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NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE

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6 UNITED STATES DISTRICT COURT
7 NORTHERN DISTRICT OF CALIFORNIA

VKD

9 ERIK ESTAVILLO,
10 Plaintiff,

11 v.

12 TWITTER INC., U.S. REP.
13 ALEXANDRIA OCASIO-CORTEZ, and
14 U.S. REP. ILHAN OMAR,

15 Defendants.

Case No. **21 00277**

16
17 COMPLAINT

18 The Plaintiff immensely objects, condemns, and seeks restitution for the unsolicited and
19 overbearing pain and suffering he has experienced after the Sitting President Donald J. Trump's
20 Twitter Account was banned, as well as seeking justice for the 88.7 million other followers who
21 are now suffering adverse mental affects as they too were heavily invested in his account.
22 Furthermore, Twitter consistently promotes eastern communist philosophies through its platform
23 on a daily basis which is consistently being perpetrated by Alexandria Ocasio-Cortez, Ilhan
24 Omar, and the Twitter platform through its enabling and endorsing of such socialist propaganda.
25 This is unconstitutional when taken as a whole in regards to the limiting of certain free speech
26 while allowing other controversial free speech to go unchecked, given that Twitter is now acting
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1 as Publisher and not Host of such content. Twitter is officially now operating as a “Virtual
2 Company Town” where all voices are heard and political ideas exchanged. This should occur on
3 its platform without fear of banishment from such a Publisher as Twitter, and now they should be
4 held accountable to such a standard as previous U.S. Case Law demonstrates that they are now
5 operating as a Virtual Company Town.
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7 INTRODUCTION

8 1. This is an action to ensure Twitter acts as Host and not take the role as Publisher of
9 socialist/communist propaganda and to prevent them from targeting certain online personalities
10 and silencing their freedom of speech occurring in a “Virtual Company Town”. Rather than
11 silencing a political argument as a whole from both sides of the political spectrum, Twitter
12 instead commits egregious and aggressive censorship which is damaging to the plaintiff’s
13 political foundational beliefs, his psyche, and mental wellbeing.
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15 2. Ironically, the Plaintiff is a registered Democrat and ran for congress the previous year
16 but finds the behavior by these particular two Democrats Alexandria Ocasio-Cortez and Ilhan
17 Omar especially egregious and finds that Twitter’s complicity in such propaganda particularly
18 disturbing as they are shaping young minds. Twitter has not once flagged their accounts for such
19 communist propaganda but having instead chosen to permanently ban the sitting President
20 Donald J. Trump’s Twitter account this past week, which the plaintiff heavily relied on for a fair
21 and balanced viewpoint on all political discussions of the day which occurs on Twitter and its
22 reliably “unbiased” online platform. Twitter is essentially acting as a Publisher by censoring
23 certain content instead of acting as a Host in accordance to such content.
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26 3. While Twitter will inevitably rely on Section 230 as a political shield to further their
27 socialist agenda, they should not be protected in this instance because they are acting as
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1 Publisher and not Host of political discourse occurring on their platform; Twitter falls under the
2 “Company Town” exception in regards to its limiting of certain free speech as ruled in the
3 Supreme Court’s decision in *Marsh v. Alabama*, 326 U.S. 501 (1946). In which the decision
4 ruled that a state or private entity such as Twitter could be held liable, if, they prevent the
5 distribution of such free speech that may be useful to the public. Twitter now operates as a
6 “Virtual Company Town” where the Court noted that the rights of citizens under the Bill of
7 Rights occupy a preferred position. Accordingly, the Court held that the property rights of a
8 private entity (in this case virtually) are not sufficient to justify the restriction of a community
9 of citizens’ fundamental rights and liberties. This decision was also held up in *Lloyd Corp. v.*
10 *Tanner*, 407 U.S. 551 (1972). Twitter is a Virtual Company Town, without a doubt, and must be
11 held to the same standard and not interfere with political discourse, especially, that of a sitting
12 President of the United States.

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15 4. This position was more firmly affirmed in *Pruneyard Shopping Center v. Robins*, 447
16 U.S. 74 (1980) and is now the gold standard for freedom of speech which occurs on a private
17 entity’s property, or as in this case, a private virtual platform acting as a company town where
18 much of the public gathers for vital political information.

20 JURISDICTION AND VENUE

21 5. This Court has jurisdiction under 28 U.S.C. § 1331 because this action arises under the
22 First Amendment to the U.S. Constitution, the Americans with Disabilities Act (“ADA”), and
23 other Federal statutes.

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25 6. This Court is authorized to award the requested declaratory, injunctive and punitive
26 relief under the Declaratory Judgment Act, 28 U.S.C. §§ 2201-2202 and the ADA.

27 7. Venue is proper in this district pursuant to 28 U.S.C. § 1391(b)(2) and (e)(1). A
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1 substantial part of the events giving rise to this claim occurred in this District, and two of the
2 Defendants are officers or agencies of the United States sued in his or her official capacity.

3 **PARTIES**

4 8. Twitter is a Delaware corporation with its principal place of business at 1355 Market
5 Street, San Francisco, CA 94103. Twitter operates a global platform for self-expression and
6 communication, with the mission of giving everyone the power to create and share ideas and
7 information instantly. Twitter's more than 300 million active monthly users use the platform to
8 connect with others, express ideas, and discover new information. Hundreds of millions of short
9 messages (known as "Tweets") are posted on Twitter every day. Twitter provides these services
10 at no charge to its users.
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12 9. Alexandria Ocasio-Cortez /ouˌkɑːsiou kɔːrˈtez/ (Spanish: [oˈkasjo korˈtes]; born
13 October 13, 1989), also known by her initials AOC, is an American politician serving as the U.S.
14 representative for New York's 14th congressional district since 2019. The district includes the
15 eastern part of the Bronx, portions of north-central Queens, and Rikers Island in New York City.
16 She is a member of the Democratic Party.
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18 10. Ilhan Abdullahi Omar (born October 4, 1982) is an American politician serving as
19 the U.S. Representative for Minnesota's 5th congressional district since 2019. She is a member of
20 the Democratic–Farmer–Labor Party. Before her election to Congress, Omar served in the
21 Minnesota House of Representatives from 2017 to 2019, representing part of Minneapolis. Her
22 congressional district includes all of Minneapolis and some of its suburbs.
23

24 **FACTUAL BACKGROUND**

25 11. *Knight First Amendment Institute v. Trump*, No. 1:17-cv-05205 (S.D.N.Y.) was a
26 lawsuit filed on July 11, 2017 where the plaintiffs, Philip N. Cohen, Eugene Gu, Holly Figueroa
27 O'Reilly, Nicholas Pappas, Joseph M. Papp, Rebecca Buckwalter-Poza, and Brandon Neely,
28 were a group of Twitter users blocked by U.S. President Donald Trump's personal

1 @realDonaldTrump account. They allege that this account constitutes a public forum, and that
2 blocking access to it is a violation of their First Amendment rights. The lawsuit also names as
3 defendants White House press secretary Sean Spicer and social media director Dan Scavino. The
4 plaintiffs are represented by the Knight First Amendment Institute at Columbia University,
5 which itself is a plaintiff in the case. Though the Knight Institute's Twitter account has not been
6 blocked by Trump, the lawsuit argues that they and other followers of the @realDonaldTrump
7 Twitter account "are now deprived of their right to read the speech of the dissenters who have
8 been blocked". The complaint and subsequent ruling stated that posts to the @realDonaldTrump
9 account are "official statements" and ruled that Twitter was President Donald J. Trump's primary
10 form of communication with the American people. This precedent assures that Twitter in regards
11 to the President's account, in most respects, should be viewed as a public forum and company
12 town as was decided in this case.

13 12. As for the Plaintiff in this case, Mr. Estavillo, suffers from a myriad of health issues,
14 including but not limited to, Clinical Depression, Obsessive-Compulsive Disorder, Panic
15 Disorder, Agoraphobia, and Crohn's Disease. Due to these health issues he has no friends and
16 rarely leaves the house except for Inflectra infusions for his Crohn's Disease and heavily relies
17 on Twitter for political discourse, debates, arguments, and relies on the fairness of hearing all
18 sides of a political story and needs to hear voices from the full political spectrum on Twitter to
19 make informed decisions – especially before voting in an election as he did this past year. He
20 also uses Twitch as a means of entertainment and political discourse which happens often on that
21 platform as well.

22 13. Twitch is an American video live streaming service operated by Twitch Interactive, a
23 subsidiary of Amazon.com, Inc. Introduced in June 2011 as a spin-off of the general-interest
24 streaming platform Justin.tv, the site primarily focuses on video game live streaming, including
25 broadcasts of esports competitions, in addition to music broadcasts, creative content, and more
26 recently, "in real life" streams.

27 14. The popularity of Twitch eclipsed that of its general-interest counterpart. In October
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1 2013, the website had 45 million unique viewers, and by February 2014, it was considered the
2 fourth largest source of peak Internet traffic in the United States. By 2015, Twitch had more than
3 100 million viewers per month. As of 2017, Twitch remained the leading live streaming video
4 service for video games in the US, and had an advantage over. As of February 2020, it had 3
5 million broadcasters monthly and 15 million daily active users, with 1.4 million average
6 concurrent users. As of May 2018, Twitch had over 27,000 partner channels.

7 15. The Plaintiff was recently watching a Twitch stream, where Alexandria Ocasio-
8 Cortez has a massive following of 835K followers. AOC and Ilhan Omar were streaming a video
9 game known as "Among Us" but instead of AOC streaming with any "disenfranchised" or "poor
10 unpopular people" that she constantly talks about on Twitter – she decided to instead stream the
11 game with famous and popular rich Twitch streamers such as Pokimane who is a
12 multimillionaire and HasanAbi who has previously said America "deserved 9/11". This is
13 dangerous propaganda and occurs daily on Twitter and through AOC and Omar Twitch streams.

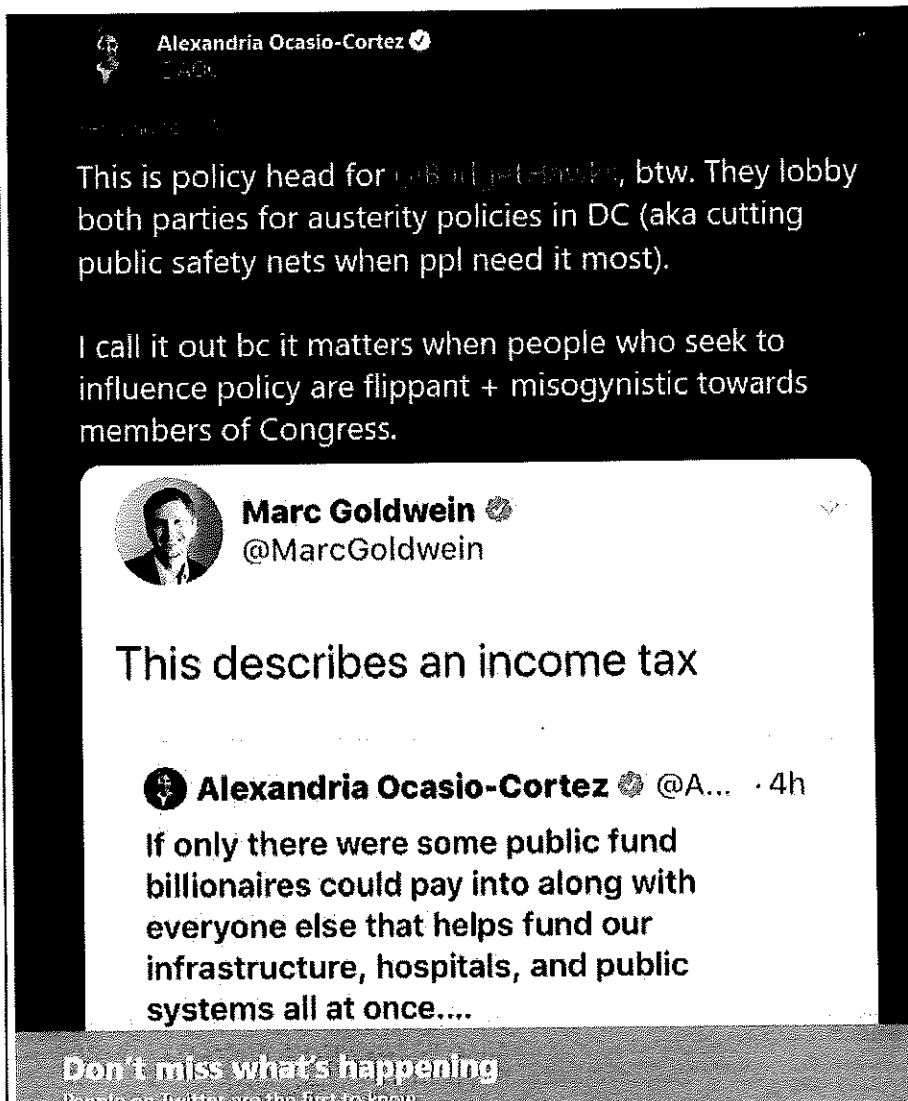
14 16. One of the streamers playing with AOC and Omar was HasanAbi. An American
15 Twitter user, Twitch streamer, and political commentator. He has previously worked as a
16 broadcast journalist and producer at *The Young Turks* and as a columnist at *HuffPost*. He
17 currently streams on Twitch, where he covers news and discusses politics from a left-wing
18 perspective, and plays a variety of video games. He also said, and I quote, "America deserved
19 9/11" along with other inflammatory rhetoric such as "Like we totally brought it upon ourselves
20 dude, holy shit." This is the type of rhetoric AOC is proud to be a part of and stream to hundreds
21 of thousands of kids watching her Twitch streams.

22 15. Ilhan Omar was also featured on these Twitch streams displaying a highly expensive
23 computer system as can be seen in the pdf attached at the end of this complaint which most poor
24 and disenfranchised people can't afford, even before this Covid 19 pandemic. AOC even has a
25 white boyfriend and would never think of dating a Mexican such as the plaintiff, but she'll often
26 cry out on Twitter for racial equality. They're hypocrites. This would be fine as long as the other
27 side of the political spectrum could voice their opinions as AOC and Omar still can on Twitter,
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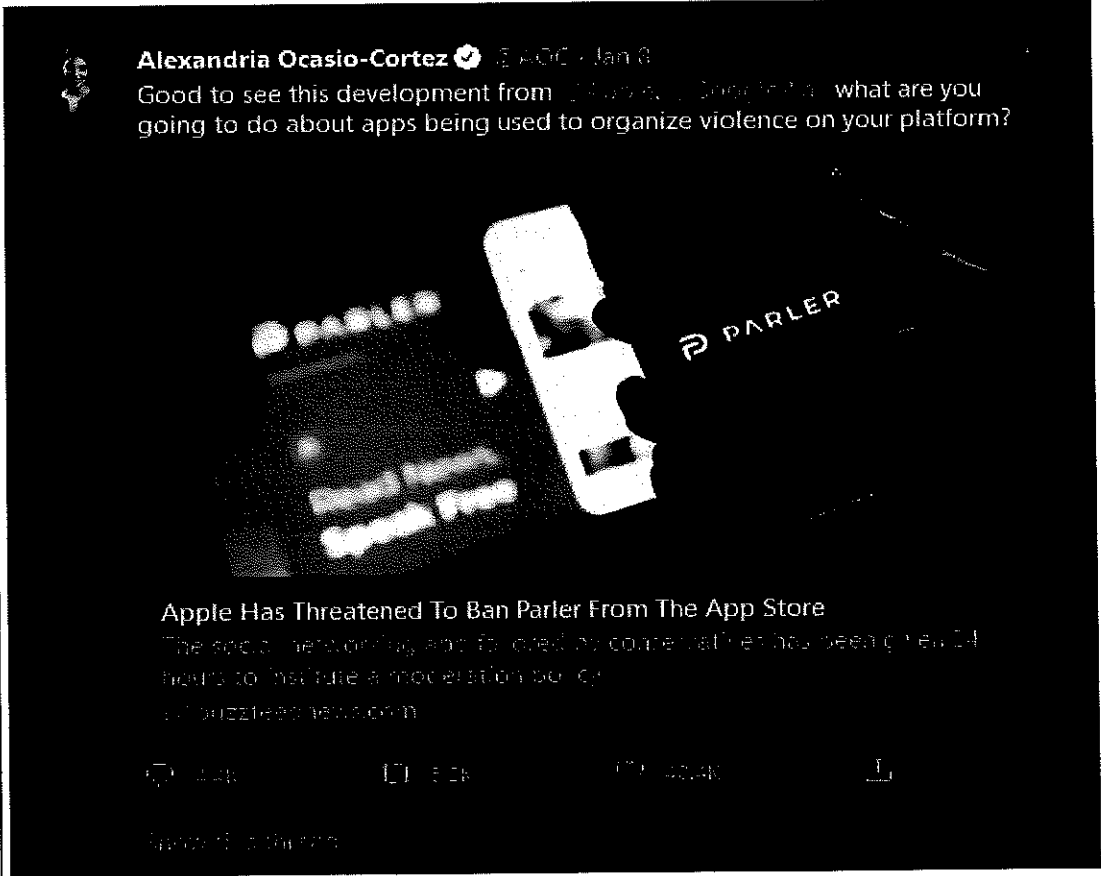
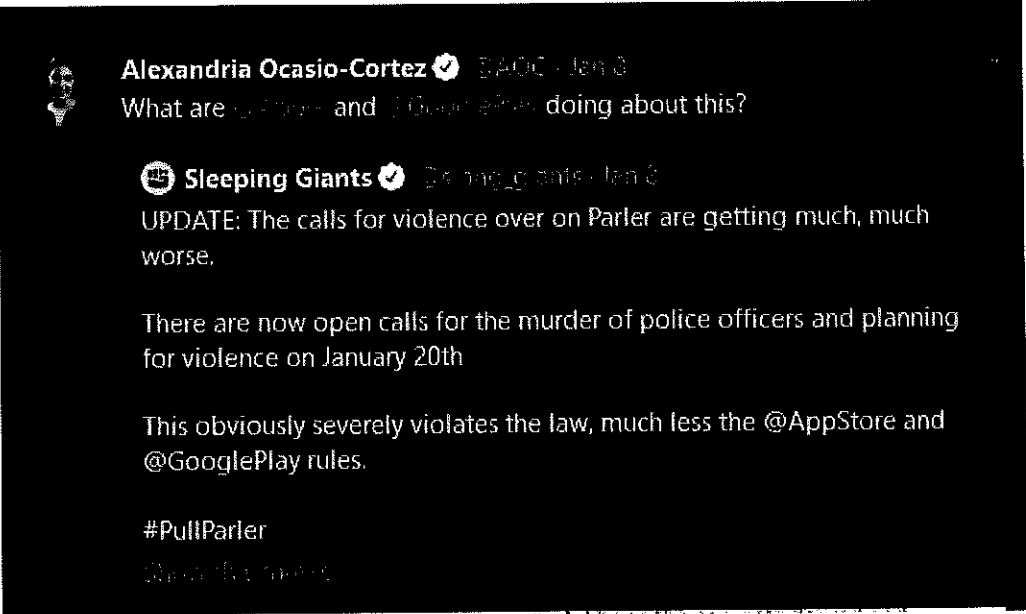
1 Twitch, and elsewhere. But they can't. Trump is banned on all of these platforms as is a growing
2 number of Republican viewpoints. This is precarious. And as the ACLU already pointed out and
3 warned that the banning of the sitting President's Twitter account is dangerous, especially since
4 it will result in "unchecked power" of Twitter and such people as AOC and Omar.

5 16. AOC has continued to effect the Plaintiff's political foundation beliefs, his psyche,
6 and mental wellbeing as she promotes communism, socialism, and unjust censorship of the
7 sitting President of the United States through such Twitter posts as the ones shown below:

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1 and from U.S. House Representative Ilhan Omar:

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further evidence of AOC and Omar’s communist agendas, wishing the purging of the Jewish people, and other anti-American values are listed in the pdf’s articles attached and all of this would be fine as long as they both didn’t seek to aggressively censor opposing views such as the President’s account on Twitter through dramatic and intimidating fashion. Twitter is guilty for allowing such rhetoric to go unchecked while punishing opposing views and now needs to be addressed and redressed by the U.S. Court System in the best interest of the American followers of the President’s Twitter Account. This is wrong and sets a dangerous first amendment dilemma – and the ACLU agrees.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully requests that this Court grant the following relief:

a. That Twitter be labeled a “Virtual Company Town” and have to immediately reinstate the sitting President Donald J. Trump’s Twitter Account. And to pay reparations in the form of punitive damages in the amount of \$88.7 million dollars for each follower that was, without a doubt, emotionally and mentally damaged as a result of the President’s ban. The Plaintiff can attest and is willingly to testify in court to the pain and suffering on how the banning of the President’s Twitter account has affected his already damaged and fragile mental health and his ability to gather vital political information and disseminate it has he suffers from many mental disabilities with which the Americans with Disabilities Act should protect him from such egregious behavior occurring on the part of Twitter and its leftist socialist agenda and harsh censorship targeting practices of one particular group. As the company has no doubt mentally harmed all of the sitting President’s followers.

b. Injunctive and immediate cancellation of Alexandria Ocasio-Cortez’ Twitter Account as it has violated Twitter’s Terms of Service and Community Guidelines by targeting a mass flagging/banning campaign of all political viewpoints she disagrees with, i.e. the President’s Twitter Account and by forcing Google Play and the Apple Store to ban the conservative Parler App; which the President may have wanted to migrate to after his Twitter ban, but AOC made sure he had no where else to voice his first amendment rights to free speech.

c. Injunctive and immediate cancellation of Ilhan Omar’s Twitter Account as it also has violated Twitter’s Terms of Service and Community Guidelines by calling for and targeting a mass purging of the Jewish people and alleging violence against Israel. She also targeted the President’s Twitter Account and pressured Google Play and the Apple Store to ban the conservative Parler App; which the President may have wanted to migrate to after his Twitter ban, but Omar also made sure he had no where else to voice his first amendment rights to free speech.

Dated: January 9th, 2021

Respectfully submitted,

/s/ Erik C. Estavillo

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