

Roger I. Teich
Attorney at Law
290 Nevada Street
San Francisco, California 94110

July 22, 2022

Molly Dwyer, Clerk of Court
Office of the Clerk
U.S. Court of Appeals for the Ninth Circuit
95 7th Street
San Francisco, CA 94103

Re: ***Children’s Health Defense v. Meta Platforms, Inc., et al.***, 21-16210
(Oral argument May 17, 2022, before Judges Miller, Collins, and Korman)

Dear Ms. Dwyer:

Appellant Children’s Health Defense (“CHD”) respectfully submits the recent Memorandum Decision and Order (“Order”) of the District Court for the Western District of Louisiana in *Missouri et al. v. Biden, et al.*, No. 22-cv-01213-TAD-KDM, as supplemental authority under FRAP 28(j). A true and correct copy of the Court’s July 12, 2022 Memorandum Decision and Order (Dkt. #34) is attached.

In *Missouri v. Biden*, the States of Missouri and Louisiana (“the States”) filed suit against President Joseph R. Biden, the Department of Health and Human Services, the Centers for Disease Control and Prevention, and other federal officials and agencies, to enjoin their ongoing collusion with social media platforms, including Meta Platforms, Inc., to “suppress disfavored speakers, viewpoints, and content on social media platforms by labeling the content ‘disinformation,’ ‘misinformation,’ and ‘malinformation.’” (*Id.* at 1.) “[E]xamples of [such] suppression of free speech” include censorship of the lab-leak theory of COVID-19’s origin and the efficacy of masks and COVID-19 lockdowns. (*Id.* at 2.)

In its July 12, 2022 Order, the Court determined that the “detailed allegations and evidence against federal agencies and officials” in the States’ Complaint show “good cause” for expedited discovery. (*Id.* at 8, 12-13.) The Court authorized the States to serve interrogatories and document requests upon Government Defendants and major social-media platforms for the details and underlying facts supporting the allegations. (*Id.* at 13.)

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Appellant's Rule 28(j) Letter

The States have issued their discovery requests which include multiple demands for information concerning CHD's chairman, Mr. Robert F. Kennedy, Jr.. See OFFICE OF THE MISSOURI ATTORNEY GENERAL, "*Missouri, Louisiana Serve Discovery Requests, Subpoenas on Top Biden Administration Officials and Social Media Giants*," July 19, 2022, <https://ago.mo.gov/home/news/2022/07/19/missouri-louisiana-serve-discovery-requests-subpoenas-on-top-biden-administration-officials-and-social-media-giants>. (providing links to subpoenas). It therefore appears that significant pertinent material may be forthcoming shortly as a consequence of the Order.

The Court's Order in *Missouri v. Biden* (Dkt. #34) is both "pertinent and significant" to this action. (FRAP 28(j).) The legal and factual issues present in the States' action are similar to those present here, and the Order is worthy of this Court's consideration. The lower court's judgment should be reversed and CHD's case permitted to move forward.

Sincerely,



Roger Teich
Counsel for Appellant
Children's Health Defense