, public remarks, and other statements show that even in the context of a disinformation war, she believes censorship is ineffective and dangerous. In her book, *How to Lose the Information War*, Jankowicz explicitly makes that point, and it has been reiterated and attributed to her in a Wilson Center policy paper, readily accessible online.<sup>3</sup>

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<sup>3</sup> Nina Jankowicz & Shannon Pierson, *Freedom & Fakes: A comparative Exploration of Countering Disinformation & Protecting Free Expression*, Wilson Ctr. Sci. & Tech. Innovation Program (Dec. 2020), <https://www.wilsoncenter.org/publication/freedom-and-fakes-comparative-exploration-countering-disinformation-and-protecting-free>.



25. Jankowicz, when testifying before the United Kingdom Parliament regarding a proposed UK “Online Safety Bill” on September 13, 2021, noted her own “American perspective” that policies imposing liability on social media platforms as a mechanism to police online abuse should be avoided because they would encourage the companies to use content moderation “as a cudgel to eliminate speech” and that “we would need to be really careful about that.” Instead, she advocated for solutions that addressed “free speech concerns” with content moderation on social media in the context of online abuse.
26. After resigning from DHS on May 26, 2022, during an interview with NPR, Jankowicz said “[a]ddressing disinformation ... really isn’t about labeling or censoring individual facts” and that she had “spent a lot of [her] career talking about how we can’t just play what I call whack-a-troll to get out of our disinformation crisis.”
27. Defendant Fox News Network, LLC, is incorporated in Delaware and headquartered in New York. Fox News Network, LLC, is wholly owned by Defendant Fox Corporation, also a Delaware corporation headquartered in New York.
28. Together, Defendants, hereinafter referred to as “Fox,” operate Fox News Digital, the Fox Business Channel, and Fox News Radio. Fox’s digital assets include fox.com, foxnews.com, foxbusiness.com, Fox’s social media

accounts, and digital subscription services that operate under the umbrella of “Fox News Media.”

29. At the close of 2022, Fox boasted running the most widely watched television news network in the nation for seven consecutive years and averaged a primetime audience of 2.3 million viewers between 8 and 11 pm EST.<sup>4</sup>
30. At all relevant times, the following individuals were Fox’s employees and agents:
  - a) Maria Bartiromo, current host of *Mornings with Maria* (formerly *Opening Bell with Maria Bartiromo*) (2014–present), current host of *Sunday Morning Futures with Maria Bartiromo* (2014–present);
  - b) Paul Best, current reporter on Fox News Digital and Fox Business (online) (2020–present), former producer on *Kennedy* (2016–2020);
  - c) Dan Bongino, former host of *Unfiltered with Dan Bongino* (2021–2023), former host of *Canceled in the USA* (2021–2022), former contributor to various other Fox shows (2019–2021);
  - d) Will Cain, current co-host of *Fox & Friends Weekend* (2020–present), current host of *The Will Cain Podcast* (2021–present);

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<sup>4</sup> Brian Flood, “Fox News crushes CNN, MSNBC in 2022, finishes No. 1 among all of cable for 7th straight year,” Fox News (Dec. 15, 2022), <https://www.foxnews.com/media/hannity-the-disinformation-board-wont-be-policing-any-of-bidens-lies>.

- e) Tucker Carlson, former host of *Tucker Carlson Tonight* (2016–2023), former co-host of *Fox & Friends Weekend* (2012–2016), former contributor to various other Fox shows, including *Special Report with Bret Baier* and *Hannity* (2009–2013);
- f) Emily Compagno, current co-host of *Outnumbered* (2021–present), current podcast host of *The Fox True Crime Podcast with Emily Compagno* (2023–present), former contributor to various other Fox shows (2018–2021);
- g) Rachel Campos Duffy, current co-host of *Fox & Friends Weekend* (2021–present), current co-host of *From the Kitchen Table: The Duffys Podcast* (2021–present), former guest co-host of *Outnumbered*;
- h) Harris Faulkner, current host of *The Faulkner Focus* (2021–present), current co-host of *Outnumbered* (2014–present);
- i) Trace Gallagher, current anchor of *Fox News at Night* (2022–present), former co-anchor of *The Live Desk*, current reporter and correspondent on various shows (1996–present);
- j) Greg Gutfeld, current host of *Gutfeld!* (2021–present), current co-host of *The Five* (2011–present), former host of *Red Eye* (2007–2015);

- k) Sean Hannity, current host of *Hannity* (2009–present), former co-host of *Hannity & Colmes* (1996–2009);
- l) Pete Hegseth, current co-host of *Fox & Friends Weekend* (2017–present), former contributor to various Fox shows (2014–2017);
- m) Laura Ingraham, current host of *The Ingraham Angle* (2017–present), former contributor to various other Fox shows (2007–2017);
- n) Brian Kilmeade, current co-host of *Fox & Friends* (1998–present);
- o) Tomi Lahren, current contributor to various Fox shows (2017–present);
- p) Elizabeth MacDonald, current host of *The Evening Edit with Elizabeth MacDonald* (2014–present), former stocks editor on Fox Business (2007–2014);
- q) Lisa Kennedy Montgomery, current host of *Kennedy* (2015–present), former co-host of *The Independents* (2013–2015), former contributor to various Fox shows (2013);
- r) Deroy Murdock, current contributor to various Fox shows;
- s) Katie Pavlich, current rotating panelist on *Outnumbered* (about 2019–present), current and former contributor to various Fox shows;
- t) Todd Piro, current co-host of *Fox & Friends First* (2020–present);

- u) Jeanine Pirro, current co-host of *The Five* (2022–present), former host of *Justice with Jeanine Pirro* (2011–2022), former legal analyst and contributor to various Fox shows (2006–2011);
- v) Carly Shimkus, current co-host of *Fox & Friends First* (2021–present); former reporter, production assistant, and associate producer on various Fox shows, including *Fox News Headlines 24/7* and *Fox & Friends*;
- w) Sandra Smith, current co-anchor of *America Reports with John Roberts & Sandra Smith* (2021–present), former guest host, reporter, and contributor to various shows (2007–2021);
- x) Lara Trump, former contributor to various Fox shows (2021–2022); and
- y) Jesse Watters, current host of *Jesse Watters Primetime* (2022–present), current co-host of *The Five* (2017–present), former host of *Watters’ World* (2017–2022).
- z) Fox regularly invited guests to speak about Jankowicz on its programs, knowing that these guests would repeat and/or amplify the claims made by its agents and employees. Such guests, all of whom appear regularly on Fox and most of whom have brief biographies published on foxnews.com, include:

- i. Representative Andy Biggs of Arizona's Fifth Congressional District;
- ii. Chris Bedford, senior editor at *The Federalist* and vice chair of Young Americans for Freedom;
- iii. Tennessee Senator Marsha Blackburn;
- iv. Arkansas Senator Tom Cotton;
- v. Tom Fitton, president of Judicial Watch;
- vi. Ben Ferguson, host of *The Ben Ferguson Show*;
- vii. Kara Frederick, director of the Tech Policy Center at The Heritage Foundation;
- viii. Victor Davis Hanson, Senior Fellow at the Hoover Institution;
- ix. Representative Jim Jordan of Ohio's Fourth Congressional District;
- x. Louisiana Senator John Kennedy;
- xi. Political advisor Stephen Miller;
- xii. Rob Smith, contributor for *Turning Point USA*;
- xiii. Carl Szabo, vice president and general counsel for NetChoice and professor of internet law at the George Mason University's Antonin Scalia Law School;
- xiv. Michele Tafoya, host of *The Michele Tafoya Podcast*; and

- xv. Representative Jeff Van Drew of New Jersey's Second Congressional District.

### **JURISDICTION & VENUE**

31. This action was originally filed in Delaware Superior Court. Defendants removed the case to this Court on May 11, 2023. This Court has general jurisdiction over Defendants, which are incorporated in the State of Delaware. Del. Const. art. 4, § 7; 10 Del. C. §§ 541, 3104(c)(4).
32. This Court has subject matter jurisdiction because this action is between citizens of different states and the matter in controversy exceeds the sum or value of \$75,000, exclusive of interest and costs. 28 U.S.C. § 1332(a)(1).
33. Venue is proper in this Court because Defendants are citizens of Delaware. 28 U.S.C. § 1391(b)(1).

### **FACTUAL ALLEGATIONS**

#### **I. The Board is announced and Jankowicz is appointed.**

34. On April 27, 2022, DHS announced the formation of the Board and the appointment of Jankowicz as Executive Director.
35. The same day, Jankowicz posted the news on her personal Twitter account and explained that “one of the key reasons the Board was established, is to maintain the Dept’s [DHS] commitment to protecting free speech, privacy, civil rights, & civil liberties.”

## II. Fox immediately targets and ridicules Jankowicz.

36. Fox’s obsession with Jankowicz began immediately after DHS announced the creation of the Board in late April 2022. In the ensuing week, Fox covered Jankowicz and/or the Board during 93 one-hour programs—that is, in 70% of its one-hour programs that week. Collectively, about 143,833,010 households viewed these broadcasts.
37. Before being appointed to the Board, Jankowicz, a long-time musical theater fan, posted short videos of herself performing to a fairly small following on social media. Fox played these videos *ad nauseam*, particularly a short TikTok video of Jankowicz singing a disinformation-themed parody of “Supercalifragilisticexpialidocious” from the musical “Mary Poppins.”<sup>5</sup> Laura Ingraham, host of *The Ingraham Angle*, described Jankowicz as “off key, and a really bad Julie Andrews impersonation,” and “part angry feminist, part frustrated karaoke singer.”<sup>6</sup> When frequent guest Stephen Miller called her a “wannabe, off-key, failed Broadway star,”<sup>7</sup> Fox ran with the description,

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<sup>5</sup> Pete Hegseth, *FOX & Friends Sunday*, Fox News (May 1, 2022), [https://archive.org/details/FOXNEWSW\\_20220501\\_100000\\_FOX\\_and\\_Friends\\_Sunday/start/2019/end/2079?q=nina+jankowicz](https://archive.org/details/FOXNEWSW_20220501_100000_FOX_and_Friends_Sunday/start/2019/end/2079?q=nina+jankowicz).

<sup>6</sup> Laura Ingraham, *The Ingraham Angle*, Fox News (Apr. 29, 2022), <https://www.foxnews.com/video/6305412170112>.

<sup>7</sup> Stephen Miller, *Jesse Watters Primetime*, Fox News (Apr. 29, 2022), [https://archive.org/details/FOXNEWSW\\_20220429\\_230000\\_Jesse\\_Watters\\_Prime\\_time/start/480/end/540](https://archive.org/details/FOXNEWSW_20220429_230000_Jesse_Watters_Prime_time/start/480/end/540).



quoting Miller and calling Jankowicz a “fake Broadway star” in the headline of an online article later that day.<sup>8</sup> This was only the beginning. Between April and December 2022, Fox ridiculed Jankowicz related to musical theater dozens of times.<sup>9</sup>

38. And what was the point of bullying Jankowicz day in and day out? Fox’s coverage was calculated to ridicule and embarrass Jankowicz because doing so reinforced a caricature of Jankowicz that fit Fox’s fabricated narrative that she was an “unhinged” Orwellian “Minister of Truth,” intent on policing what ordinary American citizens could and could not say.<sup>10</sup>

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<sup>8</sup> Fox News Staff, “Stephen Miller calls Biden’s disinformation expert Nina Jankowicz a ‘fake Broadway star,’” Fox News (Apr. 29, 2022), <https://www.foxnews.com/media/stephen-miller-biden-disinformation-expert-nina-jankowicz>.

<sup>9</sup> See, e.g., Pete Hegseth, *FOX & Friends Sunday*, Fox News (May 1, 2022) (“[T]his cringeworthy TikTok you’ve probably seen once or twice, and we’re going to drill into your head till you can’t forget it.”), [https://archive.org/details/FOXNEWSW\\_20220501\\_100000\\_FOX\\_and\\_Friends\\_Sunday/start/2019/end/2079?q=nina+jankowicz](https://archive.org/details/FOXNEWSW_20220501_100000_FOX_and_Friends_Sunday/start/2019/end/2079?q=nina+jankowicz); Lisa Kennedy Montgomery, *Kennedy*, Fox Business (May 2, 2022) (reacting to Jankowicz’s TikTok video, Kennedy Montgomery said, “I need to take a bath in battery acid. That is so weird, and gross, and she is our new agency”), [https://archive.org/details/FBC\\_20220502\\_230000\\_Kennedy/start/60/end/120](https://archive.org/details/FBC_20220502_230000_Kennedy/start/60/end/120).

<sup>10</sup> Dan Bongino, *Unfiltered with Dan Bongino*, Fox News (Apr. 30, 2022), [https://archive.org/details/FOXNEWSW\\_20220501\\_010000\\_Unfiltered\\_With\\_Dan\\_Bongino/start/2700/end/2760](https://archive.org/details/FOXNEWSW_20220501_010000_Unfiltered_With_Dan_Bongino/start/2700/end/2760); see also Sean Hannity, *Hannity*, Fox News (May 2, 2022) (calling Jankowicz “our new disinformation minister”), [https://archive.org/details/FOXNEWSW\\_20220503\\_010000\\_Hannity/start/540/end/600](https://archive.org/details/FOXNEWSW_20220503_010000_Hannity/start/540/end/600); Guest, Sen. Tom Cotton, *The Faulkner Focus*, Fox News (May 19, 2022) (describing the Board as “a Ministry of Truth to label or censor speech.”),

39. As Will Cain put it on *Fox & Friends Saturday*, they wanted the public to see Jankowicz as an “absolutely cartoonish character they’ve chosen to take over and tell us all what is and is not true.”<sup>11</sup> While Fox is free to choose adjectives, it cannot intentionally misrepresent the words and actions of people like Jankowicz to benefit their own bottom line, knowing fully that those misrepresentations will devastate personal and professional lives.
40. On April 28, 2022, then-host Tucker Carlson told viewers that DHS would use the Board—the “Ministry of Truth” as he called it—to “get men with guns to tell you to shut up.” He went on to say that Jankowicz was “now in charge of policing speech” and that Jankowicz had “plans to censor you from saying what you think is true.”<sup>12</sup>
41. In this instance and numerous others, Fox used Jankowicz’s photo as a visual placeholder when discussing the supposed threat of the Board, even when not discussing her personally, consistently implying that Jankowicz was coterminous with the Board:

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[https://archive.org/details/FOXNEWSW\\_20220519\\_150000\\_The\\_Faulkner\\_Focus/start/420/end/480](https://archive.org/details/FOXNEWSW_20220519_150000_The_Faulkner_Focus/start/420/end/480).

<sup>11</sup> Will Cain, *Fox & Friends Saturday*, Fox News (Apr. 30, 2022), [https://archive.org/details/FOXNEWSW\\_20220430\\_100000\\_FOX\\_and\\_Friends\\_Saturday/start/300/end/360](https://archive.org/details/FOXNEWSW_20220430_100000_FOX_and_Friends_Saturday/start/300/end/360).

<sup>12</sup> Tucker Carlson, *Tucker Carlson Tonight*, Fox News (Apr. 28, 2022), [https://archive.org/details/FOXNEWSW\\_20220429\\_050000\\_Tucker\\_Carlson\\_Tonight/start/60/end/120](https://archive.org/details/FOXNEWSW_20220429_050000_Tucker_Carlson_Tonight/start/60/end/120).



42. Laura Ingraham and Hannity described Jankowicz respectively as “your new Disinformation Czar” who “will protect you from free expression and the fanatics who support it,”<sup>13</sup> and as “the administration’s official purveyor of truth.”<sup>14</sup>
43. Not to be outdone, co-host of *The Five*, Jeanine Pirro drew her colleagues’ commentary together into a complete, entirely false picture, explaining that the government was creating “a disinformation group where we can say what we think is not correct, and we suffered under their thumb, the Russian collusion delusion . . . the only thing they want, they want to be able to control what we say to each other and what we think . . . their effort to muzzle us . . .

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<sup>13</sup> Laura Ingraham (@IngrahamAngle), Twitter (Apr. 28, 2022), <https://twitter.com/ingrahamangle/status/1519766864506798083>.

<sup>14</sup> Sean Hannity, *Hannity*, Fox News (Apr. 28, 2022), [https://archive.org/details/FOXNEWSW\\_20220429\\_060000\\_Hannity/start/720/end/780](https://archive.org/details/FOXNEWSW_20220429_060000_Hannity/start/720/end/780).

is really an effort to control this country in ways we've never seen before.”<sup>15</sup>

None of this was true.

44. The next day, on April 29, 2022, numerous speakers referenced Jankowicz and the Board on 11 separate segments. Hannity repeated the falsehood that the Board was “in charge of policing disinformation,” and that Jankowicz is now “the person that polices our thoughts.”<sup>16</sup> This was followed by yet another image of Jankowicz.



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<sup>15</sup> Jeanine Pirro, *The Five*, Fox News (Apr. 28, 2022), <https://www.foxnews.com/media/homeland-security-mayorkas-hearing-disinformation-governance-board-pirro-five>.

<sup>16</sup> Sean Hannity, *Hannity*, Fox News (Apr. 29, 2022), <https://www.foxnews.com/media/hannity-the-disinformation-board-wont-be-policing-any-of-bidens-lies>.

45. The same day, Fox News tweeted: “What you’re seeing is a full-scale attack on free speech in a country that has been free for nearly 250 years.”<sup>17</sup>
46. On *Fox & Friends*, Carly Shimkus said Jankowicz is “lead[ing] a government board in charge of deciding what we can and cannot say.”<sup>18</sup> On *Outnumbered*, Emily Compagno said Jankowicz is “now the official referee of disinformation” and also a “self-obsessed social media neophyte [who the country has now set as] as the champion, as the arbiter of truth.”<sup>19</sup> Greg Gutfeld followed suit on *Gutfeld!*, warning that the Board “will likely target you,” and stating unequivocally that the goal of the Board is “to police your opinions, to hide their bad news or magically turn it into good news.”<sup>20</sup>
47. The claims were sometimes couched in opinion, but often were not. Pirro asked, “Would a moderate president create a disinformation bureau to actually police speech? That belongs in communist China, not America.” Her question was premised on a false statement about the Board. About

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<sup>17</sup> Fox News (@FoxNews), Twitter (Apr. 29, 2022), <https://twitter.com/FoxNews/status/1519896780741173248>.

<sup>18</sup> Carly Shimkus, *Fox & Friends First*, Fox News (Apr. 29, 2022), [https://archive.org/details/FOXNEWSW\\_20220429\\_080000\\_FOX\\_\\_Friends\\_First/start/240/end/300](https://archive.org/details/FOXNEWSW_20220429_080000_FOX__Friends_First/start/240/end/300).

<sup>19</sup> Emily Compagno, *Outnumbered*, Fox News (Apr. 29, 2022), [https://archive.org/details/FOXNEWSW\\_20220429\\_160000\\_Outnumbered/start/300/end/360](https://archive.org/details/FOXNEWSW_20220429_160000_Outnumbered/start/300/end/360).

<sup>20</sup> Greg Gutfeld, *Gutfeld!*, Fox News (Apr. 29, 2022), <https://www.foxnews.com/opinion/greg-gutfeld-white-house-wants-police-opinions>.

Jankowicz, she added: “The woman is not qualified to run anything, let alone tell us what we can and cannot say.”<sup>21</sup>

48. Still on April 29, Fox invited Representative Andy Biggs to continue the tirade on *America Reports with John Roberts & Sandra Smith*. Representative Biggs stated that “Jankowicz [is to] head this bureau that’s going to spy and target Americans.”<sup>22</sup> Next, Hannity described the Board as a “truth ministry,” and Jankowicz as a “far-left radical democrat [who] believes her opinions are facts and yours are disinformation.”<sup>23</sup> Greg Gutfeld repeated the same lie again in his own words: “The people lying want to be the arbiters of truth.” “The government now holds the reins on truth.”<sup>24</sup>
49. On *Fox & Friends First*, Tom Fitton summarized the essence of the deluge of false statements clearly: “Their goal is to encourage censorship.” Jankowicz’s image was displayed on screen, and appeared for at least 95 seconds of the five-and-a-half minute clip.

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<sup>21</sup> Jeanine Pirro, *Jesse Watters Primetime*, Fox News (Apr. 29, 2022), <https://www.foxnews.com/media/judge-jeanine-elon-musk-wrong-recent-tweet-all-gone-fully-woke>.

<sup>22</sup> Guest, Rep. Andy Biggs, *America Reports with John Roberts & Sandra Smith*, Fox News (Apr. 29, 2022), [https://archive.org/details/FOXNEWSW\\_20220429\\_170000\\_America\\_Reports\\_With\\_John\\_Roberts\\_\\_Sandra\\_Smith/start/4200/end/4260](https://archive.org/details/FOXNEWSW_20220429_170000_America_Reports_With_John_Roberts__Sandra_Smith/start/4200/end/4260).

<sup>23</sup> Sean Hannity, *Hannity*, Fox News (Apr. 29, 2022), <https://www.foxnews.com/media/hannity-the-disinformation-board-wont-be-policing-any-of-bidens-lies>.

<sup>24</sup> Greg Gutfeld, *Gutfeld!*, Fox News (Apr. 29, 2022), <https://www.dailymotion.com/video/x8ag1qu>.



50. Fitton then described Jankowicz as “an extremist” and explained exactly what he meant: “If you don’t want your fellow citizens to have the right to share their views, you’re necessarily an extremist and shouldn’t be anywhere near the levers of government.”<sup>25</sup>
51. Jankowicz has never advocated for individuals to be prevented from speaking and has publicly condemned censorship as ineffective against disinformation. Even the most cursory examination of her publicly available writings, statements, and positions confirms her opposition to censorship. Moreover, as the extraordinary quantity and content of its coverage shows, Fox has reviewed Jankowicz’s online content, and then selected bits and pieces out of context to mischaracterize her views and disparage her personally.

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<sup>25</sup> Tom Fitton, *Fox & Friends First*, Fox News (Apr. 29, 2022), <https://www.youtube.com/watch?v=bd2mYCDKpf0>.

52. The next day, invited guest Senator Marsha Blackburn added to the fabricated narrative on *Fox News Live*: “What we know is this Disinformation Governance Board is put there to allow the Biden administration to censor political free speech.” She claimed: “What they’re trying to do is take away your free speech.”<sup>26</sup> Again, Jankowicz’s face was used as a placeholder for discussion of the Board.



53. Dan Bongino took up the baton, echoing Carlson’s earlier implication that the Board has a law enforcement capacity and might use violence against disinformation, saying: “If this Ministry of Truth is allowed to continue, and a law enforcement body of the US government is allowed to declare edicts about what is true and what isn’t, the constitutional republic is dead as a

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<sup>26</sup> Guest, Sen. Marsha Blackburn, *Fox News Live*, Fox News (Apr. 30, 2022), [https://archive.org/details/FOXNEWSW\\_20220430\\_160000\\_Fox\\_News\\_Live/start/1560/end/1620](https://archive.org/details/FOXNEWSW_20220430_160000_Fox_News_Live/start/1560/end/1620).



doornail, this thing is over and done with.”<sup>27</sup> Rachel Campos-Duffy piled on, lamenting “that there are young women like this that are willing to take a position like this and act basically as the, you know, the Ministry of Truth in a Chinese style kind of department within Homeland Security?” Brian Kilmeade added that Jankowicz will “be telling you what’s true and what’s not—maybe you’ll go to jail” and she “will be the czar of information with this presidency.”<sup>28</sup>

**III. The federal government offers additional public clarifications that the Board is an internal working group with no operational authority.**

54. On May 1, 2022, Homeland Security Secretary Alejandro Mayorkas appeared for an interview on *Fox News Sunday*. In an interview with Brett Baier, Secretary Mayorkas discussed a variety of topics, including describing the Board’s purpose and structure. Secretary Mayorkas explained that the Board was a “working group that takes best practices to make sure that in addressing disinformation that presents a threat to the homeland that [DHS’] work does not infringe on free speech, does not infringe on civil rights, civil liberties.”

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<sup>27</sup> Dan Bongino, *Unfiltered with Dan Bongino*, Fox News (Apr. 30, 2022), [https://archive.org/details/FOXNEWSW\\_20220501\\_010000\\_Unfiltered\\_With\\_Dan\\_Bongino/start/2700/end/2760](https://archive.org/details/FOXNEWSW_20220501_010000_Unfiltered_With_Dan_Bongino/start/2700/end/2760).

<sup>28</sup> Brian Kilmeade, *One Nation with Brian Kilmeade*, Fox News (Apr. 30, 2022), [https://archive.org/details/FOXNEWSW\\_20220501\\_060000\\_One\\_Nation\\_With\\_Brian\\_Kilmeade/start/2149/end/2209?q=nina+jankowicz](https://archive.org/details/FOXNEWSW_20220501_060000_One_Nation_With_Brian_Kilmeade/start/2149/end/2209?q=nina+jankowicz).

Distinguishing from the Board, Secretary Mayorkas also explained the preexisting approach of operational components of DHS in responding to disinformation, referencing as an example the practice in Customs and Border Protection of countering disinformation by appearing “on creole language stations” to provide accurate information to non-English speakers.

55. Even though Secretary Mayorkas clearly communicated the Board’s intended activities and explained its purpose, Fox continued to pursue the same false narrative without change. Secretary Mayorkas had presented an accurate account, no evidence to the contrary existed, and Fox knowingly stayed on its inaccurate, fabricated course, continuing to make false statements about Jankowicz and the Board.
56. The next day—May 2, 2022—DHS published a “Fact Sheet” about the Board titled: “DHS Internal Working Group Protects Free Speech and Other Fundamental Rights When Addressing Disinformation That Threatens the Security of the United States.”<sup>29</sup>
57. The fact sheet went on to explain that the Board “is an internal working group that was established with the explicit goal of ensuring [free speech and civil liberties] protections are incorporated across DHS’s disinformation-related

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<sup>29</sup> <https://www.dhs.gov/news/2022/05/02/fact-sheet-dhs-internal-working-group-protects-free-speech-other-fundamental-rights>

work and that rigorous safeguards are in place. The working group also seeks to coordinate the Department's engagements on this subject with other federal agencies and a diverse range of external stakeholders.”

58. The fact sheet stated that the Board “does not have any operational authority or capability.” In other words, even if Jankowicz as the Board's Executive Director wanted to engage in censorship, which she did not, the Board was not set up to allow it. The fact sheet made clear that Fox's reporting was nothing more than nightmarish delirium. Even if Jankowicz had wanted to censor or direct speech—a claim for which there was no evidence—she lacked the authority to do so.
59. At a press briefing on May 2, 2022, White House Press Secretary Jen Psaki elaborated further that the Board was an internal working group. In response to questions from Fox News' own White House correspondent, Peter Doocy, Psaki explained that the Board was meant to “help coordinate internal activities from [DHS] related to disinformation that poses a threat to the homeland.” She went on to make clear that “the [Board's] mandate is not to adjudicate what is true or false online.” When asked whether the Board would have any public-facing functions, Psaki said they might “consider putting out

public products that represent[] the department’s view on disinformation related matters....”<sup>30</sup>

60. Covering the partisan blowback to the Board’s announcement—largely instigated by Fox’s false and persistent narrative—on May 2, 2022, the New York Times interviewed John Cohen, the former acting head of DHS’ intelligence branch.<sup>31</sup> Cohen explained to the Times that DHS “made the decision to form the board last year [2021] after it completed a study in the summer that recommended establishing a group to review questions of privacy and civil liberty for online content.” Cohen went on to say that the Board’s function was “making sure that when the department’s components are doing that analysis, they’re operating in a manner consistent with their authorities.” He specifically refuted the claims that the Board would police speech or censor anyone. He said, “[i]t’s not a big room with feeds from Facebook and Twitter popping up . . . . It looks at policy issues, it looks at best practices, it looks at academic research relating to how disinformation influences the threat environment.”

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<sup>30</sup> <https://www.whitehouse.gov/briefing-room/press-briefings/2022/05/02/press-briefing-by-press-secretary-jen-psaki-may-2-2022/>

<sup>31</sup> <https://www.nytimes.com/2022/05/02/technology/partisan-dhs-disinformation-board.html>

61. Then on May 4, 2022, Secretary Mayorkas testified before the Senate Homeland Security Appropriations Subcommittee.<sup>32</sup> During his testimony, Secretary Mayorkas again explained—under oath—that the Board would not “exercise operational authority” and “does not have operational capability.” He elaborated that the Board was intended to develop “standards and policies . . . so the disinformation work that has been ongoing in [DHS] for nearly 10 years does not infringe on people’s free speech rights, privacy rights, civil rights, and civil liberties.” Secretary Mayorkas also said that the Board is “not the truth police,” especially because “it does not have any operational authority or capability.”
62. In other words, through media, briefings, fact sheets, and testimony under oath, DHS, Secretary Mayorkas, former officials, and even the White House Press Secretary in response to Fox News’ own questions confirmed that the story Fox was telling about Jankowicz and the Board and the claims it was making about government censorship were uniformly false. And Fox knew that its claims were false because it was following Jankowicz and the Board’s every move while exclusively publishing false claims that sensationalized the story despite knowing they were false, the lack of context was misleading, and

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<sup>32</sup> <https://www.pbs.org/newshour/amp/politics/watch-live-dhs-secretary-mayorkas-testifies-in-senate-as-end-of-title-42-immigration-rule-nears>

the false coverage was actively harming Jankowicz. In fact, Jankowicz was supposed to oversee an internal working group that only ever intended to study and recommend practices for other parts of DHS to consider.

**IV. Fox continues to falsely claim that Jankowicz is censoring Americans as Executive Director of the Board.**

63. None of the statements made between May 1 and 4, 2022, by the federal government or former officials made any dent in Fox’s narrative—nor did Fox incorporate these statements into its ongoing reporting. Fox and its hosts, contributors, and guests continued to level the same accusations about Jankowicz and the Board.

64. On May 2, 2022, Carlson stated that Jankowicz works for an agency that is now “controlling what you say.”<sup>33</sup> Carlson renewed his claim that Jankowicz had access to weapons and might use them in connection with her Board role, stating: Jankowicz is “a law enforcement official that works for the biggest law enforcement agency in the country with stockpiles of ammo to the tune of millions of rounds per year.”<sup>34</sup>

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<sup>33</sup> Tucker Carlson, *Tucker Carlson Tonight*, Fox News (May 2, 2022), [https://archive.org/details/FOXNEWSW\\_20220503\\_050000\\_Tucker\\_Carlson\\_Tonight/start/2160/end/2220](https://archive.org/details/FOXNEWSW_20220503_050000_Tucker_Carlson_Tonight/start/2160/end/2220).

<sup>34</sup> *Id.*

65. On *Mornings with Maria Bartiromo*, Kara Frederick warned: “Mark my words: [the Board] will be turned on their political enemies.” She continued: “We can’t allow them to create new boards that are clearly going to be partisan and target normal ordinary Americans simply for having a voice. It starts there.”<sup>35</sup> Again, Jankowicz’s image was used during this discussion.



66. Also on May 2, Hannity claimed that free speech is under threat from the “creepy new Disinformation Governance Board, or as we call it on this show, the socialist democrat’s minister of leftist truth.” He went on: the Board is “yet another government program that gets used and abused to monitor Americans’ communications,” and Jankowicz is “our new disinformation

<sup>35</sup> Kara Frederick, *Mornings with Maria Bartiromo*, Fox News (May 2, 2022), [https://archive.org/details/FBC\\_20220502\\_100000\\_Mornings\\_With\\_Maria\\_Bartiromo/start/6540/end/6600](https://archive.org/details/FBC_20220502_100000_Mornings_With_Maria_Bartiromo/start/6540/end/6600).

minister.”<sup>36</sup> Sandra Smith added “This is not about monitoring people, it’s about deciding what is the truth.” Jankowicz, Smith said, will be “deciding what qualifies as the truth.”<sup>37</sup> And Lisa Kennedy Montgomery claimed that Jankowicz had “thought control” and “broad power to decide what the administration considers true and false.”<sup>38</sup>

67. On May 3, 2022, Kilmeade continued the fabrication, claiming that the “purview of the Disinformation Czar” could be “anything that pops up,” “so when in doubt, suspend the accounts that do it, stop people from reading it.”<sup>39</sup> This idea—that Jankowicz could “suspend . . . accounts”—was pure invention.

68. On May 5, 2022, Carlson put a new spin on the same portrayal, saying: “So it turns out you’re not allowed to say things that she doesn’t like, or you’re a

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<sup>36</sup> Sean Hannity, *Hannity*, Fox News (May 2, 2022), [https://archive.org/details/FOXNEWSW\\_20220503\\_010000\\_Hannity/start/540/end/600](https://archive.org/details/FOXNEWSW_20220503_010000_Hannity/start/540/end/600).

<sup>37</sup> Sandra Smith, *America Reports with John Roberts & Sandra Smith*, Fox News (May 2, 2022), [https://archive.org/details/FOXNEWSW\\_20220502\\_170000\\_America\\_Reports\\_With\\_John\\_Roberts\\_\\_Sandra\\_Smith/start/3720/end/3780](https://archive.org/details/FOXNEWSW_20220502_170000_America_Reports_With_John_Roberts__Sandra_Smith/start/3720/end/3780).

<sup>38</sup> Lisa Kennedy Montgomery, *Kennedy*, FOX Business (May 2, 2022), [https://archive.org/details/FBC\\_20220502\\_230000\\_Kennedy/start/0/end/60](https://archive.org/details/FBC_20220502_230000_Kennedy/start/0/end/60).

<sup>39</sup> Brian Kilmeade, *The Faulkner Focus*, Fox News (May 3, 2022), [https://archive.org/details/FOXNEWSW\\_20220503\\_150000\\_The\\_Faulkner\\_Focus/start/1440/end/1500](https://archive.org/details/FOXNEWSW_20220503_150000_The_Faulkner_Focus/start/1440/end/1500).



disinformer for profit probably working for Putin.”<sup>40</sup> Ben Ferguson doubled down on the unfounded fearmongering: “They’re gonna come after parents. They’re gonna come after people online. They’re gonna come after people at the border. They’re gonna come after legitimate news stories.”<sup>41</sup>

69. In a piece published on Fox’s website, Deroy Murdock wrote that the Board is “a taxpayer-funded thought-police bureau that monitors public utterances, condemns them as ‘disinformation’ and then flags them for dutiful erasure by the Democrat-Left’s social-media henchpersons in Silicon Valley.”<sup>42</sup> Will Cain made a similar false claim, saying that Jankowicz “would be in charge of shutting anyone down who dared to question her disinformation. It’s not about the truth, it’s about power.”<sup>43</sup>

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<sup>40</sup> Tucker Carlson, *Tucker Carlson Tonight*, Fox News (May 5, 2022), [https://archive.org/details/FOXNEWSW\\_20220506\\_000000\\_Tucker\\_Carlson\\_Tonight/start/2460/end/2520](https://archive.org/details/FOXNEWSW_20220506_000000_Tucker_Carlson_Tonight/start/2460/end/2520).

<sup>41</sup> Ben Ferguson, *Outnumbered*, Fox News (May 5, 2022), [https://archive.org/details/FOXNEWSW\\_20220505\\_160000\\_Outnumbered/start/1920/end/1980](https://archive.org/details/FOXNEWSW_20220505_160000_Outnumbered/start/1920/end/1980).

<sup>42</sup> Deroy Murdock, “Biden’s ‘disinformation board’ is an unconstitutional thought-police bureau,” Fox News (May 6, 2022), <https://www.foxnews.com/opinion/biden-disinformation-board-unconstitutional-thought-police-deroy-murdock>.

<sup>43</sup> Will Cain, *America Reports with John Roberts & Sandra Smith*, Fox News (May 10, 2022), [https://archive.org/details/FOXNEWSW\\_20220510\\_170000\\_America\\_Reports\\_With\\_John\\_Roberts\\_\\_Sandra\\_Smith/start/7140/end/7200](https://archive.org/details/FOXNEWSW_20220510_170000_America_Reports_With_John_Roberts__Sandra_Smith/start/7140/end/7200).

70. Several invited guests added to the fabrication. Representative Jordan claimed on *Hannity* that if “you try [to talk],” “Nina Jankowicz will come after you.”<sup>44</sup>
71. Senator Kennedy said: “Let me tell you what Ms. Jankowicz will do if she gets power. She will devour the real truth like it was a light snack. What’s true, in her opinion, is what she believes, and everyone else is a moron because she’s one of the smartest people on the planet in her opinion, just ask her. We don’t need somebody like that in government. We don’t need a Ministry of Truth.”<sup>45</sup>
72. On *The Evening Edit*, Representative Jeff Van Drew added: “She’s going to actually be taking things off [of the internet], and leaving other things on that aren’t truthful, and we have seen that before.”<sup>46</sup>
73. These statements—either made by Fox agents or aired on Fox shows without clarification or pushback—were false. The Board was an internal working group and Jankowicz as its Executive Director had no authority to censor anyone, read anyone’s private communications, remove speech from the

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<sup>44</sup> Guest, Rep. Jim Jordan, *Hannity*, Fox News (May 12, 2022), [https://archive.org/details/FOXNEWSW\\_20220513\\_010000\\_Hannity/start/3240/end/3300](https://archive.org/details/FOXNEWSW_20220513_010000_Hannity/start/3240/end/3300).

<sup>45</sup> Guest, Sen. John Kennedy, *America Reports with John Roberts & Sandra Smith*, Fox News (May 11, 2022), [https://archive.org/details/FOXNEWSW\\_20220511\\_170000\\_America\\_Reports\\_With\\_John\\_Roberts\\_\\_Sandra\\_Smith/start/5520/end/5580](https://archive.org/details/FOXNEWSW_20220511_170000_America_Reports_With_John_Roberts__Sandra_Smith/start/5520/end/5580).

<sup>46</sup> Guest, Rep. Jeff Van Drew, *The Evening Edit*, Fox Business (May 13, 2022), [https://archive.org/details/FBC\\_20220513\\_220000\\_The\\_Evening\\_Edit/start/1200/end/1260](https://archive.org/details/FBC_20220513_220000_The_Evening_Edit/start/1200/end/1260).

internet, “come after” anyone, or “target ... Americans.” Fox invited these false statements to be made on its platform even after official statements from everyone with direct knowledge had made clear that the Board and Jankowicz had no operational authority or capacity to engage in any of these activities.

**V. Following a deluge of disinformation, the Disinformation Governance Board is suspended and Jankowicz resigns.**

74. Fox’s fixation had its intended effect; Jankowicz resigned, and the Board was ultimately dissolved.
75. On May 17, after Jankowicz had drafted a resignation letter, DHS officials offered Jankowicz the opportunity to stay on with the agency as a policy advisor while the Board’s future was under review.
76. On May 18, 2022, DHS officials announced that the Board was being “paused.”
77. Jankowicz was weeks away from giving birth to her first child and chose to officially resign from the Board on May 18, 2022. Because she had been targeted with harassment arising from Fox’s false statements of fact, she no longer felt that she could serve safely and effectively.
78. That same day, DHS confirmed Jankowicz’s resignation. In a statement, a DHS spokesperson noted that “Nina Jankowicz has been subjected to

unjustified and vile personal attacks and physical threats.” Fox reported on DHS’s statements,<sup>47</sup> but it made no effort to correct prior false reporting.

79. Despite the Board’s pause and Jankowicz’s resignation, Fox’s false and malicious campaign remained feverish and disconnected from reality.

80. Representative Jim Jordan appeared as a guest on a broadcast of *Hannity* on May 18, 2022, where he thanked host Sean Hannity for “the work you’ve done in helping get rid of this governance board.”<sup>48</sup>

81. Also on May 18, 2022, Harris Faulkner made the baseless comment on *Outnumbered* that the Board was going to “cancel you if you don’t believe what we want you to believe.”<sup>49</sup> Lisa Kennedy Montgomery described the Board as a “form of thought control,” “an Orwellian government agency designed to monitor what we all say and do,” an entity with “the right to decide what is true and what is false,” and a “version of content moderation.”<sup>50</sup>

Hannity declared that the Board was “a brand-new Ministry of Truth that

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<sup>47</sup> Ronn Blitzer, “Biden administration ‘disinformation’ board on pause amid free speech concerns: reports,” Fox News (May 18, 2022), <https://www.foxnews.com/politics/biden-dhs-disinformation-governance-board-on-hold-reports>.

<sup>48</sup> Guest, Rep. Jim Jordan, *Hannity*, Fox News (May 18, 2022), [https://archive.org/details/FOXNEWSW\\_20220519\\_010000\\_Hannity/start/1140/end/1200](https://archive.org/details/FOXNEWSW_20220519_010000_Hannity/start/1140/end/1200).

<sup>49</sup> Harris Faulkner, *Outnumbered*, Fox News (May 18, 2022), <https://www.foxnews.com/politics/white-house-says-dhs-disinformation-board-never-met-denies-involvement>.

<sup>50</sup> Lisa Kennedy Montgomery, *The Evening Edit*, Fox Business (May 18, 2022), [https://archive.org/details/FBC\\_20220518\\_230000\\_Kennedy/start/0/end/60](https://archive.org/details/FBC_20220518_230000_Kennedy/start/0/end/60).

we’ve been talking about to police all of your thoughts.”<sup>51</sup> Although the Board was paused and Jankowicz had resigned from DHS, her image was yet again used in conjunction with Hannity’s false statements about the Board.



82. Jesse Watters claimed the Board was “control[ling] what information can get out there.” That’s “why this whole disinformation board was created: to target any speech the left doesn’t like as scary.”<sup>52</sup> Two days later, Watters’ guest Victor Davis Hanson stated that Jankowicz “was going to adjudicate what 330 million people could say based on her view of disinformation.”<sup>53</sup>

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<sup>51</sup> Sean Hannity, *Hannity*, Fox News (May 18, 2022), [https://archive.org/details/FOXNEWSW\\_20220519\\_010000\\_Hannity/start/900/end/960](https://archive.org/details/FOXNEWSW_20220519_010000_Hannity/start/900/end/960).

<sup>52</sup> Jesse Watters, *Jesse Watters Primetime*, Fox News (May 18, 2022), [https://archive.org/details/FOXNEWSW\\_20220518\\_230000\\_Jesse\\_Watters\\_Prime\\_time/start/420/end/480](https://archive.org/details/FOXNEWSW_20220518_230000_Jesse_Watters_Prime_time/start/420/end/480).

<sup>53</sup> Victor Davis Hanson, *Jesse Watters Primetime*, Fox News (May 20, 2022), [https://archive.org/details/FOXNEWSW\\_20220520\\_230000\\_Jesse\\_Watters\\_Prime\\_time/start/1380/end/1440](https://archive.org/details/FOXNEWSW_20220520_230000_Jesse_Watters_Prime_time/start/1380/end/1440).

**VI. Jankowicz makes post-resignation media appearances to confirm the Board could not and would not censor anyone.**

83. After Jankowicz resigned from DHS, she was free to speak to the press and to make the record clear. She did so by appearing on several programs to explain what the Board had been authorized and intended to do as well as her own role.

84. On May 18, 2022, Jankowicz was interviewed on MSNBC. She explained that prior reporting about the Board was “completely wrong” because the Board was a “coordinating mechanism . . . meant to ensure” that different components of the DHS “were talking to each other” about how those components—not the Board and not Jankowicz—were responding to disinformation. She elaborated that “this initiative [the Board] was not involved in policing speech and neither was I.” She also explained that DHS efforts “for over a decade now” were “about putting good information out there” and did not involve any kind of censorship.<sup>54</sup>

85. On May 26, 2022, during an interview on NPR, Jankowicz said the Board was “an internal working group that was meant to support and advise the operational components of DHS. We had no operational authority or

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<sup>54</sup> Chris Hayes, *All In With Chris Hayes*, MSNBC (May 18, 2022), <https://www.msnbc.com/all-in/watch/former-dhs-disinformation-agency-director-nina-jankowicz-speaks-out-140315717659>.

capability. It was still DHS' components that were doing the work, making decisions, et cetera." She reiterated that the Board "was a coordinating mechanism. It was meant to, you know, make sure that the very large agency, that is the Department of Homeland Security, that people were talking to each other within it."<sup>55</sup>

86. But Fox's story did not die with Jankowicz's resignation nor with her public statements making crystal clear that neither the Board, nor Jankowicz as its Executive Director, could or would censor anyone even if it or she wanted to. On May 23, 2022, Katie Pavlich returned to the topic, repeating the lie that the Board would be "deciding . . . what is true and what is false . . . which would, of course, cause them to engage in censorship."<sup>56</sup> None of the context or facts contradicting Fox's narrative that had been made public over the preceding days and weeks prevented Fox from continuing to attack, disparage, and mischaracterize Jankowicz.

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<sup>55</sup> Terry Gross, *How an expert on online disinformation and harassment became the target of both*, NPR (May 26, 2022), <https://www.npr.org/2022/05/26/1101439528/how-an-expert-on-online-disinformation-and-harassment-became-the-target-of-both>.

<sup>56</sup> Katie Pavlich, *Special Report*, Fox News (May 23, 2022), <https://www.foxnews.com/transcript/special-report-all-star-panel-baby-formula-shortage-title-42>.

**VII. The Board’s charter is published, revealing and confirming it had no operational authority.**

87. On June 7, 2022, Senators Chuck Grassley and Josh Hawley published a series of documents relating to the Board, including its charter.
88. The Board’s charter reflected that “Department Components” like the Federal Emergency Management Agency (“FEMA”), would “lead on operational responses to MDM [mis-, dis-, and mal-information] in their relevant mission spaces” and the Board would “serve as the central forum in the Department to ensure consistent governance and coordination of such efforts, and adherence to applicable constitutional, statutory, and regulatory authorities and obligations.” This included bureaucratic functions like review of existing policies, developing recommendations, and “coordinat[ing], deconflict[ing], and harmoniz[ing] efforts to address MDM.”
89. In other words, the charter reflected that—consistent with prior statements by former officials, DHS, Secretary Mayorkas, the White House Press Secretary, and then by Jankowicz after her resignation—the Board was an internal working group meant to develop and recommend best practices for other components of DHS to consider in their own work countering disinformation.
90. The charter also laid out Jankowicz’s responsibilities and authority as Executive Director. This discrete list included six functions: (1) “propose



agenda items and discussion topics for the Board following Steering Group review;” (2) “communicate the positions taken at the Steering Group concerning proposals before the Board;” (3) “propose summaries of conclusion for each Board and Steering Group meeting;” (4) “implement and execute Board decisions through the Steering Group;” (5) “supervise the activities of the Executive Secretariat;” and (6) “represent the Steering Group and, where appropriate and in coordination with co-chairs, the Department to external audiences on MDM-related matters.”

91. Nowhere did the charter contemplate censorship—or even any activity that might involve limiting or encroaching on free speech or pressuring private social media platforms to do so—among Jankowicz’s scope of responsibilities or elsewhere. Even reading the document in the least charitable light, the only function that *might* lead to repercussions for proliferating disinformation would have been “Department Components [] lead[ing] on operational responses to MDM in their relevant mission spaces.”
92. But the Board was not a “Department Component.” What the charter made clear was consistent with what had already been explained publicly for days, weeks, and months: neither the Board nor Jankowicz individually could censor anyone, even had they wanted to. Indeed, the Board’s explicit purpose

was to advise on how to *protect* freedom of expression, civil rights, civil liberties, and privacy.

93. The charter—including the language quoted above—became publicly available on or about June 7, 2022.
94. The charter showed that the Board and Jankowicz were not suitable targets for Fox’s narrative about supposed government censorship, but Fox doubled down, made misleading comments about its contents, and continued to make false statements about Jankowicz without any qualification based on new, readily available information.
95. On June 9, Elizabeth MacDonald talked about the Board and Jankowicz again, claiming that DHS was “planning a bigger censorship campaign push by the now-defunct disinformation board than anyone realized.” She went on: “You [Jankowicz] were going to coordinate with Twitter, federal, state, and local tribal groups, to basically censor things about the origins of the pandemic, masking, and much more.” “That was Nina Jankowicz, right?”
96. But as former officials, DHS, Secretary Mayorkas, the White House Press Secretary, and Jankowicz herself said in interviews and testimony, and as the charter confirmed, it would not even have been within Jankowicz’s authority to coordinate censorship with social media organizations or anyone else because 1) the Board’s role was internal; 2) it lacked operational authority;

and 3) most importantly, Jankowicz specifically identified censorship as an ineffective response to disinformation and it was never contemplated or advocated with respect to the Board.

97. Also on June 9, Trace Gallagher, appearing on *Fox News at Night with Shannon Bream*, claimed against any reasonable interpretation of the charter that “[T]he biggest takeaway from the whistleblower documents concerning the paused Disinformation Governance Board is the stated goal wasn’t the intended goal. The board was never meant to combat drug cartels and human smugglers. The board was meant to control the speech of Americans.”<sup>57</sup> This characterization was precisely the opposite of the charter’s contents.<sup>58</sup>
98. On June 16, 2022, on her eponymous show *Kennedy*, Lisa Kennedy Montgomery called the Board “basically an Orwellian thought police force.”<sup>59</sup>

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<sup>57</sup> *Id.*

<sup>58</sup> *See, e.g.*, Ex. A at 1 (explaining, *inter alia*, that “Foreign terrorists, nation-states, and domestic violent extremist (DVE) groups leverage disinformation narratives to amplify calls to violence, including racially or ethnically motivated and anti-government/anti-authority violence.”; “The Department must ensure its counter-disinformation efforts do not have the effect of chilling or suppressing free speech and free association or infringing on individuals’ privacy or other First Amended protected activity.”).

<sup>59</sup> Lisa Kennedy Montgomery, *Kennedy*, FOX Business (June 16, 2022), [https://archive.org/details/FBC\\_20220616\\_230000\\_Kennedy/start/60/end/120](https://archive.org/details/FBC_20220616_230000_Kennedy/start/60/end/120);

99. Fox’s malicious fever dream about the Board and Jankowicz continued through the summer and into the fall of 2022.<sup>60</sup>

100. In November 2022, Watters, Hannity, and Carlson asked viewers if they remembered the Board and Jankowicz. After playing the TikTok parody video, Watters said “Well, the people didn’t like that. We didn’t want Mary Poppins censoring us.”<sup>61</sup> Hannity added that the Board was a “department . . . dedicated to working with the social media giants for the purpose of policing information.”<sup>62</sup> Again, Jankowicz’s image was used during the segment.

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<sup>60</sup> Dan Bongino, *Unfiltered with Dan Bongino*, Fox News (Sept. 11, 2022) (“Remember the Disinformation Board? Remember Scary Poppins? We called it the Ministry of Truth. While the title’s since been dissolved, the DHS hasn’t slowed down its efforts at all to censor what you say, and what you see, and what you hear.”), [https://archive.org/details/FOXNEWSW\\_20220911\\_070000\\_Unfiltered\\_With\\_Dan\\_Bongino/start/635/end/695?q=poppins](https://archive.org/details/FOXNEWSW_20220911_070000_Unfiltered_With_Dan_Bongino/start/635/end/695?q=poppins); Carl Szabo, *Cavuto Coast to Coast*, FOX Business (Aug. 12, 2022) (“The answer is not going to the government and having them become the arbiters of speech. If we were to turn it over to Joe Biden’s election disinformation governance board with Mary Poppins at the helm . . . to dictate what we know, hear, and see on the internet, it’s going to be way worse for conservatives than allowing the private sector to lead the way.”), [https://archive.org/details/FBC\\_20220812\\_160000\\_Cavuto\\_Coast\\_to\\_Coast/start/2520/end/2580](https://archive.org/details/FBC_20220812_160000_Cavuto_Coast_to_Coast/start/2520/end/2580).

<sup>61</sup> Jesse Watters, *Jesse Watters Primetime*, Fox News (Nov. 1, 2022), [https://archive.org/details/FOXNEWSW\\_20221101\\_230000\\_Jesse\\_Watters\\_Prime\\_time/start/1140/end/1200](https://archive.org/details/FOXNEWSW_20221101_230000_Jesse_Watters_Prime_time/start/1140/end/1200).

<sup>62</sup> Sean Hannity, *Hannity*, Fox News (Nov. 30, 2022), [https://archive.org/details/FOXNEWSW\\_20221201\\_020000\\_Hannity/start/720/end/780](https://archive.org/details/FOXNEWSW_20221201_020000_Hannity/start/720/end/780).



101. Carlson claimed: “They hired some Mary Poppins lookalike Nina Jankowicz to silence anyone who criticized the Biden Administration.” And “Better wake up and get involved or your future will consist of asking permission to exercise your own most basic rights from people like that.”<sup>63</sup> The associated chyron read: “BIDEN ADMIN WANTED THE MARY POPPINS LADY TO FURTHER FORCE A NANNY STATE ON US[.]” And “BIDEN ADMIN SCRAPPED THE OUTRAGEOUS MINISTRY OF TRUTH, BUT IS STILL TRYING TO CENSOR SPEECH.”<sup>64</sup>

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<sup>63</sup> Tucker Carlson, *Tucker Carlson Tonight*, Fox News (Nov. 18, 2022), [https://archive.org/details/FOXNEWSW\\_20221119\\_060000\\_Tucker\\_Carlson\\_Tonight/start/2880/end/2940](https://archive.org/details/FOXNEWSW_20221119_060000_Tucker_Carlson_Tonight/start/2880/end/2940).

<sup>64</sup> Chyron, *Tucker Carlson Tonight*, Fox News (Nov. 18, 2022), [https://archive.org/details/FOXNEWSW\\_20221119\\_060000\\_Tucker\\_Carlson\\_Tonight/start/3060/end/3120](https://archive.org/details/FOXNEWSW_20221119_060000_Tucker_Carlson_Tonight/start/3060/end/3120).

102. Carlson returned to the topic in December, stating “We’re learning a lot more about what they plan to do, and in fact have done, to censor the speech of American citizens.”<sup>65</sup>

**VIII. Fox tells viewers that Jankowicz intends to edit their tweets based on a heavily-edited clip of a publicly-available interview.**

103. No fewer than nine times, Fox also made and published lies that Jankowicz would use her position on the Board to directly interfere with online speech through a specific mechanism on Twitter.

104. On January 27, 2021, Jankowicz participated, via Zoom, in the Georgia Independent School Librarians’ winter meeting. Jankowicz appeared as an expert on disinformation, discussing the history of and responses to disinformation.<sup>66</sup>

105. The Zoom meeting was recorded. It lasted nearly 90 minutes and has been continuously available to the public on YouTube since it was first posted, on January 28, 2021.

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<sup>65</sup> Tucker Carlson, *Tucker Carlson Tonight*, Fox News (Dec. 6, 2022) (emphasis added), [https://archive.org/details/FOXNEWSW\\_20221207\\_010000\\_Tucker\\_Carlson\\_Tonight/start/2700/end/2760](https://archive.org/details/FOXNEWSW_20221207_010000_Tucker_Carlson_Tonight/start/2700/end/2760).

<sup>66</sup> Ga. Indep. Sch. Librarians, *GISL Winter Meeting 1/27/21- Nina Jankowicz*, YouTube.com (Jan. 28, 2021), <https://www.youtube.com/watch?v=d92TQXEe7is&t=4433s>.

106. Just two days before the Zoom meeting, on January 25, 2021, Twitter had announced a pilot program, “Birdwatch,” which it described as “a community-based approach to misinformation.” The program was later retitled “Community Notes,” and it remains in use on Twitter.
107. Jankowicz has never held a position affiliated with Twitter and had no connection to Birdwatch or Community Notes.
108. During the Zoom meeting, the following exchange occurred:

QUESTION: I heard something about Twitter is now or getting ready to start allowing other Twitter users to—help me out here, that’s where I sort of lost track of what is it Twitter’s letting people do?

JANKOWICZ: I haven’t looked into this in a huge way yet because it just came out, and I am eligible for it because I am verified. But there are a lot of people who shouldn’t be verified, who aren’t, you know, legit, in my opinion. I mean, they are real people, but they’re not trustworthy. Anyway, so verified people can essentially start to “edit”<sup>67</sup> Twitter, the same sort of way that Wikipedia is, so they can add context to certain tweets.

So, just as an easy example, not from any political standpoint, if President Trump were still on Twitter and tweeted a claim about voter fraud, someone could add context from one of the 60 lawsuits that went through the court. Or something that an election official in one of the states said, perhaps [Georgia’s] own Secretary of State and his news conferences—something like that. Adding context so that people have a fuller picture rather than just an individual claim on a tweet.

I think—it’s called Birdwatch, whatever, silly name, and it’s going to live on its own site for a little bit, and then eventually,

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<sup>67</sup> Jankowicz used air quotes around the word “edit.”

after they've tested it and perfected it a little more, it's going to migrate to the rest of Twitter. But it will be more of a Wikipedia model. And it's interesting to me, as someone who grew up and was going through college when Wikipedia first started out, how Wikipedia has kind of morphed from something that we were told we shouldn't trust to something that is actually a pretty good starting point for some research and—with a grain of salt, understanding it's edited by individuals just like us—that it has pretty rigorous standards and can be a good place to start for context on something that you're trying to understand.

So, I like that. I like the idea of adding more context to claims and tweets and other content online, rather than removing it. . . .

I think it's also a little bit rich that these multi-billion dollar corporations are asking for volunteer fact-checkers to do their work for them. So, we're going to have problems scaling it up, and it's not a solution that works for everything.

And my intern actually asked me yesterday, "Are you going to do it?" And I was like, "I don't have time, like, time to fact-check Twitter." I already have too many other things going on, so it's hard to see how the people that they want, who are like trusted members of the community, are going to engage with this . . . . Like the editors of Wikipedia, there are probably a few public figures among them, but it's mostly people who like doing it for fun, really. Maybe there are librarians in there as well. But it's—I'm not sure it's the solution.<sup>68</sup>

109. Following the excerpted exchange, Jankowicz went on to discuss the importance of archiving information to preserve it. She described problems

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<sup>68</sup> Ga. Indep. Sch. Librarians, *GISL Winter Meeting 1/27/21- Nina Jankowicz*, YouTube.com, at 1:13:43 (Jan. 28, 2021), <https://www.youtube.com/watch?v=d92TQXEe7is&t=4433s>.



that arise when platforms delete information about, for example, civil rights abuses committed by foreign governments.

110. At no point during the publicly available Zoom meeting with Georgia-based librarians did Jankowicz claim—or even suggest—that she is interested personally in interfering with or censoring others speech or that she approves of censorship. Indeed, in context, Jankowicz’s comments demonstrate her deep concern about allowing the government—or certain individuals—to control information.
111. On May 10, 2022, a pseudonymous Twitter user, @mazemoore, posted a manipulated version of the Zoom meeting to Twitter. Today, the user’s profile currently reads in full, “Video editor. 100% original content. You have seen my work.” Archived versions of the user’s profile indicate that the profile was similar when the video was posted, reading in its entirety, “Digital artist. Video Editor. Researcher. You have seen my work.” As the user’s self-description “video editor” illustrates, most of the posts on @mazemoore’s Twitter feed are of edited, truncated, and out-of-context videos. For example, the user frequently posts videos of government officials wearing digitally imposed clown makeup. Screenshots of obviously edited videos were visible on @mazemoore’s Twitter feed on May 10, 2022, when the video of Jankowicz was posted. Moreover, before posting the video of the Georgia

librarians meeting, many of the user's recent tweets mocked Jankowicz based on every public video he could find of her, dating back to her teenage years. It could not have been more obvious that the twitter user's posts about Jankowicz warranted close scrutiny and skepticism.

112. The manipulated version was one minute and one second long. It did not include the other Zoom attendee's question, and it cut Jankowicz's references to Twitter and/or Birdwatch so that new viewers would infer that Jankowicz had proposed personally editing others' tweets, including those of former President Trump. In its entirety, the video includes only the following language:

- a. And I am eligible for it because I am verified. But there are a lot of people who shouldn't be verified, who aren't, you know, legit, in my opinion. I mean, they are real people, but they're not trustworthy. Anyway, so verified people can essentially start to "edit"<sup>69</sup> Twitter, the same sort of way that Wikipedia is, so they can add context to certain tweets.
- b. So, just as an easy example, not from any political standpoint, if President Trump were still on Twitter and tweeted a claim about voter fraud, someone could add context from one of the 60 lawsuits that went

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<sup>69</sup> Jankowicz used air quotes when she said the word "edit."

through the court. Or something that an election official in one of the states said, perhaps [Georgia's] own Secretary of State and his news conferences—something like that. Adding context so that people have a fuller picture rather than just an individual claim on a tweet.

113. On May 10, 2022, any reasonable person viewing @mazemoore's feed would have understood that the videos posted deserved closer scrutiny to determine their accuracy.

114. Fox took the truncated video and further whittled it down to ten-second soundbites to use in broadcast segments. In the days that followed until Jankowicz's resignation, Fox employees falsely and repeatedly stated that Jankowicz had said she wanted to edit other Twitter user's posts. Fox's false statements included, at minimum, the following:

a) May 11, 2022: Commentator Tomi Lahren tweeted:<sup>70</sup>



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<sup>70</sup> Tomi Lahren (@TomiLahren), Twitter (May 11, 2022), <https://twitter.com/TomiLahren/status/1524515056976900097>.

- b) May 11, 2022: Elizabeth MacDonald, host of *The Evening Edit*, falsely stated on-air during her show: “Biden’s new disinformation czar, caught in a new government overreach. Critics warn her new fix to Twitter would make censorship even worse and more out of control.” Later, she stated twice, “Nina Jankowicz, this is her fix to Twitter” and played the truncated video. Tomi Lahren falsely added, “What she is describing there, there is a war on free speech. Who is Nina Jankowicz to tell me if I’m legitimate or not? Who is she to tell me what is trustworthy? . . . She wants to be able to edit content because she’s so afraid of the narrative being flipped or the truth getting out, she wants to be able to manipulate it, her and her gang of people that she deems trustworthy.”<sup>71</sup>
- c) May 12, 2022: In an online article, reporter Paul Best falsely stated that Jankowicz “pitched the idea of allowing verified accounts to ‘edit’ Twitter and add context to others’ tweets.”<sup>72</sup>
- d) May 12, 2022: On a broadcast of *Gutfeld!*, following a monologue focused on Jankowicz, panelist Rob Smith falsely said, “They’re trying to make

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<sup>71</sup> Elizabeth MacDonald & Tomi Lahren, *The Evening Edit*, Fox News (May 11, 2022), [https://archive.org/details/FBC\\_20220511\\_220000\\_The\\_Evening\\_Edit/start/1620/end/1680](https://archive.org/details/FBC_20220511_220000_The_Evening_Edit/start/1620/end/1680).

<sup>72</sup> Paul Best, “Elon Musk criticizes pitch by ‘disinformation czar’ to allow verified Twitter accounts to edit others’ tweets,” Fox News (May 12, 2022), <https://www.foxbusiness.com/politics/elon-musk-criticizes-disinformation-czar-verified-twitter-accounts-edit-others-tweets>.

[1984] look like a documentary. What these people want to do—and she said before—they want to edit your tweets.”<sup>73</sup>

- e) May 13, 2022: On *Mornings with Maria Bartiromo*, host Maria Bartiromo falsely stated that Jankowicz “pitched the idea of allowing verified Twitter accounts to edit and add context to other tweets.”<sup>74</sup>
- f) May 13, 2022: On a broadcast of *The Five*, co-host Jeanine Pirro falsely claimed, “Biden’s new Disinformation Czar already thinks she’s qualified to start editing your tweets,” before playing a heavily truncated version of the manipulated video.<sup>75</sup>
- g) May 13, 2022: On a broadcast segment of *Fox & Friends First*, after playing a clipped version of the truncated video, co-host Todd Pirro asked contributor Lara Trump, “How chilling is it that this disinformation czar thinks that it’s okay for her to edit your speech?” In response, Lara Trump falsely claimed that Jankowicz intended to use her government post to censor Americans’ speech: “Let’s just take a step back for a second and

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<sup>73</sup> Rob Smith, *Gutfeld!*, Fox News (May 12, 2022), <https://www.foxnews.com/video/6306026055112>.

<sup>74</sup> Maria Bartiromo, *Mornings with Maria Bartiromo*, Fox Business (May 13, 2022), [https://archive.org/details/FBC\\_20220513\\_100000\\_Mornings\\_With\\_Maria\\_Bartiromo/start/4740/end/4800](https://archive.org/details/FBC_20220513_100000_Mornings_With_Maria_Bartiromo/start/4740/end/4800).

<sup>75</sup> Jeanine Pirro, *The Five*, Fox News (May 13, 2022), <https://www.foxnews.com/video/6306087337112#sp=show-clips>.

just look at the fact that here we are in the United States of America, Todd, that we are still considering having a position like this. It should shake every single American to your core, to know that this is happening in our country and that this woman, Nina Jankowicz, is the arbiter of truth and is the one who will determine whether what you say is allowed or not is absolutely outrageous. . . . Nina Jankowicz fancies herself in this situation, with getting rid of any information that does not fit the narrative the government currently has at that time.”<sup>76</sup>

- h) May 18, 2022: During a broadcast segment of *Tucker Carlson Tonight*, a chyron falsely read, “AWFUL NINA JANKOWICZ: I’M A TRUSTED & VERIFIED PERSON & I SHOULD EDIT YOUR TWEETS.”<sup>77</sup>
- i) May 19, 2022: On a broadcast segment of *Gutfeld!*, panelist Michele Tafoya falsely claimed that Jankowicz “said something about Twitter that made me think, maybe [the Board] DID want to censor people. I think she said that blue check people on Twitter could actually be given a tool to edit other people on Twitter if they found what they wrote was

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<sup>76</sup> Todd Piro & Lara Trump, *Fox & Friends First*, Fox News (May 13, 2022), <https://www.foxnews.com/video/6306039100112#sp=show-clips>.

<sup>77</sup> Chyron, *Tucker Carlson Tonight*, Fox News (May 18, 2022), [https://archive.org/details/FOXNEWSW\\_20220519\\_000000\\_Tucker\\_Carlson\\_Tonight/start/1680/end/1740](https://archive.org/details/FOXNEWSW_20220519_000000_Tucker_Carlson_Tonight/start/1680/end/1740).

‘misinformation’ or needed ‘correction.’ That, to me, sounds like a little bit of censorship.”<sup>78</sup>

115. Fox repeatedly published, through broadcast and print, the false claim that Jankowicz proposed the Birdwatch/Community Notes program and/or wanted to personally edit or censor social media posts. It published these false statements with knowledge of—or, at minimum, reckless disregard for—their falsity.
116. Fox knew that the video posted by @mazemoore had been edited to omit crucial context. It knew that Twitter had rolled out a trial run of Birdwatch, and it knew that Jankowicz was describing a social media program, not her own plans for government censorship. Moreover, it knew that Jankowicz had publicly criticized the use of censorship as a response to disinformation.
117. Notably, on May 14, 2022, before at least two of these claims were made, the Associated Press published a fact-checking article, “Old comments by disinformation board director misrepresented online,” explaining that the edited video had been used to misrepresent Jankowicz’s statements.<sup>79</sup>

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<sup>78</sup> Michele Tafoya, *Gutfeld!*, Fox News (May 21, 2022), [https://archive.org/details/FOXNEWSW\\_20220521\\_230000\\_Gutfeld/start/1560/end/1620](https://archive.org/details/FOXNEWSW_20220521_230000_Gutfeld/start/1560/end/1620).

<sup>79</sup> Sophia Tulp, *Old comments by disinformation board director misrepresented online*, Associated Press (May 14, 2022), <https://apnews.com/article/Fact-Check-Disinformation-Board-Director-Twitter-049631150022>.

118. By this time, the false narrative about Jankowicz and the Board was old territory for Fox. Motivated by ratings—and thus profit—that suggested audience interest in its made up Jankowicz-as-government-censor narrative, Fox continued attacking Jankowicz despite her resignation and the government’s decision to pause the Board.

**IX. Having largely instigated her resignation, Fox tells viewers that Jankowicz was fired.**

119. As explained above, the Board’s work was paused on May 18, 2022, due to the prevalence of false claims that it intended to censor speech and/or engage in creating and disseminating propaganda. This pause precipitated Jankowicz’s resignation from DHS.

120. Fox knew that Jankowicz resigned as a result of threats and harassment targeting her and her family. Indeed, it celebrated the unfortunate circumstances leading to her resignation. Nearly contemporaneously to Jankowicz’s resignation, on May 18, 2022, during a broadcast of *Fox & Friends*, commentator Emily Compagno stated that Jankowicz “was the chief of spreading disinformation, and now she’s the victim? She can dish it, but she can’t take it? She got a couple mean tweets?”<sup>80</sup> Then, on May 19, 2022,

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<sup>80</sup> Emily Compagno, *Outnumbered*, Fox News (May 18, 2022), <https://www.foxnews.com/video/6306403572112>.



during a broadcast of *Primetime with Jesse Watters*, host Watters noted that Jankowicz “resigned” from her post and described Jankowicz as “complaining—she says that she has been killed by disinformation and she is now under all sorts of threats.” He asked guest Victor Davis Hanson, “Do you feel sorry for the Disinformation Czaress?,” who responded, “I confess I don’t.”<sup>81</sup>

121. Fox nonetheless deliberately and knowingly lied that Jankowicz had been terminated from her post at least three separate times.
122. On May 20, 2022, on *Primetime with Jesse Watters*, just one day after he recognized the circumstances leading to Jankowicz’s resignation, Watters falsely stated that Jankowicz “got booted this week.”<sup>82</sup>
123. On October 12, 2022, on *The Five*, Watters falsely stated that DHS Secretary Alejandro Mayorkas “had to yank” Jankowicz as a result of embarrassment arising from Jankowicz’s social media posts celebrating musical theater.<sup>83</sup>

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<sup>81</sup> Jesse Watters & Victor Davis Hanson, *Jesse Watters Primetime*, Fox News (May 20, 2022), [https://archive.org/details/FOXNEWSW\\_20220520\\_230000\\_Jesse\\_Watters\\_Primetime/start/1320/end/1380](https://archive.org/details/FOXNEWSW_20220520_230000_Jesse_Watters_Primetime/start/1320/end/1380).

<sup>82</sup> *Id.*

<sup>83</sup> Jesse Watters, *Jesse Watters Primetime*, Fox News (Oct. 12, 2022), [https://archive.org/details/FOXNEWSW\\_20221012\\_210000\\_The\\_Five/start/1320/end/1380](https://archive.org/details/FOXNEWSW_20221012_210000_The_Five/start/1320/end/1380).

124. On November 19, 2022, on *Tucker Carlson Tonight*, Carlson said, “In the end, those videos [the TikTok parody] were so embarrassing that the Biden administration had to fire Jankowicz.” Shortly thereafter, Carlson made a similar claim, stating that “Nina Jankowicz was so absurd that she had to go away.”<sup>84</sup>
125. Fox knew that these statements were false. The fact that Jankowicz had resigned in the context of being “subjected to unjustified and vile personal attacks and physical threats” was a matter of public record that multiple outlets—including Fox itself—had reported.<sup>85</sup> Even Jesse Waters himself knew the truth, having correctly stated that Jankowicz had resigned on May 18, 2022, only two days before falsely claiming that she “got booted.”<sup>86</sup>
126. Having succeeded at largely instigating a partisan uproar over the Board, Fox then made these false statements to insult, belittle, and devalue the strawman they had turned Jankowicz into for their audience.

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<sup>84</sup> Tucker Carlson, *Tucker Carlson Tonight*, Fox News (Nov. 19, 2022), [https://archive.org/details/FOXNEWSW\\_20221119\\_060000\\_Tucker\\_Carlson\\_Tonight/start/2880/end/2940](https://archive.org/details/FOXNEWSW_20221119_060000_Tucker_Carlson_Tonight/start/2880/end/2940).

<sup>85</sup> See, e.g., Ronn Blitzer, “Biden administration ‘disinformation’ board on pause amid free speech concerns: reports,” Fox News (May 18, 2022), <https://www.foxnews.com/politics/biden-dhs-disinformation-governance-board-on-hold-reports>.

<sup>86</sup> Jesse Watters, *Jesse Watters Primetime*, Fox News (May 18, 2022), [https://archive.org/details/FOXNEWSW\\_20220518\\_230000\\_Jesse\\_Watters\\_Prime\\_time/start/480/end/540](https://archive.org/details/FOXNEWSW_20220518_230000_Jesse_Watters_Prime_time/start/480/end/540).

**X. Fox’s lies cause Jankowicz and her family to suffer extreme harassment and threats.**

127. Fox’s campaign of false statements about Jankowicz was the direct and proximate cause of a wave of online harassment and threats, which continue even now.
128. The harassment arising from Fox’s false claims include threats to Jankowicz and her family, and frequently include wishes (often communicated to her personal accounts) that she commit suicide.
129. Fox’s coverage was shared across social media platforms, where commenters made violent and, at times, anti-Semitic remarks about Jankowicz based on belief in, outrage from, and engagement with Fox’s false statements about the Board and Jankowicz. What follows is a small sampling of statements posted about Jankowicz or directed to Jankowicz personally.
130. For example, after Tucker Carlson’s reporting on April 28, 2022, including his statements that the U.S. would use its “Ministry of Truth [the Board]” to “get men with guns to tell you to shut up,”<sup>87</sup> users shared the segment on Gab, a social media site with a history of tolerating violent, threatening, and/or

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<sup>87</sup> Tucker Carlson, *Tucker Carlson Tonight*, Fox News (Apr. 28, 2022), [https://archive.org/details/FOXNEWSW\\_20220429\\_050000\\_Tucker\\_Carlson\\_Tonight/start/60/end/120](https://archive.org/details/FOXNEWSW_20220429_050000_Tucker_Carlson_Tonight/start/60/end/120).

prejudiced content without moderation. Gab users understood that Jankowicz was the villain in Fox’s narrative about the Board.<sup>88</sup>



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<sup>88</sup> The names and accounts of individuals who threatened Jankowicz are redacted because individuals who make anonymous threats online are often seeking a reaction. For some, being acknowledged in a lawsuit is a pinnacle of attention. See Maja Golf-Papaz & Ekant Veer, *Don't feed the trolling: rethinking how online trolling is being defined and combated*, J. of Mktg. Mgmt. (2017), <http://dx.doi.org/10.1080/0267257X.2017.1383298>

131. Similar exchanges appeared on Patriots.win, a far-right online forum, in response to the April 28, 2022 Fox coverage:

  **TCB: Carlson: "This is a nightmare unfolding in slow motion, but this is the point where we're just going to have to draw the line. No Joe Biden, you can't have a federally funded Ministry of Truth, & no Nina Jankowicz can't run it... You don't get to do this to a free people."**  
(VIDEO) (twitter.com)  
posted 10 days ago by [REDACTED] +75 / -0

3 comments share save hide report block hide child comments

▲ [REDACTED] 2 points 10 days ago +2 / -0

▼ Except they will do this, because we aren't a free people, and we're not violent enough to stop them.  
permalink save report block reply

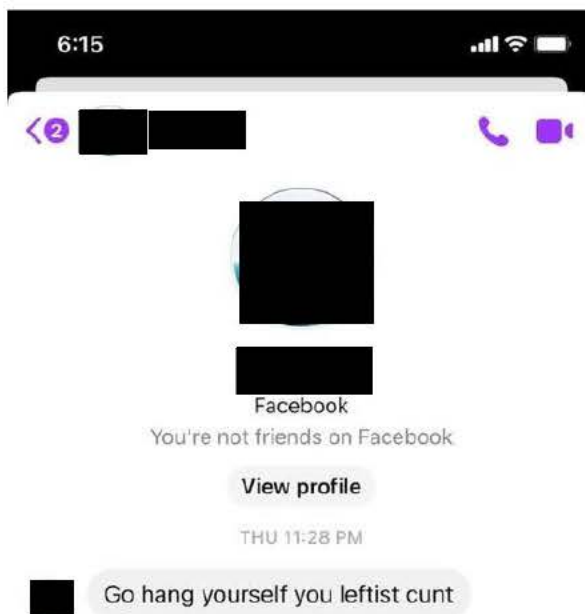
  **Tucker: This the point where we have to draw the line (Biden's Ministry of Truth)** (www.youtube.com)  
posted 11 days ago by [REDACTED] +2326 / -4



188 comments share save hide report block hide child comments



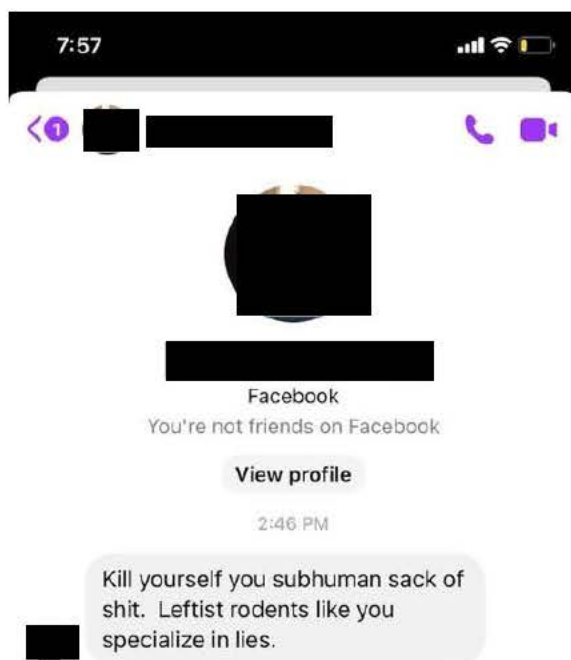
132. At 11:28 PM on April 28, 2022, a Facebook user wrote to Jankowicz, telling her to hang herself.



133. On April 29, 2022, an ostensible insurance agent emailed Jankowicz on an account she uses as an adjunct professor at Syracuse, “[y]ou’re the truth detector? You’ve heard of Joseph Goebbels, right? Hmmm, will you [sic]

end be similar to his? We shall see.” The individual was not alone; others, too, drew despicable comparisons between Jankowicz—an American Jewish woman—and Joseph Goebbels, the Nazi minister of propaganda who famously died by suicide. Given that Fox repeatedly accused Jankowicz of being a so-called “minister of truth,” the inspiration for these threats is not difficult to identify.

134. Just hours later, another Facebook user messaged Jankowicz telling her, “[k]ill yourself.”



135. On May 5, 2022, Carlson said: “So it turns out you’re not allowed to say things that she doesn’t like, or you’re a disinformant for profit probably working for

Putin.”<sup>89</sup> That night, another Facebook user sent Jankowicz a message stating she and her family “should be sent to Russia to be killed.”



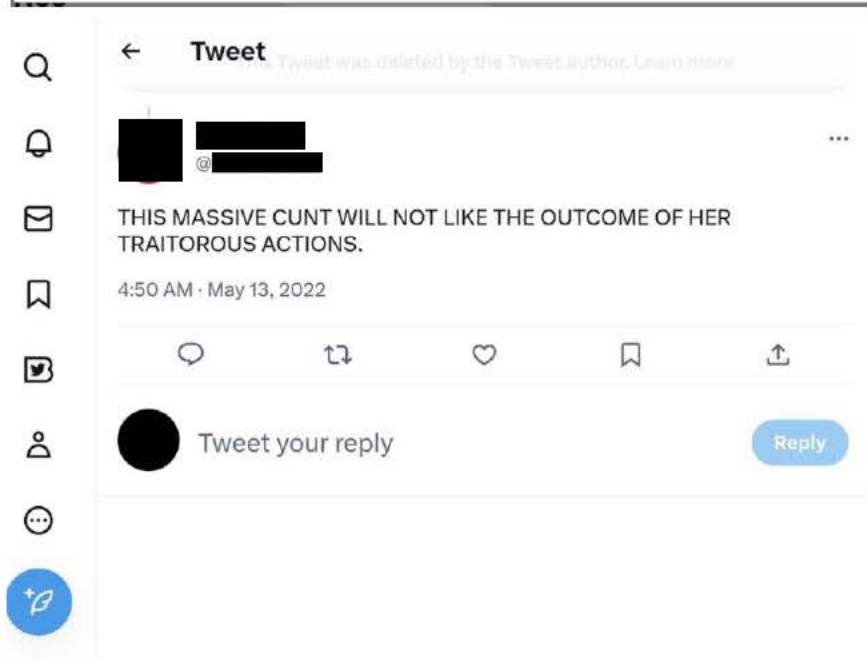
136. Tweets regularly called for violence against Jankowicz. For example:

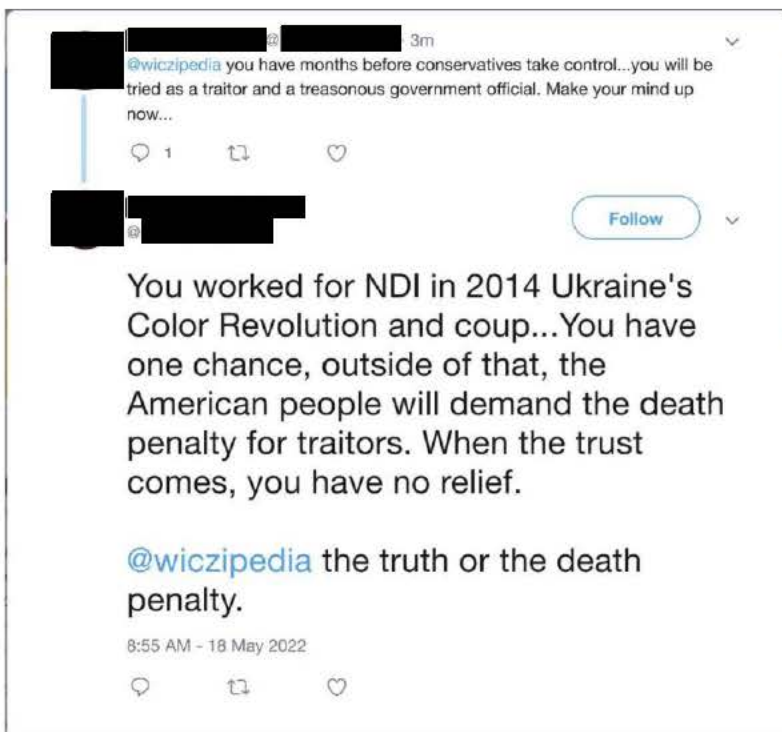


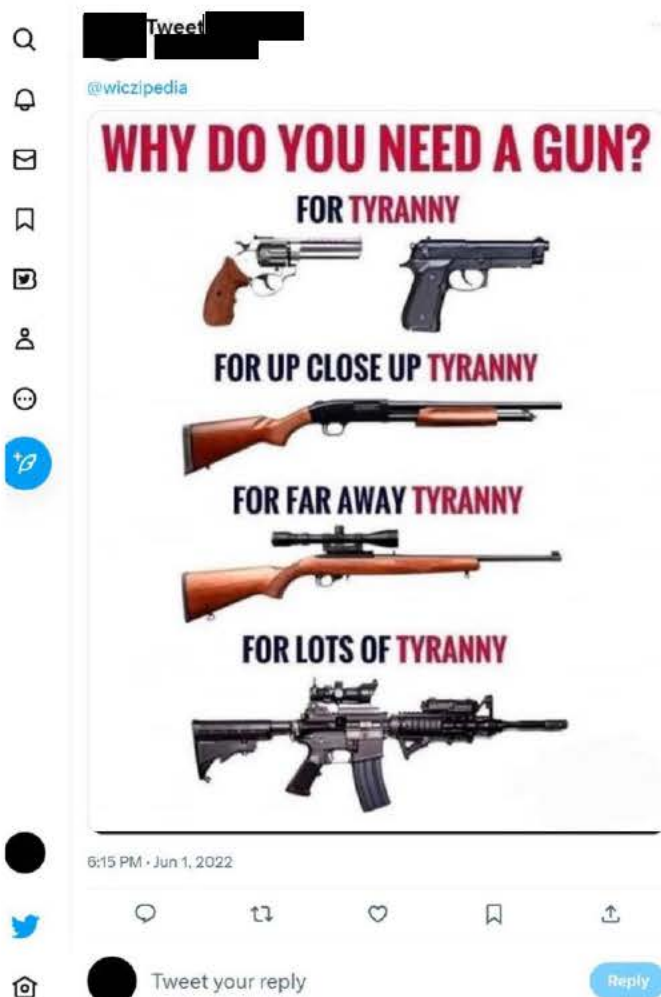
<sup>89</sup> Tucker Carlson, *Tucker Carlson Tonight*, Fox News (May 5, 2022), [https://archive.org/details/FOXNEWSW\\_20220506\\_000000\\_Tucker\\_Carlson\\_Tonight/start/2460/end/2520](https://archive.org/details/FOXNEWSW_20220506_000000_Tucker_Carlson_Tonight/start/2460/end/2520).



137. Following Fox's coverage in mid-May, including statements described above between May 10–12, 2022, the harassment and threats continued.







138. Even earlier this year, many months after Jankowicz’s resignation and the Board’s pause, but while Fox continued to attack and vilify her, the threats continued, including for example a Twitter user who tweeted three clown heads and a gun at Jankowicz in February 2023.<sup>90</sup>

<sup>90</sup> @NGI25\_, Twitter (Feb. 27, 2023), [https://twitter.com/NGI25\\_/status/1630312893009862658](https://twitter.com/NGI25_/status/1630312893009862658).



139. As described, Fox’s continuous false coverage went on for months after it was aware that the coverage was false. And online harassment and threats closely followed Fox.

(continued on next page)



140. When Fox wrongly reported that Jankowicz had been fired, it motivated additional harassment.



141. Without fail, the barrage of hate was by turns threatening, aggressive, and vicious. And many messages focused on the fact that Jankowicz is a woman.

5/22/22, 6:23 PM

Filthy Jezebel, whoring yourself out to the dems. You treasonist pos, you disgrace this country, your family and your name will be trashed for generations. It'll be up there with hitler and stalin.

If you reply, [REDACTED] will also be able to call you and see info like your Active Status and when you've read messages.

142. Others called for Jankowicz to be “doxed,” the researching and publishing of an individual’s personally identifiable information online.<sup>91</sup>

(continued on next page)

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<sup>91</sup> @GIZADOG, Twitter (Apr. 30, 2022), <https://twitter.com/gizadog/status/1520432688053727232>; @Oozecooze69, Twitter (Apr. 30, 2022), <https://twitter.com/Oozecooze69/status/1520302853679726592>.

 Today

well somebody please Dox Nina jankowicz. this woman should be exposed humiliated and destroyed she should have her life ruined. It is time to take the gloves off and stop turning the other cheek these people will never fight fair. Time to fight fire with fire.

6:32 PM - Apr 30, 2022 · Twitter for Android

[https://twitter.com/\[redacted\]/status/1520531664383868929](https://twitter.com/[redacted]/status/1520531664383868929) 15m

 **Nina Jankowicz** @ninajankowicz

Here's my dad (L) in Vietnam, where he was on an aerial reconnaissance unit. In 2007 he was diagnosed with multiple myeloma (bone marrow cancer) as a result of his exposure to Agent Orange during his service. He died in 2010. Also definitely not a sucker. <https://www.facebook.com/vpmsickour/14154...>



I am the daughter of a veteran. My father — an aerial reconnaissance officer in Vietnam — died in 2010 after complications from multiple myeloma, which he contracted as a result of his exposure to Agent Orange during his service. I know he would be thrilled to see me testifying before this committee in the service of truth.

**JAMES JANKO** [@jankoj](#)  
AGE: 58 BIRTHDAY: [redacted]

James Jankowicz, SR, died on October 7, 2010, at the Veterans Medical Center in East Orange surrounded by his family. Jim grew up in Bridgewater and was a Hillsborough resident for 32 years before moving to Skidaway in 2007. Upon graduation from Bridgewater-Raritan High School East in 1970, he enlisted in the Army and was a military intelligence "Night Hawk" with the 133rd Aviation Company. Jim performed aerial reconnaissance in Vietnam where he was unknowingly exposed to Agent Orange, causing him to contract multiple myeloma which was diagnosed in 2008. He was a Hillsborough Township police officer and later operated several businesses in the construction industry, concentrating in building exterior coatings and painting. He was a department manager at Lowe's in Hillsborough from the store's opening until his diagnosis. Predeceased by his father, Frank Jankowicz in 2006, Jim is survived by his wife Eve, daughter Alma of Cary, N.C., son PJ, and daughter-in-law Katherine of Hillsborough. Daughter Nina, at home and two grandsons; his mother, Sophie Jankowicz of Rutherfordton, N.C.; brothers Kenneth of Vauxley, P.A. and Charles of Vidalia, Fla.; and sisters Frances McElroy of Danville, Ind., and Vanessa Jankowicz of Vidalia, Fla.

[https://twitter.com/\[redacted\]/status/1520432688053727232](https://twitter.com/[redacted]/status/1520432688053727232) 14m

 somebody dox this woman. she needs to be exposed humiliated and ruined.

6:31 PM - Apr 30, 2022 · Twitter for Android

[https://twitter.com/\[redacted\]/status/1520531215937269760](https://twitter.com/[redacted]/status/1520531215937269760) 13m





**XI. Jankowicz's life has been changed inalterably.**

143. Jankowicz was, in fact, doxed. Her address and personal details about herself and her family members were posted online. Individuals threatened Jankowicz's mother, husband, and son, and also publicly posted the personal details of her extended family members.
144. Even during her period of government service, Jankowicz had no security detail. Because of Fox, she was forced to hire an investigator and security consultant, who told her that, in his professional judgment, she could not safely continue to reside in her family home in the final weeks of her pregnancy.



145. Jankowicz has suffered unrelenting threats and harassment since the spring of 2022 through the present. The specific examples included within this Amended Complaint are a mere sampling of an incalculable number of tweets, messages, emails, and voicemails directed at Jankowicz. Jankowicz has been told to expect death an untold number of times.
146. In an analysis of approximately 50,000 tweets between April 2022 and April 2023 that reference Jankowicz's Twitter account @wiczipedia, nearly 2,000 tweets linked Jankowicz to extremist conspiracy theories, perceived totalitarianism, or satanism. More than 350 included antisemitic or misogynistic attacks against Jankowicz. 131 tweets threatened violence, hostile action, or advocated the use of Jankowicz's personal information to target her. This analysis only considered tweets including Jankowicz's Twitter account @wiczipedia, and many of the most extreme posts did not reference Jankowicz's account. In other words, the total number of messages conveying threats, hate, and harassment is much larger.
147. For a period of time, Jankowicz received death threats every day, via tweet, message, email, and voicemail. Nearly six months after her resignation, she was recognized on the street, photographed, and had her location shared in real-time. She can no longer engage in her hobbies, including community theater, because she fears the threats of violence will come to fruition. Put

simply, she has been stripped of her privacy—perhaps forever—because of Fox’s false and feverish coverage and the hatred it inspired. All of this harm happened because Jankowicz accepted a job in public service—not even subject to Senate confirmation—within her area of expertise, and Fox chose to falsely portray her as a villain to its audience.

148. Jankowicz has endured, and continues to endure, severe emotional and mental distress, including sleeplessness, anxiety, and fear for the lives of herself and her family members.
149. Fox’s defamatory coverage of Jankowicz caused and exacerbated the harms she has experienced.
150. Fox’s false statements about the Board’s and Jankowicz’s purported views, actions, and intentions have also substantially and irreparably harmed Jankowicz’s business reputation and ability to work with institutions (public and private) on matters related to disinformation without the “baggage” of her false reputation concerning government censorship. In other words, based on verifiable falsehoods, Fox has made Jankowicz professionally radioactive and deterred others from working with her as they otherwise would.
151. Finally, Fox’s malicious campaign of false statements about Jankowicz also directly contributed to financial and emotional stresses from litigation inspired by those false and unsupportable statements. That litigation is meritless as to

Jankowicz and had no probability of success against her. Nevertheless, they parroted Fox's false talking points.

152. In *Missouri v. Biden*, Jankowicz was named as a defendant and had baseless accusations levied against her contrary to the public record—but consistent with Fox's talking points—after the Board had ceased to exist and she herself had resigned. Jankowicz was dismissed from the case and the much-discussed preliminary injunction that was granted earlier this year was specifically denied as to Jankowicz.
153. In January 2023, Jankowicz was named as a defendant by a *pro se* plaintiff in an action in the Southern District of New York. The plaintiff sued numerous other disinformation and national security experts, as well as the Academy of Television Arts & Sciences, baselessly alleging Jankowicz was part of a conspiracy to censor this individual's social media—the threatening and false narrative Fox had browbeaten its audience with for months. The court granted Jankowicz's motion to dismiss in its entirety, with prejudice. The plaintiff was also barred through a filing injunction from filing any additional lawsuits on the same subject matter against Jankowicz.
154. Starting in May 2022, Jankowicz was contacted multiple times by a conspiracy theorist self-identifying as a journalist requesting an “interview.” This individual continued to contact, harass, and stalk Jankowicz over months.

He created and posted content, which he promoted on Twitter and YouTube, that revealed Jankowicz's personally identifiable information. This conduct violated Twitter and YouTube's terms of service, and his accounts were suspended. After additional contact and threats in January 2023 accusing Jankowicz of having a hand in censoring him by suspending his accounts, she was forced to contact the police, file a police report, and petition a court in Virginia for a protective order. The Virginia court granted the first protective order in February 2023. The individual appealed, and the protective order was affirmed in June 2023.

155. Jankowicz also became a target of partisan political scrutiny because of Fox's false narrative. Starting in May 2022 and continuing into the spring of 2023 long after she had resigned, Jankowicz was also hounded by vexatious requests for documents and information by Republican Members of Congress on the House of Representatives' Judiciary Committee. These requests were predicated on the false narrative adopted by Fox that the Board and Jankowicz as its Executive Director was going to censor Americans. Indeed, some of the correspondence between the Committee Members and Jankowicz cited Fox coverage directly. Similarly to Fox, these requests kept the same false narrative and framing about Jankowicz long after the public record had

established that neither she or the Board could censor anyone, even if they wanted to.

156. For example, on May 5, 2022, the Committee Members sent Jankowicz a letter saying she had been appointed as Executive Director of a “*de facto* ministry of truth in our government” that was a risk to “[t]he ability of Americans to engage in robust debate and conversation” and “Americans’ fundamental civil liberties.”<sup>92</sup>

157. Jankowicz was forced to hire and pay attorneys to represent her in these matters, suffering financial and emotional harm resulting from this pattern of baseless litigation and harassment all of which was inspired by Fox’s false reporting.

158. A direct line can be drawn between Fox’s ceaseless and knowingly inaccurate coverage of Jankowicz and the Board to what Jankowicz has had to endure. Fox was the largest and most persistent media organization making these false statements about Jankowicz, and continued to do so long after any other public or media interest in her had evaporated, and long after it was justifiable to make those statements based on the publicly-available facts.

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<sup>92</sup> Letter from Jim Jordan et al., H. Comm. On the Judiciary, to Nina Jankowicz (May 5, 2022), *available at* [https://judiciary.house.gov/sites/evo-subsites/republicans-judiciary.house.gov/files/legacy\\_files/wp-content/uploads/2022/05/2022-05-05-HJC-GOP-to-Jankowicz-DHS-Misinformation.pdf](https://judiciary.house.gov/sites/evo-subsites/republicans-judiciary.house.gov/files/legacy_files/wp-content/uploads/2022/05/2022-05-05-HJC-GOP-to-Jankowicz-DHS-Misinformation.pdf).

**XII. Fox made the defamatory statements with actual malice.**

159. Fox published these false statements about Jankowicz with actual malice. At numerous times during Fox's campaign of false coverage about Jankowicz, Fox was aware of information directly contrary to its narrative. Nevertheless, Fox and its agents ignored any and all portions of publicly available information that contradicted its pre-determined narrative.
160. By ignoring these publicly-available facts that rebutted their reporting, Fox and its agents actually knew, or at the very least recklessly disregarded that their statements were false.
161. Furthermore, this is not the first time Fox and its agents have been caught ignoring contrary facts or poor sourcing to stick to a chosen narrative, even to the point of defamation. Indeed, it is a matter of public record that the guiding principle of Fox and its hosts' approach to their business is ratings and profit, including at the expense of the truth. As a part of publicly revealed discovery from *US Dominion, Inc. et al. v. Fox News Network, LLC*, No. N21C-03-257 EMD (Del. Sup. Ct.), documents and deposition testimony showed that Fox and its agents, including several on-air personalities who defamed Jankowicz as described above, showed their comfort with making false statements knowing or recklessly disregarding whether they are true or false.

A. Maria Bartiromo

162. On November 8, 2020, during her *Sunday Morning Futures* program, Maria Bartiromo invited Sidney Powell on the air as a guest. Powell claimed that Dominion’s voting machine software had a so-called “algorithm” used as a part of a “massive and coordinated effort to steal [the 2020] election” from former President Trump. *US Dominion Inc. et al. v. Fox News Network, LLC et al.*, No. N21C-03-257 EMD, Mot. for Summ. J., Ex. 1, at DOM\_0071654170–1 (Del. Sup. Ct. Jan. 17, 2023) (“SMF Tr.”). Bartiromo specifically invited Powell to discuss this topic and its relation to “voting irregularities.” SMF Tr. at DOM\_0071654173:6–18. The segment was pre-recorded with ample time to edit, contextualize, or even refuse to air it.
163. In her deposition, Bartiromo testified that she and Powell “had talked it through” before the show, and she “understood” what her guest was going to say on air. *US Dominion Inc. et al. v. Fox News Network, LLC et al.*, No. N21C-03-257 EMD, Mot. for Summ. J., Ex. 98 at 143:13–19 (Del. Sup. Ct. Jan. 17, 2023) (“Bartiromo Dep.”).
164. Bartiromo also knew Powell’s claims were baseless. The night before taping, Powell had forwarded Bartiromo her source—an email from a woman who claimed, *inter alia*, that Justice Scalia was murdered and that she could “time-

travel in a semi-conscious state.” *US Dominion Inc. et al. v. Fox News Network, LLC et al.*, No. N21C-03-257 EMD, Mot. for Summ. J., Ex. 154 (Del. Sup. Ct. Jan. 17, 2023) (“Powell email to Bartiromo”). Bartiromo acknowledged that she read this email before interviewing Powell.

165. Bartiromo also knew that a Trump “senior advisor and son-in-law[] thought Ms. Powell’s claims sounded in conspiracy theory.” Bartiromo Dep. at 151:10–22.
166. Nevertheless, Bartiromo discussed the topic with Powell without context and without rebutting what she knew were obviously false statements. Her motivation for knowingly and recklessly disregarding the truth was simple (and is equally applicable to the false statements she made about Jankowicz): ratings.
167. In her deposition, Bartiromo admitted that ratings “impact various aspects of [her] career at Fox.” Bartiromo Dep. at 320:7–9. She knew that although “the ratings at Fox overall took a hit right after the election . . . [Bartiromo’s] shows featuring Sidney Powell and Rudy Guiliani . . . did well.” *Id.* at 322:4–11. Bartiromo stated that “[i]t’s easier to get good ratings when you are giving your audience something they want to hear.” *Id.* at 323:6–9. In texts, Bartiromo agreed with her producer’s assessment that “[her] audience d[id]n’t want to hear about a peaceful transition.” *US Dominion Inc. et al. v. Fox News*



*Network, LLC et al.*, No. N21C-03-257 EMD, Mot. for Summ. J., Ex. 514, at FNN022\_03851652 (Del. Sup. Ct. Jan. 17, 2023) (“Bartirromo Grossberg Texts”).

168. Bartiromo took the same approach in the statements she made and permitted to be made about Jankowicz on her programs.

B. Jeanine Pirro

169. On the November 14, 2020 broadcast of *Justice with Judge Jeanine*, Fox made, endorsed and adopted false statements about Dominion committing election fraud through software and algorithms that manipulated vote counts in the 2020 Presidential Election. Like Bartiromo, Pirro invited Sidney Powell on her program as a guest. Powell proceeded to claim without qualification (or challenge from Pirro) that Dominion “was created for the express purpose of being able to alter votes and secure the re-election of Hugo Chávez and then Maduro.” *US Dominion Inc. et al. v. Fox News Network, LLC et al.*, No. N21C-03-257 EMD, Compl. ¶ 179(e) (Del. Sup. Ct. Mar. 26, 2021) (“Complaint”).

170. But on November 13, 2020, Pirro’s executive producer had forwarded her an email from Dominion specifically refuting the statements that were then aired the next day, providing supporting evidence for each contention. The producer told Pirro she “should be VERY careful w this” given that Dominion

had denied the claims categorically. *US Dominion Inc. et al. v. Fox News Network, LLC et al.*, No. N21C-03-257 EMD, Mot. for Summ. J., Ex. 458, at FNN008\_00022038 (Del. Sup. Ct. Jan. 17, 2023) (“Producer Pirro emails”).

171. Pirro made no attempt to provide context, clarify, or avoid the false information.
172. Pirro took the same tact when it came to information about Jankowicz. She jumped on the bandwagon despite having no way to avoid knowing that the facts were not as she reported them.<sup>93</sup>

C. Sean Hannity

173. On November 12, 2020, Sean Hannity appeared on Fox News discussing an AP News report about election software. He claimed the reporting said that Dominion’s voting machine software was “[p]lagued by freezing software and user error. In 2018, let’s go to the liberal AP reporting that Dominion, quote, long skimmed on security in favor of convenience making it more difficult to detect intrusions.” *US Dominion Inc. et al. v. Fox News Network, LLC et al.*, No. N21C-03-257 EMD, Mot. for Summ. J., Ex. 122, at 207:5–16 (Del. Sup. Ct. Jan. 17, 2023) (“Hannity Dep.”).

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<sup>93</sup> See, e.g., Jeanine Pirro, *The Five*, Fox News (May 13, 2022), <https://www.foxnews.com/video/6306087337112#sp=show-clips>.

174. In his deposition, it became clear that Hannity had misrepresented the AP article. Hannity Dep. at 209:5–11. But he explained that he was motivated to make the false statements because he was “talking about an issue that was so newsworthy, that everybody was covering it, it was Dominion.” *Id.* at 210:11–14. Like his colleagues, Hannity admitted that ratings are “very important for sure.” *Id.* at 210–211:22–2.
175. On November 16, 2020, Hannity stated in text messages to other Fox hosts that Trump legitimately losing the election would cause “[n]umbers”—meaning ratings—to “crash.” *US Dominion Inc. et al. v. Fox News Network, LLC et al.*, No. N21C-03-257 EMD, Mot. for Summ. J., Ex. 155, at 7 (Del. Sup. Ct. Jan. 17, 2023) (“Hannity Texts”).
176. Upon information and belief, Hannity was motivated to make false statements about Jankowicz for the same reason he was motivated to talk about Dominion. He wanted to be part of what he perceived everyone to be talking about, regardless of the truth of the statements.<sup>94</sup> To him, the question that

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<sup>94</sup> *See, e.g.*, Sean Hannity, *Hannity*, Fox News (May 2, 2022) (describing the Board as “yet another government program that gets used and abused to monitor Americans’ communications,” and Jankowicz as “our new disinformation minister”), [https://archive.org/details/FOXNEWSW\\_20220503\\_010000\\_Hannity/start/540/end/600](https://archive.org/details/FOXNEWSW_20220503_010000_Hannity/start/540/end/600); Sean Hannity, *Hannity*, Fox News (Nov. 30, 2022) (repeating similar statements months later), [https://archive.org/details/FOXNEWSW\\_20221201\\_020000\\_Hannity/start/720/end/780](https://archive.org/details/FOXNEWSW_20221201_020000_Hannity/start/720/end/780).

decides whether something is newsworthy is not whether it is true, but whether viewers are interested and whether ratings will respond well.

D. Tucker Carlson

177. On November 19, 2020, Tucker Carlson, invited Sidney Powell onto his show, where she made similar false claims about Dominion’s algorithm and the ability to change votes. Carlson made no attempt to counter or refute Powell’s conspiracy theories.
178. But behind the scenes, Carlson was so certain the claims were false that he told Powell directly. In a November 17, 2020 text message, Carlson wrote: “You keep telling our viewers that millions of votes were changed by the software. I hope you will prove that very soon. You’ve convinced them that Trump will win. If you don’t have conclusive evidence of fraud at that scale, it’s a cruel and reckless thing to keep saying.” *US Dominion Inc. et al. v. Fox News Network, LLC et al.*, No. N21C-03-257 EMD, Mot. for Summ. J., Ex. 177, at FNN035\_03890369 (Del. Sup. Ct. Jan. 17, 2023) (“Powell Carlson Texts”).
179. On November 18, 2020, he went further, texting fellow Fox host Laura Ingraham that “Sidney Powell is lying by the way. I caught her.” *US Dominion Inc. et al. v. Fox News Network, LLC et al.*, No. N21C-03-257

EMD, Mot. for Summ. J., Ex. 241, at FNN035\_03891091 (Del. Sup. Ct. Jan. 17, 2023) (“Ingraham Carlson Texts”).

180. But Carlson never told viewers that Powell’s claims were false.

181. Like his colleagues, Carlson was motivated by was profit and ratings. In a November 16, 2020 group text message between Ingraham, Hannity, and Carlson, Carlson agreed with Ingraham that Fox’s drop in ratings the previous Friday was significantly caused by anger at Fox for accurately reporting that Trump had lost Arizona in the 2020 General Election. *US Dominion Inc. et al. v. Fox News Network, LLC et al.*, No. N21C-03-257 EMD, Mot. for Summ. J., Ex. 155 (Del. Sup. Ct. Jan. 17, 2023) (“Ingraham Hannity Carlson Group Texts”).

182. When asked about this at his deposition, Carlson admitted that he did not push back on election fraud claims. *US Dominion Inc. et al. v. Fox News Network, LLC et al.*, No. N21C-03-257 EMD, Mot. for Summ. J., Ex. 105, at 201:9–13 (Del. Sup. Ct. Jan. 17, 2023) (“Carlson Dep.”).

183. He also admitted that at least part of his motivation for inviting election denier Mike Lindell onto his program was because Lindell’s company, My Pillow, is a Fox advertiser, and thus held significant sway to appear as a guest on Fox shows and say what he pleased. *Id.* at 235:13–17.

184. Upon information and belief, Carlson had the same motivations when he targeted Jankowicz ad nauseum.<sup>95</sup> That is, he believed that doing so was good for ratings and that ratings are more important than factual accuracy. *See, e.g., Corbin Bolies & Justin Baragola, Tucker Carlson’s C-Word Use on Display in Unredacted Dominion Docs*, *The Daily Beast* (May 5, 2023) (“I continue to think the company isn’t taking the [sic] seriously enough,” Carlson wrote to Baier. “We need to do something to reassure our core audience. They’re our whole business model.”).<sup>96</sup>
185. Ultimately, the facts revealed in the *Dominion* case demonstrate that Fox—including especially Bartiromo, Pirro, Hannity, Carlson, and their producers—is motivated to make false statements that suit a narrative that will hold Fox’s audience’s attention, generating ratings and profit, even when patently false.

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<sup>95</sup> *See, e.g., Tucker Carlson, Tucker Carlson Tonight*, Fox News (May 5, 2022), [https://archive.org/details/FOXNEWSW\\_20220506\\_000000\\_Tucker\\_Carlson\\_Tonight/start/2460/end/2520](https://archive.org/details/FOXNEWSW_20220506_000000_Tucker_Carlson_Tonight/start/2460/end/2520); Tucker Carlson, *Tucker Carlson Tonight*, Fox News (Nov. 18, 2022), [https://archive.org/details/FOXNEWSW\\_20221119\\_060000\\_Tucker\\_Carlson\\_Tonight/start/2880/end/2940](https://archive.org/details/FOXNEWSW_20221119_060000_Tucker_Carlson_Tonight/start/2880/end/2940); Tucker Carlson, *Tucker Carlson Tonight*, Fox News (Dec. 6, 2022), [https://archive.org/details/FOXNEWSW\\_20221207\\_010000\\_Tucker\\_Carlson\\_Tonight/start/2700/end/2760](https://archive.org/details/FOXNEWSW_20221207_010000_Tucker_Carlson_Tonight/start/2700/end/2760).

<sup>96</sup> Available at <https://www.thedailybeast.com/tucker-carlsons-c-word-use-on-display-in-unredacted-dominion-docs>.

**XIII. Fox holds itself out as a trusted news source.**

186. Fox is and believes itself to be a trusted news source for millions of viewers. Its “guiding principles” include: “building a culture of trust, integrity and ethical behavior.” Fox purports to be “uncompromisingly committed to being neutral arbiters of timely news” and proclaims that it “consider[s] journalistic independence and editorial integrity to be sacrosanct.” Its “opinions do not drive [its] news reporting, which pursues the facts wherever they lead.”<sup>97</sup>
187. Fox’s false and inflammatory reporting on Jankowicz turns these principles on their head. Far from offering “independent” analysis and accurate reporting, Fox’s reporters, commentators, broadcast hosts, and invited guests parroted the same false and incendiary talking points about Jankowicz, seemingly on repeat, and often with nearly identical phrasing.<sup>98</sup>
188. Fox’s editorial content is independent in one sense—it is offered independent of the facts. Indeed, Fox has an entire “Brainroom” dedicated to investigating facts.<sup>99</sup> And yet, even when the Brainroom gets the facts right, Fox will

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<sup>97</sup> Fox Corp., Standards of Business Conduct (June 2022), <https://media.foxcorporation.com/wp-content/uploads/prod/2022/06/17135056/Fox-6.15.22-SOBC.pdf>.

<sup>98</sup> *Id.*

<sup>99</sup> See Or. on Summ. J. Mots. 17, *US Dominion, Inc. v. Fox News Network, LLC*, C.A. Nos. N21C-03-257 EMD & N21C-11-082-EMD (March 31, 2023).

disregard its work, choosing ratings—delivered through increasingly pitched, inflammatory content—over integrity.<sup>100</sup>

189. Fox claims to “maintain strict separation between revenue sources and [its] news reporting and editorial opinions” and to “not let revenue sources dictate our new and opinion coverage.”<sup>101</sup> Not so. Money—not commitment to public discourse—dictates Fox’s coverage. When a conflict between ratings and the facts arises, the ratings win.<sup>102</sup> What happened to Jankowicz was no accident; Fox has created a monster, churning out increasingly venomous content in a desperate play to retain control of the outrage machine.

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<sup>100</sup> Dominion’s Combined Opp’n to Fox News Network, LLC’s & Fox Corp.’s Rule 56 Mots. for Summ. J., *US Dominion, Inc. et al. v. Fox News Network, LLC*, No. N21C-03-257 EMD, at 137 (Del. Sup. Ct. Feb. 8, 2022; Redacted Public Version filed Feb. 27, 2023) (recounting that the Brainroom had fact checked and debunked 18 of 20 challenged statements before they were made).

<sup>101</sup> Fox Corp., Standards of Business Conduct (June 2022), <https://media.foxcorporation.com/wp-content/uploads/prod/2022/06/17135056/Fox-6.15.22-SOBC.pdf>.

<sup>102</sup> *See, e.g.*, Dominion’s Combined Opp’n to Fox News Network, LLC’s & Fox Corp.’s Rule 56 Mots. for Summ. J., *US Dominion, Inc. et al. v. Fox News Network, LLC*, No. N21C-03-257 EMD, at 28 (Del. Sup. Ct. Feb. 8, 2022; Redacted Public Version filed Feb. 27, 2023) (recounting Rupert Murdoch’s testimony that he did not want to antagonize Trump because “He had a very large following, and they were probably mostly viewers of Fox, so it would have been stupid”).



**XIV. Fox Corporation is directly involved in Fox News management and operations.**

190. As explained above, numerous Fox News hosts, contributors, guests, and producers were involved in the decision to publish defamatory and false statements of fact about Jankowicz. Fox Corporation also participated through direct involvement in the management and operations of Fox News.

191. Fox Corporation executives play an active role in news operations and are comfortable publishing false statements on Fox News knowing or recklessly disregarding whether they are true or false. On information and belief, Fox Corporation executives had the same direct involvement in managing the operations of Fox News content as to Jankowicz that they had in other publicly revealed instances of defamation by Fox.

192. Rupert and Lachlan Murdoch, as Fox Corporation executives, occupy the highest positions within the Fox News hierarchy and thus oversee Fox News executives Suzanne Scott, Joe Dorrego, and Jay Wallace.<sup>103</sup>

193. But the Murdochs are more than mere figureheads. In his deposition Lachlan Murdoch described how he works with Fox News through Scott, *US Dominion Inc. et al. v. Fox News Network, LLC et al.*, No. N21C-03-257 EMD, Mot. for

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<sup>103</sup> Fox News Executive Leadership, <https://press.foxnews.com/> (visited 7/31/2023).

Summ. J., Ex. 130, at 261:22–23 (Del. Sup. Ct. Jan. 17, 2023) (“L. Murdoch Dep.”), and has given Scott “specific direction on both the tone and narrative of Fox’s news coverage,” L. Murdoch Dep. at 115:17–22.

194. Rupert Murdoch is similarly involved. Rupert Murdoch explained his involvement in his Dominion deposition: “I’m a journalist at heart. I like to be involved in these things.” *US Dominion Inc. et al. v. Fox News Network, LLC et al.*, No. N21C-03-257 EMD (Consolidated), Combined Opp’n to Rule 56 Mot. for Summ. J., Ex. 600 (Del. Sup. Ct. Feb. 27, 2023) (“R. Murdoch Dep.”) at 78:22–23.
195. The Murdochs and others in senior leadership at Fox Corporation have admitted not just their involvement but their responsibility for what is aired on Fox News. Fox Corporation Chief Legal and Policy Officer, Viet Dinh, confirmed in his deposition that those in the “chain of command” with “the power to exercise control” had “an obligation to” prevent the spread of defamatory statements about Dominion. *US Dominion Inc. et al. v. Fox News Network, LLC et al.*, No. N21C-03-257 EMD (Consolidated), Combined Opp’n to Rule 56 Mot. for Summ. J., Ex. 601 (Del. Sup. Ct. Feb. 27, 2023) (“Dinh Dep.”) at 287:11–19.
196. In other words, individuals at Fox News published the defamatory false statements about Jankowicz, but they only did so with the approval,

involvement, and blessing of Fox Corporation executives who approve of programming predicated on foregoing the truth in exchange for higher ratings.

**COUNT I: DEFAMATION & DEFAMATION *PER SE***

197. Jankowicz repeats and re-alleges the preceding paragraphs as if fully set forth herein.
198. Defendants Fox News Network, LLC, and Fox Corporation have made defamatory statements against Nina Jankowicz as described in the preceding paragraphs.
199. Fox's defamatory statements have been widely published and broadcast throughout the United States, including on television and digital media platforms.
200. Fox's defamatory statements are false. They are factually false, and they imply false facts to the consumer.
201. The defamatory statements are either plainly defamatory or defamatory by implication. A reasonable person would understand that Fox claimed Jankowicz: (1) intended to and did in fact engage in government censorship as Executive Director of the Board; (2) was fired rather than having resigned; and (3) was involved in the creation of and advocated for a tool allowing her to edit others' tweets—the Twitter Birdwatch and/or Community Notes tool—

which had nothing to do with Jankowicz and about which she had publicly expressed skepticism.

202. As a result of Fox's defamatory statements and publications, Jankowicz received substantial objectionable and unreasonable publicity, indicating that Fox's defamatory statements were understood to be true by its consumers. These statements placed Jankowicz in a false position before the public.
203. Fox published the defamatory statements against Jankowicz with actual malice. The statements were made with actual knowledge of their falsity or with reckless disregard of the same.
204. Fox published the defamatory statements against Jankowicz with common-law malice. Fox was motivated by ill will and spite toward Janowicz, which is plainly evidenced in its reporting outlined above.
205. Fox's defamatory statements were not privileged.
206. Fox's defamatory statements are defamatory per se because they obviously would, and in fact did, injure Jankowicz in her professional capacity.
207. Fox's defamatory statements and their publication have directly and proximately injured Jankowicz.
208. Because Fox defamed Jankowicz with actual and common-law malice, it is liable to Jankowicz for punitive damages.

**PRAYER FOR RELIEF**

Plaintiff Nina Jankowicz demands judgment against Defendants as follows:

1. Compensatory damages in an amount to be established at trial for Jankowicz's economic, emotional, reputational, and other injuries traceable to Fox's legal violations;
2. Punitive damages;
3. Plaintiff's expenses and costs, including attorney's fees and expert fees; and
4. Such other and further relief as the Court deems appropriate.

**JURY DEMAND**

Plaintiff Nina Jankowicz demands a trial by jury on all claims and issues so triable.

Dated: August 3, 2023

Respectfully submitted,

FARNAN LLP

/s/ Brian E. Farnan

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