

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

ROBERT ANTHONY ALVAREZ,
Plaintiff,

Case No.
Hon.

v.

ELON REEVE MUSK, an individual,
AMERICA PAC,
a political action committee,

Defendants.

<p>AVANTI LAW GROUP, PLLC Robert Anthony Alvarez (P66954) Raquel A. Salas (P70649) Attorneys for Plaintiff 600 28th St. SW Wyoming, MI 49509 (616) 257-6807 ralvarez@avantilaw.com</p>	
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PLAINTIFF'S ORIGINAL COMPLAINT

NOW COMES Plaintiff, by and through his counsel the Avanti Law Group, PLLC, and hereby states as follows:

Introduction

1. Elon Musk and his organization, America PAC, fraudulently induced Alvarez and tens of thousands of Michigan residents to sign up for a chance to win \$1 million via their online petition through the America PAC website.¹

¹ <https://petition.theamericapac.org/>

2. However, Musk and his PAC never had any intention of awarding the \$1 million randomly and had determined to pre-select only those individuals who they deemed worthy of being selected to ensure that any “winner” was aligned with their political views and values.
3. Thus, Alvarez and others like him, never had a chance at being “randomly” selected to win the \$1 million dollars.
4. The petition and award were a FRAUD.

JURISDICTION

5. This Court has jurisdiction over this matter pursuant to 28 U.S.C. §1332 as Plaintiff is a resident of the state of Michigan and Defendants are residents of or registered in the state of Texas and the amount in controversy exceeds \$75,000.
6. Venue is proper in this district pursuant to 28 U.S.C. §1391(b) as the actions complained of arose within this district as Musk and his PAC marketed and promoted their petition to individuals residing in the District and in fact, did award \$1 million to an individual from the city of Holland.

PARTIES

7. Plaintiff Robert Anthony Alvarez is a resident of Kent County, Michigan and registered voter and is a supporter of Democratic candidates Kamala Harris and Tim Walz.
8. Defendant Elon Reeve Musk is the founder of America PAC. Musk funded America PAC, is involved in America PAC’s operations, made representations to Alvarez and Michigan residents on behalf of America PAC, and benefits from increased traffic generated by America PAC on the social media platform X, of which Musk is the majority owner.

9. Defendant America PAC is a political action committee “to support candidates who champion Secure Borders, Sensible Spending, Safe Cities, Fair Justice System, Free Speech and Self-Protection,” especially the candidacy of former President Donald Trump. See America PAC, <https://x.com/america>.

GENERAL ALLEGATIONS

10. On or about October 19, 2024, Musk and his PAC announced the opportunity to win an award of \$1 million to any registered voters from any of identified swing states, which included Michigan.
11. They announced that if a registered voter from one of those swing states turned over their personal identifying information (i.e., address, cell phone number and e-mail address), and made a pledge of support for the First and Second amendments of the U.S. Constitution they would be eligible to be selected “randomly” to win an award of \$1 million.
12. In fact, at the event in which they made their announcement, three individuals were awarded \$1 million dollars each after having been “randomly selected”.
13. This petition was marketed and promoted as an opportunity for any individual who signed the petition to be awarded \$1 million dollars if they were “randomly” selected.
14. In fact, Musk specifically stated at the announcement of this opportunity that:
“We really want to get as many people as possible to sign this petition, so I have a surprise for you. And it's that we'll be awarding \$1 million dollars, randomly, to people who have signed the petition. Every day from now until the election.”
15. The only conditions and/or requirements for a chance to win the award were that the individuals:

- a. Be registered voters;
 - b. Reside in one of the battleground states;
 - c. Support the First and Second Amendments; and
 - d. Sign the petition.
16. Alvarez is a registered voter.
17. Alvarez resides in a battleground state.
18. Alvarez supports the First and Second Amendments of the U.S. Constitution.
19. On or about October 29, 2024, Alvarez provided his personal information on the online form as required to indicate his signature on the petition.
20. Alvarez believed that though the odds may not have been favorable, there was still a chance that he could be randomly selected to win the \$1 million award offered by Musk and his PAC.
21. However, on November 4, 2024, Alvarez learned through various reporting from news outlets online that Musk and his PAC's attorneys made representations in the Philadelphia Court of Common Pleas to Judge Angelo Foglietta in which they confirmed that the awarding of the \$1 million dollars was not "random" and was, in fact, predetermined.
22. During this hearing Musk the PAC's counsel and other representatives made the following statements among others:
 - a. The winners are not chosen by chance;
 - b. There was no prize to be won;
 - c. The \$1 million dollar payment was to be compensation for serving as spokesperson for the pro-Trump super PAC;

- d. The winners were selected based on their suitability to serve as a spokesperson for the PAC;
 - e. The winners were hand-picked based on their personal stories;
 - f. The intent was to avoid providing the funds to someone with ill-intent (i.e. someone not aligned with the political views and leanings of Musk and the PAC);
 - g. The winners would be required to “earn” the \$1 million by agreeing to work as spokespersons for the PAC and meeting other contractual obligations.
23. Furthermore, Musk and the PAC’s counsel indicated on the record that “We know exactly who will be announced as the \$1 million recipient today and tomorrow.”
24. Testimony by Chris Young, Director and Treasurer of the PAC further confirmed that the recipients are vetted ahead of time, to “feel out their personality, (and) make sure they were someone whose values aligned with the group.” *See* Maryclaire Dale, “*Elon Musk’s \$1 million-a-day voter sweepstakes can proceed, a Pennsylvania judge says,*” AP News, (Nov. 5, 2024, updated 9:56 A.M.), <https://apnews.com/article/musk-million-sweepstakes-lottery-pennsylvania-krasner-4f683c48eb7dcc57f183e54ef16e7320>.
25. A closer look at the recipients of the \$1 million prize show a clear pattern: that the selection not only is not random, but is a targeted process that eliminates anyone who is not a Republican or vocal supporter of Donald Trump.
26. The first three winners of the America PAC lottery were all registered voters from Pennsylvania. John Dreher, Kristine Fishell and Shannon Tomei were Pennsylvania voters who signed the petition and subsequently announced as winners of the \$1 million prize. *See* Fallon Roth, *Elon Musk gave \$1 million to three Pennsylvanians for signing*

his America PAC petition. They'd already voted., The Philadelphia Inquirer (Oct. 22, 2024 1:00 P.M.),

<https://www.inquirer.com/politics/election/elon-musk-petition-lottery-winners-20241022.html>

27. Despite Mr. Musk's claims that winners would be chosen "randomly," and the instructions from America PAC claiming that this was a nonpartisan giveaway, the first three winners of the America PAC lottery were all registered Republican voters, all of whom had already voted in the November general election. *Id.*
28. So far, all of the winners of the America PAC lottery have either been registered Republicans or have publicly espoused support for the party, despite the rules of the lottery appearing to be nonpartisan.
29. According to a report by NBC News, "[A]n analysis of the winners shows at least one other similarity: Almost all of them are registered Republicans or appear to be Republican-leaning. Nine of the 14 winners so far are registered Republicans, according to state voter rolls. A 10th winner lives in a state that doesn't allow the public to view party affiliation, but she posts regularly on social media in support of former President Donald Trump. And four others reside in states where voters don't register to vote with a party affiliation, but one of them posts pro-Trump messages on social media and another describes himself in a video from Musk's super PAC, America PAC, as a former Democrat. Another of those four said in an interview that he supports Trump and has already voted." See Ben Kamisar, David Ingram, Bruna Horvath, Alexandra Marquez, "*Who are the people winning Elon Musk's \$1 million daily giveaways?*" NBC News, (Nov. 1, 2024, 5:24 P.M.),

<https://www.nbcnews.com/tech/tech-news/are-people-winning-elon-musks-1-million-daily-giveaways-rcna178254>.

30. These results are antithetical to the rules provided by America PAC and Mr. Musk's own words, who said that party affiliation doesn't affect who wins. Mr. Musk wrote on X, "All you need to do is sign the @America petition in support of the Constitutional rights to free speech & bear arms to have a daily chance of winning \$1,000,000! You can be from any or no political party and you don't even have to vote." Elon Musk (@elonmusk), "All you need to do is sign. . . ." X (Oct. 20, 2024, 7:39 P.M.), <https://x.com/elonmusk/status/1848147035607998575>.
31. The three winners from Michigan have clearly been through this selective process, and were not randomly chosen. America PAC has awarded the \$1 million prize to Jordan Timmerman from Hastings, Michigan, Jason Cochran from Holland, Michigan, and Ronald Conwell from Clarkston, Michigan.
32. According to the winners' own posts on social media, it appears that they are aware of the partisan nature of the selection and how it is tied to their support of Donald Trump.
33. America PAC posted a photo of Jordan Timmerman being awarded an oversized check, and Mr. Timmerman appears to be wearing a Donald Trump t-shirt underneath his American flag patterned suit. The post from America PAC states that "Recipients will be selected to earn \$1M as a spokesperson for America PAC." America (@America) "Jordan from Hastings . . ." X (Oct. 28, 2024, 10:08 A.M.), <https://x.com/america/status/1850902543905202551>.
34. Once again, the language by America PAC seemingly both implies a nonpartisan selection by stating that those who sign the petition are eligible, while also belying the

true partisan intent. Mr. Timmerman is photographed in America PAC's post wearing a Donald Trump shirt, and Mr. Timmerman's posts on X espouse pro Trump and pro Republican opinions, both before and after he was selected.

35. Jason Cochran posted similar views on X, and on his Facebook profile had a photo of himself with the oversized check from America PAC and the following description in his bio: "Thank you Elon Musk, Thank you Donald Trump, Let's make the right decision by signing the petition." Jason Cochran's Facebook Profile, accessed on November 5, 2024, at <https://www.facebook.com/profile.php?id=61568098470651&mibextid=LQQJ4d>.
36. Ronald Conwell gave a statement to NBC News admitting the partisan nature of the prize selection. When reporters for NBC told him that no Democrats had won the America PAC lottery yet, he stated that it "didn't surprise him" and he "believes Democrats are not ideologically predisposed to sign Musk's petition in support of the First and Second Amendments." See Ben Kamisar, David Ingram, Bruna Horvath, Alexandra Marquez, "Who are the people winning Elon Musk's \$1 million daily giveaways?" NBC News, (Nov. 1, 2024, 5:24 P.M.), <https://www.nbcnews.com/tech/tech-news/are-people-winning-elon-musks-1-million-daily-giveaways-rcna178254>.
37. Not only is the selection process overtly partisan based on the winners and their statements and social media posts, but America PAC has kept the selection process shrouded in secrecy. America PAC declined to comment when reporters attempted to vet or question the process. *Id.*
38. Perhaps most ironically of all, Chris Young, the director and treasurer of America PAC, admitted before Judge Foglietta that America PAC made the winners of the \$1 million

prize sign nondisclosure agreements, despite the petition pledging support for the First Amendment. *See* Maryclaire Dale, “Elon Musk’s \$1 million-a-day voter sweepstakes can proceed, a Pennsylvania judge says,” AP News, (Nov. 5, 2024, updated 9:56 A.M.), <https://apnews.com/article/musk-million-sweepstakes-lottery-pennsylvania-krasner-4f683c48eb7dcc57f183e54ef16e7320>.

39. Mr. Young seemed to indicate that the selection process for the lottery and the true motivations and goals behind the initiative were more than what was stated by Mr. Musk and America PAC on social media. Counsel for District Attorney Larry Krasner asked Mr. Young, “They couldn’t really reveal the truth about how they got the money, right?” to which Mr. Young responded, “Sounds right.” *Id.*
40. Given this new information and admissions by Musk and the PAC’s representatives, it is clear that Musk and the PAC never had any intention of fulfilling their stated opportunity to registered voters like Alvarez.

COUNT I - FRAUDULENT MISREPRESENTATION

41. Plaintiff hereby incorporates by reference all preceding paragraphs.
42. Musk and the PAC made false representations regarding the nature of the opportunity, the method in which winners would be selected and the terms under which the \$1 million would be awarded.
43. Alvarez was led to believe that he was going to be participating in an opportunity to win \$1 million by being randomly selected by chance with the only requirements being those listed in paragraph 15 above.

44. Musk and the PAC concealed the true nature of the opportunity, method in which the winners would be selected and the terms/conditions under which Alvarez, if selected, would be awarded the \$1 million.
45. Musk and the PAC's fraudulent conduct was intentional, willful, and designed to deceive Alvarez and others into participating in their program under false pretenses.
46. Defendants knew or should have known that their statements and representations were false, misleading and that individuals such as Alvarez would rely on those misrepresentations to sign the petition.
47. Musk and the PAC's false and misleading representations were meant to inflate the interest in their petition and the subject and theme of its support for the Republican candidate for President.
48. Their inducement was targeted to registered voters in swing states with the intent that it would inflate support for their chosen candidate in those states specifically.
49. The award of \$1 million dollars was meant to induce and entice registered voters in those states to sign the petition seemingly with no requirement that the signer was actually a supporter of the Republican Candidate for President.
50. Musk and the PAC knew that the opportunity to win the \$1 million dollar award was not and would not be available as advertised to individuals such as Alvarez.
51. Alvarez justifiably relied on Defendants' false representations and assurances to his detriment by providing his personal details in hopes of being randomly selected to win the \$1 million dollar award.
52. Alvarez relied on Defendants' false representations and provided his personal information (i.e., address, cell phone number and e-mail address) indicating his affirmative

acceptance of the petition's stated purpose in supporting the First and Second Amendments of the U.S. Constitution.

53. Musk and the PAC exploited Alvarez and many others with the promise of a life changing award of \$1 million dollars knowing that he could never have been selected as a recipient of the award.
54. Defendants knew that Alvarez would not be considered among the potential pool of recipients as they had preselected and predetermined the winners based on criteria not revealed or known to the public, including Alvarez.
55. Alvarez's signature on the petition was used to inflate the numerical support for Musk and PAC's political views, support for the Republican candidate for President and other conservative themes and views.
56. Alvarez and others were exploited by Musk and the PAC to further their political support of the Republican candidate for President.
57. As a direct and proximate result of Defendants' fraudulent conduct, Plaintiff has suffered damages in excess of \$1,000,000.

COUNT II - BREACH OF CONTRACT

58. Plaintiff hereby incorporates by reference all preceding paragraphs.
59. On or about October 29, 2014, the parties entered into an agreement, whereby Alvarez would provide his personal information and sign the Defendants' petition in exchange for an opportunity to win a \$1 million dollar award.
60. Alvarez met the terms and conditions for participating in the opportunity that were made public by Musk and the PAC.
61. Alvarez fulfilled his obligations under the terms of the agreement.

62. Alvarez relied on Defendants' false representations and provided his personal information (i.e., address, cell phone number and e-mail address) indicating his affirmative acceptance of the petition's stated purpose in supporting the First and Second Amendments of the U.S. Constitution.
63. Musk and the PAC breached their agreement with Alvarez by not providing him with the opportunity to be fairly selected for the award of \$1 million based on their private and secret metrics for selecting a winner.
64. Defendants accepted Alvarez' signature and personal information on the petition, counted him among supporters of their political beliefs, leanings and views but did not include him in the potential pool of individuals that would be eligible for selection of the \$1 million dollar award.
65. Musk and PAC utilized Alvarez's signature on the petition to their benefit without providing Alvarez with any similar promised benefit - i.e. inclusion in the pool of potential winners of the \$1 million dollar award.
66. As a direct and proximate result of Defendants' breach, Plaintiff has suffered damages in excess of \$1,000,000.

COUNT III - SILENT FRAUD

67. Plaintiff hereby incorporates by reference all preceding paragraphs.
68. Musk and the PAC concealed the true nature of the opportunity, method in which the winners would be selected and the terms/conditions under which Alvarez, if selected, would be awarded the \$1 million.
69. As the creators, funders, operators and promoters of the opportunity, Musk and the PAC had a duty to disclose the true nature of the opportunity, method in which the winners

would be selected and the terms/conditions under which Alvarez, if selected, would be awarded the \$1 million.

70. Musk and PAC had actual knowledge of the true nature of the opportunity, method in which the winners would be selected and the terms/conditions under which Alvarez, if selected, would be awarded the \$1 million.
71. Defendants failed to disclose these facts to Alvarez causing him to have a false impression that he would be eligible for and would be included in the pool of potential winners to be selected for the \$1 million dollar award.
72. When Musk and the PAC failed to disclose the facts, they knew the failure to disclose those facts would create a false impression.
73. When Defendants failed to disclose the facts, they intended that Alvarez and others would rely on the resulting false impression.
74. Alvarez relied on the false impression and was damaged as a result.
75. Alvarez and others were exploited by Musk and the PAC to further their political support of the Republican candidate for President.
76. As a direct and proximate result of Defendants' breach, Plaintiff has suffered damages of \$1,000,000.

COUNT IV - CIVIL CONSPIRACY

77. Plaintiff hereby incorporates by reference all preceding paragraphs.
78. Musk, the PAC and others came together and illegally, maliciously, and wrongfully conspired with one another with the intent and for the illegal purpose to defraud and exploit Alvarez and his personal information for their own use.

79. Defendants' conspiracy was created to accomplish the unlawful or criminal purpose of defrauding and exploiting Alvarez and his personal information to their own use.
80. As a result of the Defendants' conspiracy and underlying tortious activity, Alvarez suffered damages in the amount of \$1,000,000.

PRAYER FOR RELIEF

WHEREFORE, Alvarez demands judgment against the Musk and the PAC and requests that the court order the following relief:

- A. Award Alvarez any and all damages available to him as a result of Musk and the PAC's breach of contract in the amount of \$1,000,000;
- B. Award Alvarez any and all damages available to him as a result of Musk and the PAC's fraudulent actions in the amount of \$1,000,000;
- C. Award Alvarez exemplary damages damages in an amount sufficient to compensate him for exploitation of his personal information and for the fraudulent conduct committed by Musk and the PAC;
- D. Award Plaintiff all reasonable attorney fees, costs, and expenses incurred in prosecuting this action.
- E. Award Plaintiff prejudgment and post-judgment interest as allowed by law.
- F. Granting any other relief that this Court deems just and proper.

Dated: November 5, 2024

Respectfully Submitted,

/s/ Robert Anthony Alvarez
Robert Anthony Alvarez (P66954)
Attorney for Plaintiffs
Avanti Law Group. PLLC

REQUEST FOR TRIAL BY JURY

NOW COMES Plaintiff, by and through his attorneys the Avanti Law Group PLLC, and hereby requests a trial by jury pursuant to Rule 38 of the Federal Rules of Civil Procedure.

Dated: November 05, 2024

Respectfully Submitted,

/s/ Robert Anthony Alvarez

Robert Anthony Alvarez (P66954)

Attorney for Plaintiff

Avanti Law Group. PLLC