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***Amici* Support NCLA’s Stance at Supreme Court in Major Social Media Censorship Injunction Case**

Vivek H. Murthy, U.S. Surgeon General, et al. v. State of Missouri, et al.

Washington, DC (February 12, 2024) – Forty-five Members of Congress, 16 states, state legislators, former government officials, journalists, attorneys, media personalities, academics, activist groups and research organizations have filed 27 *amici curiae* briefs supporting the New Civil Liberties Alliance’s position in *Murthy v. Missouri* against government-directed censorship. NCLA is asking the Supreme Court to uphold a preliminary injunction granted by the Fifth U.S. Circuit Court of Appeals that bars White House, CDC, FBI, Cybersecurity and Infrastructure Security Agency, and Surgeon General’s office officials from significantly encouraging social media platforms to censor lawful speech. The Circuit court upheld key components of a preliminary injunction order issued by U.S. District Judge Terry Doughty, who described the Administration’s scheme as “arguably the most massive attack against free speech in United States history” and “akin to an Orwellian Ministry of Truth.”

Representing individual respondents Drs. Jayanta Bhattacharya, Martin Kulldorff, and Aaron Kheriaty, and Ms. Jill Hines, NCLA looks forward to presenting oral argument to the Supreme Court in *Murthy v. Missouri* on March 18, alongside the co-respondent States of Missouri and Louisiana. NCLA thanks *amici* for speaking out in defense of Americans’ First Amendment rights.

The *amici* who filed in support of NCLA’s position include the [International Center for Law & Economics](#); [Foundation for Individual Rights and Expression](#), [National Coalition Against Censorship](#), and [First Amendment Lawyers Association](#); [Claremont Institute’s Center for Constitutional Jurisprudence](#); [America’s Frontline Doctors](#) and [Dr. Simone Gold, M.D., J.D.](#); [The Buckeye Institute](#); [Charlie Kirk](#), [David Harris, Jr.](#), and [Robby Starbuck](#); [National Institute of Family and Life Advocates](#); [Informed Consent Action Network](#); [Rep. Jim Jordan](#) and [44 Other Members of Congress](#); [National Religious Broadcasters](#); [American Free Enterprise Chamber of Commerce](#); [“Twitter Files” Journalists](#): [Matt Taibbi](#), [Michael Shellenberger](#), [Lee Fang](#), [David Zweig](#), [Leighton Woodhouse](#), and [Alex Gutentag](#); [Justin Hart](#) and the [Liberty Justice Center](#); [Center for American Liberty](#); [Americans for Prosperity Foundation](#); [Manhattan Institute](#), [REACT19](#), and [three vaccine-injured individuals](#); [Association of American Physicians and Surgeons](#); [Institute for Free Speech](#); [Atlantic Legal Foundation](#); [Louder with Crowder, LLC](#); [Kennedy Plaintiffs](#); [National Center for Public Policy Research, et al.](#); [The Rutherford Institute](#); [America’s Future](#), [Free Speech Coalition](#), [Free Speech Def. and Ed. Fund](#), [Gun Owners of America](#), [Gun Owners Fdn.](#), [Gun Owners of Cal.](#), [Tennessee Firearms Assn.](#), [Public Advocate](#), [U.S. Constitutional Rights Legal Def. Fund](#), [Leadership Institute](#), [DownsizeDC.org](#), [Downsize DC Fdn.](#), [The Western Journal](#), and [Conservative Legal Def. and Ed. Fund](#); [Angela Reading](#); [State of Montana](#), [15 Other States](#), and the [Arizona Legislature](#); [Amicus Populi and Freedom X](#).

The 27 *amici* briefs bolster NCLA’s arguments and address concerns including threats to the democratic process, to free public discourse, and the problem with federal agencies straying from their proper missions.

Excerpts follow:

“The House Judiciary Committee and the Weaponization Subcommittee have been conducting an ongoing investigation into how and to what extent the executive branch has coerced or colluded with social media companies to censor speech. Very recent evidence, obtained in said investigation in the weeks after the district court’s preliminary injunction ruling further corroborates the district court’s findings.”

— [Rep. Jim Jordan and 44 Other Members of Congress](#)

“Without that open and robust exchange of ideas, deliberative democracy and all its attendant benefits withers and dies. The extensive federal censorship campaign outlined in the district court’s and Fifth Circuit’s thorough opinions, distorted—and still distorts—the nature of that ‘public exchange of ideas’ and undermines ‘deliberative democracy.’”

— [State of Montana, 15 Other States, and the Arizona Legislature](#)

“The case’s facts demonstrate the myriad, subtle ways the administrative state can ‘abridg[e] ... the freedom of speech, or of the press.’ Without the constitutional restraints of Congressional oversight and judicial review that the Founders envisioned, administrative agencies have vast freedom to abridge Americans’ free speech. For instance, the Cybersecurity and Infrastructure Security Agency (CISA), an agency within the Department of Homeland Security (DHS), has re-defined its mission from protecting Americans from foreign computer hacking to silencing American citizens and journalists who criticize government policy. With their bottomless stores of inducements and incentives, federal agencies can abridge speech directly or use third-party cut-outs.”

— [“Twitter Files” Journalists: Matt Taibbi, Michael Shellenberger, Lee Fang, David Zweig, Leighton Woodhouse, and Alex Gutentag](#)

“[T]he First Amendment problems addressed in this case are significant regardless of who is attempting to pull the levers behind the scenes. Although much attention has focused on the power of ‘Big Tech,’ it is a bad idea for government officials to huddle in back rooms with corporate honchos to decide which social media posts are ‘truthful’ or ‘good’ while insisting, Wizard of Oz-style, ‘pay no attention to that man behind the curtain.’ No matter how concerning it may be when private decisionmakers employ opaque or unwise moderation policies, allowing government actors to surreptitiously exercise control is far worse.

— [Foundation for Individual Rights and Expression, National Coalition Against Censorship, and First Amendment Lawyers Association](#)

“What makes this example of jawboning the most dangerous ever to reach the court is social media platforms’ social function. Preserving individuals’ ability to ‘communicat[e] thoughts ... and discuss[] public questions,’ as well as the integrity of public discourse, depends on the preservation of public forums. But while the traditional public forums are the ‘streets and parks ... held in trust for the use of the public,’ *id.*, new technologies have made digital spheres the primary realms for most discussions.”

— [Manhattan Institute, REACT19, and three vaccine-injured individuals](#)

“Just as Henry II was constrained in his ability to deal with Becket directly, American presidents are constrained by both the First Amendment and the political backlash that would attend any direct government action that could be viewed as an attempt to silence critics. ... After all, [the King] did not actually order Becket’s murder. He simply vented his royal frustration over an actor who was spreading disinformation and encouraging behavior that the King deemed unhealthy for the body politic.”

— [The Buckeye Institute](#)

“Perhaps it will seem like litigation hyperbole, but the fate of the freedom of speech in America may actually depend on this case.”

— [Kennedy Plaintiffs](#)

NCLA released the following statements:

“The support from *amici* in this case is greatly appreciated and demonstrates that Americans support the Constitution and do not want the Government censoring them on social media.”

— **John Vecchione, Senior Litigation Counsel, NCLA**

“*Amici* in this case span the political spectrum, demonstrating that this is not a partisan issue. All Americans, regardless of their political leanings, should oppose the government’s flagrant disregard for free speech and the First Amendment.”

— **Jenin Younes, Litigation Counsel, NCLA**

For more information visit the case page [here](#) or watch the case video [here](#).

ABOUT NCLA

[NCLA](#) is a nonpartisan, nonprofit civil rights group founded by prominent legal scholar [Philip Hamburger](#) to protect constitutional freedoms from violations by the Administrative State. NCLA’s public-interest litigation and other pro bono advocacy strive to tame the unlawful power of state and federal agencies and to foster a new civil liberties movement that will help restore Americans’ fundamental rights.

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