

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF FLORIDA**

DONALD J. TRUMP, the Forty-Fifth President of
the United States, ELIZABETH ALBERT,
KIYAN AND BOBBY MICHAEL, JENNIFER
HORTON, ANDRES CABO, MAGALYS RIOS,
AND MARIA RODRIGUEZ-FRESNEDA,
INDIVIDUALLY AND ON BEHALF OF
THOSE SIMILARLY SITUATED,

Plaintiffs,

v.

FACEBOOK, INC., and MARK ZUCKERBERG

Defendants.

Civil Action No. 1:21-cv-22440-KMW

DECLARATION OF ALAN M. DERSHOWITZ

Affidavit in support of Motion for Preliminary Injunction

State of MASSACHUSETTS
County of DORSET

Before me the undersigned personally came and appeared.

ALAN M. DERSHOWITZ

who being first duly sworn, deposed and said:

1. I am the Felix Frankfurter Professor of Law (emeritus) at Harvard University. I am a democrat who has voted for every Democratic candidate for President since 1960. I have long supported freedom of speech without regard to partisanship. I served on the National Board of the ACLU and on Harvard Law School's Committee on Free Speech. I have received several awards for my defense of free speech and have argued numerous free speech cases in the courts, including the Supreme Court. I have written extensively about freedom of speech and the First Amendment. Two of my recent books – *Cancel Culture*, and *the Case Against the New Censorship* – deal with the issue in this case.

2. A copy of my current curriculum vita is attached as Exhibit 1.

3. I have previously been qualified to testify as an expert in public law.

4. I have reviewed the complaints to be filed in this matter attached as Exhibit 2 and
3. I have been asked to offer my opinion as to whether or not the request for preliminary injunctive relief sought herein satisfies the criteria of F.R.C.P. 65.

5. In *Winter v. Natural Resources Defense Council, Inc.*, 555 U.S. 7 (2008), the Supreme Court described the balance test for whether a preliminary injunction is appropriate. A court needs to examine whether the plaintiff is likely to succeed on the merits, whether the plaintiff is likely to suffer irreparable harm without the injunction, whether the balance of

equities and hardships is in the plaintiff's favor, and whether no injunction is in the public interest.

6. My opinion is that the plaintiff's right to speak freely has been seriously compromised by Facebook and Twitter. Moreover, the rights of his audience to have access to his views have also been curtailed.

7. The question of social media censorship under Section 230 is an issue of major legal importance and I believe the allegations of the Complaints which I have reviewed raise serious, substantial legal issues some of which have not been heretofore litigated.

8. A preliminary injunction is in the public interest. Censoring the 45th President of the United States, the leader of the Republican party, will have an adverse and unknowable effect on the 2022 elections.

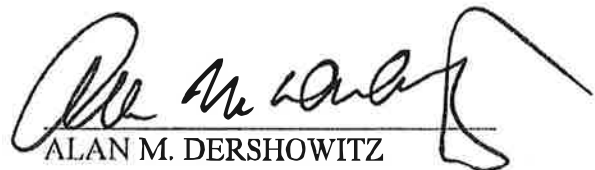
9. The number of people the former President reached through social media was staggering.

10. Democracy demands a level playing field.

11. Unless preliminary relief is granted, it is likely that the censorship imposed by Facebook and Twitter will impact the 2022 elections.

12. The precise effect of continuing censorship is unpredictable but it is likely to have a profound impact, which will cause the plaintiff and the electorate irreparable harm.

Dated:


ALAN M. DERSHOWITZ

Sworn to and subscribed before me
this 1 day of July, 2021.


Notary Public

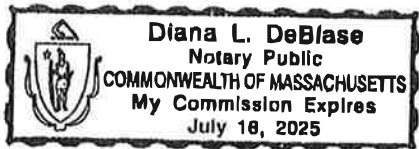


EXHIBIT 1

Professor Alan M. Dershowitz is a Brooklyn native who has been called "the nation's most peripatetic civil liberties lawyer" and one of its "most distinguished defenders of individual rights," "the best-known criminal lawyer in the world," "the top lawyer of last resort." He has been named America's most "public Jewish Defender," -- "the Jewish state's lead attorney in the court of public opinion." He is the Felix Frankfurter Professor of Law, emeritus, at Harvard Law School. Dershowitz, a graduate of Brooklyn College and Yale Law School, joined the Harvard Law School faculty at age 25 -- the youngest in the school's history -- and became an emeritus professor after 50 years of teaching more than 10,000 students.

Dershowitz has been called the "winningest" criminal lawyer in modern history and has argued hundreds of appeals in courts throughout the nation. He has won the vast majority of his homicide cases and has never lost a client to the death penalty. He continues to consult actively on both transnational and domestic criminal and civil liberty cases. He continues to devote half of his practice to pro bono cases and causes.

Dershowitz has also published more than 1000 articles in magazines, newspapers, journals and blogs. These include the New York Times, for which he has written numerous op-eds, book reviews and articles for the News of the Week in Review, as well as for the Magazine and entertainment sections. He has also written for The Wall Street Journal, The Washington Post, The Boston Globe, The Harvard Law Review, the Yale Law Journal, the Huffington Post, Gatestone, Newsmax, Jerusalem Post, Ha'aretz, and Allgemeiner. Professor Dershowitz is the author of 40 fiction and non-fiction works with a worldwide audience, including the New York Times #1 bestseller Chutzpah and six other national bestsellers. His autobiography, Taking the Stand: My Life in the Law, was published in 2013. Other current titles include his eBook, Electile Dysfunction: A Guide for Unaroused Voters (2016) and Trumped up! How Criminalizing Politics is Dangerous to Democracy (2017). The Case Against BDS was published in 2018, as was his newest book, The Case Against Impeaching Trump, which is available now with updated chapters as The Case Against the Democratic House Impeaching Trump.

In addition to his numerous law review articles and books about criminal and constitutional law, he has written, taught and lectured about history, philosophy, psychology, literature, mathematics, theology, music, sports -- and even delicatessens (he was commissioned by The New York Times to write an op-ed comparing all of New York's delis and selecting the best pastrami; he picked Katz's).

His writing has been praised by Truman Capote, Saul Bellow, William Styron, David Mamet, Aharon Appelfeld, A.B. Yehoshua, Elie Wiesel, Richard North Patterson, Steven Pinker and Henry Louis Gates, Jr. More than a million of his books--translated in many languages -- have been sold worldwide.

He has also been the recipient of numerous honorary doctor degrees and academic awards including a Guggenheim Fellowship for his work on human rights, a fellowship at The Center for the Advanced Study of Behavioral Sciences and several Dean's Awards for his books.

In 1983, the Anti-Defamation League of the B'nai B'rith presented him with the William O. Douglas First Amendment Award for his "compassionate eloquent leadership and persistent advocacy in the struggle for civil and human rights." In presenting the award, Nobel Laureate Elie Wiesel said: "If there had been a few people like Alan Dershowitz during the 1930s and 1940s, the history of European Jewry might have been different."

He has been the subject of two New Yorker cartoons, a New York Times crossword puzzle, and a Trivial Pursuit question. A Sandwich at Fenway Park has been named after him—pastrami, of course.

He is married to Carolyn Cohen, a Ph.D. psychologist. He has three children, one a film producer, one a lawyer for the Women's Basketball Association and one a professional actor. He also has two grandchildren.