

1 HARMEET K. DHILLON (SBN: 207873)
2 harmeet@dhillonlaw.com
3 RONALD D. COLEMAN (*pro hac vice* pending)
4 rcoleman@dhillonlaw.com
5 KARIN M. SWEIGART (SBN: 247462)
6 ksweigart@dhillonlaw.com
7 DHILLON LAW GROUP INC.
8 177 Post Street, Suite 700
9 San Francisco, California 94108
10 Telephone: (415) 433-1700
11 Facsimile: (415) 520-6593

12 MARK E. TRAMMELL (*pro hac vice* pending)
13 mtrammell@libertycenter.org
14 CENTER FOR AMERICAN LIBERTY
15 5100 Buckeystown Pike, Suite 250
16 Frederick, MD 21704
17 Telephone: (703) 687-6212
18 Facsimile: (517) 465-9683

19 Attorneys for Plaintiff ROGAN O'HANDLEY

20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43
44
45
46
47
48
49
50
51
52
53
54
55
56
57
58
59
60
61
62
63
64
65
66
67
68
69
70
71
72
73
74
75
76
77
78
79
80
81
82
83
84
85
86
87
88
89
90
91
92
93
94
95
96
97
98
99
100
101
102
103
104
105
106
107
108
109
110
111
112
113
114
115
116
117
118
119
120
121
122
123
124
125
126
127
128
129
130
131
132
133
134
135
136
137
138
139
140
141
142
143
144
145
146
147
148
149
150
151
152
153
154
155
156
157
158
159
160
161
162
163
164
165
166
167
168
169
170
171
172
173
174
175
176
177
178
179
180
181
182
183
184
185
186
187
188
189
190
191
192
193
194
195
196
197
198
199
200
201
202
203
204
205
206
207
208
209
210
211
212
213
214
215
216
217
218
219
220
221
222
223
224
225
226
227
228
229
230
231
232
233
234
235
236
237
238
239
240
241
242
243
244
245
246
247
248
249
250
251
252
253
254
255
256
257
258
259
260
261
262
263
264
265
266
267
268
269
270
271
272
273
274
275
276
277
278
279
280
281
282
283
284
285
286
287
288
289
290
291
292
293
294
295
296
297
298
299
300
301
302
303
304
305
306
307
308
309
310
311
312
313
314
315
316
317
318
319
320
321
322
323
324
325
326
327
328
329
330
331
332
333
334
335
336
337
338
339
340
341
342
343
344
345
346
347
348
349
350
351
352
353
354
355
356
357
358
359
360
361
362
363
364
365
366
367
368
369
370
371
372
373
374
375
376
377
378
379
380
381
382
383
384
385
386
387
388
389
390
391
392
393
394
395
396
397
398
399
400
401
402
403
404
405
406
407
408
409
410
411
412
413
414
415
416
417
418
419
420
421
422
423
424
425
426
427
428
429
430
431
432
433
434
435
436
437
438
439
440
441
442
443
444
445
446
447
448
449
450
451
452
453
454
455
456
457
458
459
460
461
462
463
464
465
466
467
468
469
470
471
472
473
474
475
476
477
478
479
480
481
482
483
484
485
486
487
488
489
490
491
492
493
494
495
496
497
498
499
500
501
502
503
504
505
506
507
508
509
510
511
512
513
514
515
516
517
518
519
520
521
522
523
524
525
526
527
528
529
530
531
532
533
534
535
536
537
538
539
540
541
542
543
544
545
546
547
548
549
550
551
552
553
554
555
556
557
558
559
560
561
562
563
564
565
566
567
568
569
570
571
572
573
574
575
576
577
578
579
580
581
582
583
584
585
586
587
588
589
590
591
592
593
594
595
596
597
598
599
600
601
602
603
604
605
606
607
608
609
610
611
612
613
614
615
616
617
618
619
620
621
622
623
624
625
626
627
628
629
630
631
632
633
634
635
636
637
638
639
640
641
642
643
644
645
646
647
648
649
650
651
652
653
654
655
656
657
658
659
660
661
662
663
664
665
666
667
668
669
670
671
672
673
674
675
676
677
678
679
680
681
682
683
684
685
686
687
688
689
690
691
692
693
694
695
696
697
698
699
700
701
702
703
704
705
706
707
708
709
710
711
712
713
714
715
716
717
718
719
720
721
722
723
724
725
726
727
728
729
730
731
732
733
734
735
736
737
738
739
740
741
742
743
744
745
746
747
748
749
750
751
752
753
754
755
756
757
758
759
760
761
762
763
764
765
766
767
768
769
770
771
772
773
774
775
776
777
778
779
780
781
782
783
784
785
786
787
788
789
790
791
792
793
794
795
796
797
798
799
800
801
802
803
804
805
806
807
808
809
810
811
812
813
814
815
816
817
818
819
820
821
822
823
824
825
826
827
828
829
830
831
832
833
834
835
836
837
838
839
840
841
842
843
844
845
846
847
848
849
850
851
852
853
854
855
856
857
858
859
860
861
862
863
864
865
866
867
868
869
870
871
872
873
874
875
876
877
878
879
880
881
882
883
884
885
886
887
888
889
890
891
892
893
894
895
896
897
898
899
900
901
902
903
904
905
906
907
908
909
910
911
912
913
914
915
916
917
918
919
920
921
922
923
924
925
926
927
928
929
930
931
932
933
934
935
936
937
938
939
940
941
942
943
944
945
946
947
948
949
950
951
952
953
954
955
956
957
958
959
960
961
962
963
964
965
966
967
968
969
970
971
972
973
974
975
976
977
978
979
980
981
982
983
984
985
986
987
988
989
990
991
992
993
994
995
996
997
998
999
1000

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

ROGAN O'HANDLEY,
Plaintiff,
v.

ALEX PADILLA, in his personal capacity;
SKDKNICKERBOCKER, LLC, a Delaware
company; PAULA VALLE CASTAÑON, in
her personal capacity; JENNA DRESNER, in
her personal capacity; SAM MAHOOD, in
his personal capacity; AKILAH JONES; in
her personal capacity; SHIRLEY N.
WEBER, in her official capacity as

Case Number:

COMPLAINT FOR
DECLARATORY JUDGMENT,
DAMAGES, AND INJUNCTIVE
RELIEF

DEMAND FOR JURY TRIAL

1 California Secretary of State; TWITTER,
2 INC., a Delaware corporation; NATIONAL
3 ASSOCIATION OF SECRETARIES OF STATE,
4 a professional nonprofit organization;

5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
Defendants.

Plaintiff Rogan O’Handley, through his undersigned counsel, states the following claims for relief against Alex Padilla, in his personal capacity; SKDKnickerbocker, LLC, a Delaware corporation; Paula Valle Castañon, in her personal capacity; Jenna Dresner, in her personal capacity; Sam Mahood, in his personal capacity; Akilah Jones; in her personal capacity; Shirley N. Weber, in her official capacity as California Secretary of State; Twitter, Inc., a Delaware corporation; and the National Association of Secretaries of State, a professional nonprofit organization.

INTRODUCTION

1. Against a backdrop of alleged foreign interference in the 2016 election, various state election agencies, state election officials, national organizations, and social media companies mounted campaigns to combat election misinformation concerns on social media for the 2020 election. While many of these entities pursued a traditional path of educating the public with useful information, others went in a new direction, seeking aggressively to suppress speech they deemed to be “misleading,” under the guise of fostering “election integrity.” The State of California generally, and the Secretary of State’s Office of Elections Cybersecurity in partnership with the other Defendants specifically, took the latter path.

//

2. California’s initial foray into the brave new world of engineering better election outcomes, California Elections Code §10.5, created the Office of Elections Cybersecurity in 2018 to “educate voters” with “valid information” through empowering election officials (hereinafter “OEC”). This seemingly benign mandate quickly and predictably devolved into a political weapon for censorship of disfavored speech by an overtly partisan Secretary of State’s office, more resembling an Orwellian “Ministry of Approved Information” than a constitutionally restrained state agency. The OEC deployed government force to bolster the personal political goals of Democrat office holders, most notably including then-Secretary of State Alex Padilla (“Padilla”). Padilla abused his office and the public trust in a myriad of ways, unprecedented even in a California where political corruption has become part of the landscape, as predictable as the sun setting over the Pacific Ocean.

3. Plaintiff Rogan O’Handley (“Mr. O’Handley”) was just one of many speakers targeted in California’s tainted censorship process. Mr. O’Handley’s speech infraction was his expression of the opinion that California, along with the rest of the nation, should audit its elections to protect against voter fraud. A Democratic political consultant—hired with taxpayer dollars in a closed-bid, closed-door boondoggle to which not even California’s Democrat Controller could turn a blind eye—flagged Mr. O’Handley’s inconvenient speech to the OEC as evidence of “election misinformation.” The OEC, an office within the primary agency whose job performance would be scrutinized by an audit, then contacted Twitter through dedicated channels Defendants created to streamline censorship requests from government agencies. Twitter promptly complied with the OEC’s request to censor Mr. O’Handley’s problematic opinions from its platform, and ultimately banned his account, which had reached over 440,000 followers at its zenith, for violating Twitter’s civic integrity policy.

4. The founding fathers fought and died for the right to criticize their government, and enshrined that foundational right as central in the pursuit of the new

1 nation. Defendants' exercise of government force to censor political speech with which
2 they disagree flies in the face of the ideals upon which our nation was founded, and
3 violates numerous state and federal constitutional rights.

4 **JURISDICTION**

5 5. This Court has federal question jurisdiction over this case pursuant to 28
6 U.S.C. §§ 1331 because Plaintiff's claims arise under the First and Fourteenth
7 Amendments to the U.S. Constitution. Further, the Court has jurisdiction pursuant to
8 28 U.S.C. § 1343 because Plaintiff seeks relief under 42 U.S.C. § 1983.

9 6. This action is an actual controversy, and under 28 U.S.C. §§ 2201 and
10 2202, this Court has authority to grant declaratory relief, and other relief, including
11 temporary, preliminary, and permanent injunctive relief, pursuant to Rule 65 of the
12 Federal Rules of Civil Procedure, and may declare the rights of Plaintiff.

13 7. This Court has supplemental jurisdiction over state law claims presented
14 in this matter pursuant to 28 U.S.C. § 1367, because the claims are so related to the
15 federal constitutional claims in this action such that they do not raise novel or complex
16 issues of state law and do not substantially predominate over the federal claims. There
17 are, further, no exceptional circumstances compelling declining state law claims.

18 8. Venue is proper in the Central District of California under 28 U.S.C. §
19 1391(b)(1) because a plurality of Defendants maintain residence or offices in Los
20 Angeles County, and most Defendants are residents of California (within the meaning
21 of 28 U.S.C. § 1391(c)). Venue is also proper under 28 U.S.C. § 1391(b)(2) because a
22 substantial part of the acts or omissions giving rise to the claim occurred in this judicial
23 district.

24 **PARTIES**

25 9. Plaintiff Rogan O'Handley resides in St. Petersburg, Florida. He is an
26 attorney licensed to practice in the state of California, social media influencer with over
27 3 million combined followers across various social media platforms, civil rights
28 activist, political commentator, and journalist.

1 10. Defendant Alex Padilla (“Padilla”), sued in his personal capacity, was
2 California Secretary of State at the time of the injury to Plaintiff, authorized the
3 disputed contract with Defendant SKDK, and oversaw the efforts to take down
4 disfavored speech. Upon information and belief, Defendant Padilla is a resident of Los
5 Angeles County.

6 11. Defendant SKDKnickerbocker LLC (“SKDK”) is a public affairs and
7 consulting firm known for working with Democrat politicians and political hopefuls,
8 and for progressive political causes. SKDK is a Delaware company that maintains a
9 California office at 3105 S. La Cienega Blvd., Los Angeles, CA 90016.

10 12. Defendant Paula Valle Castañon (“Ms. Castañon”), upon information and
11 belief previously going by the name of Paula Valle, sued in her personal capacity, at
12 the time of Plaintiff’s injury served as the Deputy Secretary of State, Chief
13 Communications Officer for Alex Padilla, California Secretary of State. Ms. Castañon
14 led the communications division of the Office of the Secretary of State. Upon
15 information and belief, Ms. Castañon is a resident of Los Angeles County.

16 13. Defendant Jenna Dresner (“Ms. Dresner”), sued in her personal capacity,
17 is Senior Public Information Officer for the OEC. Upon information and belief, Ms.
18 Dresner is a resident of Los Angeles County.

19 14. Defendant Sam Mahood (“Mr. Mahood”), sued in his personal capacity,
20 was Press Secretary for California Secretary of State Alex Padilla, and one of the OEC
21 employees responsible for receiving reports of alleged election misinformation from
22 Defendant SKDK and requesting social media platforms censor speech with which the
23 OEC disagreed during the 2020 election. When Mr. Padilla was elevated to become
24 United States Senator from California, Sam Mahood followed Mr. Padilla to become
25 his Special Projects and Communications Advisor. Upon information and belief, Mr.
26 Mahood is a resident of Sacramento County.

27 15. Defendant Akilah Jones (“Ms. Jones”), sued in her personal capacity, was
28 OEC’s Social Media Coordinator responsible for receiving reports of election

1 misinformation from Defendant SKDK and requesting social media platforms censor
2 speech with which the OEC disagreed during the 2020 election. Upon information and
3 belief, Ms. Jones is a resident of Sacramento County.

4 16. Defendant Shirley N. Weber, sued in her official capacity as California
5 Secretary of State, is the state official responsible for implementing California
6 Elections Code §10.5. and has oversight over the actions of the OEC. She maintains an
7 office in Sacramento County.

8 17. Defendant Twitter is a microblogging and social networking service with
9 roughly 330 million monthly active users. Twitter is incorporated in Delaware and
10 maintains its principal place of business at 1355 Market Street, Suite 900, San
11 Francisco, CA 94103.

12 18. Defendant National Association of Secretaries of State is a professional
13 organization for state Secretaries of State, headquartered at 444 North Capitol Street
14 NW, Suite 401, Washington, D.C., 20001. The National Association of Secretaries of
15 State does business in California, and the California Secretary of State is an association
16 member.

17 **FACTS**

18 19. In 2018, the California legislature passed, and then-Governor Brown
19 signed, AB 3075, which created the OEC within the California Secretary of State's
20 office.

21 20. Codified at California Elections Code §10.5, one of the "primary
22 missions" of the OEC is "[t]o monitor and counteract false or misleading information
23 regarding the electoral process that is published online or on other platforms and that
24 may suppress voter participation or cause confusion and disruption of the orderly and
25 secure administration of elections." Cal.Elec.Code § 10.5(b)(2).

26 21. California Elections Code § 10.5 further states the OEC shall, "[a]ssess
27 the false or misleading information regarding the electoral process described in
28 paragraph (2) of subdivision (b), mitigate the false or misleading information, and

1 educate voters, especially new and unregistered voters, with valid information from
 2 elections officials such as a county elections officials or the Secretary of State.”
 3 Cal.Elec.Code § 10.5(c)(8).

4 22. The OEC, under the direction of then-Secretary of State Padilla, seized on
 5 the statutory phrase “mitigate [] false or misleading information,” as a license to quash
 6 politically-disfavored or inconvenient speech.

7 23. Padilla’s censorship program targeted speech implicating his
 8 administration of elections in his capacity as Secretary of State.

9 24. In a written response to CalMatters reporter Freddy Brewster’s November
 10 2020 inquiry regarding how OEC handled “voter misinformation,” the OEC explained:
 11 “[O]ur priority is working closely with social media companies to be proactive so when
 12 there’s a source of misinformation, we can contain it.” A true and correct copy of
 13 OEC’s comments, as obtained through a public record request, is attached to this
 14 complaint as Exhibit 1.

15 25. The OEC further explained the close working relationship with private
 16 social media companies thus:

17 We have working relationships and dedicated reporting pathways at
 18 each major social media company. When we receive a report of
 19 misinformation on a source where we don't have a pre existing pathway
 20 to report, we find one. We’ve found that many social media companies
 21 are taking responsibility on themselves to do this work as well. **We**
 22 **work[] closely and proactively with social media companies to** keep
 23 misinformation from spreading, **take down sources of misinformation**
 24 **as needed,** and promote our accurate, official election information at
 25 every opportunity.

26 See Exhibit 1 (emphasis added).

27 26. The National Association of Secretaries of State (“NASS”) spearheaded
 28 efforts to censor disfavored election speech.

1 27. NASS created direct channels of communication between Secretaries of
2 States' staff and social media companies to facilitate the quick take-down of speech
3 deemed "misinformation."

4 28. For instance, NASS Director of Communications Maria Benson stated in
5 email that Twitter asked her to let Secretaries of States' offices know that it had created
6 a separate dedicated way for election officials to "flag concerns directly to Twitter." A
7 true and correct copy of Maria Benson's October 1, 2020, email, as obtained through
8 a public records request, is attached to this complaint as Exhibit 2.

9 29. NASS's dedicated reporting channel to Twitter, according to Maria
10 Benson, would get Secretaries of States' employees' censorship requests "bumped to
11 the head of the queue." A true and correct copy of Maria Benson's August 8, 2020,
12 email, as obtained through a public record request, is attached to this complaint as
13 Exhibit 3.

14 30. NASS asked its members to give it a "heads up" when officials saw mis-
15 or disinformation on social platforms to help NASS "create a more national narrative."
16 A true and correct copy of Maria Benson's August 8, 2020, email, as obtained through
17 a public record request, is attached to this complaint as Exhibit 4.

18 31. NASS wanted election officials to have NASS's email guidance regarding
19 how to report "mis/disinformation" directly to social media companies "handy"
20 directly prior to election day as election officials "prepare[d] for battle." A true and
21 correct copy of Maria Benson's November 2, 2020, email, as obtained through a public
22 record request, is attached to this complaint as Exhibit 4.

23 32. The California Secretary of State's office participated in Twitter's
24 dedicated "Partner Support Portal."

25 33. Presumably, the California Secretary of State's office's participation in
26 Twitter's "Partner Support Portal" did ensure the Secretary of State's requests to take
27 down speech were a high priority for Twitter.

28 //

1 34. As an example, on December 30, 2019, Mr. Mahood emailed Twitter's
2 Kevin Kane the following regarding another Twitter user (not Mr. O'Handley):

3 On Mon, Dec 30, 2019 at 9:05 PM Mahood, Sam <[REDACTED]> wrote:

4 Hi Kevin,

5 Flagging the following tweet that I reported through the partner portal. This tweet is sharing a doctored image of a
6 California Voter Registration Card (inaccurately claiming that the Republican Party is not an option):
https://twitter.com/Paul_USAPatriot/status/1211709756311621633

7 We would like this tweet taken down ASAP to avoid the spread of election misinformation.

8 Please let us know if there is anything else we can do to facilitate this request.

9 Thank you,

10 -Sam

11
12 35. Kevin Kane responded to Sam Mahood's request to take down the tweet
13 before 8:00 am the next morning, which happened to be New Year's Eve, stating:

14
15 To: Mahood, Sam [REDACTED]
16 Cc: Reyes, Steve [REDACTED]; Vane, Paula [REDACTED]atch, Inc.
From: Kevin Kane [REDACTED]
17 Sent: Tue 12/31/2019 7:51:23 AM (UTC-08:00)
Subject: Re: Fw: Case# 0136918935: partner_election [ref:00DA000000K0A8.5004A00001qaD26:ref]

18 Sam-

19 Thank you for reporting, this Tweet has been removed. Please don't hesitate to contact me if there is anything else we can
20 do.

21 Best regards,

22 Kevin

23 See Exhibit 5.

24 36. At the same time OEC officials and NASS were working externally to
25 streamline their speech takedown processes with social media companies, the OEC
26 also decided to broaden and outsource its efforts to search out "objectionable" speech
27 to censor.

28 //

1 37. On July 17, 2020, Padilla's office sent an email to fifteen political
2 consultants and political affairs professionals, many of whom worked on the
3 campaigns of prominent Democrats, offering them the opportunity to participate in an
4 invitation-only, expedited bidding process outside California's Public Contract Code's
5 mandated transparent competitive bid process. The winning bid would facilitate the
6 office's \$35-million-dollar "Vote Safe California" initiative.

7 38. The purpose of the Public Contract Code's mandated transparent
8 competitive bid process is to protect taxpayers against cronyism and partisanship.

9 39. Mr. Padilla sidestepped the Public Contract Code's statutory bidding
10 requirements by claiming he had "emergency authority" to create the contract.

11 40. Padilla received seven bids from the OEC's hand-picked list of political
12 consultants/allies.

13 41. Padilla's staff, in a closed-door review process, anointed the winner of the
14 \$35-million-dollar contract.

15 42. Padilla awarded the \$35-million-dollar contract to Defendant
16 SKDKnickerbocker ("SKDK"), a political consulting firm heavily involved in then-
17 candidate Joe Biden's presidential campaign.

18 43. As described by Reuters.com, "SKDK is closely associated with the
19 Democratic Party, having worked on six presidential campaigns and numerous
20 congressional races." See Joel Schechtman, Raphael Satter, Christopher Bing, Joseph
21 Menn, Exclusive: Microsoft believes Russians that hacked Clinton targeted Biden
22 campaign firm – sources, REUTERS (Sept. 10, 2020, 12:30 am),
23 [https://www.reuters.com/article/us-usa-election-cyber-biden-exclusive/exclusive-](https://www.reuters.com/article/us-usa-election-cyber-biden-exclusive/exclusive-russian-state-hackers-suspected-in-targeting-biden-campaign-firm-sources-idUSKBN2610I4)
24 [russian-state-hackers-suspected-in-targeting-biden-campaign-firm-sources-](https://www.reuters.com/article/us-usa-election-cyber-biden-exclusive/exclusive-russian-state-hackers-suspected-in-targeting-biden-campaign-firm-sources-idUSKBN2610I4)
25 [idUSKBN2610I4](https://www.reuters.com/article/us-usa-election-cyber-biden-exclusive/exclusive-russian-state-hackers-suspected-in-targeting-biden-campaign-firm-sources-idUSKBN2610I4).

26 44. Padilla's contract award to SKDK raised bipartisan ire, for different
27 reasons.

28 //

1 45. Congressional and State Republicans questioned the appropriateness of
2 SKDK, which publicly boasted its involvement and support for one of the presidential
3 candidates on the ballot, spending taxpayer dollars to create and administer a “non-
4 partisan” voter information campaign at the behest of a partisan Democrat public
5 official.

6 46. Additionally, at the time of the award, Padilla was reportedly already
7 under consideration to fill then Vice-Presidential candidate Kamala Harris’s
8 California Senate seat, should Biden/Harris win the presidential Election. See Bee
9 Editorial Board, If Gavin Newsom picks Alex Padilla for the U.S. Senate, who owns
10 his \$34 million mess?, (December 17, 2020)

11 <https://www.sacbee.com/opinion/editorials/article247894900.html>.

12 47. Padilla’s considerable investment of taxpayer dollars to a Biden-ticket
13 associated firm, when he presumably stood to personally benefit from that ticket’s
14 elevation to higher office, smacked of a conflict of interest. *Id.*

15 48. Further, Fabian Núñez, former Assembly Democratic speaker and partner
16 at losing bidder Mercury Public Affairs, also raised significant questions regarding the
17 contract award. Emily Hoeven, Will state stick ‘Team Biden’ firm with \$35 million tab
18 after Yee balks at Padilla vote contract?, CALMATTERS.ORG (November 23, 2020),
19 [https://calmatters.org/politics/2020/11/biden-firm-california-vote-contract-padilla-](https://calmatters.org/politics/2020/11/biden-firm-california-vote-contract-padilla-yee/)
20 [yee/](https://calmatters.org/politics/2020/11/biden-firm-california-vote-contract-padilla-yee/).

21 49. Núñez filed a formal protest with the Secretary of State stating SKDK’s
22 proposal contained “material violations” that led to SKDK having a “significant and
23 profound unfair advantage in winning the work.” *Id.*

24 50. Núñez requested the Secretary of State administer “[a] fair bidding
25 process in which all responsible bidders are evaluated by the exact same rules [as] the
26 public and all bidders expect.” *Id.*

27 //

28 //

1 51. Padilla’s office rejected Núñez’s protest on Sept. 1, stating that “common
2 procedures or practices applicable to competitive bid agreements ... do not apply for
3 the process used for an emergency contract.” *Id.*

4 52. In addition to a suspect process, Padilla awarded this contract despite
5 having no budgetary authority for it.

6 53. Padilla’s lack of budgetary authority to award the contract led California
7 State Controller Betty Yee to reject paying SKDK in a public and drawn-out battle over
8 the state’s budgetary authority. Associated Press, California lawmakers ok payment for
9 voter outreach campaign, FOX 40 (February 23, 2021, 9:21 AM)
10 [https://fox40.com/news/california-connection/california-lawmakers-ok-payment-for-](https://fox40.com/news/california-connection/california-lawmakers-ok-payment-for-voter-outreach-campaign/)
11 [voter-outreach-campaign/](https://fox40.com/news/california-connection/california-lawmakers-ok-payment-for-voter-outreach-campaign/).

12 54. SKDK did not receive payment until February 2021, after Padilla’s
13 elevation to be California’s next Senator. *Id.*

14 55. In February 2021, by a party line vote, the California legislature agreed to
15 pay Padilla’s past due bills to SKDK. *Id.*

16 56. While the controversy over the contract raged, SKDK rapidly went to
17 work as a hatchet for hire to target Padilla’s political enemies, relabeling even
18 innocuous speech that criticized Padilla’s handling of election administration as “false”
19 and “dangerous” attempts at voter suppression and voter fraud.

20 57. Using state funds, SKDK created political hit lists of disfavored speech,
21 which Defendants called a “Misinformation Daily Briefing.”

22 58. These “Misinformation Daily Briefings” were sent via email to
23 Defendants Paula Valle Castañon, Jenna Dresner, Sam Mahood, and Akilah Jones at
24 the California Secretary of State’s communications office. A true and correct copy of
25 one such “Misinformation Daily Briefing” from November 13, 2020, is attached to this
26 complaint as Exhibit 6.

27 59. The OEC curated the “misinformation” contained in the misinformation
28 daily briefings for submission to social media companies.

1 60. The OEC reported “misinformation” to social media companies directly.

2 61. The OEC also reported “misinformation” to social media companies
3 through NASS.

4 62. Alex Padilla was proud of the OEC’s speech-censoring activities and
5 track record, as was NASS.

6 63. NASS has an annual award called the Innovation, Dedication, Excellence
7 & Achievement in Service (“IDEAS”) award, recognizing “significant state
8 contributions to the mission of NASS.”

9 64. The California Secretary of State’s office won NASS’s 2020 award for
10 the OEC’s work. Specifically noted in OEC’s IDEAS award application was the
11 following:

12 The Office of Election Cybersecurity created VoteSure, which was a first-of-its-kind public education initiative to promote
13 trusted, accurate, and official sources of election information on Facebook, Instagram, and Twitter. The goal of
14 VoteSure was to increase voter awareness about election misinformation online and provide official, trusted election
15 resources.

16 ...

17 Election security continues to be a top priority for the Secretary of State’s office, and we are continuing to work around the
18 clock to protect the integrity of our systems ahead of Election 2020 and to combat misinformation through our Office of
19 Election Cybersecurity.

20 ...

21 The Office of Election Cybersecurity discovered nearly 300 erroneous or misleading social media posts that were
22 identified and forwarded to Facebook and Twitter to review and 98 percent of those posts were
23 promptly removed for violating the respective social media company’s community standards.

65. Alex Padilla also stated his support for the OEC’s speech-censoring activities in response to receiving the award, touting the initiative’s “proactive social media monitoring”:

We worked in partnership with social media platforms to develop more efficient reporting procedures for potential misinformation. Misinformation identified by our office or voters was promptly reviewed and, in most cases, removed by the social media platforms.

A true and correct copy of the OEC’s NASS 2020 IDEAs award submission and NASS’s press release announcing presentation of the award are attached as Exhibits 7 and 8.

66. Defendants’ carefully crafted propaganda campaign, or as they called it, “national narrative,” suppressed the protected speech of citizens who might seek greater government accountability or ask questions regarding election processes.

67. This self-serving “national narrative,” conveniently, also bolstered and protected certain Defendants’ political fortunes.

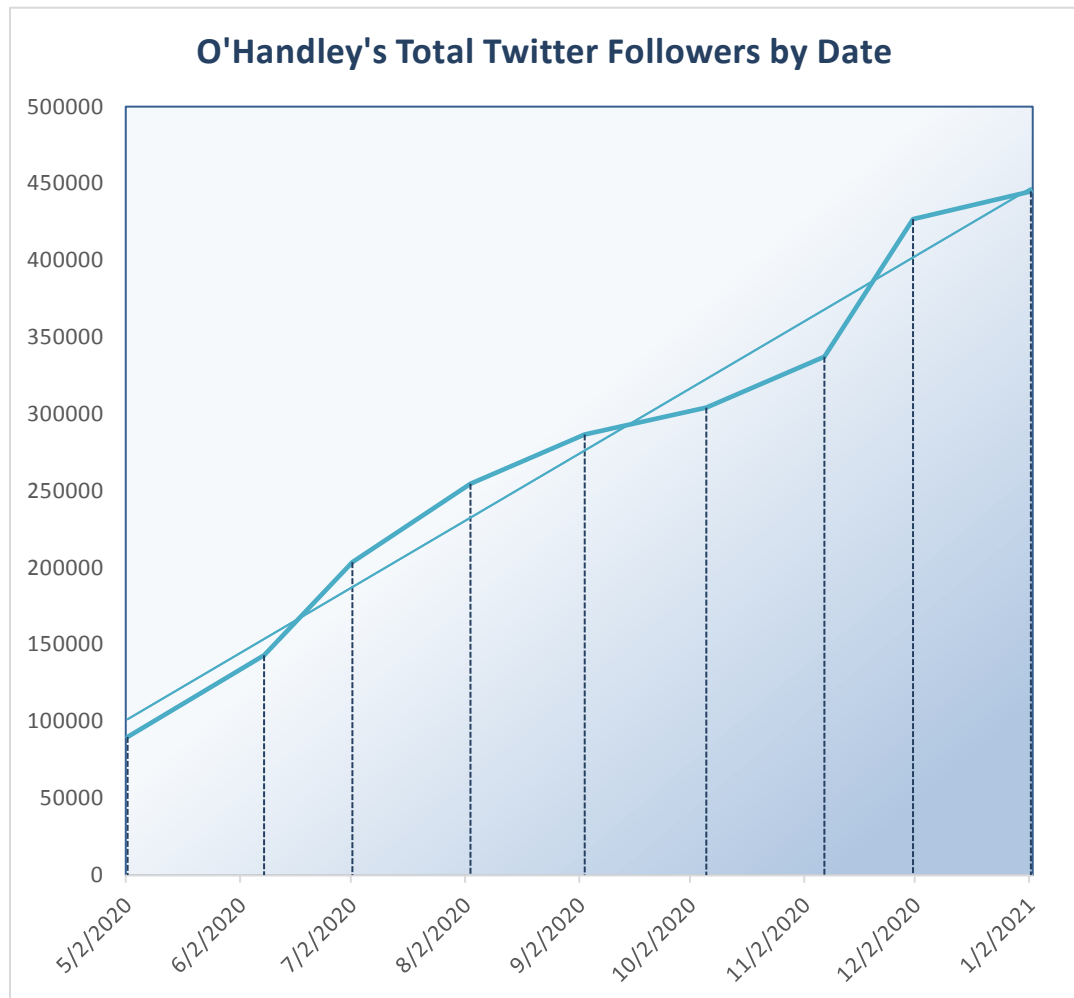
68. The “national narrative” advanced by the California censorship scheme included supporting the victory of SKDK’s client Joe Biden, the elevation of California Senator Kamala Harris to the Vice Presidency, and creating an opening for Padilla himself to be elevated to the position of United States Senator from California. Padilla’s “one simple trick” of awarding an ultra vires censorship contract to a political ally, created a Rube-Goldberg-like contraption catapulting him to Washington, D.C.

69. Mr. O’Handley, under the social media handle “DC_Draino,” was one of the many speakers targeted by Defendants for his speech about the election, supposedly too dangerous for a gullible public to be allowed to read.

70. Mr. O’Handley has a law degree from the University of Chicago Law School and is licensed to practice law in the state of California. After six-plus years practicing corporate and entertainment law, Mr. O’Handley left private practice in order to better utilize his legal education in defense of liberty and constitutional ideals.

His primary efforts focus on social media postings, public speaking at colleges and political conferences, and being a political commentator. As one measure of his influence, he has had over 75 national news network appearances in the last year and half. Mr. O’Handley’s combined social media following across all his accounts currently reaches over 3 million people. He was invited to the White House social media summit in 2019, which focused, ironically, on the censorship of conservative voices on social media.

71. By the end of November 2020, Mr. O’Handley had approximately 420,000 Twitter followers. Just six months prior in May 2020, Mr. O’Handley had approximately 89,000 Twitter followers, meaning Mr. O’Handley had over a 371% increase in followers in the lead up to the 2020 election and in the following weeks as votes were counted and state legislatures certified the electoral college.



72. Mr. O’Handley authored a November 12, 2020, Twitter post stating:



Rogan O’Handley 
@DC_Draino

Audit every California ballot
Election fraud is rampant nationwide
and we all know California is one of the
culprits
Do it to protect the integrity of that
state’s elections

 This claim about election fraud is disputed >

9:20 PM · 11/12/20 · Twitter for iPhone

(Hereinafter, the “Post”).

73. Mr. O’Handley’s Post expressed an opinion widely held by California voters. An October 2020 poll by Berkeley’s Institute of Government Studies released found that four in ten Californians “express[ed] skepticism that [the 2020] presidential election [would] be conducted in a way that’s fair and open.”

74. Despite the Post’s expression of Mr. O’Handley’s personal opinion regarding the need for greater accountability in election processes—core political speech directly questioning Padilla’s administration of and fitness for his political office—SKDK labeled the Post as “misinformation,” and flagged the Post for the OEC to potentially target with its broad government powers:

To: Valle, Paula [REDACTED]; Dresner, Jenna [REDACTED]; Mahood, Sam [REDACTED]; Jones, Akilah [REDACTED]
Cc: Heather Wilson [REDACTED]; Emily Campbell [REDACTED]; Jason Rosenbaum [REDACTED]; Iania Mercado [REDACTED]; Grace Gill [REDACTED]
From: Zeke Sandoval [REDACTED]
Sent: Fri 11/13/2020 4:43:28 PM (UTC-08:00)
Subject: Misinformation Daily Briefing: 11/13

@DC_Draino tweeted, "Audit every California ballot Election fraud is rampant nationwide and we all know California is one of the culprits Do it to protect the integrity of that state’s elections."

75. The OEC, following the recommendation of the Democrat operatives at SKDK, flagged the Post as “Case# 0180994675” under the indicator of “voter fraud,” and color coded it as an “orange” level threat in internal OEC documents. Upon information and belief, an orange threat level indicates moderately problematic speech between yellow and red.

76. On November 17, 2020, at 12:31 PM, a Secretary of State agent or staff member sent Twitter the following message regarding Mr. O’Handley’s Post:

Case# 0180994675: partner_election [ref:00DA0000000K0 A8.5004w0000225CN h:ref]	11/17/20	12:31 PM	Hi, We wanted to flag this Twitter post: https://twitter.com/DC_Draino/status/1327073866578096129 From user @DC_Draino. In this post user claims California of being a culprit of voter fraud, and ignores the fact that we do audit votes. This is a blatant disregard to how our voting process works and creates disinformation and distrust among the general public.
--	----------	----------	--

77. Shortly after Padilla’s agent or staff member “flagged” Mr. O’Handley’s post to Twitter, Twitter subsequently appended commentary asserting that Mr. O’Handley’s claim about election fraud was disputed. A true and correct copy of OEC’s comments, as obtained through public record request, is attached to this complaint as Exhibit 9.

78. Twitter then added a “strike” to Mr. O’Handley’s account.

79. Twitter utilizes a strike system, whereby users incurring “strikes” face progressive penalties, culminating in removal from Twitter altogether after five strikes.

80. The OEC tracked Twitter’s actions on internal spreadsheets and noted that Twitter had acted upon the request to censor Mr. O’Handley’s speech.

81. Prior to OEC requesting Twitter censor the Post, Twitter had never before suspended Mr. O’Handley’s account or given him any strikes. He suddenly became a target of Twitter’s speech police, at the behest of Defendants.

//

82. Between November 2020 and January 2021, Mr. O’Handley’s Twitter following continued to grow. By January 2021, Mr. O’Handley had over 444,000 Twitter followers.

83. During this time period, Mr. O’Handley was far from the only speaker on Twitter suggesting the need for an audit or the existence of voter fraud in the aftermath of the 2020 election. Countless individuals suggesting the need for audits, including both Democrat and Republican voices upset at perceived problems. Numerous commentators, appearing to support Democrats, voiced their opinion of a need to audit results in conservative areas where Republicans fared better in down ballot races than expected. Yet, Defendants focused their speech censorship efforts on conservative requests for transparency in election processes rather than the same calls from self-identified political liberals.

84. On January 18, 2021, Mr. O’Handley posted the following tweet, for which Twitter gave Mr. O’Handley a strike.



1
2 85. On January 21, 2021, Mr. O’Handley posted another Tweet, for which
3 Twitter gave Mr. O’Handley a strike.
4




8 Rogan O’Handley 
9 @DC_Draino

10 We are captives under a government
11 we didn’t elect

12 It was forced upon us

13 That is by definition a dictatorship

14
15  This claim of election fraud is disputed,
16 and this Tweet can’t be replied to, >
17 Retweeted, or liked due to a risk of violence

18
19 6:44 PM · 1/21/21 · Twitter for iPhone
20
21
22
23
24
25
26
27
28

86. On January 22, 2021, Mr. O’Handley suggested via Tweet that the government consider facilitating a 9/11-style commission to study the 2020 election, stating it is an “emergency” issue when half the country stops believing in the integrity of the vote. Twitter again gave Mr. O’Handley a strike and locked his account for seven days, stating the Tweet included a claim of election fraud which was disputed.



Rogan O’Handley 🇺🇸
@DC_Draino

...

How about a 9/11 commission-style report on what the hell just happened this past election?!

When half our country stops believing in the integrity of our vote, that’s an *emergency* issue

⚠️ This claim of election fraud is disputed, and this Tweet can’t be replied to, Retweeted, or liked due to a risk of violence >

87. On February 22, 2021, Mr. O’Handley Tweeted the following:



Rogan O’Handley 🇺🇸
@DC_Draino

...

“Most votes in American history”



1 88. In response, Twitter permanently suspended Mr. O’Handley’s account
2 stating:



5 Hello,

6
7 Your account, DC_Draino has been
8 suspended for violating the [Twitter Rules](#).

9 Specifically, for:

10
11 **Violating our rules about [election](#)**
12 **[integrity](#).**

13 You may not use Twitter’s services for the
14 purpose of manipulating or interfering in
15 elections. This includes posting or sharing
16 content that may suppress voter turnout or
mislead people about when, where, or how
to vote.

17 89. Twitter never elaborated on how Mr. O’Handley’s five-word Tweet and
18 photograph of the U.S. Capitol (incidentally, Mr. Padilla’s new workplace)—which
19 was posted well after the 2020 election had been certified and a new President installed
20 in office—manipulated or interfered with an election, suppressed voter turnout, or
21 misled people about when, where, or how to vote. Indeed, at the time of the post, the
22 next national general election was nearly two years away.

23 90. Twitter serves as the primary social channel for political commentary and
24 news in American society at present.

25 91. As a rising political commentator, Twitter’s ban has had a direct and
26 detrimental impact on Mr. O’Handley’s ability to make a living in his chosen
27 profession.

28 92. In January 2021, O’Handley had well over 440,000 followers on Twitter.

1 93. O’Handley’s reach, which was growing exponentially at the time of his
2 permanent ban, had garnered him paid media contract offers, numerous media
3 appearances, paid speaking opportunities, valuable professional networking,
4 endorsements, and advertising dollars.

5 94. Mr. O’Handley lost his platform to communicate with his followers,
6 irreparably damaging his business, which depends on the reach of his audience for
7 revenue.

8 95. Asking to audit an election to protect the integrity of elections is not “voter
9 fraud.” It is a regular practice of election administration.

10 96. Suggesting the country consider a non-partisan commission to study the
11 election in an attempt to restore the country’s trust in the integrity of the voting process
12 is not a factual claim, and certainly not one that includes a risk of violence.

13 97. The statement “Most votes in American history” is a true fact about the
14 2020 presidential election.

15 98. Truthful speech and opinion about elections and elected officials has been
16 protected by the First Amendment since our nation’s founding. The right to criticize
17 the government is the basis upon which this country was founded. Yet Defendants
18 targeted Mr. O’Handley’s speech for censorship because of his criticism of the
19 government, a direct affront to our constitutional ideals.

20 99. Upon information and belief, discovery will show Twitter’s stated reasons
21 for suspending Mr. O’Handley were pretextual. Twitter’s real reasons for suspending
22 Mr. O’Handley do not stem from a violation of Twitter’s terms of service, but from the
23 content of his speech raising concerns about election administration and integrity,
24 specifically concerns related to the work of then-California Secretary of State Alex
25 Padilla. The trigger for Twitter’s censorship of Mr. O’Handley was its coordination
26 and conspiracy with other Defendants to silence the protected speech of many
27 Americans.

28 //

100. Defendants' government censorship of speech seeking to hold elected officials accountable for the exercise of their office is anathema to the Constitution. It strikes directly at the heart of the First Amendment.

CLAIMS

First Claim for Relief

First Amendment – Free Speech (42 U.S.C. § 1983)

(By Plaintiff Against All Defendants)

101. Mr. O'Handley incorporates by reference and re-alleges herein all Paragraphs above.

102. California Election Code § 10.5, as-applied by Defendants, violates the Free Speech clause of the First Amendment.

103. Defendants also used California Election Code § 10.5 to retaliate against Mr. O'Handley for his speech.

104. Political speech is core First Amendment speech, critical to the functioning of our republic.

105. Political speech rests on the highest rung of the hierarchy of First Amendment values.

106. Defendants weaponized California Election Code § 10.5 and the OEC to censor Plaintiff's political speech.

107. State action designed to retaliate against and chill political expression strikes at the heart of the First Amendment.

108. Defendants' actions directly abridged Mr. O'Handley's protected political speech.

109. Defendants jointly acted in concert to abridge Mr. O'Handley's freedom of speech and deprive Mr. O'Handley of his First Amendment rights.

110. Defendants Twitter, SKDK, and NASS willfully and cooperatively participated in the government Defendants' efforts to censor Mr. O'Handley's political speech.

1 111. Defendants Alex Padilla, Paula Valle Castañon, Jenna Dresner, Sam
2 Mahood, Akilah Jones deprived Mr. O’Handley of his First Amendment free speech
3 rights acting under color of state law, and Mr. O’Handley’s free speech rights were
4 clearly established at the time of Defendants’ speech chilling actions.

5 112. Defendants Alex Padilla, Paula Valle Castañon, Jenna Dresner, Sam
6 Mahood, Akilah Jones, acting in their official capacities, took action, jointly with
7 SKDK, Twitter, and NASS, against Mr. O’Handley with the intent to retaliate against,
8 obstruct, or chill Mr. O’Handley’s First Amendment rights.

9 113. Mr. O’Handley engaged in constitutionally protected activity through his
10 speech questioning the conduct of elections and the actions of elected officials.

11 114. Defendants targeted and censored Mr. O’Handley’s speech.

12 115. Defendants’ actions would chill a person of ordinary firmness from
13 continuing to engage in protected activity.

14 116. The protected activity, Mr. O’Handley’s speech which Defendants found
15 objectionable, was a substantial motivating factor in Defendants’ decision to censor
16 Mr. O’Handley’s speech.

17 117. Defendants’ speech-chilling actions specifically and objectively infringed
18 Mr. O’Handley’s speech rights under the United States Constitution.

19 118. There was a clear nexus between Defendants’ actions and the intent to
20 chill Mr. O’Handley’s speech.

21 119. Mr. O’Handley suffered economic and reputational injuries, among
22 others, as a result.

23 120. Defendants’ restriction of Mr. O’Handley’s speech was content-based.

24 121. Defendants had no compelling state interest for that content-based
25 restriction.

26 122. Defendants’ blanket speech restriction was not narrowly tailored.

27 //

28 //

123. Mr. O’Handley has no adequate remedy at law and will suffer serious and irreparable harm to his constitutional rights unless Defendants are enjoined from violating his constitutional rights.

124. Pursuant to 42 U.S.C. §§ 1983 and 1988, Mr. O’Handley is entitled to declaratory relief and temporary, preliminary, and permanent injunctive relief.

125. Mr. O’Handley finds it necessary to engage the services of private counsel to vindicate their rights under the law. Plaintiffs are therefore entitled to an award of attorneys’ fees pursuant to 42 U.S.C. § 1988.

Second Claim for Relief

California Constitution art. I § 2 – Free Speech

(By Mr. O’Handley Against All Defendants)

126. Mr. O’Handley incorporates by reference and re-alleges herein all Paragraphs above.

127. In California “[e]very person may freely speak, write and publish his or her sentiments on all subjects, being responsible for the abuse of this right. A law may not restrain or abridge liberty of speech or press.” Cal. Const. Art. 1, §2.

128. The California Constitution is more protective, definitive and inclusive of rights to expression and speech than the First Amendment to the United States Constitution.

129. California courts look to whether individuals have been invited to a forum, and if so, the California Constitution protects speech and petitioning even in instances when the venue in which the speech happens is privately owned so long as the speech does not interfere with normal business operations.

130. Courts ask whether the venue is an essential and invaluable forum for the rights of free speech and petition. If so, private property owners will not be permitted to prohibit expressive activity that would impinge on constitutional rights.

131. Twitter regularly invites new users to utilize its speech forum.

//

1 132. Mr. O’Handley’s speech did not interfere with Twitter’s normal business
2 operations.

3 133. Twitter is an essential and invaluable forum for the rights of free speech
4 and petition.

5 134. Twitter, therefore, may not prohibit expressive activity which impinges
6 on constitutional rights.

7 135. Quashing Mr. O’Handley’s speech criticizing election processes and
8 elected officials violates Mr. O’Handley’s liberty of speech rights under the California
9 Constitution.

10 136. Mr. O’Handley has no adequate remedy at law and will suffer serious and
11 irreparable harm to his constitutional rights unless Defendants are enjoined.

12 137. Mr. O’Handley finds it necessary to engage the services of private counsel
13 to vindicate their rights under the law. Plaintiffs are therefore entitled to an award of
14 attorney fees and costs pursuant to California Code of Civil Procedure Section 1021.5.

15 **Third Claim for Relief**

16 **Fourteenth Amendment - Equal Protection Discrimination (42 U.S.C. § 1983)**

17 **(By Mr. O’Handley Against All Defendants)**

18 138. Mr. O’Handley incorporates by reference and re-alleges herein all
19 Paragraphs above.

20 139. Defendants acted to censor Mr. O’Handley’s speech with discriminatory
21 intent based on the content of his speech.

22 140. Defendants’ actions bear no rational relation to a legitimate end as
23 Defendants’ conduct here was malicious, irrational, or plainly arbitrary.

24 141. Even if Defendants did have a rational basis for their acts, their alleged
25 rational basis was a pretext for an impermissible motive.

26 142. Defendants discriminatorily enforced the statute against Mr. O’Handley
27 based on his viewpoint.

28 143. Defendants’ enforcement had a discriminatory effect.

1 144. Defendants were motivated by a discriminatory purpose.

2 145. Similarly situated individuals were not censored for their speech.

3 146. Mr. O’Handley has no adequate remedy at law and will suffer serious and
4 irreparable harm to his constitutional rights unless Defendants are enjoined from
5 violating his constitutional rights.

6 147. Pursuant to 42 U.S.C. §§ 1983 and 1988, Mr. O’Handley is entitled to
7 declaratory relief and temporary, preliminary, and permanent injunctive relief.

8 148. Mr. O’Handley finds it necessary to engage the services of private counsel
9 to vindicate their rights under the law. Plaintiffs are therefore entitled to an award of
10 attorneys’ fees pursuant to 42 U.S.C. § 1988.

11 **Fourth Claim for Relief**

12 **Fourteenth Amendment - Due Process Clause (42 U.S.C. § 1983)**

13 **(By Mr. O’Handley Against Defendants California Secretary of State Shirley N.**
14 **Weber in her official capacity, SKDK, Twitter, Alex Padilla, Paula Valle**
15 **Castañon, Jenna Dresner, Sam Mahood, and Akilah Jones)**

16 149. Mr. O’Handley incorporates by reference and re-alleges herein all
17 Paragraphs above.

18 150. Mr. O’Handley had a property interest in pursuing his occupation as a
19 Twitter influencer and commentator.

20 151. Mr. O’Handley also had a recognized protected interest in his business
21 goodwill.

22 152. The California Secretary of State, SKDK, Alex Padilla, Paula Valle
23 Castañon, Jenna Dresner, Sam Mahood, and Akilah Jones set in motion a series of acts
24 which they knew or reasonably should have known would cause Twitter to inflict the
25 constitutional injury of depriving Plaintiff of his occupation and taking the business
26 goodwill he had garnered through his Twitter account.

27 153. OES actions intentionally solicited Twitter to suspend Mr. O’Handley’s
28 account.

1 154. Some kind of hearing is required before depriving Mr. O’Handley either
2 of his occupation or his property interest in his business goodwill.

3 155. Mr. O’Handley was not given the opportunity to be heard at a meaningful
4 time and in a meaningful manner.

5 156. Mr. O’Handley has no adequate remedy at law and will suffer serious and
6 irreparable harm to his constitutional rights unless Defendants are enjoined from
7 violating his constitutional rights.

8 157. Pursuant to 42 U.S.C. §§ 1983 and 1988, Mr. O’Handley is entitled to
9 declaratory relief and temporary, preliminary, and permanent injunctive relief.

10 158. Mr. O’Handley finds it necessary to engage the services of private
11 counsel to vindicate their rights under the law. Plaintiffs are therefore entitled to an
12 award of attorneys’ fees pursuant to 42 U.S.C. § 1988.

13 **Fifth Claim for Relief**

14 **Fourteenth Amendment – Void for Vagueness (42 U.S.C. § 1983)**

15 **(By Mr. O’Handley Against Defendant California Secretary of State**

16 **Shirley N. Weber in her official capacity and Defendants Alex Padilla, Paula**

17 **Valle Castañon, Jenna Dresner, Sam Mahood, and Akilah Jones**

18 **in their personal capacities)**

19 159. Mr. O’Handley incorporates by reference and re-alleges herein all
20 Paragraphs above.

21 160. Defendants’ enforcement of California Elections Code §10.5 violates the
22 Due Process Clause of the Fourteenth Amendment as-applied to Mr. O’Handley.

23 161. Mr. O’Handley should not have been punished for behavior he could not
24 have known allegedly violated the law.

25 162. California Elections Code §10.5 is impermissibly vague because it fails
26 to provide a reasonable opportunity to know what conduct is prohibited or is so
27 indefinite as to allow arbitrary and discriminatory enforcement.

28 //

1 163. This statute is capable of, and did in fact, reach expression sheltered by
2 the First Amendment, therefore requiring greater specificity.

3 164. Mr. O’Handley has no adequate remedy at law and will suffer serious and
4 irreparable harm to his constitutional rights unless Defendants are enjoined from
5 violating his constitutional rights.

6 165. Pursuant to 42 U.S.C. §§ 1983 and 1988, Mr. O’Handley is entitled to
7 declaratory relief and temporary, preliminary, and permanent injunctive relief.

8 166. Mr. O’Handley finds it necessary to engage the services of private counsel
9 to vindicate their rights under the law. Plaintiffs are therefore entitled to an award of
10 attorneys’ fees pursuant to 42 U.S.C. § 1988.

11 **Sixth Claim for Relief**

12 **Civil Conspiracy to Interfere with Civil Rights (42 U.S.C. § 1985)**

13 **(By Mr. O’Handley Against All Defendants)**

14 167. Mr. O’Handley incorporates by reference and re-alleges herein all
15 Paragraphs above.

16 168. Defendants had a meeting of the minds to violate the constitutional
17 rights of individuals who questioned election processes and outcomes — or in
18 Defendants’ words, spread “misinformation.”

19 169. Defendants, through agreements and processes they jointly created to
20 seek out and swiftly censor speech with which they disagreed, intended to
21 accomplish the unlawful objective of abridging these individuals’ freedom of speech.

22 170. SKDK, Twitter, and NASS joined with the state agents to jointly deprive
23 Mr. O’Handley of his rights.

24 171. Each conspiracy participant shared the common objective of the
25 conspiracy, to censor speech which they found objectionable or “misleading.”

26 172. As a result of their agreement, Defendants actually deprived Mr.
27 O’Handley of his First and Fourteenth Amendment rights, as described herein.

28 //

1 173. Mr. O’Handley suffered economic and reputational injuries, among
2 others, as a result.

3 174. Mr. O’Handley has no adequate remedy at law and will suffer serious
4 and irreparable harm to his constitutional rights unless Defendants are enjoined from
5 violating his constitutional rights.

6 175. Pursuant to 42 U.S.C. §§ 1983, 1985, and 1988, Mr. O’Handley is
7 entitled to declaratory relief and temporary, preliminary, and permanent injunctive
8 relief.

9 176. Mr. O’Handley finds it necessary to engage the services of private
10 counsel to vindicate their rights under the law. Plaintiffs are therefore entitled to an
11 award of attorneys’ fees pursuant to 42 U.S.C. § 1988.

12 **PRAYER FOR RELIEF**

13 WHEREFORE, Mr. O’Handley prays this Court grant the relief requested
14 herein, specifically that the Court render the following judgment in Mr. O’Handley’s
15 favor and against Defendants:

16 i. Declaratory Judgment: For entry of a Declaratory Judgment that
17 California Election Code § 10.5, as applied to Mr. O’Handley, violates Mr.
18 O’Handley’s state and federal constitutional rights to free speech, equal protection,
19 and due process;

20 ii. Injunctive Relief: For entry of a Permanent Injunction stating that the
21 Secretary of State and the OEC may not censor speech, work to take down the speech
22 of private speakers, selectively enforce speech restrictions, or discriminate against
23 those who seek to hold the current office holder accountable for perceived defects in
24 election administration;

25 iii. Damages: general, nominal, statutory (pursuant to Cal. Civ. Code § 52)
26 and exemplary damages, in an amount to be determined at trial;

27 iv. Attorneys’ fees and costs: awarded pursuant to 42 U.S.C. § 1988;
28 California Code of Civil Procedure Section 1021.5; Cal. Civ. Code § 52; and

Pursuant to Rule 38 of the Federal Rules of Civil Procedure, Plaintiff demands trial by jury in this action of all issues so triable.

Date: June 17, 2021

MARK E. TRAMMELL
(*pro hac vice* pending)
mtrammell@libertycenter.org
CENTER FOR AMERICAN LIBERTY
5100 Buckeystown Pike, Suite 250
Frederick, MD 21704
Telephone: (703) 687-6212
Facsimile: (517) 465-9683

32