

<https://arstechnica.com/tech-policy/2021/07/trump-sues-twitter-facebook-and-youtube-in-preposterous-bid-for-reinstatement/>

Trump sues Twitter and Facebook for banning him, claims “trillions” in damages

Trump's "free speech" case is likely doomed by First Amendment and Section 230.

[JON BRODKIN](#) - 7/7/2021, 4:20 PM



[Enlarge](#) / A mob of Trump supporters stormed and breached the US Capitol on January 6, 2021. Trump's incitement of the mob led to his bans from major social networks.

[Getty Images / The Washington Post](#)

WITH 209 POSTERS PARTICIPATING

- SHARE ON FACEBOOK
- SHARE ON TWITTER
-

Former President Donald Trump today sued Twitter, Facebook, Google subsidiary YouTube, and their CEOs, claiming that all three companies are guilty of "impermissible censorship" that violates "the First Amendment right to free speech."

Trump's lawsuits are almost certainly doomed. The First Amendment does not require private companies to host speech—the Constitutional amendment only imposes limits on how the

government can restrict speech. In addition to the First Amendment, US law gives online platforms immunity from lawsuits over how they moderate user-submitted content. The law does so via Section 230 of the Communications Decency Act of 1996.

Despite those two titanic legal barriers, Trump's lawsuits seek reinstatement of his social media accounts along with financial damages from the companies and from their chief executives, namely Twitter CEO Jack Dorsey, Facebook CEO Mark Zuckerberg, and Google CEO Sundar Pichai. Trump's lawsuits seek class-action status with him as the lead plaintiff, and they claim the CEOs are liable for damages because they are "personally responsible" for their companies' "unconstitutional censorship" of Trump and other users.

Trump's lawsuits were filed in US District Court for the Southern District of Florida. Here are links to the complaints against [Twitter](#), [Facebook](#), and [YouTube](#).

"Everything in these complaints is preposterous, which should not come as a surprise given Trump's affinity for filing frivolous lawsuits," Andrew Jay Schwartzman, senior counselor for the Benton Institute for Broadband & Society, said in a statement to reporters today.

Trump asks court to nullify Section 230

In a press conference, Trump implausibly claimed that the lawsuits could result in "[trillions](#)" of dollars of damages. That figure does not appear in the text of the complaints. "We're asking the [judge] to order an immediate halt to social media companies' illegal, shameful censorship of the American people," Trump said.

Trump's lawsuits make a long-shot argument that Twitter, Facebook, and YouTube each have a status that "rises beyond that of a private company to that of a state actor" because they "increasingly engaged in impermissible censorship resulting from threatened legislative action" and willingly participated "in joint activity with federal actors." He asked for orders finding that the companies' banning of Trump and other users "are a prior restraint on their First Amendment right to free speech."

Schwartzman said the argument that social networks are "state actors" should fail in court. "The fact that platforms talk to the government, and even cooperate on taking down speakers who violate the law or threaten national security, does not make them instruments of the state. Far from being in the pocket of the government, the Justice Department and FTC are suing Facebook and Google. The difference is that those cases might have merit," he said.

Trump's lawsuits further asked the court "to declare that Section 230 on its face is an unconstitutional delegation of authority." That's also a long shot as Section 230 has already been challenged and [upheld by courts numerous times](#).

While he's unlikely to win in court, Trump and the GOP are already using the lawsuits in a [new round of fundraising emails and texts](#).

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Trump was banned for incitement

Trump was [banned](#) from [social networks](#) for incitement that led to his supporters attacking the US Capitol on January 6 in an effort to overturn Trump's election loss to President Joe Biden. Trump's lawsuits claim that he was banned "for exercising his constitutional right of free speech."

Trump's lawsuits ask the court to restore his Twitter, Facebook, and YouTube accounts, and they also seek "to prohibit Defendants from exercising censorship, editorial control, or prior restraint in its many forms over the posts of President Trump, and Putative Class Members." The lawsuits name several other class members and say the class would include US-based users who have "censored" by the three tech platforms since June 2018.

Social networks have right to moderate content

Trump filed the lawsuits only a week after a US judge in Florida's Northern District [blocked enforcement of a Florida state law](#) that would have forced social media companies to host speech by politicians even when it violates the platforms' standards. The now-blocked law would also have imposed limits on the companies' ability to post addenda to misleading content.

US District Judge Robert Hinkle found that the state law violated the First Amendment rights of tech companies that moderate user content on their online platforms. Hinkle wrote that, if the law was enforced, tech companies "will sometimes be compelled to speak and will sometimes be forbidden from speaking, all in violation of their editorial judgment and the First Amendment."

The Computer & Communications Industry Association (CCIA), which filed the successful motion for a preliminary injunction to block the Florida law, called Trump's lawsuits "frivolous."

"Digital services have a right to enforce their terms of service. Frivolous class-action litigation will not change the fact that users—even US Presidents—have to abide by the rules they agreed

to," CCIA President Matt Schruers [said](#) today. CCIA, whose members include Facebook, Twitter, and Google, said it "supports free speech online, which includes the right for private businesses to meet their users' expectations about what type of material is appropriate for their community."

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Trump rails against health experts

At his press conference, Trump delivered one of his characteristically rambling speeches. He complained about immigration, court packing, and medical experts' handling of coronavirus—which he still calls the "[China virus](#)." He also claimed that Democrats have pressured Big Tech to silence conservatives and "restrict what the left ominously labels as disinformation."

"We have seen, increasingly, coordination between Big Tech giants and government agencies such as the Centers for Disease Control," the former president said. "YouTube's policy forbids contradicting health authorities. You know the health authorities—fortunately, I overrode the health authorities quite a bit. If I didn't, we would be in much bigger trouble."

Trump complained about tech companies' use of Section 230, saying, "we are going to make sure that the liability protection that they have under Section 230 is at a very minimum changed, and at a maximum taken away."

"No other companies in our country and even in our country's history have had protection like this," Trump said of Section 230. "It is, in effect, a massive government subsidy. These companies have been coopted, coerced, and weaponized by government and government actors to become the enforcers of illegal, unconstitutional censorship."

The lawsuits against Twitter, Facebook, and Google accuse the companies of "a misguided reliance upon Section 230."

"Legislation passed twenty-five (25) years ago intended to protect minors from the transmission of obscene materials on the Internet, and to promote the growth and development of social media companies, has enabled Defendant Twitter to grow into a commercial giant that now censors (flags, shadow bans, etc.) and otherwise restricts with impunity the constitutionally protected free speech of the Plaintiff and Putative Class Members," the Trump lawsuit against Twitter said. Identical paragraphs appear in his lawsuits against Facebook and YouTube.

“Doomed to fail”

As the Associated Press [wrote today](#), "Trump's lawsuits are likely doomed to fail, said Eric Goldman, a law professor at Santa Clara University in California who has studied more than 60 similar, failed lawsuits over the past few decades that sought to take on Internet companies for terminating or suspending users' accounts."

The AP story continued with more analysis from Goldman:

"They've argued everything under the sun, including First Amendment, and they get nowhere," Goldman said. "Maybe he's got a trick up his sleeve that will give him a leg up on the dozens of lawsuits before him. I doubt it."

Goldman said it's likely Trump is instead pursuing the suits to garner attention... "It was always about sending a message to their base that they're fighting on their behalf against the evil Silicon Valley tech giants," Goldman said.

As president, Trump [unsuccessfully](#) urged Congress to repeal Section 230 and issued an [executive order](#) that, among other things, asked the Federal Communications Commission to [limit tech platforms' legal protections](#) for moderating content. Biden [revoked Trump's executive order in May](#).